

Merced County
Special Education Local Plan Area



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MCOE SELPA Handbook

Introduction

Students who are eligible to receive special education are guaranteed a free and appropriate public education (FAPE). Federal, state, and local mandates provide a vast array of requirements that special educators must follow when implementing the programs designed to provide students with FAPE. These mandates are extensive and often confusing.

The intent of *Program Procedures* is to provide a user- friendly resource manual for special educators and administrators that will guide them through the procedures for identification, referral, assessment, IEP development, and program placement of students in special education and related services.

Legal citations are provided when applicable. Citations inserted at the end of a sentence refer specifically to that sentence. Citations found following a paragraph or section relate generally to that paragraph or section. The legal citations refer to various sources:

- California Code of Regulations (C.C.R.; Title V regulations are cited as 5 C.C.R.)
- California Education Code (E.C.)
- Code of Federal Regulations (C.F.F.)
- Individuals with Disabilities Education Law Report
- (IDELR) Office of Civil Rights (OCR)

The handbook is reviewed annually and updated as needed. If questions arise that are not answered in this handbook, please contact your special education administrator for assistance. SELPA Coordinators are also available for questions. Contact information for SELPA Coordinators can be found on the SELPA webpage at www.mcoe.org

SELPA-approved and required forms for developing the Individualized Education Program (IEP), Individual Family Service Plan (IFSP), and Individual Services Plan (ISP) are integrated into the web-based IEP system.

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Chapter 1 – The Role of the SELPA

Special Education Local Plan Areas (SELPA) were created by state legislation to assist in assuring that districts and county offices of education provide a full continuum of programs and services to students with disabilities and that these programs and services are provided according to all legal mandates. Every district and county office of education belongs to a SELPA. The districts and county offices of education that belong to each SELPA are referred to as local education agencies (LEAs). Merced County SELPA is a single-county, multiple-district SELPA. Each SELPA has an administrator and must have an assigned Administrative Unit (AU). The purpose of the AU is to provide support to the SELPA in areas such as office facilities, personnel services, and fiscal management. The AU can be assigned to any of the LEAs within the SELPA. The SELPA, however, is a separate organization from the LEA that is selected to act as the SELPA's AU. In the Merced County SELPA, the Merced County Office of Education has been selected as the AU.

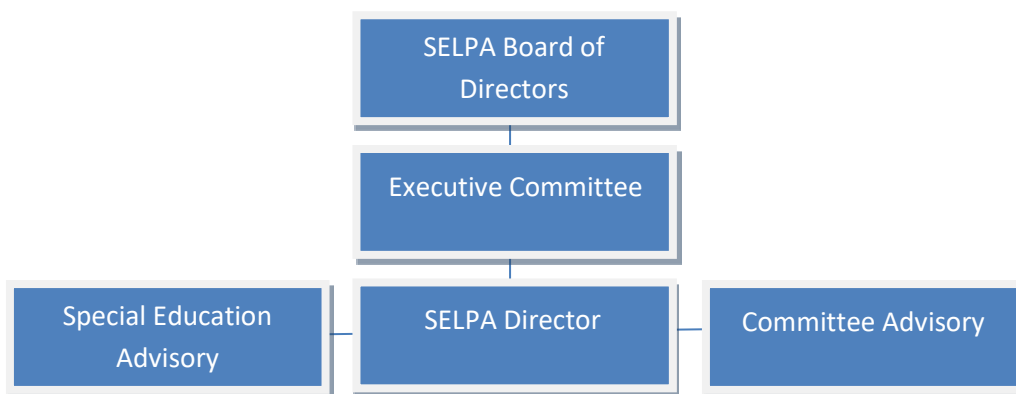
Confusion is often expressed about the differing roles of the federal and state governments, the SELPA, and the LEAs. The charts on the next few pages are provided to assist in defining and differentiating the roles of each of those agencies, outlining the governance structure of the SELPA (see the local plan for more detailed information), and suggesting whom to call for help with specific types of issues.

Agency Responsibilities in Providing Special Education

Federal/State Governments	SELPAs	LEAs
• Enact legislation governing the provision of special education • Determine the level of funding that will be provided • Distribute funding to each SELPA • Develop and implement systems for holding SELPAs and LEAs accountable for provision of appropriate special education programs	• Develop and maintain the local plan that designates the Administrative Unit, the SELPA governance structure, and identifies the systems, policies, and procedures that will be used to support the LEAs in meeting their legal requirements for providing special education programs and services • Develop and maintain policies and inter-agency agreements necessary for implementing the local plan • Ensure that appropriate programs/services are available for all children with disabilities within the SELPA • Receive funding from federal and state sources and distributes to LEAs • Facilitate completion of program reviews and evaluations • Provide LEAs with consultation and support, as needed • Provide appropriate staff development activities	<i>School Districts</i> • Engage in child-find activities for eligible students within the district • Develop and operate district special education programs and services • Hire and supervise special education teachers and specialists for district-operated programs • Develop and implement an appropriate budget to support district special education programs • Provide special education transportation as needed • Respond to compliance and due process complaints • Participate in program reviews and evaluations • Enter into inter-agency agreements with the COE or other regional special education program, as needed <i>COE/Regional Programs</i> Conduct all activities described above for programs operated by the COE on behalf of all districts within the county or on behalf of several districts within a specified region of the county

SELPA Governance Structure

The following organization chart illustrates the SELPA governance structure:



SELPA Governance Council

The SELPA Governance Council appoints representatives to the SELPA Executive Committee, reviews and approves the local plan and significant changes to the local plan, revisions to the funding allocation model, and any other item determined necessary by the Executive Committee. This council consists of the superintendent of each of the 20 participating districts and the Merced County Office of Education. The SELPA Director acts as an ex-officio member of the committee.

Executive Committee

The Executive Committee makes recommendations to the Governance Council regarding each of the items listed above. Additionally, the Executive Committee reviews and approves SELPA-wide policies, procedures, and local agreements; the annual service and budget plans; requests for program transfer, and evaluates the SELPA Director. The committee is made-up of superintendents from the three largest districts (Merced City, Merced Union High School District and Los Banos Unified School District) as permanent members of the committee. The County Superintendent of Schools is a standing member. Four additional superintendents from one of each of the following four categories: Category 2: Unified Districts, Category 3: Elementary Districts over 901, Category 4 Districts 501-900 ADA, and Category 5 Districts under 500 ADA. Members are selected to serve a two year term. Members may be represented by a designee only in the case of an emergency. The designee is not empowered with a proxy vote. The SELPA Director acts as an ex-officio member of the committee.

Special Education Advisory Committee (SEAC)

The SEAC is an advisory group convened by the SELPA Director to provide input and recommendations regarding the local plan, the funding allocation model, the development of inter-agency agreements, policies, forms, and procedures. SEAC consists of the special education administrator or other representative from each of the 24 participating districts and the Merced County Office of Education as well as the SELPA program coordinators.

Who to Contact About Special Education in Merced County

Who	About What
Classroom Teacher	• Daily curriculum and instruction • Behavior and discipline issues • Grades and student progress • Learning environment
School Psychologist	• Referrals to special education • Assessment/reassessment of students for special education eligibility • IEP development and implementation • Social/behavioral/emotional needs of students
Site Principal	• Supervision and evaluation of teachers and instructional assistants assigned to the school • Policies/procedures related to school-wide curriculum and instruction • Facilities, textbooks, classroom supplies and materials • Issues previously addressed to classroom teacher or school psychologist that have not been resolved
LEA Special Education Administrator	• Development and operation of district special education programs • Supervision and evaluation of special education itinerant staff • Special education facilities issues • Compliance, due process, legislation • Issues previously addressed by site principal that have not been resolved
SELPA Program Coordinator	• Appropriate special education placement and services for students • Complex special education student issues that have not been resolved at the local LEA level • Special education curriculum development • Appropriate instructional strategies and curriculum accommodations and modifications • Compliance, due process, legislation • Special education staff development
LEA Superintendent	• District-wide policies and procedures • District funding and budget • Supervision and evaluation of administrative staff • Issues previously addressed by site principal and/or LEA special education administrator that have not been resolved
SELPA Director	• SELPA Local Plan • Special Education policies, procedures, and interagency agreements • Supervision and evaluation of SELPA program specialists • Special education funding • Compliance, due process, legislation • Issues previously addressed to district special education administrator and/or program specialist that have not been resolved

Chapter 2 – Identification and Referral

Child Find

Child find activities are the responsibility of each district and occur prior to a referral for special education services. These activities are designed to locate individuals, birth through 21 years of age, including children not enrolled in public school programs as well as children who are homeless or wards of the state and reside in the district and may be eligible for and in need of special education and/or related services. Child find activities also foster awareness and understanding on the part of educators, parents and other community members of the referral procedures for special education, the eligibility criteria, and the continuum of special education programs and services available. Child find activities inform educators, community agencies, and parents/guardians of their right to refer their child for a special education assessment to determine eligibility and the need for special education services.

(E.C. § 56300 and 56301)

Examples of child-find activities include:

1. Media announcements regarding availability of special education services, as well as feature articles and stories regarding special education programs and opportunities;
2. Development of Interagency Agreements that clearly define child find responsibilities of participating agencies (e.g., Merced County Mental Health, Head Start, and California Children's Services);
3. Annual orientation/review for general education staff, provided by special education staff, regarding the referral procedures for special education, the eligibility criteria, and the continuum of special education programs and services available;
4. Disability/Ability Awareness activities provided to both general education staff and students that include simulation activities, speakers, literature review, and instructional videos; and
5. Information regarding the referral process for special education included in the annual notice of procedural safeguards.

Pre-Referral Activities

A student shall be referred for special education and related services only after the resources of the general education program have been considered, and when appropriate, utilized. The Student Success Team (SST) is the usual venue for ensuring that all appropriate general education resources have been attempted prior to referral including response to intervention. It is not mandatory, however, for a student to go through the SST process before being referred to special education if pre-referral interventions have been attempted and can be documented. The

SST or other appropriate staff will ensure and document that all appropriate general education resources have been exhausted before referring a student to special education.

(E.C.§ 56303)

Examples of general education interventions prior to referral include the following:

1. Consultation with specialists and/or other staff;
2. Modification of the general program and/or accommodations for the student to facilitate access to core curriculum;
3. Utilization of general program resources, (e.g., counselors, Response to Intervention, Title I resource programs; tutorials; English language development programs; migrant programs; reading interventions programs; 504 accommodation plans, summer school);
4. Parent/guardian conferences; and
5. Referral to appropriate community agencies.

Sources of Referral

Referrals to determine a student's eligibility and need for special education can come from a variety of sources including the following:

1. Student Success Team (SST);
2. Parent, guardian, educational representative, or surrogate parent;
3. School staff;
4. Public and private agencies;
5. Student;
6. Physicians and other medical professionals; or
7. Other community members.

Written Referral

All referrals for special education and related services must be documented. When a parent makes a verbal referral, appropriate staff shall offer assistance to the parent to put the request in writing. All school staff referrals should also be in writing and should include a brief reason for the referral, documentation of the resources of the general education program that have been considered and/or utilized, and the results of the interventions attempted. This documentation, however, should not delay the time lines for completing the assessment plan or assessment.

(5 C.C.R. § 3021)

Notice of Procedural Safeguards

Parents will be provided with a notice of procedural safeguards upon:

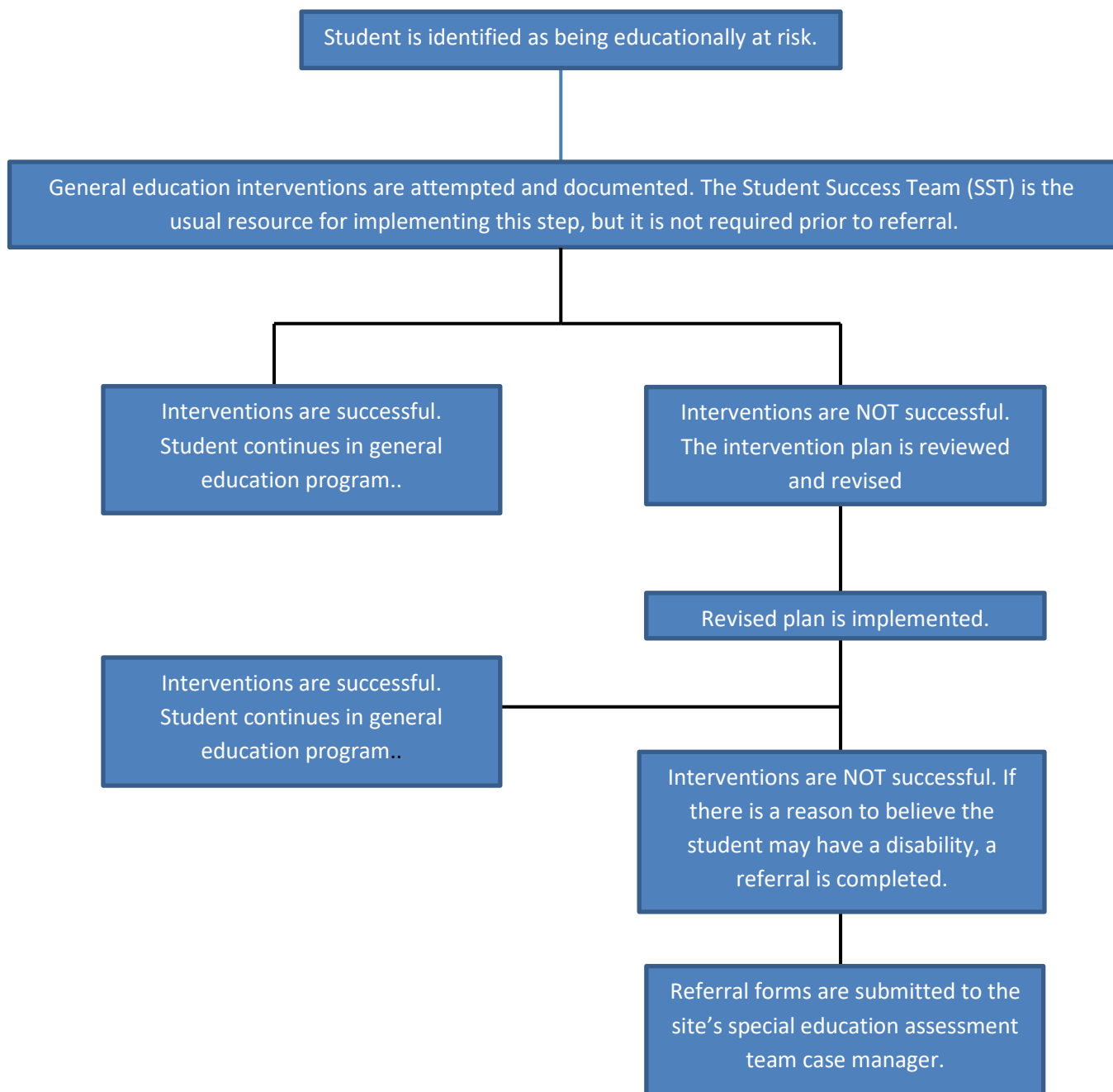
1. Initial referral or parental request for evaluation and annually thereafter;
2. The first occurrence of the filing of a due process or compliance complaint;
3. When a decision is made to apply disciplinary action that constitutes a change in placement (suspension of more than 10 days or expulsion); and
4. Upon request by a parent or adult student.

(E.C. § 56301(d)(2))

Over-Identification and Disproportionality

Each LEA must develop and implement policies, procedures, and practices that prevent determination of eligibility or ineligibility for special education based upon racial or ethnic factors. Failure to do so may result in a disproportionate percentage of racial or ethnic groups in special education generally or in specific disability categories. Annual evaluations of over-identification and disproportionality are conducted by the California Department of Education (CDE). LEAs that are found to be out of compliance are required to conduct self-reviews and engage in corrective action. (20 U.S.C. § 1412(a)(24))

Flow Chart: Initial Referrals to Special Education



Chapter 3 – Response to Referral and Obtaining Parent Consent

When a student has been referred for an initial assessment to determine his or her educational needs and possible eligibility, the completed referral form is forwarded to the case manager who logs the referral and notifies the assessment team. A special education assessment file is initiated. Prior to conducting an initial assessment, the assessment team must determine that an assessment is appropriate and, if so, obtain written parental consent.

Notice of Referral, Proposed Action, and Consent for Assessment

After receiving the referral, the assessment team must review it to determine that the resources of the general education program have been considered, and when appropriate, utilized (E.C. § 56303) and identify any areas of suspected disability. In response to the referral, the assessment team must then complete a written notice of referral including what the proposed or denied action is, how it was reached, and what sources of information were used in developing the proposed or denied action (E.C. § 56500.4(a)). If the proposed action is to conduct an assessment, the team must also complete an assessment plan (E.C. § 56321(a)). These forms, along with a notice of procedural safeguards (E.C. § 56301(d)(2)) must be submitted to the parent for review and possible approval/consent within 15 days of receiving the written referral unless the parent agrees in writing to an extension.

No assessment shall be conducted unless the written consent of the parent is obtained prior to the assessment, except under certain circumstances. If the parent does not provide consent for an initial assessment, the LEA may request due process to override the lack of consent (E.C. § 56321(c)(2)).

IEP teams must use the SELPA-approved forms for each of these activities.

Assessment Plan

The proposed assessment plan must meet all of the following requirements:

1. Be in language easily understood by the general public;
2. Be provided in the native language of the parent or guardian or other mode of communication used by the parent or guardian, unless to do so is clearly not feasible;
3. Explain the types of assessments to be conducted;
4. State that no IEP will result from the assessment without the consent of the parent;
5. A description of any recent assessments conducted, including any available independent educational evaluations and any assessment information the parent requests be considered; and
6. The student's language proficiency in the primary language and in English.

(E.C. § 56321 and 5 C.F.R. § 3022)

Definition of “Parent”

“Parent” means a natural or adoptive parent having legal custody of a child; an adult student (age 18 years or older) for whom no guardian or conservator has been appointed; a person acting in the place of a natural or adoptive parent including a grandparent, stepparent, or other relative with whom the child lives; a foster parent if the authority of a parent to make educational decisions on the child’s behalf has been specifically limited by court order. In certain circumstances, it is necessary for the LEA to appoint a surrogate parent. “Parent” does not include the state or any political subdivision of the government.

(26.5 Gov. Code § 7579.5(a))

Surrogate Parents

Appointment

The LEA shall make reasonable efforts to ensure the appointment of a surrogate parent not more than 30 days after there is a determination by the LEA that the child needs a surrogate parent. Determination of need for a surrogate parent shall be made when one or more of the following circumstances occur:

1. The child is adjudicated a dependent or ward of the court either at the time of a referral of the child to the LEA for special education and related services or in cases where the child already has a valid IEP and the court has specifically limited the right of the parent or guardian to make educational decisions for the student, or the student has no responsible adult to represent him or her;
2. No parent for the child can be identified;
3. The local educational agency, after reasonable efforts, cannot discover the location of a parent; or
4. The child is an unaccompanied, homeless youth as defined in the federal McKinney-Vento Homeless Assistance Act.

A surrogate parent shall not be appointed for a child who has reached the age of majority unless the child has been declared incompetent by a court of law.

(26.5 Gov. Code § 7579.5(a)(1)-(3) and § 7579.6(a)-(b))

Selection

When appointing a surrogate parent, the LEA shall, as a first preference, select a relative caretaker, foster parent, or court appointed special advocate, if any of these individuals exist and is willing and able to serve. If none of these individuals is willing or able to act as a surrogate

parent, the LEA shall select the surrogate parent of its choice. If the child is moved from the home of the relative caretaker or foster parent who has been appointed as a surrogate parent, the LEA shall appoint another surrogate parent. As far as practical, a surrogate parent should be culturally sensitive to his or her assigned child.

An individual who has a conflict of interest in representing the child shall not be appointed as a surrogate parent. A "conflict of interest" means having any interests that might restrict or bias an individual's ability to advocate for all of the services required to ensure a free appropriate public education for an individual with exceptional needs.

Except for individuals who have a conflict of interest in representing the child, individuals who may serve as surrogate parents include, but are not limited to, foster care providers, retired teachers, social workers, and probation officers who are not employees of a public agency involved in the education or care of the child. The surrogate parent shall not be an employee of a public or private agency that is involved in the education or care of the child. If a conflict of interest arises subsequent to the appointment of the surrogate parent, the LEA shall terminate the appointment and appoint another surrogate parent.

Appointment of surrogate parents shall be documented through completion of the SELPA-approved form.

(26.5 Gov. Code § 7579.5(b), (e), (i), and (j))

Roles and Responsibilities

A surrogate parent shall serve as the child's parent, and have the same rights relative to the child's education as that of a parent. The surrogate parent may represent the child in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the IEP, and in all other matters relating to the provision of a FAPE. This representation includes provision of written consent to the IEP, non-emergency medical services, mental health treatment services, and/or occupational or physical therapy services. He or she may sign any consent relating to IEP purposes. The surrogate parent is required to meet with the child at least one time.

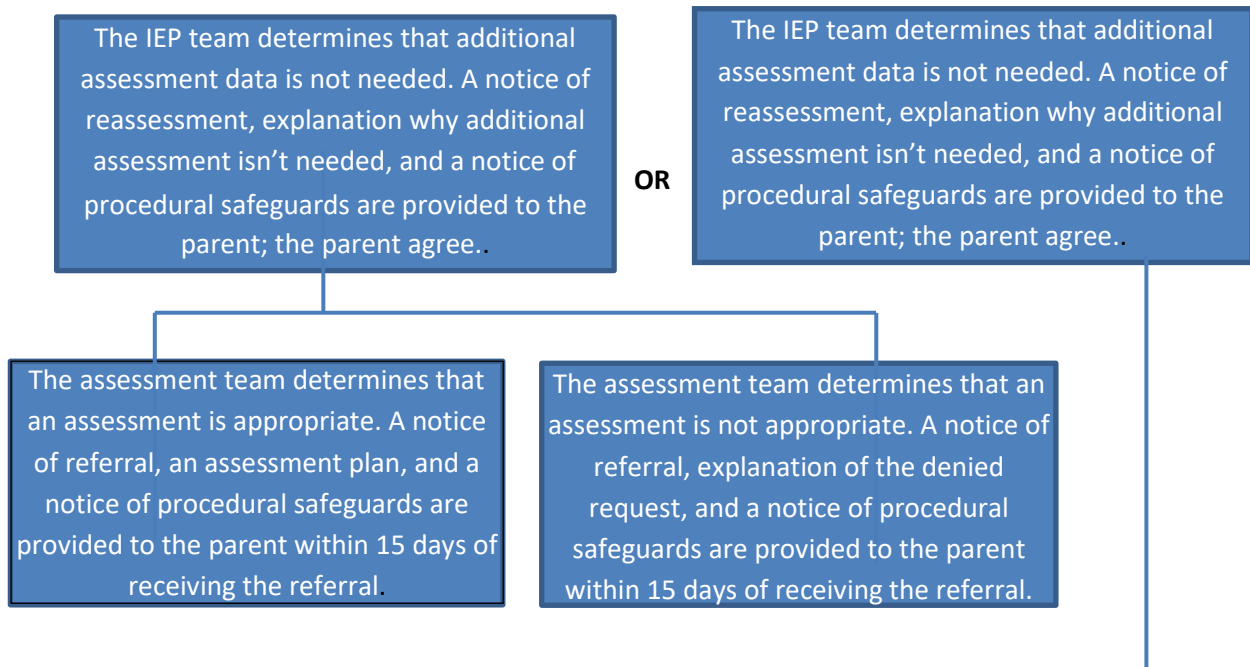
(26.5 Gov. Code § 7579.5(c)-(d))

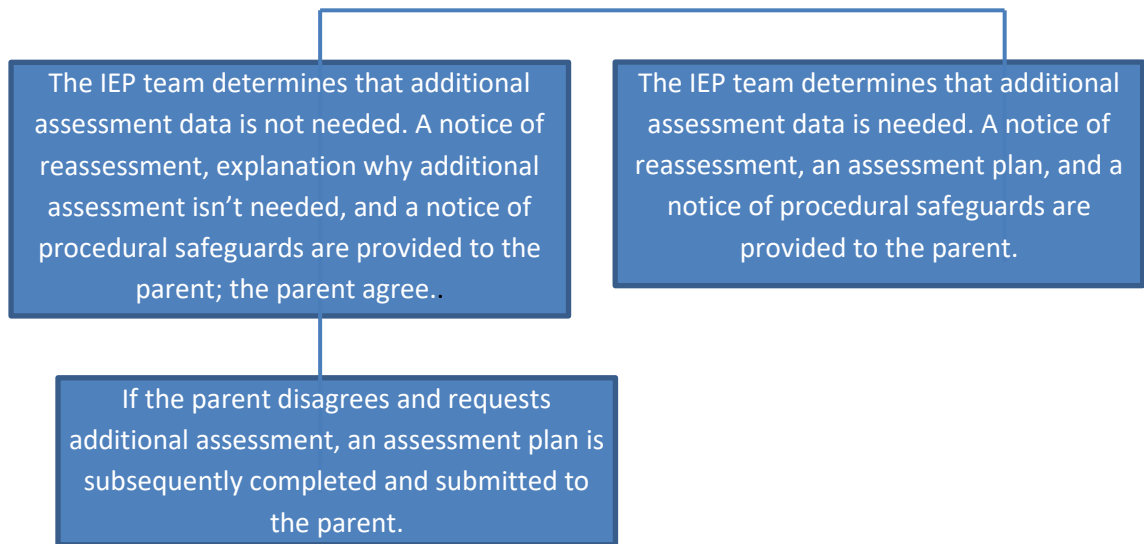
Educational Representative

Nothing in this section shall be interpreted to prevent a parent or guardian of an individual with exceptional needs from designating another adult individual to represent the interests of the child for educational and related services. Parents can designate an educational representative for their child by completing the SELPA-approved form.

(26.5 Gov. Code § 7579.5(n))

Flow Chart: Obtaining Parental Consent for Assessment





Note: The Case Manager also requests that the parent complete a health and developmental history and sign a consent to exchange information with other agencies, when needed. The LEA identifies and appoints an appropriate surrogate parent, if it is determined that the student requires a surrogate parent.

Chapter 4 – Assessment

An individual assessment of the student's educational needs shall be conducted before any action is taken with respect to the initial placement of an individual with exceptional needs in special education. (E.C. § 56320) Reassessments must be conducted as specified by law.

Legal Requirements of the Assessment

Once parental consent for the assessment has been obtained, the case manager shall distribute a copy of the signed assessment plan to all staff conducting the assessment. Parent consent is not required before reviewing existing data as part of an assessment or reassessment.

All assessments shall be conducted by persons knowledgeable of the suspected disability, including assessment of students with suspected low incidence disabilities (E.C. § 56136) and shall be conducted by a multi-disciplinary team, when appropriate. Special attention shall be given to each student's unique educational needs, including the need for specialized services, materials, and equipment. Tests and other assessment materials must meet all the following requirements:

-
1. Are selected and administered so as not to be racially, culturally, or sexually discriminatory;
 2. Are provided and administered in the language and form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is not feasible to do so;
 3. Are used for the purposes for which the assessments or measures are valid and reliable;
 4. Are administered by trained and knowledgeable personnel and are administered in accordance with any instructions provided by the producer of the assessments, except that individually administered tests of intellectual or emotional functioning shall be administered by a credentialed school psychologist;
 5. Include those that are tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient;
 6. Intelligence tests are NOT administered to African-American students (Larry P. vs. Riles, 1979 and Larry P. Task Force Report of 1989); for these students, alternative assessments must be used in place of standardized tests designed to yield IQ scores; and
 7. Are selected and administered to best ensure that a test administered to a student with impaired sensory, manual, or speaking skills produces test results that accurately reflect the student's aptitude, achievement level, or any other factors the test purports to measure and not the student's impaired sensory, manual, or speaking skills unless those skills are the factors the test purports to measure.

(E.C. § 56320(a)-(d))

The student is assessed in all areas related to the suspected disability including, if appropriate, health and development, vision, including low vision, hearing, motor abilities, language function, general ability, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social, emotional, and behavioral status. For all initial and triennial reviews, students shall have had a hearing and vision screening (5 C.C.R. § 3027) unless parent permission was denied. A health and developmental history is obtained, when appropriate.

In addition to assessing all areas related to the suspected disability, assessment should include reviewing the student's strengths; conducting an observation of the student in the classroom, or an age appropriate setting if the student is 3 to 5 years old; and reviewing and considering information provided by the parent, including any independent assessments.

No single measure or assessment is used as the sole criterion for determining whether a student is an individual with exceptional needs or determining an appropriate educational program for a student.

(E.C. § 56320(e)-(f))

In addition to the above items, the Merced County SELPA requires additional information. Please see referral guidelines on the SELPA website at mcoe.org.

Screening or observation 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. A screening includes basic tests or procedures used for all children in a school, grade, or class. Mass screenings used in connection with child find activities are not considered evaluations and thus do not require prior parental notice and consent.

(E.C. § 56329(a)(3))

Reassessment

A reassessment of the student shall be conducted not more frequently than once a year, unless the parent and LEA agree otherwise, and at least once every three years, unless the parent and LEA agree in writing that a reassessment is not necessary (E.C. §56381(a)(1)-(2)). The purpose of the reassessment is to determine if the student continues to be a student with exceptional needs and if so, whether additions or modifications to the IEP are needed to enable the student to meet his/her annual goals. A triennial reevaluation must be conducted on or before the calendar date that is three years from the initial IEP meeting or previous triennial IEP meeting. Additional data obtained through full standardized testing is often not necessary for reassessment. An assessment report containing all of the required components must be completed to document the data that was reviewed and continuing eligibility.

A student must be reassessed before determining that he or she is no longer a student with a disability except when termination of eligibility is due to graduation from secondary school with a regular diploma, or to exceeding age eligibility under State law (E.C. § 63381(h)). In such cases, the LEA must provide the student with a summary of the child's academic achievement and functional performance including recommendations on how to assist the student in meeting the student's post-secondary goals (E.C. § 63381(i)(2)).

Prior to a student transitioning from preschool to kindergarten or first grade, an appropriate reevaluation should be conducted (E.C. § 56445(a)) to determine if the individual is still in need of special education and services. The reassessment procedures described above should be followed.

As part of the reassessment, the IEP team must review the following:

1. Existing records and assessment data;
2. Current classroom performance;
3. Information provided by the parent; and
4. Teachers' and related service providers' observations.

(E.C. § 56381(b)(1))

If, following this review, it is believed that no additional assessment data are needed to determine continuing eligibility; the case manager shall document this determination using SELPA-approved forms and present them to the parents. In these forms, the parents are informed that they have the right to request additional assessment. If the parents agree with the IEP team's findings and do not request additional assessment data, no additional assessment data needs to be gathered. The relevant notices and forms must be given to the parents early enough to complete a full assessment, if parents request it, before the IEP meeting due date.

(E.C. § 56381(d))

If the IEP team determines that additional assessment data is needed or the parent requests additional data, the legal requirements for conducting assessments as outlined previously in this chapter must be followed.

Parent consent to conduct a reassessment is not required if the LEA can demonstrate that it has taken reasonable measures to obtain consent and the parent has failed to respond.

(34 C.F.R. § 300.300(c)(2))

Components of the Assessment Report

Assessment results must be documented in a written report that contains, but is not limited to, all of the components listed below:

1. Educationally relevant health, developmental, and medical findings, if any;
2. Relevant behavior noted during the observation of the student in an appropriate setting and its relationship to the student's academic and social functioning;
3. A determination concerning the effects of environmental, cultural, or economic disadvantage, when appropriate;
4. Whether assistive technology and services are needed;
5. For students with low incidence disabilities, whether any specialized services, materials, and/or equipment are needed;
6. For students with learning disabilities, whether there is a discrepancy between achievement and ability that cannot be corrected without special education and related services;
7. Whether the student may need special education and related services; and
8. The basis for making the determination of eligibility.

(E.C. § 56327(a)-(h))

In addition to the required components listed above, the following are recommended for inclusion in the assessment report to document consideration by the assessment team:

1. A statement regarding the validity of the assessment and the tests used;
2. Information provided by the parent; and
3. An independent assessment, when provided by the parent.

Every assessment report, integrated and individual, must include all required components. Reports must be completed for all assessments, including reassessments where no additional assessment data is collected and assessments conducted for the purpose of obtaining additional information. Parents are provided a copy of the assessment report with documentation of how eligibility or non-eligibility was determined. (E.C. §56329(a)(3))

Eligibility Criteria

To qualify for special education and related services under the IDEA, Part B, a student must be between the ages of three and 21 years and be determined by an IEP team to meet the definition of one or more of the categories of disability specified under the IDEA (described below). Additionally, the student must require special education and related services as result of his disability or disabilities.

(E.C. § 56026(a)-(c)(3)-(4))

The implementing federal regulations for IDEA 2004 further state that a child shall not be determined to be a child with a disability if the “determinant factor” is a “lack of appropriate instruction in reading, including the essential components of reading instruction as defined in the No Child Left Behind Act (NCLB). NCLB defines the term “essential components of reading instruction” to include:

1. Explicit and systematic instruction in phonemic awareness;
2. Phonics;
3. Vocabulary development;
4. Reading fluency, including oral reading skills; and
5. Reading comprehension strategies.

IDEA 2004 retained the previous law’s exclusion from eligibility for determinant factors of limited English proficiency and lack of instruction in math.

Autism

Note: Revised effective July 1, 2014.

Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, and adversely affecting a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

- Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance.
- A child who manifests the characteristics of autism after age three could be identified as having autism.

(5 C.C.R. § 3030(b)(1)a-b)

Emotional Disturbance

Because of a serious emotional disturbance* a student exhibits one or more of the following characteristics:

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

This characteristic requires that a student is so severely emotionally disturbed that he or she cannot learn, despite appropriate educational interventions and efforts of the student. All other possible reasons for a student's inability to learn have been ruled out (e.g., other types of disability, motivational factors, behavioral disorders, social and cultural factors, attendance issues, health factors).

2. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.

The term "unable" does not include "unwilling" or lacking in social skills if the student is capable of learning social skills.

3. Inappropriate types of behavior or feelings under normal circumstances exhibited in several situations.

To qualify under this characteristic, the behaviors must be psychotic, overtly bizarre, or potentially or actually harmful to the student or to others.

4. A general pervasive mood of unhappiness or depression.

This characteristic requires that the student must demonstrate actual, overt symptoms of depression. Depression caused by immediate and identifiable environmental stressors are insufficient for meeting the requirement.

5. A tendency to develop physical symptoms or fears associated with personal or school problems.

Physical symptoms should have no demonstrated organic etiology and should not appear to be under conscious control. Fears and phobias include persistent and irrational fears of particular objects, activities, individuals or situations that result in consistent avoidance behavior or a significant rise in anxiety or panic when the source cannot be avoided.

These characteristics must have been exhibited over a long period of time (typically at least six months) and to a marked degree. To qualify as being exhibited to a marked degree, the characteristics must be pervasive, as evidenced through demonstration of them across almost all domains (school, home, and community) and with almost all individuals, and intense producing significant distress either to the individual or to others in his or her environment.

Emotional disturbance includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance under the above criteria.

* An emotional condition such as those defined under the *Diagnostic and Statistical Manual of Mental Disorders* (DSM) must be identified before further consideration of eligibility in this category can be considered.

Hearing and Visual Impairments (Deaf/Blindness)

A student has concomitant hearing and visual impairments, the combination of which causes severe communication, developmental, and education problems and cannot be accommodated in general education. A state licensed ophthalmologist and a state licensed audiologist must verify the presence of both deficits. (5 C.C.R. § 3030(b)(2))

Hearing Impairment (Deafness and Hard of Hearing)

A student has a hearing impairment, whether permanent or fluctuating, that impairs the processing of linguistic information through hearing, even with amplification, and which adversely affects educational performance. Processing linguistic information includes speech and language reception and speech and language discrimination. The student must have a written diagnosis/report of hearing impairment from a licensed or credentialed audiologist with a specialization in clinical or rehabilitation services in audiology. This diagnosis/report should specify the range, nature and degree of hearing impairment. This report must be current and provide measures of audiological functioning both with and without amplification. (5 C.C.R. § 3030(b)(3))

Intellectual Disability

A student has significantly below average general intellectual functioning, existing concurrently with deficits in adaptive behavior manifested during the developmental period or incurred as the result of disease or trauma that adversely affects educational performance. (5 C.C.R. 3030(b)(6))

Multiple Disabilities

The student demonstrates concurrent impairments in at least two areas, such as intellectual disability-blindness or intellectual disability-orthopedic impairment, the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. “Multiple disabilities” does not include deaf-blindness (34 C.F.R. 300.8(b)(7))

Orthopedic Impairment

A student has a severe orthopedic impairment that is not temporary in nature and adversely affects the student’s educational performance. Such orthopedic impairments include impairments caused by congenital anomaly, impairments caused by disease, and impairments from other causes. The student must have a written diagnosis from a licensed physician or surgeon that he or she has a severe orthopedic impairment that results in a serious impairment of locomotive and/or other motor functions. (5 C.C.R. § 3030(b)(8))

Other Health Impairment

A student has limited strength, vitality, or alertness due to chronic or acute health problems, including but not limited to a heart condition, cancer, leukemia, rheumatic fever, chronic kidney disease, cystic fibrosis, severe asthma, epilepsy, lead poisoning, diabetes, Tourette’s Syndrome,

tuberculosis and other communicable infectious diseases, and hematological disorders such as sickle cell anemia and hemophilia, that adversely affect a student's educational performance. When applied to children with ADD/ADHD, this definition includes a child's heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment. In accordance with Section 56026 (e) of the Education Code, such physical disabilities shall not be temporary in nature, as defined in Section 3001 (x). The student must have a written diagnosis from a licensed physician indicating that he/she has a severe medical condition resulting in limited strength, vitality or alertness. (5 C.C.R. § 3030(b)(9))

Specific Learning Disability

Note: Revisions to the criteria for Title V eligibility in this area are being proposed and may go into effect sometime during the 2013-14 school year.

A disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. The basic psychological processes include attention, visual processing, auditory processing, sensory-motor skills, and cognitive abilities. The term "specific learning disability" includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

The IEP team determines whether a student meets the criteria established above using a severe discrepancy model (i.e., determining whether the student has a severe discrepancy between intellectual ability and achievement); a process that determines if the student responds to scientific, research-based intervention; or establishing evidence that the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state- approved grade-level standards, or intellectual development. When a discrepancy model is used (the current model in Merced County SELPA), no single score or product of scores, test or procedure shall be used as the sole criterion for the decision of the IEP team as to the student's eligibility for special education. When standardized tests are considered to be valid for a specific student, a severe discrepancy is demonstrated by:

1. Converting the achievement test score and the ability test score into common standard scores, such as using a mean of 100 and a standard deviation of 15;
2. Computing the difference between these common standard scores;
3. Comparing this computed difference to the standard criterion that is the product of 1.5 multiplied by the standard deviation of the distribution of computed differences of students taking these achievement and ability tests;
4. Evaluating whether the computed difference equals or exceeds this standard criterion, adjusted by one standard error of measurement, the adjustment not to exceed 4 common standard score points; and
5. Determining that any resulting severe discrepancy is corroborated by other assessment data that may include other tests, scales, instruments, observations and work samples, as appropriate.

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

1. Data obtained from standardized assessment instruments;
2. Information provided by the parent;
3. Information provided by the student's present teacher;
4. Evidence of the student's performance in the general and/or special education classroom obtained from observations, work samples, and group test scores;
5. Consideration of the student's age, particularly for young children; and
6. Any additional relevant information.

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

The discrepancy shall not be primarily the result of limited school experience or poor school attendance.

NOTE: Title V Regulations revised effective July 1, 2014. The section below has been added to allow districts the option of using RTI.

Whether or not a pupil exhibits a severe discrepancy as described in subdivision (b)(10)(B) above, a pupil may be determined to have a specific learning disability if:

The student does not achieve adequately for the students' age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the pupil's age or State-approved grade-level standards:

- (i) Oral expression.
- (ii) Listening comprehension.
- (iii) Written expression.
- (iv) Basic reading skill.
- (v) Reading fluency skills.
- (vi) Reading comprehension.
- (vii) Mathematics calculation.
- (viii) Mathematics problem solving, and

The student does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in subdivision (b)(10)(C)(1) of this section when using a process based on the pupil's response to scientific, research-based intervention; or

The student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with 34 C.F.R. sections 300.304 and 300.305; and

The findings under subdivisions (b)(10)(C)(1) and (2) of this section are not primarily the result of:

- (i) A visual, hearing, or motor disability;
- (ii) Intellectual disability;
- (iii) Emotional disturbance;
- (iv) Cultural factors;
- (v) Environmental or economic disadvantage; or
- (vi) Limited English proficiency.

To ensure that underachievement in a student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group making the decision must consider:

- (i) Data that demonstrate that prior to, or as a part of, the referral process, the pupil was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
- (ii) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the pupil's parents.

In determining whether a student has a specific learning disability, the public agency must ensure that the student is observed in the student's learning environment in accordance with 34 C.F.R. section 300.310. In the case of a child of less than school age or out of school, a qualified professional must observe the child in an environment appropriate for a child of that age. The eligibility determination must be documented in accordance with 34 C.F.R. section 300.311. (5 C.C.R. § 3030(b)(10); E.C. § 56337; 34 C.F.R. § 300.8(c)(10); and 34 C.F.R. § 300.309(a)(1-3))

Language or Speech Impairment

A student demonstrates difficulty understanding or using spoken language to such an extent that it adversely affects his or her educational performance and cannot be corrected without special education and related services. The difficulty in understanding or using spoken language is assessed to be due to one of the following disorders:

Articulation Disorder

The student displays reduced intelligibility or an inability to use the speech mechanism that significantly interferes with communication and attracts adverse attention. Significant interference in communication occurs when the student's production of single or multiple speech sounds on a developmental scale of articulation competency is below that expected for his or her

chronological age or developmental level and which adversely affects educational performance. The student does not meet criteria for an articulation disorder if the sole assessed disability is an abnormal swallowing pattern. The student also does not meet criteria for an articulation disorder when the student exhibits atypical speech resulting from a lack of familiarity with the English language or dialectical patterns resulting from the use of non-standard English.

Abnormal Voice

A student has an abnormal voice that is characterized by persistent, defective voice quality, pitch, or loudness.

Fluency Disorders

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

Language Disorder

A student has an expressive or receptive language disorder as exhibited by a score of at least 1.5 standard deviations below the mean, or below the 7th percentile, for his or her chronological age or developmental level in one or more areas of language development including morphology, syntax, semantics, or pragmatics as assessed by:

1. Two or more standardized tests, **or**
2. One or more standardized tests and inappropriate or inadequate usage of expressive or receptive language as measured by a representative spontaneous or elicited language sample of a minimum of fifty utterances. The language sample must be recorded or transcribed and analyzed and the results included in the assessment report. If the student is unable to produce this sample, the language, speech, and hearing specialist shall document why a fifty-utterance sample was not obtainable and the contexts in which attempts were made to elicit the sample.
3. When standardized tests are considered to be invalid for the specific student, expected language performance level shall be determined by alternative means as specified in the assessment plan. (5 C.C.R. § 3030(b)(11) and E.C. § 56333)

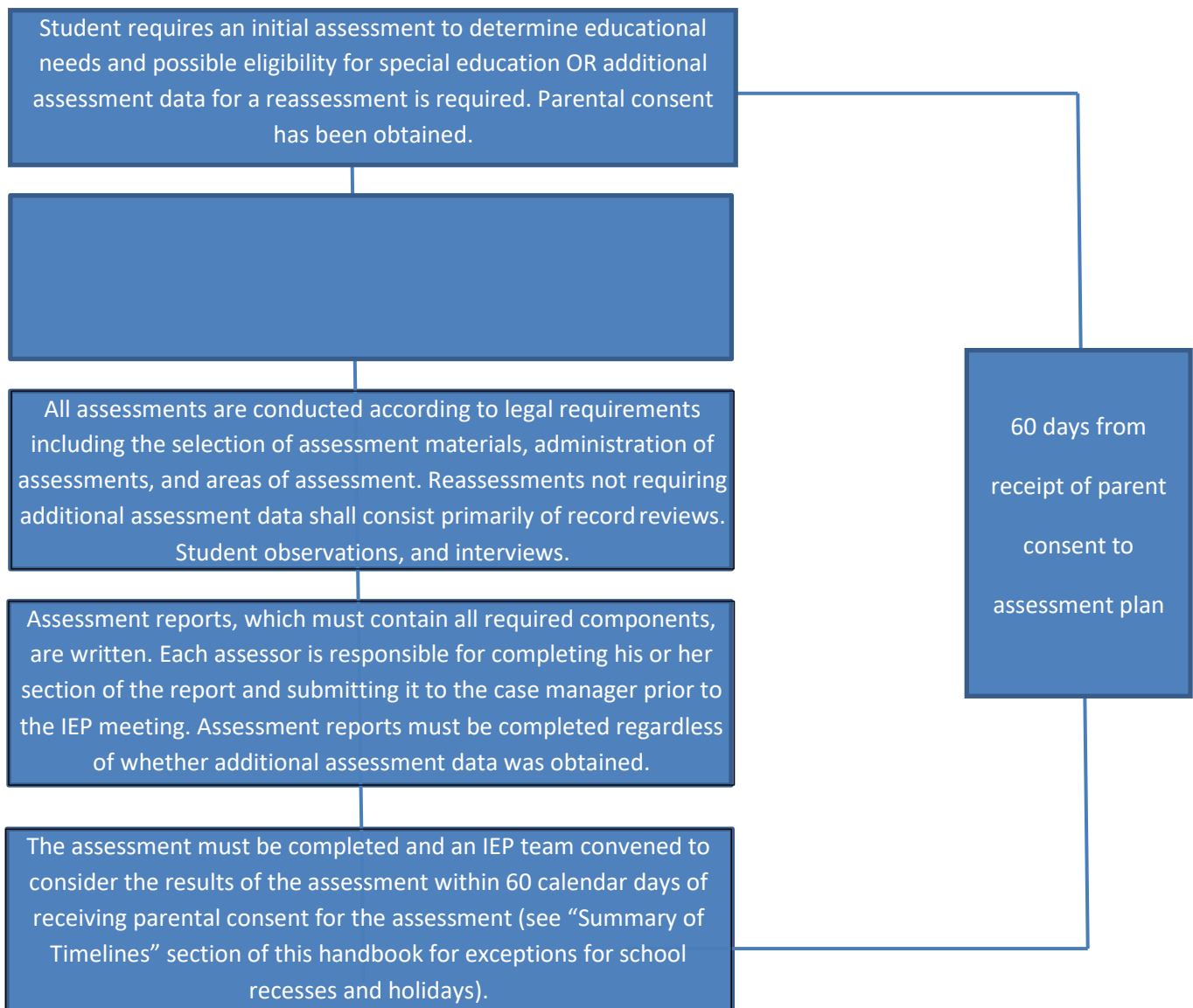
Traumatic Brain Injury

Traumatic brain injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory, perceptual, and motor abilities, psychosocial behavior, physical functions, information processing, and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma. The student must have a written diagnosis from a licensed physician that he/she has a severe medical condition due to traumatic brain injury. (34 C.F.R. 300.8(b)(12))

Visual Impairment

A student has a visual impairment that, even with correction, adversely affects a student's educational performance. A student whose vision cannot be used as a major channel of learning is typically identified as blind. Partially sighted students demonstrate central visual acuity ranging from 20/70 to 20/200 in the better eye, after the best correction. Legally blind students demonstrate visual acuity of 20/200 or less, after best correction, or better than 20/200 if there is a field defect in which the widest diameter of the visual field is no greater than 20 degrees. The student must have a written report of an eye examination by a licensed ophthalmologist that verifies the visual impairment. (5 C.C.R. § 3030(b)(13) and E.C. § 563500)

Flow Chart: Assessments and Reassessments



Chapter 5 – The IEP Team Meeting

Circumstances Requiring an IEP Team Meeting

IEP team meetings are required under a variety of situations. An IEP team meeting must be held:

1. When an initial or subsequent formal assessment has been conducted (including triennials) (E.C. § 56343(a));
2. When a student demonstrates a lack of anticipated progress (E.C. § 56343(b));
3. A teacher requests a meeting to develop, review, or revise the IEP (E.C. § 56343(c));
4. At least annually to review progress, goals, placement and related services, and supplementary aids and services and to make any revisions to the IEP (E.C. § 56343(d));
5. Within 30 days of receiving a request for a meeting from a parent to review and/or revise the IEP (E.C. § 56343.5);
6. Within 30 days of making an interim placement of a student transferring from a district outside of the SELPA into any special education program (E.C. § 56325(a)(1));
7. Following a behavioral emergency (5 C.C.R. § 3052(i)(7));
8. For any change of placement (34 C.F.R. § 300.16); and
9. When a manifestation determination must be made due to student discipline issues (20 U.S.C. 1415(k)(1)(E)(i)(I)).

Required Members of the IEP Team

Each meeting to develop, review or revise the IEP of an individual with exceptional needs shall be conducted by a team. The IEP team shall include all of the participants discussed below.

1. One or both of the student's parents, a representative selected by the parent, or both.
2. Not less than one general education teacher if the student is, or may be, participating in the regular education environment. If more than one general education teacher is providing instructional services to the student, one general education teacher may be designated by the LEA to represent the others. It is recommended that if only one general education teacher will be attending the meeting that the selected teacher is one that serves the student in a key area of the student's program.
3. Not less than one special education teacher of the student, or if appropriate, not less than one special education provider of the student.
4. A representative of the local educational agency who meets all of the following:

-
- a. Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of individuals with exception needs;
 - b. Is knowledgeable about the general education curriculum; and
 - c. Is knowledgeable about the availability of resources of the LEA.
 5. An individual who can interpret the instructional implications of the assessment results. This individual may already be a member of the team as described above in items 1 through 4.
 6. For students with suspected learning disabilities, at least one member of the IEP team shall be qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher. At least one team member shall observe the student's academic performance and behavior in the areas of difficulty in the student's learning environment, including the regular classroom setting. In the case of a child who is less than school aged or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

(E.C. § 56341(b)(1)-(5) and (c))

Additional Members of the IEP Team

When appropriate, the team shall also include the following persons:

1. At the discretion of the parent, guardian, or the LEA, other individuals who have knowledge or special expertise regarding the student including related services personnel, as appropriate. The party who invites the individual to be a member of the IEP team shall make the determination of whether the individual has knowledge or special expertise regarding the student.
2. The individual with exceptional needs.
3. To the extent appropriate, with the consent of the parents or a student who has reached the age of majority, the local educational agency shall invite a representative of a participating agency that is likely to be responsible for providing or paying for transition services.
4. In the case of a child who was previously served as a toddler in an Early Start program (IDEA, Part C), an invitation to the initial individualized education program team meeting shall, at the request of the parent, be sent to the Early Start service coordinator or other representative of the Early Start program. (E.C. § 56341(b)(6)-(7); (d)(3); and (i))

Excusing IEP Team Members

IEP team members may be excused from attending a meeting, in whole or in part, provided that both the parent and the local educational agency agree and the parent's agreement is in writing, when:

1. The team member's area of the curriculum or related service is not being modified or discussed; or
2. The team member's area of the curriculum or related service is being discussed; however, the team member submits written input into the IEP development before the meeting.

(E.C. § 56341(f) and (g)(1)-(2))

When an IEP team member is to be excused, the name(s) of the excused member(s), as well as the parent's consent, must be documented using a SELPA form approved for this purpose.

Responsibilities of the IEP Team

The IEP team shall:

1. Review results of any assessments and identify areas of need;
2. Determine eligibility (initial and reassessments);
3. Determine present levels of academic achievement and functional performance for each area of identified need;
4. Develop goals and, if appropriate, short-term objectives or benchmarks for each area of identified need; and
5. Determine appropriate supports, placement, and related services.

(E.C. § 56342(a)(1)-(4) and 34 CFR 300.306(1))

Notice of the IEP Team Meeting

The Case Manager convening a meeting of the IEP team is responsible for completing a notice of the IEP team meeting and providing it to the parent. The IEP team meeting shall be scheduled at a mutually agreed upon time and place. Parents shall receive notice of the IEP meeting early enough to ensure an opportunity to attend. It is recommended that the written notice be sent approximately two weeks prior to the meeting date. The notice of the meeting shall indicate the purpose, time, and location of the meeting and who shall be in attendance. The notice must also include a reminder to the parents of their right to bring other people to the meeting who have knowledge or special expertise regarding the individual with exceptional needs. For students transferring from an infant/toddler program to a preschool program, the notice must indicate the right to have the Early Start service coordinator attend. Beginning not later than the first IEP in

effect when a student turns 16, the notice also must indicate that a purpose of the meeting will include consideration of the postsecondary goals and transition services for the student and that the LEA will invite the student and a representative of any agency that may be involved in providing transition services. If an IEP team meeting must be scheduled within a shorter time period, it is recommended that the parents be contacted by phone to set a mutually agreeable date, time and location for the meeting. This phone contact should be logged and must be followed by sending the parents the written notice of meeting.

(34 C.F.R. 300.322(a)-(b) and E.C. § 56341.5)(c))

Preparation for the IEP Team Meeting

The IEP meeting, while allowing time for presentation of assessment data, should concentrate on development of the educational plan. Organization, advance planning, and effective meeting management can assist the team to stay focused on this goal and keep the time required to complete the meeting to the minimum.

The case manager is responsible for much of the pre-IEP meeting organization. This includes activities such as scheduling the meeting, notifying all team members of the scheduled meeting, arranging to hold the meeting in a comfortable location, and collecting completed reports and other required IEP documents from team members prior to the meeting.

Prior to the IEP team meeting, the case manager should schedule an informal meeting with staff members involved in assessing and/or serving the student. This meeting will allow staff members to share assessment data, student progress, and perceptions about the student's educational needs.

Parent Participation in the IEP Team Meeting

Every attempt shall be made to convince parents to participate in each IEP meeting since they have the right to participate in all meetings relating to eligibility for special education and related services, recommendations for educational placement, and program planning. Parents also have the right to present information to the IEP team in person or through a representative.

(E.C. § 56341.5(a); E.C. § 56304(a); and E.C. 56341.1(f))

The Case Manager shall take whatever action is necessary to ensure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents with deafness or whose primary language is other than English. Parents whose primary language is not English are to receive written notices in their primary language. If this is not feasible, a translator is to read the written notices to parents.

Holding an IEP Team Meeting Without Parent Attendance

A meeting can be conducted without a parent in attendance if the case manager, or other district representative, is unable to convince the parent that he or she should attend in person or through a conference call (E.C. § 56341.5(h)). Prior to holding a meeting without the parent in

attendance, there should be at least three attempts to convince the parent to attend using at least two different means of contact. The case manager shall maintain a record of his/her attempts to arrange a mutually agreed upon time and place, including:

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

Conducting the IEP Team Meeting

The IEP Team meeting is convened and conducted within appropriate timelines (e.g., within 60 days of receiving consent for an assessment unless the parent agrees in writing to an extension using a SELPA form approved for this purpose, within three years of initial assessment or last triennial reevaluation, and within one year of last IEP). If the parent requests that a meeting be postponed to a date that exceeds the 60-day timeline, with parent permission, the team may want to hold an initial meeting prior to the due date and then schedule a continuation of the meeting on the date that the parent has requested. At the initial meeting, preliminary discussions about the student's needs may occur. Final discussions and decisions occur at the subsequent meeting with the parent present. In this circumstance, the date of the first meeting should be recorded at the top of each IEP page as the IEP meeting date. All subsequent dates are recorded on the notes section of the IEP. Each team member should indicate the dates that they were in attendance.

The case manager, or other designated individual, is responsible for facilitating the IEP team meeting. This includes introducing all team members, establishing rapport, explaining the purpose of the meeting, setting the agenda, and organizing the presentation of data. The "IEP Meeting Agenda" in this section is a useful reference for this purpose. Whenever the team anticipates that an IEP meeting will be particularly difficult, the appropriate district special education administrator should be notified.

A few minutes of preparation can increase the effectiveness of the meeting. Prior contact with the parent greatly reduces parental anxiety (and your own).

Location

It is important to hold the meeting in a comfortable setting. The most common and sometimes most productive place to meet with parents is in the student's classroom. This has a number of advantages:

1. Everyone feels comfortable because of the familiar surroundings;
2. Immediate access to all necessary files, materials, etc.;
3. The classroom serves as a reminder of important behaviors a student has displayed; and
4. It sets the stage that the purpose of the meeting is the student's education.

Seating

The seating should be arranged so that all team members have a clear view of each other. Enough seats should be available for all participants. Seating should be spaced sufficiently to allow for comfort of all participants.

Introductions/Overview

Introductions and an overview are important to provide the working framework for the meeting. The facilitator reviews the format, beginning with a statement of the purpose of the meeting and desired outcomes. It is helpful to state the anticipated length of time that the meeting will last. Team members should introduce themselves, explain their role, and describe the degree of contact they have had with the student. The parents should be reminded that their input is essential when discussing their child.

Organization

An agenda should be developed and followed allowing an ordered flow of information and presentation of documents. The facilitator is the overseer of the meeting, preventing personal attacks, keeping the group focused on the agenda, monitoring the time, preventing filibusters, reading body language, etc.

Sharing Information

The person who assessed or provides services in each area should address that area. If an assessment report has been developed, the report should be distributed and used as a point of reference. The facilitator generally introduces a topic and then turns it over to the appropriate specialist. Listed below are some suggestions for presenting material:

1. Approach the parents in a non-threatening manner, respect the parents' opinion and solicit their input;
2. Show interest in the student and describe the student's strengths;
3. Speak in a "lay person's" vocabulary and avoid using educational jargon;
4. Explain test acronyms (WISC, CELF), phrases (auditory discrimination, spatial organization), statistical terms (standard deviation, G.E., stanine, C.A.) and program or service types (LSH, RSP, SC);
5. Use test percentile scores, when possible, as they are often the least misinterpreted;
6. Each presenter should provide a graphic representation of his or her findings and/or provide a description of the test items and explanation of scores;
7. Be prepared to discuss expectations for the "average" or "typical" student in the various academic areas and contrast this with the student's work samples as a basis for discussion;

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8. Provide specific descriptions about progress such as, "At the beginning of the year, he could do such and such and now he can do . . .", instead of non-descriptive generalizations such as, "He's made so much progress";
 9. Do NOT blame the student if little or no progress has been made, instead explain that the program must be modified until the best method of teaching him or her is identified; and
 10. Be alert to non-verbal body language.

Conclusion

At the end of the meeting should summarize the data presented and relate it to the purpose of the meeting. After the summary:

1. Review all paperwork to ensure completion;
2. Obtain signatures;
3. Distribute copies to the parents and all service providers;and
4. Thank everyone for his or her participation.

If, in the course of an IEP team meeting, unanticipated issues arise that cannot be resolved without the presence of the LEA special education administrator, the meeting should be stopped and reconvened at a later date when he or she can be in attendance.

Flow Chart: The IEP Team Process

Due to one of the legally mandated circumstances, an IEP team meeting must be convened to develop or review and revise a student's IEP.

Sample IEP Team Meeting Agenda/Checklist

Activity

Who

Opening

- | | |
|--|---------------|
| ☐ Welcome and introduce everyone | CM or LEA Rep |
| ☐ Explain purpose and procedure | CM or LEA Rep |
| ☐ Provide & explain the notice of procedural safeguards | CM or LEA Rep |
| ☐ Set agenda/time limits | CM or LEA Rep |
| ☐ Review demographic information for accuracy | CM or LEA Rep |
| ☐ Discuss student's strengths | IEP Team |
| ☐ Elicit parent concerns | CM or LEA Rep |

Assessment Results and Eligibility*

- | | |
|---|-----------|
| ☐ Review assessment results | Assessors |
| ☐ Address and record eligibility | IEP Team |
| ☐ Identify areas of need related to disability | IEP Team |

Present Levels/Goals & Objectives

- | | |
|--|----------|
| ☐ Review and present levels of achievement/performance | IEP Team |
| ☐ Review and update previous goals and objectives | IEP Team |
| ☐ Review previous and/or develop new goals and objectives | IEP Team |

Participation in District & Statewide Assessments

- | | |
|---|----------|
| ☐ Identify appropriate test (CST) and method of administration | IEP Team |
| ☐ Identify method of administration for CAHSEE (when grade appropriate) | IEP Team |
| ☐ Identify method of administration for CELDT (for English Learners Only) | IEP Team |
| ☐ Specify any other district/statewide assessments & method administration | IEP Team |

Instructional Settings and Supports

- | | |
|---|----------|
| ☐ Discuss and identify percentage of participation in general education | IEP Team |
| ☐ Identify any needed assistive technology and/or low incidence equipment | IEP Team |
| ☐ Identify any support needed for student who are deaf/HOH or VI | IEP Team |
| ☐ Specify promotion/retention standard and(8 th grade and up) graduation plan | IEP Team |

Special Considerations

Discuss and complete any special consideration forms, as needed:

- | | |
|--|----------|
| ☐ Instructional accommodations/modifications | IEP Team |
| ☐ Assessment and support for English learners | IEP Team |
| ☐ Postsecondary Transition Plan | IEP Team |
| ☐ Other Transition Plans (PK to Elementary, NPS to Public School, Behavior Plans, Manifestation Determination, Grade Retention, etc.) | IEP Team |

Special Education and Related Services

- | | |
|--|---------------|
| ☐ Explain special education and related service options | CM or LEA Rep |
|
 | |
| ☐ Consider special education and related service options | IEP Team |
| ☐ Offer appropriate special education and related service options | CM or LEA Rep |

Supplementary Aids, Services, ESY

- | | |
|---|----------------|
| ☐ Identify any needed supports for school personnel | IEP Team Offer |
| ☐ Any needed supports for school personnel | IEP Team |
| ☐ Identify any special education transportation to be provided | IEP Team |
| ☐ Discuss options for how physical education will be provided | IEP Team |
| ☐ Specify how physical education will be provided | CM or LEA Rep |
| ☐ Discuss whether ESY is needed | IEP Team |
| ☐ Specify ESY services that are being offered, if needed | CM or LEA Rep |

IEP Notes/Additional Information

- | | |
|---|---------------|
| ☐ Record any important notes or additional information | CM or LEA Rep |
| ☐ Review contents of notes with parent | CM or LEA Rep |

Signatures

- | | |
|--|---------------|
| ☐ Ask parent to check all appropriate acknowledgements and requests | CM or LEA Rep |
| ☐ Obtain parental consents | CM or LEA Rep |
| ☐ Obtain signatures of all IEP team members | CM or LEA Rep |

Closure

- | | |
|--|---------------|
| ☐ Answer any parent/student questions | IEP Team |
| ☐ Provide contact names and numbers | CM or LEA Rep |
| ☐ Explain any future procedures | CM or LEA Rep |
| ☐ Enter any revisions/corrections into web-based IEP system | Case Manager |
| ☐ Print and distribute completed forms to parents and all service providers | CM or LEA Rep |
| Adjourn meeting | |

Follow-Up

- | | |
|--|---------------|
| ☐ Finalize in web-based IEP system, submit electronic and hard copies of all related Events and forms to LEA office according to LEA procedures | CM or LEA Rep |
|--|---------------|

*When initial, triennial, or other assessment has been conducted. Eligibility should be addressed at initials, triennials, interim placement reviews.

Chapter 6 –Required Components of the IEP

The IEP is a written statement developed in a meeting of the individualized education program team. SELPA approved forms are required in order to ensure that all required components of the IEP are included in the document.

Required Components

1. The present levels of the student's academic achievement and functional performance, including the following:
 - a. For a school-age child, how the student's disability affects the student's involvement and progress in the general curriculum; and
 - b. For a preschool-age child, as appropriate, how the disability affects the child's participation in appropriate activities.
2. Measurable annual goals that show a direct relationship to the results of any evaluations, the present levels of academic achievement and functional performance, and the educational services to be provided. These goals should be designed to:
 - a. Enable the student to be involved in and progress in the general education curriculum; and
 - b. Meet each of the student's other educational needs that result from the student's disability.
3. A description of the manner in which progress of the student toward meeting the annual goals will be measured and when periodic reports on the student's progress will be provided (such as through quarterly or other periodic reports, concurrent with the issuance of report cards).
4. The specific special educational instruction, related services, and supplementary aids and services, based upon 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 for the student to:
 - a. Advance appropriately toward attaining the annual goals;
 - b. Be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities; and
 - c. Be educated and participate with other students with disabilities and non-disabled students.

5. An explanation of the extent, if any, to which the student will not participate with non-disabled students in the general education class and extracurricular and nonacademic activities.
6. The individual modifications in the administration of state or district-wide assessments of student achievement that are needed for the student to participate in the assessment.
7. If the IEP team determines that the student will not participate in a particular state or district-wide assessment of student achievement (or part of an assessment), a statement of the following:
 - a. Why that assessment is not appropriate for the student;
 - b. How the student will be assessed and the reason that the alternative assessment is appropriate.
8. The projected date to begin the services and modifications described in the IEP, and the anticipated frequency, location, and duration of those services and modifications.

(E.C. § 56345 (a)(1)-(7))

Goals and Objectives/Benchmarks

Goals set the general direction for instruction and assist in determining specific strategies, experiences, and skills a student will need to increase his or her abilities. Goals must be directly related to the areas of identified need and the present levels of academic achievement and functional performance. Goals are also descriptions of what a student can reasonably be expected to accomplish within a 12-month period with the provision of special education services. Goals are NOT a guarantee of what will be achieved. When a goal is written it must be stated so that it is meaningful; in other words, it reflects a skill that is necessary for success in current and future environments. Goals are also useful in making decisions regarding a student's education. Monitoring the goal results in data that can be used to determine the effectiveness of the individual's education program and make appropriate changes to the IEP to help the student achieve optimum success.

Factors to Consider in Selecting Goals

The IEP team discusses present levels of academic achievement and functional performance as determined through formal and informal assessment data. Student areas of need are then identified and goals are selected for improving student achievement in those areas. Parents, the student, and general education teachers are essential participants when selecting goals. The number of goals depends on the student's needs. Prerequisite skills, immediate needs, and general applicability are all factors to consider when establishing priorities.

Goals should all pass the "So what?" test. If the IEP team can answer "Yes" to the question, "Is this skill important to the success of this student in current and future environments?" it passes the test. If the answer is, "No" then the goal is probably not critical for that student. The IEP

team must also consider the importance of the goal in light of social relevance. Social relevance provides another question: "Is this skill/behavior one that the student's peers engage in?" If the answer is "Yes" then this goal is probably a valid one.

The IEP team must establish challenging goals that can be achieved within a year. Goals must be based on California and District content standards and curriculum, whenever appropriate.

Writing the Goal

Goals must be written so that an individual who did not write them can use them to develop appropriate instructional plans and assess student progress. To ensure that the same intended outcome is communicated to anyone reading the goals, they should be written to include the elements described below:

Who

The student

Does What (Behavior)

The observable behavior that the student will engage in to demonstrate completion of the goal (e.g., Julie will read 100 words per minute)

When Given What (Conditions)

The environment, materials, equipment, prompts, etc. that the student will be provided to demonstrate the desired behavior (when given a fourth grade level passage); mention of specific instructional programs should be avoided (Lindamood-Bell, Earobics, Reading Mastery, SCERTS, etc.)

At What Level (Mastery and Criteria)

The performance accuracy (mastery) that is needed (e.g., with 95% decoding accuracy) and how many times the mastery level must be observed (criteria) in order for the goal to be considered met (e.g., 4 out of 5 times)

As Measured By (Method of Evaluation)

How the student's progress towards meeting the goal will be evaluated (observation and charting, teacher-made test, daily work samples, etc.)

By When (Timeframe)

Specific point in time by when the goal will have been met (By April 15, 20XX)

A statement of the student's current or baseline ability to perform the element of the goal that will be used to measure progress must also be provided; for example, 1 out of 5 times (goal is 4

out of 5 times), 60% accuracy (goal is 95% accuracy), or 75 words per minute (goal is 100 words per minute).

Benchmarks and Short-Term Objectives

In addition to goals, benchmarks or short-term objectives must be established for students taking an alternative assessment to monitor progress towards each goal. Benchmarks are major milestones representing a task analysis of the goal. Short-term objectives are specific statements that include conditions, behavior, and criterion. They are intermediate steps between a student's present level of educational performance and the annual goal and are based on a logical breakdown of the major components of the annual goal. Both benchmarks and short-term objectives must be measurable and represent progress toward the goal. They assist in setting the general direction to be taken by those who will implement the IEP and are the basis for developing a detailed instructional plan for the student. Annual goals and benchmarks or short-term objectives allow the IEP Team to monitor a student's progress, review and revise the instructional plan, and evaluate the appropriateness of his or her educational program. They are typically written to correspond to the school's regular reporting periods. All service providers should use the same reporting periods. Sample goals are provided below:

Sample Goal Without Short-Term Objectives or Benchmarks

By February 3, 20XX, when provided with a writing prompt at his grade level, Jose will write at least a six-sentence paragraph using at least three different sentence types scoring 45/50 at least 4/5 times as measured by placement on teacher-made writing rubric (baseline: 1/5 times).

Sample Goal Without Short-Term Objectives or Benchmarks

By June 30, 20XX, given sample passages of at least 200 words or more from high school level textbooks, Michelle will read grade level materials at an average rate of 100 wpm with 98% accuracy or better in 4/5 trials as measured by curriculum-based test (baseline: 75 WPM).

Sample Goal With Benchmarks

By April 15, 20XX, when escorted to the grocery store and given a shopping list with icons of needed items; Angelica will independently find all items on the list and take them to the register 100% of the time in 2/3 trials as measured by observation and charting (baseline: requires visual and verbal prompts).

Benchmarks:

1. By June, Angelica will independently find appropriate grocery aisle.
2. By October, Angelica will independently place items in the shopping cart.
3. By January, Angelica will independently push the cart to the register.

Sample Goal With Short-Term Objectives

By February, 20XX, when given a teacher direction, Greg will orally count, read, and write whole numbers to 100 with 80% accuracy on 3 consecutive trials as measured by teacher-made test (baseline: numbers to 25).

Short-Term Objectives:

1. By June, 20XX, when given a teacher direction, Greg will orally count, read, and write, whole numbers to 50 with 80% accuracy on 3 consecutive trials as measured by teacher-made test.
2. By November, 20XX, when given a teacher direction, Greg will orally count, read, and write whole numbers to 75 with at least 80% accuracy on 3 consecutive trials as measured by teacher-made test.

Supplementary Aids and Services

Supplementary aids and services must be provided when required to enable individuals with exceptional needs to progress towards their goals, be involved in and progress in general education, participate in extracurricular and nonacademic activities, and be educated to the maximum extent appropriate with non-disabled children. Supplementary aids and services include assistive technology devices, interventions, accommodations, program modifications, and supports to school personnel. The IEP must include frequency, location, and duration of each.

(E.C. § 56033.5; E.C. § 56341.1(b)(5) and (c); E.C. § 56345(a)(4))

Assistive Technology

(See Merced SELPA Assistive Technology Guide for more information.)

The IEP team addresses whether the student requires these supports in accessing and progressing in the curriculum. Examples include, but are not limited to:

Listening

Assistive listening device
Variable speech control tape recorder/player
Conventional tape recorder/player
Call switches
Communication boards/notebooks
Word Prediction programs

Reading

Optical character recognition
Adapted or audio taped books
Speech synthesis
Variable speech control tape recorder
Braille/Braille printers

Writing

Word processor, spell checker
Proofreading programs
Outlining/"brainstorming" programs
Adapted pencil/pen
Speech synthesis/screen reading programs

Organization/Memory

Personal data manager
Personal data organization software
Calendar programs
Tape recorder/player

Daily Living

Adapted eating/drinking devices
Adapted dressing equipment
Switch activated toys
Switch activated environmental control
Raised labels on clothes, toys, etc.
Enlarged clock, watch

Mathematics

Talking calculator
Conventional calculator
Computer-based calculator

Mobility

Walker, grab rails
Powered mobility toys
Powered lift/transfer system
Manual or powered wheelchair

Program Modifications and Instructional Accommodations

Program modifications are provided when any aspect of the content of the general education program must be altered for the student to benefit from instruction. Examples include:

1. Modified curriculum;
2. Provision of parallel curriculum; and
3. Reduction in the amount of material that must be mastered.

Instructional accommodations alter how instruction is provided but do not alter the content of the curriculum. Examples include:

1. Extra time for completion of assignments;
2. Reduced length of assignment;
3. Provision of a "study buddy";
4. Provision of visual aids and modeling; and
5. Provision of written instructions, study guides, advance lesson outline, etc.

Supports for School Personnel

This term refers to the assistance that must be provided to school personnel in order to ensure that the student's IEP is implemented appropriately. Examples include:

1. Consultation with specialists;
2. Coaching from specialists;
3. Training in appropriate instructional techniques for the student's disability;
4. Provision of information necessary to understand the student's disability;
5. Provision of ability awareness activities; and
6. Provision of resource materials specific to meeting the instructional needs of the student.

Statewide Testing

Students with IEPs must be included in statewide and district-wide assessment programs (20 U.S.C. § 1412(a)(16) and E.C. § 56385). Parents of **all** students have the right to exempt their child from participating in statewide assessments. The IEP team, however, must develop the IEP with the expectation that the student will participate in the assessment since the parent exemption is not part of the IEP process. The IEP must specify the assessments that are appropriate for the student and any needed accommodations and modification even if the parent has completed a request for exemption. If the parent of a student receiving special education and related services does complete a request for exemption, however, the assessments identified in the IEP may not be administered. There are several statewide assessment programs for which this requirement applies. IEP teams decide, on an individual basis, which tests or test versions each student will be administered.

Certain accommodations and modifications are allowed for state and district-wide standardized assessments. If a student is to be tested using an accommodation or modification it must be stated in the IEP (20 U.S.C. § 1412(a)(16) and E.C. § 56385(a)(6)). (See Appendix for a copy of the *Smarter Balanced Assessment Consortium: Usability, Accessibility and Accommodations Guidelines and the Frequently Asked Questions* document may be found on the Smarter Balanced website: www.smarterbalanced.org) This document identifies the specific accommodations and modifications that are allowed for each test. Accommodations and modifications can only be used for statewide testing if those same accommodations and modifications have been identified in the IEP as required by the student as a regular part of his or her instruction.

SELPA approved IEP forms include a section for addressing statewide testing requirements (see the *Forms Manual* for more information). The descriptions provided below are intended to assist IEP teams through the process of determining how each student with a disability will participate in statewide testing.

California Assessment of Student Performance and Progress (CAASPP)

CASSPP replaced the STAR System effective January 1, 2014. The primary purpose of the CAASPP assessment system is to assist teachers, administrators and students and their parents by promoting high-quality teaching and learning through the use of a variety of assessment approaches and item types.

California Standards Test (CST)

The CST is the general statewide test and is designed to assess students' knowledge of the California content standards in science in grades five, eight and ten. Most students with mild to moderate disabilities are assessed using this test with or without accommodations.

*California Alternative Performance Assessment (CAPA)*Note: This test is expected to sunset in 2015 and to be replaced with an alternate assessment.*

The CAPA is designed to assess those students with significant cognitive disabilities who cannot participate in the CST, even with accommodations and/or modifications. The CDE developed CAPA to comply with the requirements of the No Child Left Behind Act of 2001. CAPA links directly to the California academic content standards at each grade level and reflects the portions of the content standards from kindergarten through high school that are accessible to students with significant cognitive disabilities. CAPA is given in grade spans (Levels I – V). Students taking the CAPA must take it in all subjects (English-language arts, math and science).

Standards-Based Tests in Spanish (STS)

The STS are multiple-choice tests for Spanish-speaking English learners who:

1. Will have been enrolled in a school in the United States less than 12 cumulative (not consecutive) months on the first day of testing; or
2. Are receiving instruction in Spanish regardless of the length of time they have been enrolled in school in the United States.

At the option of the LEA, schools may also test Spanish-speaking English learners who will have been in school in the United States 12 cumulative (not consecutive) months or more who are not receiving instruction in Spanish. Students who take the STS are required to also take a CST or CMA test (in grades three through eight only).

California English Language Development Test (CELDT)

The CELDT is a state mandated test that LEAs are required to administer to students whose home language is not English. The parent/guardian or adult student identifies the home language in the “Language Survey” section of the student enrollment application. If any of the three questions are answered with a language other than English, the CELDT test must be administered. The purpose of CELDT is to identify students who are English Learners in kindergarten through grade 12, to monitor their progress in learning English, and to document their English proficiency. Students with disabilities whose home language is not English must either take this test or an alternative language proficiency test. If an IEP team determines that an alternative assessment will be used, the IEP must document that decision; identify the alternative assessment, and the reason that an alternative test is required.

California High School Exit Exam (CAHSEE)

The primary purpose of the CAHSEE is to ensure that students who graduate from public high schools can demonstrate grade level competency in reading, writing, and mathematics. The CAHSEE helps identify students who are not developing skills that are essential for life after high school and encourages districts to give these students the attention and resources needed to help them achieve these skills during their high school years. All California public school students, including students with disabilities, must satisfy the CAHSEE requirement to receive a high school diploma. The CAHSEE requirement can be satisfied by passing the exam or, for students with disabilities, receiving a local waiver pursuant to state law after passing the test with modifications (E.C. § 60851(c)).

The CAHSEE has two parts: English-language arts (ELA) and mathematics. The ELA part addresses state content standards through grade ten. In reading, this includes vocabulary, decoding, comprehension, and analysis of information and literary texts. In writing, this covers writing strategies, applications, and the conventions of English (e.g., grammar, spelling, and punctuation). The mathematics part of the CAHSEE addresses state standards in grades six and seven and Algebra I. The exam includes statistics, data analysis and probability, number sense, measurement and geometry, mathematical reasoning, and algebra. Students are also asked to

demonstrate a strong foundation in computation and arithmetic, including working with decimals, fractions, and percentages.

School districts that receive intensive instruction funds must ensure that all students, including those with IEPs, who have not passed one or both parts of the CAHSEE by the end of grade twelve have the opportunity to receive intensive instruction and services as needed based on the results of the diagnostic assessment and prior results on the high school exit examination, for up to two consecutive academic years after the completion of grade twelve or until the student has passed both parts of the CAHSEE, whichever comes first. School districts must employ strategies for intensive instruction and services that are most likely to result in those students passing the parts of the CAHSEE that they have not passed (E.C. § 37254(d)(4)).

The legislation requires that districts notify and counsel students of the opportunity to access post-grade twelve intensive services and instruction for up to two consecutive academic years after completion of grade twelve or until the student has passed both parts of the CAHSEE, whichever comes first (E.C. § 52378(c)(1)(D)), using the following methods:

1. In writing (at the last known address before the end of each school term and in sufficient time to register for or avail themselves of those services);
2. Posted in classrooms of all tenth through twelfth graders, inclusive;
3. Explanation provided by counselors to students regarding the availability of intensive instruction and services;
4. Identification of students who are at risk of not graduating with the rest of their class and informing those identified of the option of intensive instruction;
5. Provision of a list of coursework to students at risk for not graduating that includes (among others) the option to continuing to receive intensive instruction and services; and
6. Individual conferences with each student who is at risk of not graduating with his or her class to apprise the student (among other things) of the option to receive intensive instruction and services.

Desired Results Developmental Profile (DRDP)

The DRDP assessment system is a statewide accountability and progress assessment system for children from birth through preschool. All children in this age group with IEPs must be assessed. This includes children who are receiving speech and language services only.

Transportation

Definition of Special Education Transportation

Special education transportation is defined in federal regulations (34 C.F.R. § 300.24) as a related service. As a related service, transportation must be provided if it is necessary for the

student to benefit from special education instruction and to receive FAPE. There are two types of special education transportation defined in California Education Code.

1. "Special education transportation" is defined as, "The transportation of severely disabled special day class students, and orthopedically-impaired students who require a vehicle with a wheelchair lift, who received transportation in the prior fiscal year, as specified in their individualized education program" (E.C.41850(d)).
2. "Home-to-school transportation" is defined as, "The transportation of individuals with exceptional needs as specified in their individualized education programs, who do not receive special education transportation as defined in subdivision (d)" (EC 41850(b)(5)).

Eligibility for Special Education Transportation

Based upon the education codes cited above, the IEP team must determine if a student meets one of the following criteria in order to be eligible to receive transportation as part of the IEP:

1. Has a severe disability and is enrolled in special day class for students with severe disabilities;
2. Has an orthopedic impairment and requires a vehicle with a wheelchair lift;
3. Has any special needs that cause problems in getting to school in the same manner as non-disabled students (e.g., health, behavioral, capacity to avoid dangerous situations);
4. Lives beyond a reasonable distance to his or her school and would not, without transportation, have access to appropriate special education instruction and related services at no cost;
5. Has other transportation needs such as mid-day trips to another site for occupational or physical therapy, mental health services, or community-based instruction.

Length of School Day, Related Services, Extracurricular Events

It should be noted that the use of alternative starting times for all special education students at a site might lead to program compliance concerns. Students receiving special education and related services must be provided with an educational program in accordance with their IEP for at least the same length of time as the regular school day for their chronological peer group, unless otherwise stated in a student's IEP. In addition, there may be occasions where the needs of the student require receiving therapy or some other related service that cannot be provided during the "established" school day. If provisions for "early" or "late" transportation are made for students within the general education program due to extracurricular events, provisions for equal opportunity to these events for students with exceptional needs who require special transportation must also be made.

Special Education Transportation Options

Special education transportation options may include, but are not limited to the following:

1. Regular school bus with or without accommodations (e.g., student is typically picked-up at a designated “bus stop”, delivered to the student’s assigned school, and returned to a designated “bus stop”);
2. Special education bus (e.g., student is picked-up at home or day care, delivered to assigned school, and returned to home or day care);
3. Public transportation with a reimbursement of the cost to the parents or direct payment by the school district; and
4. Parent transportation with a reimbursement for mileage.

For safety purposes when transportation is being provided between home and school on a public school bus, the road that the home is located on must be of appropriate width to allow two-way traffic or have sufficient turnouts to allow safe passage and must be maintained in reasonably good condition. Driveways shall have adequate turn-around space at all times and shall allow adequate visibility for safe entrance and exit of the school bus. If it is determined that there are unsafe conditions, an IEP team will be convened to discuss options.

The IEP should specify the type of special education transportation that the IEP team has agreed will be appropriate for the student.

Participation of Transportation Staff in IEP Team Meetings

The case manager should invite transportation staff to participate in IEP team meetings when the student needs the use of adaptive or assistive equipment, when school bus equipment is required to be modified, when the student exhibits severe behavioral difficulties and a behavior intervention plan is to be implemented on the bus, when the student is medically fragile and requires special assistance, or when the student has other unique needs.

Initiating, Changing, or Canceling Transportation Services

Each LEA is responsible for establishing procedures for initiating, changing, or canceling special education transportation services. These procedures must be designed to respond to the requested action in a timely manner in order to prevent denial of FAPE.

Significant Health Issues

If a student who is eligible for special education transportation has significant health needs of which the bus driver needs to be aware (severe asthma, seizures, hemophilia, etc.), this will be noted on the transportation request. Appropriate health care professionals (e.g. school nurse) will submit an emergency protocol to the LEA’s transportation department, if required, and the bus driver will be provided with a copy of the emergency protocol. In the event of a health emergency, the driver will follow the protocol established by the LEA.

Discipline

Each LEA is responsible for establishing appropriate procedures for disciplining students receiving special education transportation who violate bus rules, particularly safety rules. If a student repeatedly violates bus rules, an IEP meeting should be held with parent, transportation personnel, site administrator, teachers and a representative from the LEA. During this meeting, if the student has a behavior intervention plan, the team will review the plan and revise it as necessary. If the student does not have a behavior intervention plan, the team will consider whether one is needed and, if so, develop the plan. Some suspension from the bus may be considered at this time.

There may be times when a student may be suspended from special education transportation services (E.C. § 48900-48900.7). Although a student with disabilities can be suspended from special education transportation services, the student cannot be denied transportation on a permanent basis; an alternative form of transportation must be provided if special education transportation is specified on the IEP (E.C. 48915.5(c)).

(Portions of this section are based upon information provided in the *Special Education Transportation Guidelines* published by the California Department of Education: <http://www.cde.ca.gov/sp/se/lr/trnsprtgdlns.asp>. (See Appendix).

Extended School Year

ESY means the period of time between the close of one academic year and the beginning of the next academic year. ESY services must be provided for each individual with exceptional needs who requires special education and related services in excess of the regular academic year, as determined by the IEP team. These students are typically those who have disabilities that will continue indefinitely, or for a prolonged period, and for whom interruption of the educational program may cause regression with limited recoupment capacity. Generally, such students are placed in special classes but other students may also require ESY.

(E.C. § 56345(b)(3) and 34 C.C.R. § 3043)

What ESY Is:

- An exception, not a rule
- Based on the student's unique needs that are critical to overall educational progress as determined by the IEP team
- Designed to maintain student mastery of critical skills and IEP objectives achieved during the regular school year
- Designed to maintain a reasonable level of readiness to begin the next year
- Focused on specific critical skills where regression coupled with limited recoupment due to extended time off, may occur without ESY

What ESY Is Not:

- A mandated service for all students with disabilities

- Respite care or a summer recreation program
- Designed to maximize educational opportunities for any student with disabilities.
- Necessary to continue instruction on all the previous year's IEP goals during the ESY period.
- Required if listed on the IEP; parents may choose to refuse the ESY
- Designed to help students with disabilities advance in relation to their peers or to provide education beyond what is in the IEP
- Intended for students who exhibit random regression solely related to transitional life situations or medical problems
- Subject to the same LRE considerations as during the regular school year because the same LRE options are not always available.
- Designed for making up for poor attendance during regular school year or as the primary means for credit recovery for classes failed during the regular school year

When to Consider ESY

When determining if a student requires an ESY program, the IEP team should consider whether:

1. The nature and/or severity of the student's disability prohibits the student from receiving benefit from his or her educational program during the subsequent year without ESY services;
2. There is documentation that a significant regression in critical life skills and/or difficulty in recovering those skills within a reasonable period of time (eight weeks) will occur in the subsequent year without ESY services; and
3. There is documentation that a significant increase in the frequency, duration, or intensity of interfering behaviors (e.g., stereotypic, ritualistic, aggressive, self-injurious) that will reduce the student's ability to benefit from his or her educational program during the subsequent year will occur without ESY services.

The severity of the disability is a primary consideration in determining eligibility for ESY. The IEP team should consider the student's age, severity of the disability, presence of medically diagnosed health impairments, attainment of self-sufficiency, and development of an emerging, critical skill that will be lost due to interruption. Other factors to consider are regression rate and recoupment time in relation to normal rates, behavioral and physical problems, curricular areas that would be adversely impacted, and vocational needs.

Data Collection

When considering ESY for any student, the IEP must consider data collected during the previous year(s) to determine the student's need based on items 1 through 3 above. This decision should be based on multiple factors, although there may be rare instances where the IEP team might consider ESY services based on a single criterion. Data collection may be in the form of teacher observations, informal and formal tests, benchmark measures, running records, progress toward IEP goals, etc.

The following chart adapted from www.kyrene.org/resource/esy is included to assist IEP team members with the process of collecting data to determine need for ESY:

<i>At or before the first progress report of school year</i>
• Collect data regarding progress toward IEP goals and other critical needs • Compare to previous data to determine if the student recouped skills from previous year • Use data collected as the basis for ESY eligibility discussion at the next annual review, reassessment review, or amendment IEP. • Continue instruction and document progress
<i>At or Before Subsequent Progress Reports</i>
• Collect data as described for first progress report • Review data before and after any break from school (e.g. Thanksgiving, Winter or Spring break) to determine if student may have experienced a significant regression/recoupment problem that cannot be corrected through re-teaching (Re-teaching time should equal the length of the break, for example, 1 week break = 1 week re-teaching) • Use data collected as the basis for ESY eligibility discussion at the next annual review, reassessment review, or amendment IEP. • Continue instruction and document progress
<i>Two to three months prior to the end of the school year</i>
• Gather data collected over the course of the school year • If the data indicates the student has a need for ESY and this has not yet been addressed, convene an amendment IEP team meeting and document the need as requested on the appropriate IEP form • If the team determines services are warranted, follow the LEA process for notifying the special education administrator
<i>Recommended timelines for data collection</i>
• At the end of regular school year • At the end of any summer program • At the beginning of subsequent school year • In preparation for each progress report • Before and after school vacations and when student has been out of school for other reasons

The lack of clear evidence of regression/recoupment factors may not be used to deny an ESY program if the IEP team determines the need for such a program and includes it in the IEP. For students who do not require an ESY program, access to the general education summer school program should be made available as appropriate.

Summer school classes are not required in order for a child to receive FAPE in contrast with those services provided in ESY. In addition, a school district can choose not to provide summer school. Summer school usually focuses on opportunities for secondary students to recover

credits or summer intervention programs that assist in the development of skills for students at risk of retention. Summer intervention classes, when available, may be appropriate for students with disabilities who are working toward grade level standards.

Legal Requirements for Operation of ESY

An ESY program must be provided for a minimum of 20 instructional days, including holidays. For reimbursement purposes, a maximum of 55 instructional days, excluding holidays, shall be allowed for students with severe disabilities and 30 instructional days, excluding holidays, for all other eligible students. In order to qualify for average daily attendance revenue, ESY must be provided for the same length of time as for general education students at the same age level who are attending summer school in the district in which the ESY is provided and not less than the minimum school day for that age unless otherwise specified in the IEP. Additionally, the special education and related services offered during ESY must be comparable in standards, scope, and quality to the special education program offered during the regular academic year. Integration in the general education classroom, if specified on the IEP, is not required during ESY if the district operating the ESY does not offer a regular summer school program.

(34 C.C.R. § 3043(d-h))

Prior Written Notice

IDEA requires prior written notice to parents whenever the LEA proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student (E.C. § 56500.4(a)). This notice creates a clear record of what, when, and why action is being proposed or denied and can avoid future factual disputes between the parents and the LEA. If written notice is not provided and a dispute leads to due process proceedings, it may be determined that the LEA denied the student a free and appropriate public education (FAPE) and must, therefore, provide such things as reimbursement to the parents for private services and attorney's fees.

Elements of the Written Notice

Legal mandates specify that the content of the written notice must include:

1. A description of the action proposed or refused;
2. An explanation of the why the LEA proposes or refuses to take the action;
3. A description of each assessment procedure, record, or report used as a basis for making the decision;
4. A description of other options the agency considered and why those options were rejected;
5. A description of other factors that are relevant to the decision; and
6. A statement of the availability of procedural safeguards and how to obtain a copy; and

7. Sources for parents to contact to obtain assistance in understanding the provisions of the law.

(E.C. §56500.4(b)(1)-(7))

Written Offer of Educational Placement

When the action being proposed or denied is an educational placement, the descriptions provided in the written notice should include, but not be limited to, the following specific information:

1. Type of placement or service (e.g. specialized academic instruction, occupational therapy);
2. The school site where the placement or service is located;
3. Provider/Agency (e.g., special education teacher/LEA, physical therapist/CCS);
4. Names and qualifications of personnel, if relevant;
5. The daily schedule, if relevant;
6. Special equipment to be provided; and
7. Any other features of special relevance to the student such as class size, peer tutoring, socialization groups, etc.

Providing the Notice

The notice may be given prior to or at the same time that the LEA requests the parents' consent to the action. Notice can be provided through any one or a combination of the following documents: on the IEP, in a separate written notice form, in a letter, and/or in any other clear written statement.

Multiple Offers

It is usually not recommended that the LEA offer more than one specific educational placement. Making a single offer gives the parents the benefit of professional judgment and demonstrates that the district has carefully thought through and selected a placement that will meet the unique and individual needs of the student.

On occasion, however, the LEA may determine that there are several educational placements that will each offer a free and appropriate public education (FAPE). In this situation, providing multiple offers may be acceptable since any choice the parents make will result in a FAPE.

It is critical, however, that when multiple offers are provided, that each offer will result in FAPE. The courts have found that when only one of multiple offers provides FAPE, the multiple nature of the offer denies FAPE since it puts the parents in the position of having to determine which offer will result in FAPE leading to the possibility of making an inappropriate placement choice.

Moreover, multiple offers have been found by the courts to put an undue burden on the parent to eliminate potentially inappropriate placements.

Bottom Line

For the “average” IEP, view the IEP document as the offer of educational placement, making sure that it has addressed each of the critical elements, including information that is recorded in the notes if needed. For difficult or complex IEPs, follow the same steps as for the average IEP but follow-up with a letter that summarizes the offer of educational placement and refers to the IEP as the complete statement of the offer. Always ensure that the parent is provided with a copy of the notice of procedural safeguards.

Consent for Implementation of the IEP

Informed parental consent is required prior to initiation of initial special education services (E.C. § 56346(a)). If a parent refuses to provide such consent, the LEA shall not be considered to be in violation of the requirement to provide FAPE (E.C. § 56346(b)) and shall not request due process to override the lack of consent (OSEP letter to Fulfrost, 2004).

Checklist: IEP Components

Student: _____ Date of Birth: _____ Date: _____

The following checklist is designed for use by IEP teams to ensure that all required components are included in each IEP and that other components are included when applicable. For each component, review the draft IEP to verify that all components required for the student have been addressed. Use the checkmarks in the left-hand column to document that each area has been checked for compliance.

Y	NA	Component	Required For
☐	☐	<u>Eligibility and Identified Area(s) of Need</u> Statement of the primary and secondary areas of eligibility and effect on the student's ability to participate/progress in the general curriculum or (for preschoolers) participate in appropriate activities	All students
☐	☐	<u>Present Levels of Academic Achievement and Functional Performance</u> Statement of the primary and secondary areas of eligibility and effect on the student's ability to participate/progress in the general curriculum or (for preschoolers) participate in appropriate activities	All students
☐	☐	<u>Goals (and Benchmarks/Short-Term Objectives for Students taking CAPA)</u> Statement of the primary and secondary areas of eligibility and effect on the student's ability to participate/progress in the general curriculum or (for preschoolers) participate in appropriate activities	All students
☐	☐	<u>Special Considerations</u> A statement of the following needs and how they will be addressed: ☐ Participation in general education ☐ Instructional accommodations/assistive technology ☐ Low Incidence books, materials, and equipment ☐ English language development ☐ Behavior problem that may be serious ☐ Participation in district and statewide assessment ☐ Transition planning (postsecondary, PS to K, & Part C to Part B) ☐ Possible disciplinary action requiring a manifestation determination ☐ Possible grade retention All students All students HI/VI/OI students English learners As applicable All students Students 16+ As applicable As applicable	
☐	☐	<u>Special Education and Related Services</u> Statement of the special education instruction and related services that will be provided including provider, responsible staff, location, frequency, duration, and start date	All students
☐	☐	<u>Supplementary Aids and Services</u> Description of the supplementary aids and services to be provided including: ☐ Supports for school personnel/program modifications ☐ Transportation ☐ Adapted or modified P.E As needed As needed As needed	
☐	☐	<u>Extended School Year</u> ☐ Determination of need ☐ If determined necessary, description of services to be provided All students As applicable	
☐	☐	<u>Member Attendance and Parent Consent</u> ☐ Signatures documenting which IEP members were in attendance ☐ Check boxes and signatures documenting parent consent or denial of consent All students All students	
☐	☐	<u>IEP Notes</u> Documentation of any part of the proposed or refused offer that is not included in any other part of the IEP.	As needed

Chapter 7 – Special Considerations in Developing the IEP

Amending the IEP

After completing and beginning implementation of an IEP, it is sometimes necessary to revise it to reflect a change that has been determined necessary for the student. When this occurs, an amendment (addendum) to the IEP can be developed. The entire IEP team may make changes to an IEP at an IEP team meeting. Alternately, if the parent and the LEA agree, the amendment may be developed without an IEP team meeting being convened.

(E.C. 56380.1(a)-(b))

If the parent consents to the change, the case manager (if no meeting is convened) or the IEP team (if a meeting is convened) completes an IEP amendment and attaches the IEP form(s) that have been revised. Copies of the IEP amendment must be provided to all parties maintaining a copy of the IEP that has been amended (e.g., parents, service providers, student files).

Behavior Intervention

The Merced County SELPA believes that all students are individuals with unique needs who are capable of growth and change. This includes students whose behaviors are problematic and may need the assistance of specific interventions in order to be successful. The vast majority of behavioral difficulties can be prevented with implementation of appropriate classroom management techniques. For individual students who do not respond to typical classroom management strategies, individualized behavioral interventions, supports, and strategies must be developed and included in the IEP.

Creating a Positive Classroom Environment

**Note: Regulation regarding behavior interventions changed effective July 1, 2014.*

The most effective intervention is prevention. This level of intervention involves the use of effective instructional approaches and classroom management systems. Interventions are either preventative or employ typical classroom techniques for encouraging and teaching appropriate behavior. The classroom teacher may need to seek the assistance of colleagues, administrators, mentor teachers, the school psychologist, or a program specialist for assistance in developing a positive classroom environment.

Behavior that Impedes Learning

Assembly Bill 86, the Education Omnibus Trailer Bill, Chapter 48, Statutes of 2013 repealed regulations and added state statute that addressed requirements and restrictions concerning student behavioral intervention. The result of these changes was to modify the Behavioral Intervention Plan (BIP) mandate to align it more closely with federal law.

In developing the IEP, the IEP team shall, in the case of a student whose behavior impedes the student's learning or that of others, consider the use of positive behavioral interventions and supports and other strategies to address that behavior [34 *Code of Federal Regulations (CFR)* 300.324 (a)(2)(i). The IEP must include a statement of the "special education, related services, supplementary aides and services, and program modifications or supports" that will be provided to the child [20 *United States Code* 1414(d)(1)(A)(i)(IV)]. There are no unique requirements regarding the documentation of any positive behavioral interventions and supports and other strategies that are identified. Per the Office of Special Education Programs, if a BIP is developed, it should be included in the IEP and aligned with the goals in the IEP (71 *Federal Register* 456683, August 14, 2006).

The IDEA does not specify the particular interventions, supports or strategies that must be used. The Federal Office of Special Education Programs (OSEP) has stated that while conducting a functional behavioral assessment (FBA) typically precedes developing positive behavioral intervention strategies, in the case of a child whose behavior impedes learning, the focus is on interventions and strategies, not assessments. The IEP team may address the behavior through annual goals in the IEP, program modifications, and support for teachers, and any related services necessary to achieve behavioral goals in the IEP.

Behavioral Goals

The purpose of a behavioral goal is to achieve general positive behaviors, (e.g., turn in work, stay on task, etc.) or for reduction or elimination of problem behavior (e.g., hitting, getting out of seat, fighting at recess, etc.). Under IEP notes, consider describing the IEP team discussion as follows: "The IEP team has concluded that John does not yet demonstrate behavior that impedes his learning or that of others, however, the team believes that the identified behavior needs to be addressed to prevent it from becoming more serious. Two behavioral goals were added to the IEP and John's progress in this area will be carefully monitored. If necessary, a behavior plan will be developed in the future."

OSEP has encouraged a "proactive" approach to ensure that students who need BIPs to succeed in school receive them. Thus, if the IEP team determines that a BIP would be appropriate for the child, it must be included in the IEP. If the child needs a BIP to improve learning and socialization, the BIP can be included in the IEP and aligned with the goals in the IEP. (71 *Federal Register* 46683 (August 14, 2006); 71 *Federal Register* 46721 (August 14, 2006); *Questions and Answers on Discipline Procedures*, U.S. Department of Education Office of Special Education and Rehabilitative Services (OSERS), 52 *Individuals with Disabilities Education Law Report* 231 (June 1, 2009), Q. E-1, E-2, E-3.

Prohibited Interventions

An LEA shall not authorize, order, consent to, or pay for the following:

1. Any intervention that is designed to, or likely to, cause physical pain, including, but not limited to, electric shock;
2. An intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the face of the student;
3. An intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities;
4. An intervention that is designed to subject, used to subject, or likely to subject, the student to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma;
5. Restrictive interventions that employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained personnel as a limited emergency intervention;
6. Locked seclusion unless it is in a facility otherwise licensed or permitted by state law to use a locked room;
7. An intervention that precludes adequate supervision of the student; or
8. An intervention that deprives the student of one or more of his or her senses.

(E.C. § 56521.2(a)(1-8))

Emergency Interventions

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

Emergency interventions shall not be used as a substitute for systematic for behavioral intervention plan that is designed to change, replace or modify, or eliminate a targeted behavior.

No emergency intervention shall be used for longer than is 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.

(E.C. § 56521.1(a-c))

The following emergency interventions shall not include:

1. Locked seclusion unless it is a facility otherwise licensed or permitted by state law to use a locked room;
2. Employment of a device or material or objects that simultaneously immobilize all four extremities, except that techniques such as prone containment may be used as an emergency intervention by staff trained in such procedures; and
3. An amount of force that exceeds that which is reasonable and necessary under the circumstances.

(E.C. § 56521.1(d)(1-3))

To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent, guardian and residential care provider, if appropriate, shall be notified within one school day if an emergency intervention is used or serious property damage occurs. A behavior report shall immediately be completed and maintained in the student's file. The behavior emergency report shall include all of the following:

1. The name and age of the student with exceptional needs;
 2. The setting and location of the incident;
 3. The name of the staff or other persons involved;
 4. A description of the incident and the emergency intervention used and whether the student with exceptional needs is engaged in any systemic behavior intervention plan.
 5. Details of any injuries sustained by students or others, including staff, as a result of the incident.
- (E.C. § 56521.1(e)(1-5))

All behavioral emergency reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator (E.C. § 56521.1(f)). SELPA forms have been developed for completing the behavior emergency report.

If the behavior emergency report is for a student who does not have a BIP, the designated responsible administrator shall, within two days, schedule an IEP team meeting to review the emergency report, to determine the necessity for a functional behavioral assessment, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the functional behavioral assessment, not developing an interim plan, or both.

(E.C. § 56521.1(g))

If the behavioral emergency report is written regarding an individual with exceptional needs who has a positive behavioral intervention plan, an incident involving a previously unseen serious behavior problem, or where a previously designed intervention is ineffective, shall be referred to the IEP team to review and determine if the incident constitutes a need to modify the positive

behavioral intervention plan. (E.C. § 56521.1(h))

Copies of all behavioral emergency reports must be sent to the SELPA.

Blind or Visually Impaired Students

In making a determination of what constitutes an appropriate education to meet the unique needs of a blind or visually impaired student in the least restrictive environment, the IEP team shall consider the related services and program options that provide the student with an equal opportunity for educational access. The IEP team shall specifically address the visual needs of the student as discussed below:

1. The determination of the appropriate medium/media for the student in accordance with state guidelines; and
2. The provision of instruction in Braille and the use of Braille, unless the team determines after evaluation that Braille instruction or use of it is not appropriate for the student.

(E.C. § 56341.1(b)(3))

Deaf and Hard-of-Hearing Students

In making a determination of what constitutes an appropriate education to meet the unique needs of a deaf or hard-of-hearing student in the least restrictive environment, the IEP team shall consider the related services and program options that provide the student with an equal opportunity for communication access. The IEP team shall specifically discuss the communication needs of the student as discussed below:

1. The student's primary language mode and language, which may include the use of spoken language with or without visual cues, or the use of sign language, or a combination of both;
2. The availability of a sufficient number of age, cognitive, and language peers of similar abilities that may be met by consolidating services into a local plan area-wide program or providing placement outside the SELPA;
3. Appropriate, direct, and ongoing language access to special education teachers and other specialists who are proficient in the student's primary language mode and language consistent with existing law regarding teacher-training requirements; and
4. Services necessary to ensure communication-accessible academic instructions, school services, and extracurricular activities.

(E.C. § 56345(d)(1)-(4))

Determining Need for an Additional Instructional Assistant

Whenever an IEP Team is considering the need for an additional instructional assistant for a

student, the major factor to be considered is personal independence. First and foremost, the goal for any special needs student is to encourage, promote, and maximize independence. If not carefully monitored, additional assistance can easily and unintentionally foster dependence. A

student's total educational program must be carefully evaluated to determine where support is indicated. Natural support and existing staff support should be used whenever possible to promote the least restrictive environment. A systematic, written plan must be included in the IEP

to address how the additional instructional assistant will be monitored and what interventions will be implemented in order to reduce the need for the additional assistance.

Categories of Additional Instructional Assistance

There are four general areas within which a student may require additional instructional assistance. These four categories are listed below along with information about what the student's IEP must include for each area:

1. Health/Personal Care Issues

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

2. Behavior Support

When determining the need for additional support as a result of a student's behavioral difficulties, the student's IEP needs to include appropriate goals and objectives.

3. Instructional Support

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

4. Inclusion/Mainstreaming Support

When determining the need for additional support due to a need for assistance while participating in an inclusion program or mainstreaming, the IEP team must utilize appropriate assessment information to support this recommendation. The IEP must specify how the additional personnel will be utilized to support the student within a general education environment and what attempts will be made to transition to other available classroom resources and supports.

Process for Determining Need- See MCOE Special Circumstances for Instructional

Assistance

English Learners

When developing the IEP for a student who is an English learner (EL) special care must be taken to ensure the development of an IEP with linguistically appropriate goals, objectives, programs, and services (EC 56345(b)(2); 34 CFR 300.24(a)(2)(ii)).

For English learners, the IEP must address the language needs of the student. It should include the student's English proficiency level; linguistically appropriate goals and objectives; how English language development will be provided in areas of reading, oral language, and written language; the language of instruction appropriate to the level of the student's linguistic development; and the required instructional strategies appropriate for the student's language needs.

Determination of English Proficiency

All students (in kindergarten through grade twelve) whose primary language, based on the Home Language Survey (HLS), is not English, must take the CELDT within 30 calendar days after they are enrolled in a California public school for the first time to determine if they are English learners. In addition, the CELDT must be administered annually to identified English learners until they are reclassified as fluent English proficient (RFEP), based on the criteria for reclassification established by the local school district in accordance with state law (E.C. § 52164.1(a)). This requirement applies to all students including those who are receiving special education and related services unless the IEP team establishes the need for an alternative English proficiency test. In determining how a student's English language proficiency will be assessed, the IEP team must review:

1. The appropriateness of administering the CELDT with or without accommodations;
2. The possible need to use alternative assessments in one or more required domains (listening, speaking, writing, reading) as appropriate; and
3. If it is determined that alternative assessments are required, the IEP must identify what those alternative assessments will be in each of the four domains and why they are needed.

Linguistically Appropriate Goals and Objectives

Linguistically appropriate goals and objectives (when needed) should be appropriate for the cognitive level and the linguistic development of the student. Additionally, they should specifically state the language that will be used to accomplish the goal. Below are several examples of linguistically appropriate goals:

By (date), (student) will respond in English to literal questions with short phrases that may or may not be grammatically correct in 3 out of 4 trials with 80% accuracy as demonstrated through observation and informal teacher-made tests.

By (date), (student) will show increased reading comprehension in Spanish by responding correctly to 8 out of 10 oral or written questions about a story at the 4th grade level in 4 out of 5 daily homework assignments over the course of one week.

English Language Development

Students identified as English learners must receive English language development continuously until they are reclassified as fluent English proficient (RFEP). This requirement includes students who receive special education services. English language development may be provided in either general or special education. The IEP must specify in which setting the student will receive these services.

Instructional Strategies

Regardless of their disabilities, English learners must receive instructional services and strategies designed for non-native English speakers. Those services and strategies should be identified in the IEP. The most common services and strategies include:

1. Comprehensible input in English (e.g., total physical response, natural approach, language experience approach, Specially Designed Academic Instruction in English [SDAIE], and English instruction at the student's proficiency level)
2. Primary language support (can be provided by a teacher, instructional assistant, volunteer, peer, etc.);
3. Primary language instruction; and
4. Cross-cultural training.

Reclassification

Multiple criteria must be utilized in determining whether to reclassify a student as proficient in English including, but not limited to, all of the following:

1. Assessment of language proficiency using an objective assessment instrument;
2. Teacher evaluation, including, but not limited to, a review of the student's curriculum mastery;
3. Parental opinion and consultation; and
4. Comparison of the student's performance in basic skills against the performance of English proficient students of the same age to determine whether the student is sufficiently proficient in English to participate effectively in a curriculum designed for students of the same age whose native language is English.

(E.C. § 313(d)(1)-(4))

The IEP team should be involved in determining whether an EL student receiving special

education and related services will be reclassified. The consideration of reclassification may be initiated by LEA staff or by parents. The IEP team should verify that all LEA criteria have been met. Parents must be consulted prior to reclassification and must be notified of a change in their child's classification. Multiple criteria must include CELDT scores (or alternate proficiency assessments if identified on the IEP), comparison of student performance in basic skills, teacher evaluation, and parent opinion.

Grades and Transcripts

Neither IDEA nor Section 504 of the Rehabilitation Act specifically addresses grades and transcripts. IDEA does, however, require accommodations and modifications as determined necessary by the IEP team for individual students (see the “Supplementary Aids and Services” section of this handbook in the chapter in “Chapter 6: Developing the IEP-Required Components” for further information regarding the difference between accommodations and modifications). Additionally, the IDEA requires that LEAs must provide progress reports to the parents of students receiving special education and related services.

If a student has received an accommodation, there should be no reflection in the grade since an accommodation does not fundamentally alter or lower the standard or expectation of the course, standard, or test. If modifications have been made to the curriculum of any course, the student’s grade may reflect that he or she received a modified curriculum, as long as the use of a modified curriculum is documented in the student’s IEP. A student with disabilities may be given a pass/fail grade as long as participation in this grading system is voluntary and is available to all students. A report card should not state that a student is enrolled in special education and related services unless doing so would help the parent or guardian to understand the progress his or her child is making in specific classes, course content, or curriculum.

A student’s transcripts may not indicate that the student has received special education and related services. The purpose of a transcript is to inform postsecondary institutions or prospective employers of an individual’s academic credentials and achievements. Including an indication of special education and related services does not address the individual’s credentials or achievements, but it does single out the student as disabled and constitutes different treatment on the basis of a disability in violation of Section 504. A symbol or code may be used on a student’s report card or transcript to indicate that he has had a modified curriculum; however, this type of coding should not be used solely for students with disabilities. The explanation of the symbol or code cannot indicate that the student has a disability or that the student is in special education.

(Letter to Hudler, OCR 2006, 47 IDELR 45)

IEP Notes

Merced County SELPA IEP forms are intended to provide for all required elements and, in most cases, detailed IEP notes are not necessary. IEP notes are helpful, though, in certain circumstances. When used to document any part of the proposed or refused offer that is not included in any other part of the IEP, the notes provide evidence that the LEA provided prior written notice and was compliant in developing the IEP. Too much information recorded in the notes, however, can complicate and compromise the intent of the IEP team. The IEP notes should summarize the elements of the team discussion and agreements rather than provide a detailed written transcript of every conversation that is held as part of the meeting. Listed below are some examples of items that may not be included elsewhere in the IEP and should be documented in the notes:

1. Agreement on the part of all IEP team members, including the parent, to excuse one or more team members who were expected to be in attendance and, therefore, were not previously excused as documented on the SELPA-approved form;
2. Attempts to convince a parent that they should attend the IEP team meeting when a meeting is being held without parent participation because the parent could not be convinced to participate (a good practice is to try one more time to reach the parent by phone during the meeting so that the parent can participate by teleconference);
3. Efforts to persuade the student's parents to stay when they decide to leave the meeting (note time) and that the IEP team decided to continue with the meeting;
4. Which eligibility categories were considered and why the student was or was not found eligible in each category;
5. That the IEP team reviewed and discussed all assessment reports;
6. That the IEP team considered independent educational evaluation reports and whether team members agreed with the reports (team must consider but is not obligated to implement recommendations);
7. Any element of the student's goal progress and/or the offered placement and services that is too complex to fully document on other IEP pages;
8. Input and participation provided on the part of the parent;
9. Lack of participation on the part of the parent despite all attempts to solicit input especially when the non-participation is due to direction from the parents' advocate or attorney;
10. Documents that are being attached to the IEP by parent request; and
11. Any placement or service that is being offered for a limited time only and is not intended to be part of any future "stay put" requirements.
12. Reasons for parent refusal to consent to the IEP, if provided, and attempts made to address the parents' concerns.

Listed below are examples of items that should NOT be in the IEP, including in the notes:

1. A particular methodology (unless the team believes the methodology is necessary in order for the student to receive FAPE);
2. Qualifications of providers unless necessary to demonstrate that the IEP meets the unique needs of the student (in this case, providing the information via a separate letter is usually recommended);

3. Repetition of information that is included in another portion of the IEP unless further detail is needed to fully explain the offer or agreement;
4. Statements such as, “the program being requested is too expensive”, “all students at the student’s school get one hour of speech support per week”, “the student’s behavior was so extreme that he will never be welcomed back into the classroom;” and

The LEA should select an IEP team member as the scribe for any IEP notes. The scribe should be an employee and should not be the team facilitator, the parent, or the LEA’s attorney. The notes should be written in a factual and neutral tone avoiding use of inflammatory or accusatory language that may aggravate what may already be a contentious situation. Always proofread IEP notes prior to distributing copies of the IEP to be certain that they are accurate and are consistent with other portions of the IEP.

The following is a sample of how **not** to use IEP notes:

Jiminey's mother has requested that he be provided with a full-time 1:1 instructional assistant due to her concerns about his difficult behaviors. The school psychologist told Mrs. Cricket that he didn't think Jiminey needed a 1:1 assistant. The classroom teacher wasn't sure how she could implement his behavior plan without one and suggested that maybe he should have a 1:1 aide for part of the day. The administrator asked how many classroom assistants were in the room throughout the day. The teacher indicated that sometimes there were three, sometimes four, and occasionally there were only two.

A long discussion ensued. The parent stated several times that it was clear the district didn't seem to know what they were doing and she started shouting at the school psychologist. The school psychologist left the room at this point but returned later. Finally, the administrator indicated that instead of providing a 1:1 aide, Jiminey's schedule should be developed so that he had the help of the classroom aides whenever he could. She asked the speech therapist and occupational therapist if they could re-arrange their schedules so that they provided Jiminey's therapies on alternating days at the same time of day. The speech therapist thought she might be able to but the occupational therapist didn't know. She said she would have to spend some time reviewing her current schedule to see if there were any options for making a change. The administrator told them to work it out.

The parent refused to sign the IEP and stated, "no one cares about Jiminey". She said she will be getting an attorney to sue the district and stormed out of the meeting. Since the parent refused to sign the IEP, the paperwork was not completed at the meeting. The administrator asked the SELPA program specialist to call the parent in a few days to see if she was calm enough to talk more about this.

The next sample illustrates the appropriate way to use IEP notes:

Jiminey's mother has requested that he be provided with a full-time 1:1 instructional assistant due to her concerns about his difficult behaviors. In order to consider whether Jiminey requires a 1:1 instructional assistant, the team used the following tools to collect data:

1. *Student Need for Additional Support Rubric;*
2. *Survey of Curriculum, Instruction, and Classroom Environment;* and
3. *Summary of Evaluation for Additional Support.*

The data collected was shared with Jiminey's mother. Based upon the results of the data, the district does not believe that he requires a full-time 1:1 instructional assistant. Instead, the district is proposing the schedule outlined below that provides Jiminey with 1:1 support for most of his day. For the remainder of the day, he is in small groups of no more than two to three students. The District believes that this schedule, in combination with the behavior plan that was developed several weeks ago and has been attached to this IEP, will provide the appropriate level of behavioral intervention necessary for Jiminey to benefit from his education and will also avoid his becoming too dependent upon a 1:1 assistant.

8:30-9:00 Opening Circle (1:1 support from classroom assistant)

9:00-9:45 Language Arts (1:1 support from classroom assistant)

9:45-10:00 Recess (Classroom Assistants will be on yard monitoring Jiminey)

10:00-11:00 Language Arts Centers (Small groups of 2-3 students)

11:00-11:45 Math Centers (Small groups of 2-3 students)

11:45-12:30 Lunch/Recess (Classroom Assistants will be on yard monitoring Jiminey)

12:30-1:15 Speech/Language Therapy T/Th/F & OT M/W (1:1 settings)

1:15-2:00 Social Studies or Science (1:1 support from classroom assistant)

Parent has indicated that she does not agree to the district's offer and will be filing for due process. She stated that she believes a 1:1 assistant is the only level of support that will allow her son to fully participate in his program. She was provided with a copy of her rights and information about how to submit a request for due process.

Interim Placements

Transfer of Student from a District Outside the SELPA

Whenever a student with an active IEP transfers into a school district from a school district outside of the SELPA, the administrator of the receiving district or county office of education shall ensure that the student is immediately provided an interim placement for a period not to exceed 30 days.

The interim placement must conform with the student's IEP, unless the parent or guardian agrees otherwise. The IEP implemented during the interim placement may be either the student's

existing IEP, implemented to the extent possible within existing resources, or a new IEP developed in accordance with all required procedures for the development of an IEP.

The person assigned as case manager for interim placements at each site is responsible for initiating and completing the process for interim placements and reviews.

Before the expiration of the 30-day period, the IEP team shall review the interim placement and make final recommendations regarding the ongoing appropriateness of the IEP. The following steps should be followed when a student moves into the district with an IEP from a previous district:

1. The case manager obtains information from the parent about the previous placement and reviews a copy of the IEP or contacts the previous school to confirm the placement and services;
2. The case manager completes an interim placement form and, if needed, also asks the parent to provide written consent to exchange information with other individuals and/or agencies;
3. The interim placement form is submitted to the appropriate administrator or designee for approval;
4. The student is enrolled in the appropriate program(s) and begins receiving services as stated on his or her IEP;
5. Records are requested by the case manager or the LEA special education office; and
6. Following receipt of the records and within 30 days of beginning the interim placement, the case manager schedules an IEP team meeting to review the IEP and, if necessary, to develop a new IEP.

(E.C. § 56325(1))

Transfer of Student from a District Inside the SELPA

It is not necessary to make an interim placement when a student moves from one LEA to another within the same SELPA. In such a case, the new LEA shall continue, without delay, to provide services comparable to those described in the existing approved IEP, unless the parent and new LEA agree to develop and implement a new IEP.

(E.C. § 56325(2))

Transfer of Student from a District Outside the State

Whenever a student with an active IEP transfers into a school district from an educational agency located outside the state, the new LEA shall provide the student with a FAPE, including services comparable to those described in the previously approved IEP, until the LEA conducts an

assessment, if determined necessary by the LEA, and develops a new IEP, if appropriate. The interim placement, in this case, may exceed 30 days.

(E.C. § 56325(3))

Transfer Student Receiving Educationally Related Mental Health Services

Whenever a student who has been receiving educationally related mental health services (ERMHS) pursuant to an IEP, transfers into a school district from a district in another county, the responsible LEA administrator or IEP team shall refer the student to their District ERMHS staff or the MCOE BEST Team.

The District ERMHS and MCOE BEST Team shall ensure that the student is provided interim mental health services, as specified in the existing IEP, pursuant to Section 56325 of the Education Code, for a period not to exceed thirty (30) days, unless the parent agrees otherwise.

An IEP team meeting, that shall include an authorized District ERMHS or BEST Team representative, shall be convened by the LEA to review the interim services and make a determination of services within thirty (30) days of the student's transfer.

Low Incidence Books, Materials, and Equipment Funds

Funding Background

State funds are available to purchase, repair, and conduct inventory maintenance for specialized books, materials, and equipment as required for students who have a primary or secondary low incidence disability (e.g., deaf-blind, deaf, hard-of-hearing, severe orthopedic impairment, and/or visual impairment). Funds may be used for all students with a low incidence disability (0 through age 21). Purchasing specialized equipment and materials for infants with low incidence disabilities is also an allowable expenditure for Part C funds. It is permissible to “pool” funds to be used by one or more students with low incidence disabilities. There is no legal limit on the amount of funding for any particular student. As a condition of receiving these funds, each SELPA is required to ensure that the items purchased are coordinated as necessary.

Use of Funds

Each item to be purchased needs to be specialized (i.e., relates to a need or needs resulting directly from the low incidence disability, as indicated in the comprehensive assessment in all areas related to the student's disability, including staff who are credentialed/knowledgeable of the low incidence disability area(s)). For example, large print or Braille books for students with visual impairments would qualify for funds while regular textbooks and workbooks would not. Bolsters and mats for young children should be a part of basic equipment and would not qualify, while specialized or adapted feeding and self-care equipment, needed by children because of their severe orthopedic impairments, would qualify.

Low incidence funds may NOT be used to:

1. Support staff development;
2. Purchase medical therapy units for California Children's Services;
3. Purchase medical equipment needed for providing specialized health care;
4. Construct or alter facilities; or
5. Supplant books, equipment, and materials that have been provided by other agencies or funding provided through the base program for general or special education students. For example, basic computers or other basic technology should not be purchased with low incidence funds unless it can be clearly demonstrated to fulfill a specialized function, format, or adaptation directly related to the student's low incidence disability.

Procedure for Requesting Funds

Low incidence funding will be considered for books, materials, and equipment according to the following procedure:

1. The IEP team, including a low incidence specialist (OI Specialist, VI Specialist, Deaf/HOH Specialist, Assistive Technology Specialist), identifies the student as having a low incidence disability, identifies on the IEP the specific items that the student will require as a result of the disability, and develops at least one related goal;
2. The student's case manager completes the request, obtains signature from the low incidence specialist, and submits the *Low Incidence Books, Materials, and Equipment Fund Request* form (available on the SELPA webpage) to the LEA's special education administrator and attaches a copy of all items specified on the request form;
3. If approved, the LEA special education administrator signs and forwards the request to the SELPA Director for final approval or denial;
4. If approved, the SELPA Director signs and the SELPA office submits the purchase order;
5. Copies of the request indicating approval or denial and, if approved, copies of the purchase order are distributed to the LEA special education administrator and the case manager who completed the request;
6. If denied, the requesting LEA is responsible for purchasing the equipment using LEA funds; and
7. When received, SELPA distributes the ordered items to the requesting LEA.

If funds are exhausted in any given year and there are remaining requests, the request will be returned to the LEA special education administrator. The LEA will be responsible for

purchasing the equipment using LEA funds. The LEA may request assistance from the SELPA Extraordinary Cost Pool, if appropriate.

Inventory

The SELPA office maintains an inventory of all equipment, materials, and supplies purchased with low incidence funds.

Redistribution of Unused Items

Unused special books, supplies, and equipment purchased with low incidence funds must be shared with neighboring SELPAs.

Obsolete Equipment

All obsolete equipment will be removed from the inventory and disposed of according to State and Federal laws and regulations.

(E.C. § 56836.22 and *Funding for Specialized Books, Material, and Equipment for Low Incidence Students*, California Department of Education)

Prohibition of Mandatory Medication

LEA personnel are prohibited from requiring an individual with exceptional needs to obtain a prescription for a medication that is a substance covered by the Controlled Substances Act as a condition of attending school, receiving an assessment, or receiving special education and related services (E.C. § 56040.5).

Promotion and Retention

Every school district and county office of education is required to develop and implement a policy for retention and promotion of students at various grade levels (E.C. § 48070.5). The purpose of this policy is to establish the standards to be used for determining promotion from one grade to the next.

Students Affected by Retention Policy

All students moving between grades two through five, between elementary and middle school, and between middle school and high school who are performing below the minimum levels of proficiency established by district policy are required to be retained. At the lower grades, retention is based largely on reading proficiency (E.C. § 48070.5(a)(1)-(5) and (b)). As students move upward, retention is based on proficiency in reading, English language arts, and mathematics (E.C. § 48070.5(c)).

Alternatives to Retention

Any student who is not meeting established proficiencies must be retained in accordance with the law. However, the regular teacher may provide a written statement indicating that retention is not the appropriate intervention. The written statement must contain the following information:

1. The reason retention is not appropriate; and
2. A recommendation for other interventions necessary to assist the student in attaining acceptable levels of academic achievement.

If the teacher's recommendation to promote is contingent upon the student's participation in a summer program, the student must be reassessed at the end of the summer program and the decision to retain or promote must be reevaluated at that time.

(E.C. § 48070.5(d))

Parent Notification

In the grades noted above, students who are at risk of retention are to be identified and parents notified as early as possible during the school year (E.C. § 48070.5(g)). At the time of such notification, identification of opportunities for remediation of deficits also must be provided to students and parents (E.C. § 48070.5(h)).

Opportunities for Remediation

Students in grades two through nine who are retained must be provided with the opportunity for supplemental instruction and such instruction is to take place outside of school hours. Parents may decline to have their students participate (E.C. § 48070.5(h)).

Role of the IEP Team

Special education students are subject to the district-wide policy on retention and promotion. IEP teams are required, however, to specify needed program modifications in each student's IEP (see the "Supplementary Aids and Services" section in the "Developing the IEP-Required Components" in Chapter 6 of this handbook for more information). Individual promotion standards may be developed as a program modification when the IEP team determines that they are necessary to meet the student's unique needs.

For a student for whom retention seems likely, an IEP team meeting should be conducted early in the school year to determine the appropriateness of current placement, services, aids, and interventions; to discuss whether individual promotion standards should be developed; and to revise the IEP if needed. If an individual promotion standard is developed, it should include the criteria for promotion that will be used and how the student's achievement will be demonstrated.

Prior to the end of the year, the IEP team should convene to make final recommendations about retention.

Social/Emotional/Behavioral Development

School Based Interventions and Related Services

When a student is suspected of requiring assistance in the area of social, emotional, and/or behavioral development, an assessment must be conducted to identify specific areas of need and present levels of performance. Assessments must be conducted in accordance with legal requirements (see Part I, Chapter 4 of this handbook) and include at least the following:

1. A detailed bio-psycho-social-educational history;
2. Behavioral checklists completed by parents, teachers, and student (when appropriate);
3. Interviews with parents, teachers, student, and any outside providers;
4. Observations of the student;
5. Evidence of consideration of a conduct disorder, as appropriate.

If the assessment identifies a need in the area of social, emotional, and/or behavioral development, the IEP must include appropriate interventions and/or related services to assist the student in improving within this area of development (E.C. §§ 56363 and 56345(a)(4)(A-C)). Appropriate interventions, supports, and related services will be based upon assessed individual need but may include activities such as:

1. Goals related to area of identified need;
2. Conferences with the student and/or parent by a teacher, counselor, school psychologist, or other appropriate individual;
3. Informal or formal behavior contracts or plans (see “Behavior Intervention” section of this chapter for more information);
4. Provision of additional adult assistance to facilitate more appropriate behavior (see “Determining Need for an Additional Instructional Assistant” section of this chapter for more information);
5. Social skills groups conducted by the speech/language specialist, school psychologist, social worker, or other qualified individual;
6. Counseling and guidance in a group setting provided by the school counselor, school psychologist, or other qualified individual;
7. Individual counseling provided by the school counselor, school psychologist, social worker, or other qualified individual;
8. Psychological Services provided by a credentialed or licensed psychologist; and

9. Parent counseling provided by the school counselor, school psychologist, social worker, or other qualified individual.

Individual, group, and parent counseling may be provided by qualified school staff or through contract with a qualified private vendor (34 C.C.R. § 3051).

Related Services Provided by BEST or District ERMHS

When school based interventions are determined by the IEP team to be insufficient for meeting the needs of the student a referral may be made for related services (E.C. § 56302) provided by the BEST Team or a district ERMHS.

Referral of Students with Existing IEPs

The need for such a referral shall be documented in the IEP. For students who are being placed in Sierra Program and who aren't currently receiving services from BEST or District ERMHS staff, this documentation shall occur during the IEP team meeting at which the decision to place is made. See appendix or mcoe.org for the BEST Team referral form.

Referral of Students Being Assessed for Initial Special Education Eligibility

Students who are being assessed for initial eligibility for special education and for whom there is strong evidence that related services provided through BEST or District ERMHS will be required may be referred simultaneous to the initial assessment. While this is not the preferred process, it is permissible when necessary particularly in a situation involving a rapid decline in educational performance and mental or emotional health.

In this circumstance, the LEA shall follow the procedures identified for referral to BEST or District ERMHS in the previous section.

Scheduling and Holding the IEP Team Meeting

BEST or District ERMHS shall immediately verify receipt of the referral via email to the special education administrator of the LEA. Within five working days of receiving the referral, MCBH shall notify the special education administrator of the LEA, in writing, that it is complete and verify the IEP meeting date or request a new date, if necessary. If it is incomplete MCBH shall contact the LEA to obtain the missing information. Once all missing information has been submitted, BEST or District ERMHS shall notify the special education administrator of the LEA, in writing, that it is complete and verify the IEP meeting date or request a new date, if necessary. The LEA shall convene the IEP team meeting in accordance with legal timelines and as previously scheduled or mutually agreed upon by all parties.

BEST or District ERMHS Attendance at IEP Team Meeting

A BEST or District ERMHS representative who can interpret assessment results will attend the IEP team meeting unless excused in writing by the parent and the LEA. If the parent disagrees with the assessor's mental health service recommendation, BEST or District ERMHS will provide the parent with written notification that they may require the assessor to attend the IEP team meeting to discuss the recommendation. The assessor shall attend the meeting if requested to do so by the parent.

Assessment

BEST or District ERMHS shall conduct an assessment for all referred students for the purpose of determining specific needs and for making recommendations regarding goals, services, and service levels. BEST or District ERMHS shall complete the assessment prior to the scheduled IEP team meeting unless the LEA and parent agree in writing to an extension (E.C. § 56302.1(a) and 56344(a)) or the parent revokes consent for the assessment in writing.

At a minimum, the assessment shall include a review of the referral packet, an observation of the student within the educational setting, and interviews with teachers and parents. The BEST or District ERMHS assessor shall provide a copy of the BEST or District ERMHS assessment report to the parent and the IEP team (E.C. § 56327)

Including Related Services Provided by BEST or District ERMHS on the IEP

The IEP team shall review and discuss the assessment results provided by BEST or District ERMHS. Based upon the assessment results and any other relevant information, the IEP team shall document the student's needs and include the following in the IEP:

1. A description of the present levels of social and emotional performance (E.C. § 56345(a)(1));
2. The goals and objectives of the mental health services with objective criteria and evaluation procedures to determine whether they are being achieved (E.C. § 56345(a)(2));
3. A description of the manner in which the progress of the student toward meeting the annual goals such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards, will be provided (E.C. § 56345(a)(3));
4. A description of the types of mental health services to be provided (E.C. § 56345(a)(4)); and
5. The projected date for the beginning of services and the anticipated frequency, location, and duration of these services (E.C. § 56345(a)(7)) and
6. A description of any educationally related mental health services that the student requires during the extended school year (E.C. § 56345(b)(3)).

Related services provided by BEST or District ERMHS are to be provided to all students identified as needing such services, regardless of the identified specific disability.

Transfers and Interim Placements

The LEA shall refer to BEST or District ERMHS any student transferring into the SELPA from another county or state who was receiving related services pursuant to an existing IEP that in Merced County are provided by BEST or District ERMHS. The referral shall be made in writing to BEST or District ERMHS within two school days from the date that the LEA becomes aware of the student transfer.

BEST or District ERMHS shall provide interim related services as specified in the existing IEP pursuant to E.C. § 56325, for a period not to exceed 30 calendar days unless the parent agrees otherwise. The LEA shall convene an IEP team meeting prior to the end of the interim placement and as previously scheduled to adopt the previously approved IEP or develop and implement a new IEP (E.C. §56325(a)(1) and (a)(3)).

Residential Placement

When an IEP team member recommends a residential placement an IEP team meeting shall be convened within 30 days to include a representative from the SELPA. The IEP team shall consider less restrictive alternatives such as providing a behavior specialist and behavioral aide, and/or placement in a district or the Sierra Program prior to making a residential placement.

When a student is significantly at risk for residential placement but alternatives are still being attempted, this should be documented on the IEP with a statement such as, “Student is at imminent risk of needing out-of-home placement in order to meet his or her educational needs. Intensive therapeutic services are required to minimize this risk.” In this circumstance, the IEP team should consider adding a one-on-one assistant.

When the IEP team recommends residential placement, it shall document the alternatives to residential placement that were attempted and/or considered and why they were insufficient and/or rejected. It shall also document the student’s educational and therapeutic treatment needs that support the need for residential placement. This documentation shall identify the special education and related services to be provided by the residential facility that cannot be provided in a less restrictive environment.

The SELPA Coordinator shall, in consultation with the IEP team’s administrative designee, identify a satisfactory placement that addresses the student’s special education and related service needs in a manner that is cost effective subject to the requirements of federal and state special education laws, including the requirement that the placement be appropriate and in the least restrictive environment. The SELPA, on behalf of its member LEAs, has a policy that outlines the process for covering the cost of residential placements. The LEA shall be responsible for providing or arranging for the special education and transportation needed by the student while placed in a residential facility.

Following placement, the LEA shall periodically report on the progress the student is making toward meeting annual goals as indicated in the IEP for the student (E.C. § 56345(a)(3) . The

LEA shall convene and participate in an IEP team meeting within six (6) months of residential placement and every six (6) months thereafter as long as the student remains in residential placement.

Suspension and Expulsion

Removals Not Considered a Change in Placement

School personnel may suspend a student who has an IEP as long as the removal does not constitute a change in placement. Removals that do not constitute a change in placement are days of suspension that total 10 or fewer consecutive school days within the school year and additional removals for separate incidents of not more than 10 consecutive days in the same school year, provided that a pattern is not evident.

(34 C.F.R. § 300.530(b)(1))

Removals Considered a Change in Placement

Prior to disciplinary action of a student who has an IEP that may constitute a change in placement (i.e., expulsion, suspension of more than ten consecutive school days within the school year, or any number of school days within the school year that constitutes a pattern), school personnel must:

1. Notify the student's parents on the date the decision is made to take the disciplinary action for more than 10 days, for the same or separate incidents of misconduct, within the same year [34 CFR 300.530(e)(i)(ii)] *See Chart A: Individualized Educational Program Team Considerations for a Student Requiring a Manifestation Determination*, [CDE May 8, 2014]; and
2. Convene an IEP team meeting within 10 school days of any decision to take disciplinary action that may change the placement of a student with an IEP.

(34 C.F.R. § 300.530(e) and (h))

A pattern should be considered present when:

1. The days of suspension total more than 10 cumulative school days in a year;
2. The student's behavior is substantially similar to previous incidents that resulted in suspension;
3. The length of each suspension is significant;
4. The total amount of time that the student has been suspended is significant; or
5. There is close proximity between the dates of the suspensions.

(34 C.F.R. § 300.536(a)(1)(2))

IEP Team Meeting (Manifestation Determination)

The parent/guardian of the student must be notified of the IEP team meeting and must be invited to attend. The notice of IEP team meeting is typically given to the parents by the case manager at a meeting called and facilitated by the site administrator to notify the parents of the behavior incident and the proposed disciplinary action. A *Notice of Procedural Safeguards* is to be included with the meeting notification. If the parent does not attend the meeting called by the site administrator, the case manager should contact the parent by other means in order to provide notice of the IEP team meeting.

LEAs are required to notify a foster youth's attorney and the appropriate representative of the county child welfare agency of pending expulsion proceedings if the decision to recommend expulsion is a discretionary act, pending proceedings to extend a suspension until an expulsion decision is rendered if the decision to recommend expulsion is a discretionary act, and, if the foster child is an individual with exceptional needs, pending manifestation determinations.

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In preparation for the IEP team meeting, the school psychologist will facilitate collection of pertinent data by reviewing student records; conducting interviews with the student, parents, and staff; and conducting classroom observations, when possible. These data are summarized in a written report and discussed at the IEP team meeting. The purpose of the IEP team meeting is to determine whether the conduct in question was:

1. Caused by, or had a direct and substantial relationship to the student's disability;
2. The direct result of the district's failure to implement the IEP; and
3. A manifestation of the student's disability (considered to be the case if either of the two previous items is found to be true).

If the IEP team determines that the behavior **was** a manifestation of the student's disability, then the LEA must either:

1. Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a Behavior Intervention Plan (BIP) for the student; or
2. If a BIP already has been developed, review the BIP, and modify it, as necessary, to address the behavior.

(34 C.F.R. § 300.530 (f)(1))

SELPA approved IEP forms have been developed for documenting the decision of the IEP team. The parent and student are not required to consent to the IEP for action to proceed, nor is parental consent required as a condition of a final decision to expel, unless the parent has appealed the manifestation determination.

Moving Forward Following the IEP Team Meeting

If it is determined that the student's behavior **was not** a manifestation of his or her disability and that the student's IEP was being implemented at the time of the alleged misconduct (or the behavior was not the direct result of a failure to implement the IEP), school personnel may apply disciplinary procedures to the student in the same manner and for the same duration as those procedures are applied to students without disabilities.

If a student is being considered for expulsion, a copy of the IEP is submitted to the site administrator for inclusion in the expulsion packet.

(34 C.F.R. § 300.530(c))

A child with a disability who is removed from the child's current placement must:

Continue to receive educational services so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

(34 C.F.R. § 300.530(d) (1) (i-ii))

If it is determined that the student's behavior **was** a manifestation of his or her disability or that the student's IEP was not being implemented and that the alleged misbehavior was the direct result of that failure, the student shall **not** be subject to the disciplinary procedures being considered. The IEP team shall return the student to the placement from which he or she was removed unless the parent and LEA agree to change the placement. Additionally, if the IEP team determined that the IEP was not being implemented, it must take immediate steps to remedy that deficiency.

(34 C.F.R. § 300.530(f)(2) and (e)(3))

Required Educational Services During Periods of Suspension/Expulsion

LEAs are only required to provide educational services to students with disabilities who have been suspended for 10 days or less in the school year, if it provides services to students without disabilities who are similarly suspended. Beginning on the 11th day of suspension and/or during a student's period of expulsion, interim alternative educational services must be provided. Those services must enable the student to:

1. Continue to participate in the general education curriculum;
2. Continue to receive IEP services and modifications determined by the team; and
3. Receive services/support designed to address and prevent recurrence of misbehavior.

The student's IEP team determines the appropriate alternative educational setting for these services.

(34 C.F.R. § 300.530(b)(2), (d)(1)-(3), (c), (c)(5), and § 300.531)

School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability if the student has engaged in any of the following behaviors while at school, on school premises, or at a school function under the jurisdiction of an LEA:

1. Carries a weapon or possesses a weapon at school;
2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance;
3. Has inflicted serious bodily injury upon another person.

(34 C.F.R. § 300.530(g)(1)-(3))

Appeal of the Manifestation Determination Decision

The parent may appeal the IEP team decision regarding the manifestation determination by requesting an expedited hearing. When a hearing has been requested, the child must remain in an interim alternative educational setting pending the decision of the hearing officer or until the disciplinary action has been served or the student has been in the interim alternative educational setting for 45 days, whichever occurs first, unless the parent and the LEA agree otherwise.

(34 C.F.R. § 300.533)

Protections for Students Not Currently Determined Eligible for Special Education

Students who have not been determined to be eligible for special education and related services may assert any of the protections related to disciplinary action as specified above if the LEA had knowledge that the student had a disability before the behavior that precipitated the disciplinary action occurred. Such knowledge is deemed present when:

1. The student's parent has expressed concerns in writing to school staff that the student is in need of special education and related services and/or requested an assessment;
2. The student's teacher, or other school personnel, has expressed specific concerns about the student's behavior directly to supervisory personnel of the LEA; or
3. There is a current written referral to special education.

The LEA would not be deemed to have knowledge that the student had a disability if the parent has not allowed an assessment of the student, has refused services, or if the student has previously been evaluated and found ineligible for special education and related services.

(34 C.F.R. § 300.534(b) (1)-(3))

If the student does not meet any of the three criteria above, the parent may still request an assessment. If that occurs, an assessment, if determined appropriate, must be conducted in an expedited manner. Until the assessment is completed, the student remains in the educational placement determined by school authorities (including suspension or expulsion) without educational services. If found eligible, special education and related services must be provided and the procedures listed above for disciplinary action must be followed.

(34 C.F.R. § 300.534(d)(2))

Suspension from Bus Transportation

A suspension from school bus transportation is regarded as a suspension from school if failure to provide transportation prohibits the special education student from receiving the services specified in the IEP. A student with an IEP who is excluded from school bus transportation is entitled to an alternative form of transportation to school at no cost to the parent or student.

(E.C. 48915.5(c))

Appeals

If the parent/guardian disagrees with the decision of the IEP team in reference to the manifestation determination or interim alternative educational setting, he or she may appeal the decision by requesting a due process hearing. An LEA may request a due process hearing if it believes that maintaining a student, whose behavior has been determined to be a manifestation of his or her disability, in his or her current placement is substantially likely to result in injury to the student or others, and parent will not consent to an alternate placement. In either case, the administrator and/or case manager should ensure that the parent receives a copy of the *Notice of Procedural Safeguards* and information about how to file for a due process hearing.

If the parent requests the due process hearing, the LEA must arrange to convene a resolution session within seven days of receiving notice of the due process complaint unless the parent and LEA agree, in writing, to waive the resolution session. If not resolved through a resolution session or mediation, a due process hearing will occur in an expedited manner and a decision will be rendered within 30 days of the date that the request for a due process hearing is filed.

When an appeal has been made, the student must remain in the interim alternative educational setting pending the decision of hearing judge; or until the expiration of the 45 day time period in the case of a student who has engaged in behavior involving weapons, drugs, or serious bodily injury as described above.

(34 C.F.R. § 300.532 and § 300.533)

Readmission of an Expelled Student with Disabilities

Readmission procedures for a student with disabilities are the same as those for all students. Upon the student's readmission, an IEP team meeting shall be convened to determine whether a new IEP needs to be established.

Involvement of Law Enforcement Authorities

IDEA does not prohibit a school or district from reporting a crime committed by a student with disabilities to the appropriate law enforcement authorities. Further, IDEA does not prohibit law enforcement and judicial authorities from applying the law to crimes committed by a student with disabilities. If such action takes place and the student is arrested or cited, the LEA must ensure that special education and discipline records are transmitted to the authorities to which the crime was reported to the extent permitted by the "Family Educational Rights and Privacy Act".

(34 C.F.R. § 300.535)

Transition Planning

Transition Services (For Students 16 and Older)

Beginning not later than the first IEP to be in effect when the student is 16, and updated annually thereafter, the IEP shall describe transition services (E.C. § 56345(a)(8)). The term "transition services" means a coordinated set of activities for an individual with exceptional needs that:

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

(E.C. § 56345.1(a))

Transition services may be special education, if provided as specially designed instruction, or may be a related service, if required to assist a student to benefit from special education. If a participating agency other than the LEA fails to provide transition services identified in the IEP, the LEA shall convene the IEP team to identify alternative strategies to meet the transition service needs of the student.

(E.C. § 56345.1 (b)-(c))

Transition services are documented in the IEP and must include:

1. Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, when appropriate, independent living skills;
2. Transition services, including courses of study, needed by the student to reach these goals; and
3. Beginning not later than one year before the student reaches the age of majority, a statement that the student has been informed of the student's rights that will transfer to him or her upon reaching the age of majority.

(E.C. § 56345(a)(8)(A)-(B))

Information addressing required transition services is documented in the IEP using the SELPA-approved forms.

Other Transition Services

For students ages five to 22, there are two other times when a transition plan is developed. One is for the student who is transitioning into a general class program in a public school from a special class or a nonpublic, nonsectarian school for any part of the school day. In either of these cases, the individualized education program should include a description of the activities provided to:

1. Integrate the student into the general education program indicating the nature of each activity, and the time spent on the activity each day or week; and
2. Support the transition of the student from the special education program into the general education program.

(E.C. § 56345(b)(4)(A)-(B))

The second instance when a transition plan is developed is for the special education student who is transitioning from preschool to kindergarten or first grade. It is the intent of the legislature that gains made in a preschool special education program are not lost by too rapid a removal of individualized programs and supports for these individuals. As part of the transition process, a means of monitoring continued success of the student shall be identified by the IEP team for those children who are determined to be eligible for less intensive special education programs. As part of the transition process, the present performance levels and learning style of the student should be noted by the IEP team and be made available to the assigned general education teacher upon the student's enrollment in kindergarten or first grade, as the case may be.

(E.C. § 56445(a)-(d))

Timeline of Postsecondary Transition Planning and Services

Grade	Activity
Eight	Identify interests and learning style; practice self-advocacy skills; develop communication skills; develop independent living skills, as needed, within the home, community, and work place
Nine	Continue to identify interests; assess aptitudes; continue with self-advocacy and communication skills; create course of study; continue to develop independent living skills, as needed, within the home, community, and work place; identify postsecondary goal(s); begin with career or job exploration; determine whether pursuing graduation with a diploma or a certificate
Ten	Review interests, aptitudes, postsecondary goals, and course of study, revise as necessary; continue with career or job exploration; continue with self-advocacy and communication skills; continue to develop independent living skills, as needed, within the home, community, and work place; identify and establish appropriate agency linkages; explore options for postsecondary education and training; practice applying and interviewing for jobs, as appropriate; evaluate graduation status; review determination regarding whether pursuing graduation with a diploma or a certificate, revise as appropriate
Eleven	Review interests, aptitudes, postsecondary goals, and course of study, revise as necessary; continue with career or job exploration; continue with self-advocacy and communication skills; continue to develop independent living skills, as needed, within the home, community, and work place; continue to identify and establish appropriate agency linkages; continue to explore options for postsecondary education and training; continue to practice applying and interviewing for jobs, as appropriate; begin work experience or technical training, as appropriate; evaluate graduation status; review determination regarding whether pursuing graduation with a diploma or a certificate, revise as appropriate
Twelve	Review interests, aptitudes, postsecondary goals, and course of study, revise as necessary; continue with career or job exploration; continue with self-advocacy and communication skills; continue to develop independent living skills, as needed, within the home, community, and work place; continue to identify and establish appropriate agency linkages; continue to practice applying and interviewing for jobs, as appropriate; apply to postsecondary education/training if necessary; continue with work experience or technical training as appropriate; complete graduation requirements; develop and provide student with summary of performance upon graduation
Postsecondary (As appropriate)	Review interests, aptitudes, postsecondary goals, and course of study, revise as necessary; continue with career or job exploration; continue with self-advocacy and communication skills; continue to develop independent living skills, as needed, within the home, community, and work place; continue to identify and establish appropriate agency linkages; continue to practice applying and interviewing for jobs, as appropriate; continue with work experience or technical training, as appropriate, including off-campus; develop and provide student with summary of performance upon exceeding age of eligibility (22 years)

Chapter 8 – Placement and Services

Program Continuum

Each SELPA must ensure that a continuum of program options is available to meet the needs of students eligible for special education and related services (E.C. § 56360). The intensity of placement and services varies greatly depending upon the severity of each student's disability. This chapter provides summary information about the continuum of services available to students in the Merced County SELPA. An appendix at the end of "Part I, Program Procedures" of this handbook provides detailed program descriptions of special education and related services operated by participating LEAs.

General Education

To the maximum extent appropriate, children with disabilities shall be educated with children who are not disabled, and removal of children with disabilities from the regular educational environment will occur only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily (AB 602, Chapter 854, Statutes of 1997, Section 66(a)(5)(A)).

Specialized Instruction

Resource Specialist Program (RSP)

Typically, students with mild disabilities can successfully access and benefit from the general education curriculum with the support of accommodations and specific skills instruction. These students are assigned to general education for the majority of the school day and receive specialized instruction for a portion of the school day from a resource specialist within the general education classroom and/or in a separate classroom.

Learning Centers

Students with mild to moderate disabilities may also be served in a learning center. In a learning center, a diverse group of educators provides varied levels of instruction and intervention to students, often as part of a tiered school-wide intervention program. The learning center allows for flexibility in service provision; one student may receive instruction for a short, intense period while another may require more extensive support. The purpose of the learning center is to provide students who are being instructed in the general education curriculum with access strategies, instructional interventions in identified areas of need, and monitoring of progress.

Inclusion

Students with moderate to severe disabilities who are able to achieve their IEP goals and objectives within a general education classroom for the majority of the school day with the support of special education staff are sometimes served in the general education setting.

Special Classes

Students may need specialized instruction for a majority of the day in a self-contained special class on either an integrated or isolated site to accommodate their special needs. The focus of these classes varies depending on the needs of the students. Classes include, but are not limited to, the following curricular focuses:

1. General education curriculum with modifications;
2. Alternative life skills curriculum;
3. Therapeutic interventions for students with significant emotional disabilities;
4. Specialized curriculum for students with communication and social skill deficits;
5. Specialized curriculum for students with autism; and
6. Specialized curriculum for students with low incidence disabilities.

State Special Schools

Some students who are visually impaired, deaf, or hard-of-hearing may require a special school such as those operated by the state. These schools may be considered by an IEP team when it has been determined that no appropriate placement is available within the SELPA.

Nonpublic Schools and Residential Placement

A few students may need educational programs that are not available within the public schools. Their IEP teams, with parental consent, may place these students into a state certified nonpublic residential or day school. For placement of students eligible for educationally related mental health services into residential treatment facilities, see the “Social/Emotional/Behavioral Development” section of this chapter for more information.

(E.C. § 56361(a)-(f); § 56364.1, § 56364.2(a)-(c), and 56365(a)-(b))

Designated Instructional Services (DIS)

Formerly known as Related Services. Changed effective July 1, 2014.

Designated instructional services (DIS) shall be available when they are necessary for the student to benefit from his or her special education program. Students may receive any one or a combination of related services. These services are usually provided by LEA staff, but when determined necessary by the IEP team, may be provided through another public agency or contract with a nonpublic agency (NPA). Related services include, but are not limited to, the following most common services:

1. Language and Speech;
2. Adapted Physical Education;

3. Health and Nursing;
4. Occupational therapy;
5. Individual Counseling;
6. Counseling and Guidance;
7. Parent Counseling;
8. Psychological counseling;
9. Behavior Intervention;
10. Deaf and Hard of Hearing Services;
11. Specialized Vision Services;
12. Orientation and mobility;
13. Specialized Orthopedic Services; and
14. Vocational Assessment, Counseling, Guidance, and Career Assessment

Instructional Settings

Most students, regardless of their placement and services, will be served in a public or private school setting. Some students, however, may require instruction in alternative settings such as community-based instruction, vocational training, and work experience. Students who are ill for more than 10 school days may need to receive services in a home or hospital setting, as ordered by a physician or psychiatrist. Adjudicated students will require services provided in juvenile hall or other youth authority settings. When appropriate, long-distance learning through telecommunication may also be an option.

Direct Related Service versus Consultation

When developing the IEP, it is important to understand the difference between direct service, consultation, and collaboration. This is especially true for designated instruction and services (DIS). Direct service and consultation are both delivery models, whereas collaboration is one method often used in providing consultation.

Direct Related Service

For a service to be considered a "direct" service to the student, it must be:

1. Individual, small group, or "push in" instruction;
2. Provided through face-to-face interaction with the student;

3. In a regular and ongoing manner; and
4. Based upon specific IEP goals and objectives that are monitored and up-dated through data collection.

Direct services are listed on the special education and related services page of the IEP.

Consultation as a Direct Service

Consultation can, when provided in an ongoing and regular manner, also qualify as a direct service. This typically occurs when a specialist is providing instruction to classroom teachers and other staff members in the use of modifications, specialized equipment, computer hardware/software, or specialized techniques and programs and the student is included in the instruction. As with other direct services, this type of consultation is listed on the special education and related services page of the IEP and goals (with benchmarks or short-term objectives, if appropriate) that are the primary responsibility of the identified service provider are required. Special education services provided within the general education classroom are included in the calculation of the percentage of the student's time spent in general education.

Consultation as a Support to School Personnel

In most cases, consultation is considered a support to school personnel. In this type of consultation, there is little to no direct contact with the student. Examples of this type of consultation include:

1. Training in appropriate instructional accommodations, modifications, instructional strategies;
2. Provision of information necessary to understand the student's disability and abilities;
3. Provision of resource materials specific to meeting the instructional needs of the student; and
4. Regular meetings of the instructional staff.

When a specialist is providing this type of consultation, specific goals and objectives are not required and the service is listed as a support to school personnel. Supports to school personnel are not included in the calculation of percentage of time spent in special education.

Exception: When a student receives consultation that does not involve direct instruction to the student and it is the only service provided on the IEP (e.g., low incidence services), the service must be listed on the special education and related services page of the IEP and have related goals and objectives.

Regional Programs

Special education programs that are operated by an LEA within the Merced County SELPA fall within one of the following categories:

1. Programs operated by and for an individual district;
2. Programs operated by the Merced County Office of Education on behalf of all districts within the SELPA.

If an IEP team believes that a student may require placement in a regional program operated by another district or by the MCOE, the case manager should contact the appropriate special education administrator for assistance with the process of referring to that program. Detailed procedures for creating and operating regional programs are included in “Part II: Administrative Procedures” of this handbook.

Inter-District Placements

Occasionally, a district may determine that it is in the best interest of an individual student to attend a special education program provided by another district. If the identified program is not a regional program, placement of the student is arranged through a memorandum of understanding (MOU) between the two districts. Typically, this MOU will include a description of each district’s obligations and agreements about billing for excess costs.

Dismissal From One or More Programs or Services

Students who are still eligible for and in need of special education and related services are sometimes dismissed from a particular related service but continue to receive support from other special education programs and related services. The IEP team should consider dismissal from a related service if one or more of the following applies:

1. The area of previously identified need supported by the related service no longer affects educational performance;
2. The student has reached a plateau in his or her progress in the area supported by the related service and the IEP team believes that the student’s needs in this area can be addressed in a less restrictive environment or an alternative setting;
3. The student’s abilities in the area supported by the related service are now commensurate with his or her overall development; and
4. The parent or adult student refuses the service and the IEP team believes that the service is not required in order for the student to receive FAPE (see discussion in “Extensive Absences” section).

It is often helpful, when initiating a related service, to provide information to the parent regarding the criteria that will be used to determine when the service will be discontinued.

Extensive Absences

Students should not be dismissed from a service based solely upon extensive absences or lack of participation. In cases of chronic and severe absence or nonparticipation that continues after documented normal school site interventions and other procedures to improve attendance have been unsuccessful, the IEP team shall convene a meeting to review additional strategies that can be implemented to improve attendance or participation and implement those that are identified as potentially helpful.

If, after all reasonable interventions have been attempted, the IEP team determines that the student's needs could be met in general education, the team should consider dismissing the student from that service. If, on the other hand, the IEP team determines that the student continues to require the service in order to receive a free, appropriate public education (FAPE), the LEA must request a due process hearing unless the parent revokes consent for all special education and related services in writing.

Exit Criteria

A student will be exited from special education and related services due to one of the following reasons:

1. Following an assessment, it is determined that the student no longer meets the criteria specified in any of the qualifying areas;
2. Following an assessment, it is determined that the student's needs can be met within the general education program with or without accommodations;
3. The student has exceeded age eligibility; or
4. The parent has revoked consent.

(E.C. § 56001(h) and § 56381(h))

When a student is exited to general education, a plan to facilitate the student's transition to a less restrictive environment will be developed, including a plan to assist the receiving teacher.

Exceeding Age Eligibility

Students are no longer eligible for special education and are exited when they graduate from high school with a regular high school diploma or reach the age of 22 years (E.C. § 56026(c)(2)-(4)). It is not necessary to conduct an assessment for students exiting under these circumstances, but the IEP team must provide the student with a summary of his or her academic achievement and functional performance including recommendations on how to assist the student in meeting his or her post-secondary goals (E.C. § 56381(c)(1)-(2)).

Any student who becomes 22 years of age during the months of January to June, inclusive, while receiving special education and related services may continue his or her participation in the

program for the remainder of the current school year, including any extended school year program. If the student becomes 22 years of age in July, August, or September, he or she may not begin a new school year unless the student is in a year-round school program and is completing his IEP in a term that extends into the new school year, in which case the student may complete that term. Any student, who becomes 22 years of age during the months of October, November, or December, while receiving special education and related services, shall be exited from the program on December 31 of the current school year, unless the student would otherwise complete his or her IEP at the end of the current school year.

(E.C. § 56026(c)(4)(A)-(C))

No LEA may develop an IEP that extends these eligibility dates, and in no event may a student be required or allowed to attend school under the provisions of this part beyond these eligibility dates solely on the basis that the student has not met his or her goals or objectives (E.C. § 56026(c)(4)(D)).

The same procedures are used when considering whether to dismiss a student from a particular program or service while continuing to serve the student in other special education programs and/or services.

Revocation of Consent

If, at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the LEA:

1. May not continue to provide special education and related services to the child, but must provide prior written notice before ceasing the provision of special education and related services;
2. May not request mediation or due process in order to obtain agreement or a ruling that the services may be provided to the child;
3. Will not be considered to be in violation of the requirement to make a free appropriate public education (FAPE) available to the child because of the failure to provide the child with further special education and related services; and
4. Is not required to convene an IEP team meeting or develop an IEP for further provision of special education and related services.

(34 CFR § 300.300(b)(4)(i)-(iv))

The provision of prior written notice and discontinuation of special education and related services must occur in a timely manner, usually within no more than two weeks from the date that the written revocation of consent was received. The SELPA has developed a template that LEAs can use to provide the required prior written notice.

Questions and Answers about Parent Revocation of Consent

Question 1

Can a parent revoke the consent for all special education and related services and remove the student from special education?

Yes, changes to the federal regulations for the Individuals with Disabilities Education Act effective on December 31, 2008, give parents the right to revoke their consent for the student to receive special education and related services; the parent (or the adult student) must submit a statement of revocation in writing.

Question 2

Must a parent give a reason for revoking consent?

No, district personnel may inquire as to the reason, but the parent is not obligated to respond.

Question 3

What happens after the parent has revoked consent in writing?

The written statement of revocation is sent to the LEA special education office. The LEA special education administrator/designee provides prior written notice regarding the change in educational placement and services to the parent, using certified mail. Five school days after the prior written notice is sent to the parent, the special education administrator/designee notifies the case manager and other appropriate staff to cease providing all special education and related services to the student. No IEP meeting is required by federal regulations.

Question 4

How does a parent become aware that the parent can revoke the consent for the student's receipt of special education and related services?

The procedural safeguards notice that is provided to parents annually includes a full explanation of the procedural safeguards available to the parents of a child with a disability and explains that a parent has the right to revoke consent, in writing, to his or her child's continued receipt of special education and related services. Additionally, if a parent asks a special education staff member, that person should inform the parent of this right and provide a copy of the amended procedural safeguards.

Question 5

If the teacher or other staff member believes that stopping all special education and related services is not in the child's best interest, what can the LEA do to stop the revocation?

Nothing, the LEA cannot seek or require the parent to participate in due process or dispute resolution.

Question 6

Does the LEA or individual staff member have the responsibility to persuade the parent not to revoke consent?

LEAs and staff members do not have any obligation to “convince” parents to accept the special education and related services that are offered to a child.

Question 7

May a teacher or administrator encourage a parent to revoke consent and remove the student from special education?

No, that would be unprofessional behavior. Such an act may put the LEA and the teacher or administrator at risk for legal action.

Question 8

What happens to the student following revocation of consent?

The student becomes fully a general education student. The school must arrange for the student to participate in general education classes, instruction, and programs, as appropriate. The special education and related services personnel no longer have a responsibility or the authority to provide services to the student or to be involved in his or her education. The only special education procedural safeguards still available are those that pertain to child find (referral and initial assessment) and are available to all students.

Question 9

What is the process for notifying the student’s district of residence, if the student is being served by one LEA for another LEA as part of a regional program or memorandum of understanding when parental consent for special education has been revoked?

The student’s change in status should be communicated to the special education administrator/designee of the student’s district of residence immediately upon receipt of the written notice of revocation of consent by the district of service. A copy of the prior written notice should be provided to the district of residence as well. The special education administrator/designee shall be responsible for contacting the administrator of the student’s neighborhood school as well as the student’s parent to arrange for the student’s enrollment into the general education program.

Question 10

What should the case manager or other special education/related services provider(s) do with their classroom or student files for this student?

The case manager or other special education and related services provider(s) should treat their files for this student in the same manner as they do the files for any student who has exited or been dismissed from special education.

Question 11

Can the parent revoke consent for a child's receipt of special education and related services and have it be effective retroactively?

No, the effective date for the revocation is the date that the LEA states in the prior written notice sent to the parent in response to the parent's written revocation.

Question 12

Can the parent revoke consent for a child's receipt of special education and related services and expect previous records and documents related to special education removed from the student's school records?

No, the public agency would not be required to amend the child's education records to remove any references to the child's receipt of special education and related services in the event the child's parent revokes consent.

Question 13

If a student commits an act that is an infraction of the school's disciplinary policy, is the student protected from disciplinary action because the school "had knowledge" that the student was a student with a disability?

No, the regulations state that the LEA is not deemed to have such knowledge if the parent of the child has revoked consent for special education and related services. The child may be disciplined as a general education student and is not entitled to the IDEA's discipline protections.

Question 14

Is a student whose parents have revoked consent automatically eligible for 504 services?

No, the decision as to whether a student is eligible for 504 services is one made by the school's 504 team.

Question 15

Does a parent's revocation affect a student's eligibility for SSI or other programs and resources?

Possibly, the parent will need to seek information regarding ongoing eligibility from the relevant agency.

Question 16

Can the parent decide to reinstate the consent for the student to receive special education and related services?

No, once a parent has revoked consent, the student is considered a general education student. If a parent wishes to have the student considered for special education, the parent may refer the student for consideration for evaluation for eligibility. The student must be determined eligible using the same procedures as those established for initial referrals.

Question 17

Should general education staff members be hesitant to refer a student who is suspected of having a disability and is not progressing in school when the parent has previously revoked consent?

No, students who have previously received special education and related services and whose parents subsequently revoke consent should not be treated any differently in the referral and assessment process than any other child, including a child who was determined eligible and whose parent refused to provide initial consent for services. A parent who previously revoked consent for special education and related services may continue to refuse services; however, this does not diminish the LEA's responsibility to engage in appropriate child-find activities.

Question 18

May a parent who has previously revoked consent and then made a new referral leading to assessment and reinstatement of special education and related services, revoke consent again?

There is no limit on how frequently a parent may revoke consent and then subsequently request assessment and reinstatement in special education services.

Question 19

Is the LEA or teacher in jeopardy of legal action if, after a parent has revoked consent, the student or parent later alleges that the student failed to make progress in school?

Federal regulations state that an LEA will not be considered in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services based on the parent's revocation of consent.

Question 20

If a parent revokes consent for special education, is the LEA required to provide annual notices or conduct re-evaluations of the child without the parent's request to do so?

No, a student whose parent has revoked consent should be treated the same as any other child in the LEA's child find process.

Question 21

Can a parent revoke consent for just one or more, but not all, of the special education and related services?

In situations where a parent disagrees with the provision of a particular special education or related service and the parent and LEA agree that the child would be provided with FAPE if the child did not receive that service, the LEA should remove the service from the child's IEP. If, however, the parent and LEA disagree about whether the child would be provided with FAPE, the parent may request a due process hearing to obtain a ruling that the service with which the parent disagrees is not appropriate for their child."

Please remember:

No change in special education and related services or location of special education and related services is to take place until the parent has received prior written notice and the date for cessation of services has been reached.

Chapter 9 – Educational Benefit

The IEP is not required to provide for special education and related services that will maximize the potential of the student but it must be reasonably calculated to enable the child to receive educational benefit.

Annual Analysis of Educational Benefit

In preparation for an annual IEP meeting, it is recommended that the IEP team review the following points related to the previous IEP:

1. What did assessments identify as areas of need?
2. Did the present levels address all of the identified areas of need?
3. Did the goals, placement and services, supplementary and specialized supports, etc. appropriately support the identified areas of need?
4. Was the IEP implemented as written?
5. Did the child make adequate progress?
6. If not, what adjustments need to be made to the IEP contents to respond to lack of progress?

Worksheets are provided at the end of this section that may be used for this process.

Documentation of Educational Benefit

When this type of analysis is conducted annually, a documented history of the student's progress over time and of the IEP team's efforts to adjust the IEP to ensure educational benefit begins to develop.

This process further allows LEAs to be prepared for the state required Special Education Self Review (SESR) that occurs once every four years and, if the district is selected, for a state verification review.

Chapter 10 – Early Start, Part C

Early Start services, as outlined in IDEA, Part C, ensure early intervention services to children with disabilities, age's birth through three years, and their families, in a coordinated family-centered manner. Two lead agencies are responsible for these services: the California Department of Education (CDE) and the California Department of Developmental Services (DDS). Other agencies such as the Challenged Family Resource Center, Public Health, Social Services and Head Start collaborate with these lead agencies to meet the needs of eligible children and their families.

Within the Merced County SELPA, one LEA provides services to eligible children through the Early Start Program: Merced County Office of Education. An interagency agreement has been developed between the SELPA, the participating LEAs, and the Central Valley Regional Center. This agreement outlines the process that is used by the involved agencies for identifying, referring, assessing, and serving eligible children.

Chapter 11 – Parentally Placed Private School Students

Background

Private school children with disabilities are children ages 3-22 who are eligible for special education and related services and are voluntarily enrolled by their parents in private schools or facilities that meet the definition of “elementary” or “secondary” school (E.C. § 56170). Private school children with disabilities do not have individual rights to receive some or all of the special education services that they would receive if enrolled in a public (or publicly funded) program (20 U.S.C. § 1412(a)(10)(A)(ii) and E.C. § 56174.5(a)).

A school district is not required to pay for the cost of special education and related services of a child with a disability at a private school or facility if it made FAPE available and the parents elect to place their child in the private school. Pursuant to federal and state laws and regulations, however, each district must spend a proportionate share of federal state grant funds allocated under Part B to provide special education and related services to students with disabilities who are eligible for special education services and are enrolled in private schools located within the district boundaries (20 U.S.C. § 1412(a)(10)(A) and E.C. § 56173).

Provision of these special education and related services to private schools will be limited to those services selected by participating LEAs within the SELPA following consultation with private school representatives and representatives of parents of parentally placed private school children with disabilities (20 U.S.C. § 1412(a)(10)(A)(iii) and E.C. 56174.5(b)).

Consultation

The participating LEAs within the SELPA shall consult with private school representatives and representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services for these children, regarding:

1. The child-find process and how parentally placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;
2. The determination of the proportionate amount of federal funds available to serve parentally placed private school children with disabilities under this subparagraph, including the determination of how the amount was calculated;
3. The consultation process among the local educational agency, private school officials, and representatives of parents of parentally placed private school children with disabilities, including how such process will operate throughout the school year to ensure that parentally placed private school children with disabilities identified through the Child-find process can meaningfully participate in special education and related services;
4. How, where, and by whom special education and related services will be provided for parentally placed private school children with disabilities, including a discussion of types of services, including direct services and alternate service delivery mechanisms, how

such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made; and

5. How, if the local educational agency disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the local educational agency shall provide to the private school officials a written explanation of the reasons why the local educational agency chose not to provide services directly or through a contract.

When timely and meaningful consultation as described above has occurred, the LEA shall obtain a written affirmation signed by the representatives of participating private schools, and if such representatives do not provide such affirmation within a reasonable period of time, the LEA shall forward the documentation of the consultation process to the CDE.

(E.C. § 56172(b)-(c) and 20 U.S.C. § 1412(a)(10)(A)(iii))

Identification, Referral, and Assessment

LEAs are required to locate, identify, and assess any student who may need special education. Child-find activities for students enrolled in private schools must be comparable to those undertaken for students enrolled in public schools. The procedures outlined previously for identification, referral, and assessment shall be followed when considering parentally placed private school students for special education eligibility. The district within which the private school is located is responsible for these activities. If the district that will be conducting the assessment is other than the student's district of residence, that district will request permission from the parent to exchange information with the district of residence in order to facilitate communication between the two districts regarding the assessment and subsequent activities. The district of location and the district of residence may enter into an agreement that, with written parental consent, allows the district of residence to collaborate with the district of location in the initial evaluation or to conduct the initial evaluation.

(E.C. § 56171 and 20 U.S.C. § 1412(a)(10)(A)(ii))

Free and Appropriate Public Education

The district that conducted the assessment must convene a meeting to determine eligibility for special education and related services 20 U.S.C. § 1412(a)(10)(A)(ii) and E.C. § 56171). Representatives from the student's district of residence shall be invited to participate in this meeting. If the parents express an interest in enrolling their eligible child in a public or publicly funded program, the student's district of residence must provide an offer of FAPE through the development of an IEP (*Questions and Answers on Serving Children with Disabilities Placed by Their Parents at Private Schools*, Office of Special Education and Rehabilitative Services, January 1, 2007, 47 IDELR 197, Questions E-2). An offer of FAPE is not necessary if the parent does not express an interest in public school enrollment. Following parent consent and enrollment of the student in the public school, the district will implement the developed IEP.

Individual Service Plan

If the parents agree that a FAPE was made available to their child if enrolled in a public placement, but decline public placement, the district within which the private school is located will document the parents' agreement that FAPE was made available and develop an *Individual Service Plan* (ISP). To the extent appropriate, the ISP must be developed in accordance with IEP requirements.

The parent, a private school representative, appropriate assessors and service providers, the student, as appropriate, and others as determined necessary are to be in attendance at the ISP meeting. The ISP will describe the specific services and the location at which they will be provided to the student.

If a private school child with disabilities remains in a private school placement in subsequent years, the district of service will contact the child's parents annually to schedule an ISP team meeting to review the child's ISP. Additionally, the district within which the private school is located will conduct reevaluations of a private school child with a disability if conditions warrant re-evaluation or if the child's parents or teacher request a re-evaluation, but at least once every three years following the procedures outlined in the *Assessment* section of this handbook.

(20 U.S.C. § 1412(a)(10)(A))

A SELPA approved ISP form has been developed for this purpose . Students receiving services through an ISP must be entered into the SELPA student database. The plan type for each student must be coded as either plan type “20” (ISP) or “70” (eligible-no IEP/IFSP/ISP, private school placement).

Private Preschool Students with Disabilities

Children between the ages of three and five years, inclusive, are considered to be preschoolers. Parentally placed private school children with disabilities in this age range are only eligible to receive services through an ISP if the private school within which the child is enrolled meets the legal definition of an elementary school. In California, an elementary school is defined as a public school offering instruction for any of grades K-8. All other children within this age range who are found eligible for and in need of special education shall be provided with services as defined in an IEP.

(34 C.F.R. § 300.13; §300.23; and §300.25)

Annual Notice of Availability of FAPE

One year after an eligible private school child has been determined eligible, and annually thereafter, the district of residence will notify the student's parents in writing of the student's ongoing eligibility and of the continuing availability of FAPE. Included in the notice will be a statement informing the parent that the district will develop an IEP if the parents express an interest in returning their child to a public (or publicly funded) program.

Calculating Proportionate Share

The proportionate share of federal funds that must be expended by each LEA is calculated annually based upon the percentage of all children with disabilities within the district, ages 3 through 21 years, enrolled in elementary and secondary schools. These funds are restricted to services provided to private schools in supporting students who have ISPs. Funds not expended in a fiscal year can be carried over into the next fiscal year.

(20 U.S.C. § 1412(a)(10)(A))

The chart below details how the proportionate share is calculated.

Line	Eligible Children
1	Number of eligible children with disabilities in public school in the LEA (from previous year's CASEMIS December student count)
2	Number of parentally-placed eligible children with disabilities in private elementary and secondary schools located within the LEA (CASEMIS Plan Type 20 or 70; ages 6-21 from previous year's CASEMIS December student count)
3	Total number of eligible children (line 1 plus line 2)
	Calculation of Proportionate Share
4	Federal Local Assistance funds (611 Grant) allocated to LEA
5	Average allocation per eligible child (line 4 divided by line 3)
6	Amount to be expended on parentally-placed private school children (line 5 multiplied by line 2)

Tracking Expenditures

Each LEA is responsible for tracking its expenditures for serving students enrolled in private schools. These expenditure reports are collected at the SELPA level and must be submitted to the state as part of the annual expenditure report for federal IDEA funds. Expenditures should be tracked using SACS goal code 5790.

Chapter 12 – Summary of Timelines

It is of utmost importance that IEP teams follow legally mandated timelines for assessment, development of the IEP, implementation of the IEP, and others. The state holds each SELPA responsible for ensuring that timelines are followed. Any determination of noncompliance may result in sanctions imposed against an LEA. This summary of timelines is provided for the convenience of IEP team members.

Initial Assessment and Development of the IEP

Response to Referral

The notice of referral, prior written notice in response to the referral, and an assessment plan, as appropriate, must be developed and given to the parent within 15 calendar days of receiving the written referral for assessment unless the parent agrees, in writing, to an extension. This does not count days between the student's regular school sessions/terms in excess of five schooldays that begin within the 15-day period from the date of receipt of the referral. If the referral is received 10 days or less prior to the end of the regular school year, the notice of referral, prior written notice in response to the referral, and an assessment plan, as appropriate, must be developed and given to the parent within 10 days after the commencement of the subsequent school year.

(E.C. § 56321)(a))

Notice of IEP Team Meeting

Parents must be notified of IEP team meetings early enough to ensure the opportunity for them to participate (E.C. § 56341.5)(b)).

Individual Education Plan (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 schooldays, from the date of receipt of the parent's written consent for assessment, unless the parent agrees, in writing, to an extension. In the case of student school vacations, the 60-day time shall recommence on the date that student schooldays reconvene. However, the IEP shall be developed within 30 days after the commencement of the subsequent regular school year for each student for whom a referral has been made 30 days or less prior to the end of the regular school year. A meeting to develop an initial IEP for the student shall be conducted within 30 days of a determination that the student needs special education and related services.

(E.C. § 56302.1(a) and § 56344(a))

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

1. A student transfers into a new LEA after the relevant time period has commenced in the

previous LEA but prior to a determination of whether the child is an individual with exceptional needs and if the new LEA is making sufficient progress to ensure a prompt completion of the assessment provided that the parent and new LEA agree to a specific date by which the assessment shall be completed; and

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

(E.C. § 56302.1(b))

Implementation of the IEP

A student's IEP shall be implemented as soon as possible following the individualized education program meeting (5 2 C.C.R. § 3040(a)).

Interim Placements

Whenever a student transfers into a school district from a district in another SELPA, an administrator must provide an interim placement not to exceed 30 calendar days. The IEP team must review the placement before the expiration of the 30-day period.

(E.C. § 56325(a)-(c))

Review of IEP

At least annually, the student's IEP shall be reviewed. This first annual review should be held within one year of the date of the initial IEP meeting. The second annual review should be held within one year of the first annual review, etc. If an annual review is late, the second annual review should occur within two years of the date of the initial IEP meeting. An IEP meeting scheduled to amend an IEP should not be considered an annual review. The date originally scheduled for the annual review remains the same.

(E.C. § 46343(a) and § 56380(a)(1)-(2) and (b))

Reassessment and Development of a New IEP

A reassessment of the student shall be conducted not more frequently than once a year, unless the LEA and parent agree otherwise and at least once every three years unless the LEA and parent agree in writing that a reassessment is not necessary. A reassessment shall be conducted more frequently if conditions warrant or if the student's parents or teacher request a new assessment.

(E.C. §56381(a)(1)-(2))

Notice of Reassessment and Proposed Action

The notice of reassessment, proposed action, and assessment plan, if appropriate, must be given to the parents early enough to obtain consent and complete the assessment before the date of the IEP meeting to review the reassessment.

Notice of IEP Meeting

Parents must be notified of IEP meetings early enough to ensure the opportunity for them to participate (E.C. § 56341.5)(b).

Parent Request for an IEP Team Meeting

A meeting of an IEP team requested by a parent to review an IEP shall be held within 30 calendar days, not counting days in July and August, from the date of receipt of the parent's written request (E.C. § 56343.5).

Request for Records

The parent shall have the right and opportunity to examine all school records of the child and to receive copies within five calendar days after a request is made by the parent, either orally or in writing.

Chapter 13 – Student Records

Definition of Student Records

Student records include any information related to an identifiable student (other than directory information). Student records do not include informal notes about a student that a school district employee keeps for private use and does not reveal to any other person except a substitute teacher.

(E.C. § 49061(b))

All student records are classified as mandatory permanent, mandatory interim, or permitted. Mandatory permanent student records include directory information, enrollment and exit dates, transcripts, etc. Most special education student records are classified as mandatory interim records while some are classified as permitted student records. Regulations governing access, transfer, and destruction of records vary according to their classification.

Mandatory Interim

The following documents are classified as mandatory interim:

1. Expulsion orders and reasons;
2. Log or record identifying persons requesting information from the record (excluding authorized school personnel);
3. Health information;
4. Participation in special education programs including required tests, case studies, authorizations and actions necessary to establish eligibility for admission or discharge;
5. Language training records;
6. Progress slips and/or notices required by Education Code;
7. Parental restrictions regarding access to directory information or related stipulations;
8. Parent or adult student rejoinders to challenged records and to disciplinary action;
9. Parent authorization or prohibitions of student participation in specific programs; and
10. Results of standardized tests within preceding three years.

(5 2 C.C.R. § 432(b)(2))

Permitted

The documents below are classified as permitted:

1. Objective counselor/teacher ratings;
2. Disciplinary notices and data;
3. Verified reports of relevant behavior patterns;
4. Standardized test results older than 3 years; and
5. Supplementary attendance records.

(5 2 C.C.R. § 432(b)(3))

Confidentiality

Each LEA must protect the confidentiality of all special education student records. The following procedures should be followed:

1. Assign one official at each district/school the responsibility for serving as the custodian of records;
2. Maintain student records in a controlled and protected location;
3. Maintain for public inspection a current list of names and positions of those employees who have routine access to student files;
4. Maintain an access log in each student's file that is open to the inspection of a parent and school officials; the log must contain the name of the requesting party, the legitimate interest of the party, the date of access, and the purpose;
5. Maintain a record indicating when records have been requested and forwarded to other agencies; and
6. If student records are maintained in more than one location, the central file must contain information indicating that a file exists in another location and specifying how to request access to that file.

(E.C. § 49064)

Access to Student Records

Access means a personal inspection and review of a record, an accurate copy of a record, or an oral description or communication of a record. Those granted access are prohibited from releasing information to another person or agency without written permission from the parent or legal guardian (if the student is 18 or older, the right of consent belongs to the student unless a conservator has been appointed). State and federal laws provide for access to records as outlined below.

(E.C. § 49061(e))

Parent Access

Parents of current and formerly enrolled students have the absolute right to access all student records related to their child that are maintained by the school district. They must be notified, in writing, of their rights to inspect and review the school records of their students. This notification must be provided at the time of initial enrollment and annually thereafter. Schools shall take reasonable steps to ensure parents and guardians are properly notified in English and in their home language. Notice should contain the following specific information:

1. The types of records and information contained therein;
2. The position of the official responsible for the maintenance of each type of record;
3. The location of the log or record required to be maintained;
4. Criteria used by the district to define “school officials and employees” and in determining “legitimate educational interest;”
5. The policies of the district for reviewing and expunging records;
6. The right of the parent to access student records;
7. The procedures for challenging the content of student records;
8. The cost, if any, charged to the parent for reproducing copies of records;
9. The categories of information that the institution has designated as directory information;
10. Any other rights stated in the California Education Code and the right to file a complaint with Department of Health, Education and Welfare (HEW);
11. Notice of all locations where copies of the policies and procedures regarding the General Education Provisions Act and confidential student records may be obtained; and
12. The right to inspect and review also includes responses to reasonable requests.

(E.C. § 49069 § and 49063)

Parents may request explanations and interpretations of the records and the right to have a representative inspect and review the records. The parent must make the request in writing. Access in the format requested by the parent must be provided within 5 days of the request. The request is given to a certificated staff member who interprets the records where necessary. Even though records from physicians may be stamped “Confidential” or a psychologist’s report contains sensitive or potentially upsetting information, the parent or eligible student has full rights of access.

Mandatory Access

The individuals and/or agencies listed below must be provided with access to student records without written parent consent:

1. Natural parents, adoptive parents or legal guardian of student younger than age 18 or dependent student age 18 or older (within 5 days of request);
2. Parents of a student 18 years of age or older who is a dependent (conserved);
3. A student 16 years of age or older or having completed the 10th grade who requests access;
4. School officials and employees for legitimate educational purposes;
5. School Attendance Review Board (SARB) members who are authorized representatives of the school district;
6. Officials and employees of other public schools or school systems, including local, county, or state correctional facilities where educational programs leading to high school graduation are provided or where the student intends to or is directed to enroll, subject to the rights of parents as provided in E.C. § 49068 (a copy of the key records should be retained when these transfers occur including, at a minimum, student's last full IEP and related amendments and last full psycho-educational assessment);
7. Authorized representatives of the Comptroller General of the United States, the Secretary of Education, and state and local educational authorities, or the United States Department of Education's Office for Civil Rights, if the information is necessary to audit or evaluate a state or federally supported education program, or in connection with the enforcement of, or compliance with, the federal legal requirements that relate to such a program;
8. A judge or probation officer for the purpose of conducting a truancy mediation program or participating in the presentation of evidence in a truancy petition (the judge or probation officer shall certify in writing to the school district that the information will be used only for truancy purposes and a school district releasing student information to a judge or probation officer shall inform or provide written notification to the parent or guardian of the student within 24 hours of the release of the information);
9. A district attorney's office for consideration against a parent or guardian for failure to comply with the Compulsory Education Law;
10. A probation officer, district attorney, or counsel of record for a minor 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;
11. A county placing agency when acting as an authorized representative of a state or local educational agency pursuant to item 7 (School districts, county offices of education, and county placing agencies may develop cooperative agreements to facilitate confidential

access to and exchange of the student information by email, facsimile, electronic format, or other secure means);

12. A designated peace officer, upon his or her request, when a proper police purpose exists for information specific to a particular student's identity and location that relates to the transfer of that student's records to another school district within this state or any other state or to a private school in this state (the designated peace officer or law enforcement agency shall show the school district that the peace officer or law enforcement agency has obtained prior written consent from one parent, or provide information indicating that there is an emergency in which the information is necessary to protect the health or safety of the student or other individuals, or that the peace officer or law enforcement agency has obtained a lawfully issued subpoena or a court order); and
13. In compliance with a court order or a lawfully issued subpoena (The school district shall make a reasonable effort to notify the parent or legal guardian and the student in advance of compliance with a lawfully issued subpoena and, in the case of compliance with a court order, if lawfully possible within the requirements of the order.

(E.C. § 49068; § 49076(a)(1); § 49076.5(a-b); and § 49077))

Permitted Access

The individuals and/or agencies from the list below may be permitted access to student records without written parental consent:

1. Appropriate persons in connection with an emergency if necessary to protect the health or safety of the student or others;
2. Agencies or organizations in connection with students applying for or receiving financial aid but only as may be necessary to determine the eligibility of the student for financial aid, the amount of the financial aid, and to determine the conditions that will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid;
3. County elections official, for the purpose of identifying students eligible to register to vote, and for conducting programs to offer students an opportunity to register to vote;
4. Accrediting associations in order to carry out their accrediting functions;
5. Organizations conducting studies for or on behalf of educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if the studies are conducted in a manner that will not permit the personal identification of students or their parents by persons other than representatives of the organizations and the information will be destroyed when no longer needed for the purpose for which it is obtained and the organization enters into a written agreement with the LEA that complies with federal regulations;
6. Officials and employees of private schools or school systems where the student is enrolled or intends to enroll (to mandatory interim and permitted student records only and

a copy of the key records should be retained when these transfers occur including, at a minimum, student's last full IEP and related amendments and last full psycho-educational assessment); and

7. A contractor or consultant with a legitimate educational interest who has a formal written agreement or contract with the school district regarding the provision of outsourced institutional services or functions by the contractor or consultant;

(E.C. § 49076(1)(2))

Challenging Content of Student Records

After inspection or review, parents may submit a written request to remove or correct written records that are alleged to be:

1. Inaccurate;
2. Unsubstantiated personal conclusion or inference;
3. Conclusion or inference outside the observer's area of competence;
4. Not based on personal observation with time and place of observation noted;
5. Misleading; and/or
6. A violation of student's privacy or other rights.

The superintendent or designee has 30 days from receipt of the request to meet with the parent and certificated employee who recorded the information in question (if still employed at school). The superintendent or designee must decide whether to sustain or deny the allegations. The parent has 30 days to appeal the decision to the governing board of the school district (or hearing panel established by governing board). The governing board decision is final. If the decision at either level is not in favor of the parent, the parent has the right to submit written objection as part of the student's record.

(E.C. § 49070(a)-(c))

Destruction of Student Records

Mandatory interim student records may be classified as disposable after determining that their usefulness has ceased or after the student has left the district. Destruction shall be after the third year in which they are deemed disposable. Permitted student records may be maintained for as long as they have an appropriate educational purpose. They may be destroyed when their usefulness ceases. The method of destruction shall assure that records are not available to possible public inspection in the process of destruction. The typically used method is shredding.

(5 2 C.C.R. § 437)

Chapter 14 – Student Data

The California Special Education Management Information System

The California Special Education Management Information System (CASEMIS) is a state-level database that stores and utilizes special education student information. Each SELPA must maintain a local database that can interact with the CASEMIS software in order to populate the state-required fields. There are two state-required CASEMIS reporting periods: December and June. Data collected through CASEMIS allows local and state level analysis of student-level issues, program issues, district-level issues, SELPA-level issues, and state-level issues. Other states have similar systems since all states are, in turn, required to submit reports to the federal level. In a few instances, levels of funding are also identified through data reported in CASEMIS, such as funding for low incidence equipment and materials.

State Performance Goals and Indicators

Each State must have a State Performance Plan (SPP) in place and must review the plan at least once every six years. States are required to establish measurable and rigorous targets for each of 20 goals or indicators established at the federal level. Each state must submit an Annual Performance Report (APR) related to its progress on achieving the established targets. CDE reports annually regarding whether each LEA has met the established target criteria in each of 14 indicators (the other 6 goals are specific to state-level requirements). The 14 indicators are defined below:

1. Graduation Rate

Performance on this indicator is measured by the percentage of special education students in 12th grade who graduated with a diploma.

2. Drop-out rate

Performance on this indicator is measured by the percentage of students in 7th grade and higher who exit special education by dropping out of school.

3. Assessment

Performance on this indicator is measured by whether at least 95% of students in special education participate in statewide assessments and the percentage of students who meet LEA targets in each subject.

4. Suspension/Expulsion

Performance on this indicator is measured by whether the percentage of special education students who are expelled or suspended for more than ten days is disproportionate to the general population, both overall and by race/ethnicity.

5. Least Restrictive Environment

Performance on this indicator is measured by the amount of time that students, between the ages 6 and 22 years, receive special education and related services in settings apart from their non-disabled peers.

6. Preschool Least Restrictive Environment

Performance on this indicator is measured by the percentage of preschool children who receive their special education and related services in regular early childhood programs.

7. Preschool Assessment

Performance on this indicator is measured based upon a calculation of the progress made by preschool children in special education.

8. Parent Involvement

Performance on this indicator is measured by the percentage of parents of children receiving special education and related services report that schools facilitated their involvement as a means of improving services and results.

9. Disproportionate Representation Overall

Performance on this indicator is measured by whether the percentage of students receiving special education and related services is disproportionate to the percentage of general population over all.

10. Disproportionate Representation by Disability

Performance on this indicator is measured by whether the percentage of students receiving special education and related services is disproportionate to the percentage of general population by disability.

11. Eligibility Evaluation

Performance on this indicator is measured by the percentage of students whose eligibility for special education was determined within 60 days of receipt of parental consent for evaluation (target is 100%).

12. Transition from Part B to Part C

Performance on this indicator is measured by the percentage of students aged 3 years who received special education under IDEA-Part C and transferred to IDEA-Part B, and had an IEP developed before their third birthday (target is 100%).

13. Secondary Transition

Performance on this indicator is measured by the percentage of students aged sixteen years and above whose IEPs include coordinated and measurable postsecondary goals and transition services (target is 100%).

14. Post-school Outcomes

Performance on this indicator is measured by the percentage of students who are competitively employed, enrolled in postsecondary school, or both, within one year of leaving high school.

Indicators 1, 2, 3, 5, 6, 7, 8, and 14 are considered performance indicators while the others are considered compliance indicators. Sanctions are applied to those LEAs who do not meet the established targets for compliance indicators.

Much of the data used to complete the APR is derived from each SELPA's CASEMIS submissions. Some information is gathered through review of other sources of data. If an analysis of this data indicates any areas of noncompliance, corrective action must be undertaken at the state and/or local level.

Each participating LEA is responsible for complying with these requirements and participating in the review, revision, and implementation of changes to policies, procedures, and practices related to identified problems.

Importance of Accurate Data

Each LEA is held accountable for compliance with state and federal laws related to providing special education services. For that reason, it is imperative that the data reported through CASEMIS is as accurate as possible. To do so requires that each IEP team and LEA establish and maintain a system of reviewing incoming IEPs to ensure that they are accurate and complete and to ensure correct data entry. Doing so will also allow LEAs to have positive outcomes during state program reviews and to successfully address individual student complaints.

Electronic Plan Development/Local Student Data Base

All LEAs within the SELPA must use the SELPA approved web-based IEP system for development of IEPs and maintenance of the special education student database. Please visit the SELPA webpage or contact the SELPA by telephone for information about this system including training and other resource materials and guides. In the event that the web-based IEP system is not available, IEPs can be completed using Microsoft Word form templates.

Forms for the development of Individual Service Plans (ISPs) and Individualized Family Service Plans (IFSPs) are in the process of being programmed into the web-based IEP system. In the interim, they must be completed using Microsoft Word form templates.

All Microsoft templates are available on the Merced County SELPA website.

Chapter 15 – Dispute Resolution

Local Intervention

Parents concerned about their child's education are encouraged to contact the child's teacher, school principal, or LEA special education administrator to discuss their concerns. Informal conversation often resolves the problem and helps maintain open and positive communication. The SELPA Program Specialists are also available to assist in developing solutions to difficult issues.

When disputes develop between the LEA and the parent regarding a student's educational program that cannot be resolved at the local level, it is sometimes necessary to utilize more formal procedures to resolve those disputes. There are three types of dispute resolution proceedings. Each proceeding is designed to address a different kind of dispute.

Due Process

When the parents of a student with disabilities and the educational agency disagree about the child's identification, assessment, educational placement, or provision of FAPE, either side can request a due process proceeding.

There are three levels to the hearing process.

1. Resolution Session

When a parent files a due process hearing request, the district is required to schedule a resolution meeting within 15 days of receipt of the complaint with the parents and the relevant members of the IEP team. The purpose of the meeting is to attempt to reach resolution at an early stage.

2. Mediation Conference

If the resolution session is not successful or is waived by either party, a mediation conference that is an informal meeting between the district, parent, and an administrative law judge is conducted. The mediation conference must be scheduled by the state within 15 days of receiving the request for due process hearing.

3. Formal Administrative Fair Hearing

If the mediation conference is not successful or is waived by either party, an administrative fair hearing is scheduled. This is a formal hearing conducted by an administrative judge from the Office of Administrative Hearings. At the hearing, both sides present evidence through submitting documents and by calling witnesses. The administrative law judge evaluates the evidence, determines the prevailing party, and directs corrective action, if any. This step must be held and a decision made within 45 days of the State's receipt of the request for a hearing.

Either party may request to have only a mediation conference instead of requesting a formal administrative fair hearing. If the issue is not resolved through mediation, a formal hearing can then be requested.

(E.C. §§ 56501-56507)

Mediation and hearing requests must be made in writing and sent to:

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

Compliance Complaint

When it is believed that the LEA may have violated any part of special education law, a parent, individual, public agency, or organization can file a complaint with the California Department of Education (CDE). The party filing the complaint must forward a copy of the complaint to the other party at the same time it is filed with the CDE. Within 5 days of receiving the complaint, the CDE must review it to decide if it is a matter for state or local investigation.

If it is determined to be an appropriate complaint for state investigation, an investigator interviews both sides, reviews documentation, and then decides whether the complaint is justified and what corrective action (if any) must be taken. A report of that investigation must be made within 60 days.

(34 C.F.R. § 300.153)

Complaint forms are available online at <http://cde.ca.gov/sp/se/qu/documents/cmplntinvsrqst.doc> and may be filed with the superintendent of the local agency or sent directly to:

California Department of Education
Special Education Division
Procedural Safeguards Referral Service
1430 N Street, Suite 2401
Sacramento, CA 95814
Phone: 1-800-926-0648
Fax: (916) 327-3704
Email: speceducation@cde.ca.gov

Civil Rights Issues

It is the responsibility of the Office For Civil Rights in the Department of Education and the Office of Civil Rights in the Department of Health and Human Services to enforce federal laws

prohibiting discrimination against persons on the basis of race, color, national origin, sex, age or

mental and physical handicaps and to investigate discrimination complaints.

(Title VI, Civil Rights Act of 1964; Title IX, Civil Rights Act of 1972; Section 504 of the Rehabilitation Act of 1973; and Title II of the Americans with Disabilities Act of 1990)

If a parent or other individual believes that his or her rights have been violated because of his or her disability, or his or her child's disability, by an educational institution receiving federal assistance, a complaint can be submitted to:

Regional Director, Office of Civil Rights, Region IX
50 Beale Street, Suite 7200
San Francisco, CA 94105
Phone: (415) 486-5555 or TDD (877) 521-2172
Fax: (415) 486-5570
Email: ocr.sanfrancisco@ed.gov

Chapter 16 – Suspension and Expulsion

The Merced County Special Education Local Plan Area (SELPA) has written these guidelines on suspension and expulsion of students with disabilities to supplement, not supplant, local education policies and procedures pertaining to suspension and expulsion, which is the foundation for discipline for all students. The majority of the information is derived from the California Education Code Section 48900 and Individual with Disabilities Education Act (IDEA) Title 34 of the Code of Federal Regulations (34 C.F.R.). A Suspension and Expulsion Discipline Flow Chart is available as Appendix 1.

Suspensions

This section provides information on Education Code Violations, suspensions related to school activities, total number of days of suspension, and notification to parents.

Education Code Violations

The California Education Code §48900 states that a student shall not be suspended from school or recommended for expulsion unless the superintendent or principal of the school in which the student is enrolled determines that the student has committed an act defined below:

- (a) (1) Caused, attempted to cause, or threatened to cause physical injury to another person*
- (2) Willfully used force or violence upon the person of another, except in self-defense*
- (b) Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal*
- (c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance listed in Chapter 2 (commencing with §11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind*
- (d) Unlawfully offered, arranged, or negotiated to sell any controlled substance listed in Chapter 2 (commencing with §11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant*
- (e) Committed or attempted to commit robbery or extortion*
- (f) Caused or attempted to cause damage to school property or private property*
- (g) Stolen or attempted to steal school property or private property*
- (h) Possessed or used tobacco, or any products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a student of his or her own prescription products*
- (i) Committed an obscene act or engaged in habitual profanity or vulgarity*
- (j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in §11014.5 of the Health and Safety Code*
- (k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties*

Note: AB420 Amended Ed Code 48900(k) by eliminating suspension for disruption and willful defiance for students in kindergarten to grade 3. This limitation does not apply to a teacher's ability to suspend a student from their own classroom. Additionally, school districts will no longer have the authority to recommend expulsion based on disruption and willful defiance for any student regardless of grade level. These restrictions do not apply to suspensions or recommendations for expulsions based on other grounds, such as acts related to violence, controlled substances, bullying and vandalism. (*"New Law limits Suspensions and Expulsions for Willful Defiance and Disruption"*; Lozano Smith Legal Brief, Oct. 2014, Number 72)

- (l) *Knowingly received stolen school property or private property*
- (m) *Possessed an imitation firearm. As used in this section, "imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm*
- (n) *Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code*
- (o) *Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both*
- (p) *Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma*
- (q) *Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, "hazing" means a method of initiation or pre-initiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, "hazing" does not include athletic events or school-sanctioned events.*
- (r) *Engaged in an act of bullying. For purposes of this subdivision, the following terms have the following meanings:*
 - (1) *"Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in §48900.2, §48900.3, or §48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:*
 - (A) *Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.*
 - (B) *Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.*
 - (C) *Causing a reasonable pupil to experience substantial interference with his or her academic performance.*
 - (D) *Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.*

(2) (A) *"Electronic act" means the transmission, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:*

(i) A message, text, sound, or image.

(ii) A post on a social network Internet Web site including, but not limited to:

(I) Posting to or creating a burn page. "Burn page" means an Internet Web site created for the purpose of having one or more of the effects listed in paragraph (1).

(II) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in paragraph (1). "Credible impersonation" means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.

(III) Creating a false profile for the purpose of having one or more of the effects listed in paragraph (1). "False profile" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.

(B) Notwithstanding paragraph (1) and subparagraph (A), an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.

(3) "Reasonable pupil" means a pupil, including, but not limited to, an exceptional needs pupil, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs.

(s) [see below for information about participation in school activities]

(t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(u) As used in this section, "school property" includes, but is not limited to, electronic files and databases.

(v) For a pupil subject to discipline under this section, a superintendent of the school district or principal may use his or her discretion to provide alternatives to suspension or expulsion that are age appropriate and designed to address and correct the pupil's specific misbehavior as specified in §48900.5.

(w) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

In addition to the reasons specified in §48900, a student may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the student is enrolled determines that the student has:

- *Committed sexual harassment as defined in Section 212.5. For the purposes of this chapter, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating,*

hostile, or offensive educational environment. This section shall not apply to students enrolled in kindergarten and grades 1 to 3, inclusive. (EC §48900.2)

- *Caused, attempted to cause threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233. (Applies to a student in any of grades 4 to 12, inclusive) (EC §48900.3)*
- *Intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or students, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or students by creating an intimidating or hostile educational environment. (Applies to a student in any of grades 4 to 12, inclusive) (EC §48900.4)*
- *Made terroristic threats against school officials or school property, or both. For the purposes of this section, "terroristic threat" shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars (\$1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, or for the protection of school district property, or the personal property of the person threatened or his or her immediate family. (EC §48900.7)*

Suspension Related to School Activity

A pupil may not be suspended or expelled for any of the acts enumerated in this section, unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to, any of the following: (EC §48900(s))

- (1) While on school grounds*
- (2) While going to or coming from school*
- (3) During the lunch period whether on or off the campus*
- (4) During, or while going to or coming from, a school sponsored activity*

A superintendent or principal may use his or her discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this section. (EC §48900 (v)) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against any student who is truant, tardy, or otherwise absent from school activities. (EC §48900(w))

If an individual with exceptional needs is excluded from school bus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent or guardian provided that transportation is specified in the pupil's individualized education program. (EC §48915.5 (c))

Total Number of Days of Suspension

The total number of days for which a pupil may be suspended from school shall not exceed 20 school days in any school year, unless for purposes of adjustment, a pupil enrolls in or is transferred to another regular school, an opportunity school or class, or a continuation education school or class, in which case the total number of school days for which the student may be suspended shall not exceed 30 days in any school year. For the purposes of this section, a school district may count suspensions that occur while a pupil is enrolled in another school district toward the maximum number of days for which a student may be suspended in any school year. (EC §48903)

The principal of the school, the principal's designee, or the superintendent of schools may suspend a pupil from the school for any of the reasons enumerated above in §48900, for no more than five consecutive school days (EC §48911).

Suspension by the principal, the principal's designee, or the superintendent of schools shall be preceded by an informal conference conducted by the principal or the principal's designee or the superintendent of schools between the pupil and, whenever practicable, the teacher, supervisor, or school employee who referred the pupil to the principal, the principal's designee, or the superintendent of schools. At the conference, the pupil shall be informed of the reason for the disciplinary action and the evidence against him or her and shall be given the opportunity to present his or her version and evidence in his or her defense.

A principal, the principal's designee, or the superintendent of schools may suspend a pupil without affording the pupil an opportunity for a conference only if the principal, the principal's designee, or the superintendent of schools determines that an emergency situation exists. "Emergency situation," as used in this article, means a situation determined by the principal, the principal's designee, or the superintendent of schools to constitute a clear and present danger to the life, safety, or health of pupils or school personnel. If a pupil is suspended without a conference prior to suspension, both the parent and the pupil shall be notified of the pupil's right to a conference and the pupil's right to return to school for the purpose of a conference. The conference shall be held within two school days, unless the pupil waives this right or is physically unable to attend for any reason, including, but not limited to, incarceration or hospitalization. The conference shall then be held as soon as the pupil is physically able to return to school for the conference.

Notification to Parents / District Policies and Procedures

At the time of suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. Whenever a pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension. A school employee shall report the suspension of the pupil, including the cause therefor, to the governing board of the school district or to the school district superintendent in accordance with the regulations of the governing board. The parent or guardian of any pupil shall respond without delay to any request from school officials to attend a conference regarding his or her child's behavior. No penalties may be imposed on a pupil for failure of the pupil's parent or guardian to attend a conference with school officials. Reinstatement of the suspended pupil shall not be contingent upon attendance by the pupil's parent or guardian at the conference. (EC §48911)

Districts are required to implement appropriate policies and procedures to ensure parent participation (34 CFR 300.500). An even higher standard is held for parental involvement for students with disabilities being considered for disciplinary action. District policies and procedures must ...

- *include a provision that if disciplinary action is considered to change a student with a disability's placement for 10 days or more, the parents will be notified on the same day this decision is made a given a copy of their rights or Notice of Procedural Safeguards (34 CFR 303.530).*
- *require that, if neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the district uses other methods to ensure their participation, including individual or conference telephone calls or video conferencing (34 CFR 300.322(c), 300.328, 300.501(c)(3)).*
- *require that, if a placement decision was made by a group without the involvement of a parent, the district has a record of the attempts made to ensure their involvement (34 CFR 300.501(c)(4)).*
- *include a provision that parents will be informed that they have the right to pursue a due process hearing if they disagree with the decisions of the IEP team regarding expulsion (34 CFR 300.530-537, EC 48915.5(a)).*
- *include a provision that the expulsion hearing will be conducted only after the IEP team convenes and makes the required findings (34 CFR 300.530-537, EC 48915.5(a)).*
- *include a provision that relevant disciplinary procedures applicable to all children will be carried out only when it has been determined that the student's placement was appropriate and that the behavior was not a manifestation of the student's disability (34 CFR 300.530-537, EC 48915.5(a)).*

Suspension of Students with Exceptional Needs

Suspension of students with exceptional needs requires that the school administrators and IEP team members understand the limits of suspension of students with disabilities, requirements for IEP review following suspension, and alternatives to suspension.

Limits of Suspension of Students with Disabilities

As noted previously, the principal of the school, the principal's designee, or the superintendent of schools may suspend a pupil from the school for any of the reasons enumerated in §48900. An individual with exceptional needs may be suspended for up to, but not more than 5 consecutive school days. The student may be suspended for up to 10 days before an IEP team manifestation determination meeting is required. The student can be removed for more than 10 days for separate acts of misconduct, as long as the removals do not constitute a pattern. During any removal of more than 10 days the school must provide services to the extent determined necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals on his or her IEP.

IEP Review Following Suspension

An IEP meeting is not required prior to suspending a student with a disability up to 10 days. However, it is recommended that the IEP team should meet to review a pupil's placement and program when the pupil is experiencing serious discipline problems leading to multiple suspensions. It is required that the IEP team conducts an IEP manifestation determination review when a pupil's suspensions total 10 days. The IEP team must determine how the student will receive FAPE on the 11th and any subsequent days of suspension. The team will also determine if additional assessment is needed, if the misconduct was caused by, or had a

direct and substantial relationship to the pupil's identified disability, and if the pupil is appropriately placed.

***NOTE:** The IEP team must hold a manifestation determination meeting after every suspension beyond 10 days of a student with a disability.

Alternatives to Suspension

According to Education Code §48900.5 a suspension shall be imposed only when other means of correction fail to bring about proper conduct. A superintendent or principal may use his or her discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a student subject to discipline under this section. However, a student, including an individual with exceptional needs as defined in §56026, may be suspended for any of the reasons enumerated in §48900 upon a first offense, if the principal or superintendent of schools determines that the student violated subdivision (a), (b), (c), (d), or (e) of §48900 or that the student's presence causes a danger to persons or property or threatens to disrupt the instructional process.

***NOTE:** Whenever possible, teachers and administrators should implement interventions and consequences in response to a student's misbehavior that do not involve removing the student from his or her educational setting. Some suggestions for interventions prior to suspension: (EC §48900.5(b))

- Use of a classroom behavior management system that is positive, fair, consistent, and understood
- Redirection of the student back to task
- Discussion with student
- Discussion with parent
- Conference between school personnel, the student's parent/guardian and student
- Loss of privilege or points; change in conduct grade etc.
- A positive behavioral support approach with tiered interventions that occur during the school day
- Implementation of Tier 2 positive behavioral interventions
- Detention (after school) with time for the teacher and student to review alternative ways the student could respond and behave in the classroom that would be more appropriate
- After-school programs that address specific behavioral issues or expose students to positive activities and behaviors
- Referral of student to school psychologist and/or mental health provider
- Participation in a restorative justice program
- Adjustment of the student's classes and schedule
- If the student has an IEP, request to hold an IEP team meeting to:
 - ✓ Describe the target (problem) behavior in observable and measurable terms on the IEP
 - ✓ Develop IEP goals (and objectives if appropriate) to address target behavior

- ✓ Determine level of behavioral intervention needed and document strategies on the appropriate form (e.g., Tier 2 Positive Behavioral Interventions, Tier 3 Positive Behavioral Intervention Plan)
- ✓ Identify supports and resources necessary to implement behavioral interventions and supports

Expulsion

This section provides information on situations requiring a mandatory referral for expulsion, exception for students enrolled in charter schools, expulsion of students with exceptional needs, and readmission of an expelled student.

Mandatory Referral for Expulsion

*The principal or the superintendent of schools **shall recommend** the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent finds that expulsion is inappropriate, due to the particular circumstance: (EC §48915)*

- (1) *Causing serious physical injury to another person, except in self-defense*
- (2) *Possession of any knife or other dangerous object of no reasonable use to the pupil*
- (3) *Unlawful possession of any controlled substance listed in Chapter 2 (commencing with §11053) of Division 10 of the Health and Safety Code, except for either of the following:*
 - (i) *The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.*
 - (ii) *The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.*
- (4) *Robbery or extortion*
- (5) *Assault or battery, as defined in §240 and §242 of the Penal Code, upon any school employee*

If the principal or the superintendent of schools makes a determination as described above, he or she is encouraged to do so as quickly as possible to ensure that the pupil does not lose instructional time. (EC §48915(a)(2))

A decision to expel shall be based on a finding of one or both of the following:

- (1) *Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.*
- (2) *Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.*

*The principal or superintendent of schools **shall** immediately suspend, pursuant to §48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds (EC §48915(c)):*

- (1) *Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of*

possessing a firearm only if the possession is verified by an employee of a school district. The act of possessing an imitation firearm, as defined in subdivision (m) of Section 48900, is not an offense for which suspension or expulsion is mandatory pursuant to this subdivision and subdivision (d), but it is an offense for which suspension, or expulsion pursuant to subdivision (e), may be imposed.

- (2) Brandishing a knife at another person*
- (3) Unlawfully selling a controlled substance listed in Chapter 2(commencing with Section 11053) of Division 10 of the Health and Safety Code*
- (4) Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of § 48900*
- (5) Possession of an explosive*

Following a meeting with the parent/guardian the suspension for the student will be extended until the expulsion proceedings are completed. If the pupil is a foster child, as defined in §48853.5, the district superintendent of schools or the district superintendent's designee, including, but not limited to, the educational liaison for the school district, shall also invite the pupil's attorney and an appropriate representative of the county child welfare agency to participate in the meeting. (EC §48911(g))

The governing board shall order a pupil expelled upon finding that the pupil committed an act listed above, and shall refer that pupil to a program of study that meets all of the following conditions (EC §48915(d)):

- (1) Is appropriately prepared to accommodate pupils who exhibit discipline problems*
- (2) Is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school*
- (3) Is not housed at the school site attended by the pupil at the time of suspension*

Exception for Students Enrolled In Charter Schools

For students enrolled in a charter school, it is important to consider the language within the charter to determine if the student is being expelled based on Education Code or dismissed base on the language of the charter. Unless the charter includes specific education code language regarding expulsions, the procedures delineated in the charter will prevail as determined by The California Court of Appeal, Fourth District, who ruled that a charter school student was not entitled to an evidentiary hearing before expulsion because Education Code §48918 requiring such hearing does not apply to charter schools; the charter did not incorporate section 48918; and the student was “dismissed” under the terms of the charter rather than expelled. (Scott B. v. Board of Trustees of Orange County High School of Arts (June 14, 2013, G047177)___Cal.App.4th___[2013 WL 2687979].) The Court holds charter schools to a different standard for discipline than traditional public schools by distinguishing dismissal, as provided for in the charter, and expulsion, as provided by the Education Code.

Expulsion of Students with Exceptional Needs

School personnel may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of*

misconduct (as long as those removals do not constitute a change of placement under §300.536). (34C.F.R. §300.530)

***NOTE:** While the Code of Federal Regulations allows up to 10 consecutive days, the California Education Code §48911 allows only 5 consecutive days.

***NOTE:** A student with disabilities who is expelled from school is still entitled to a free appropriate public education (34C.F.R. §300.530(d); EC §48915.5(b)).

Readmission of an Expelled Student

When a pupil is expelled, the governing board typically outlines terms and conditions for readmission to the district. The pupil may apply for readmission and be considered for reinstatement by the governing board upon satisfactory completion of the terms and conditions in the rehabilitation assignment. *Upon reinstatement, the governing board may order the expungement of any or all records of the expulsion proceedings.* (EC §48917(e)). *A pupil shall not be denied enrollment or readmission to a public school solely on the basis that he or she has had contact with the juvenile justice system* (EC §48645.5(b)).

When a pupil has an expulsion suspended, the governing board typically reassigns the student to an educational setting wherein he/she can simultaneously work toward satisfactory completion of the terms and conditions in the rehabilitation plan. If a student on a suspended expulsion reoffends (violates the provisions of EC §48900) again during the time of the suspended expulsion, he/she is immediately expelled and the regular readmission criteria apply.

Manifestation Determination for Removal of Student with a Disability

Included in this section are guidelines and/or legal references regarding removals, students served in nonpublic schools or regional programs, the manifestation determination review process, conducting a functional behavioral assessment, provision of free appropriate public education (FAPE), and interim alternative education settings.

Guidelines Regarding Removals

Below is a table consisting of various types of removals and whether or not a Manifestation Determination is required as a result of a change in placement.

Type of Removal	Change in Placement?	Manifestation Determination Required?
Short-term removal of <u>< 10 days</u>	NO	NO
Short-Term Removals Totaling > 10 Cumulative Days AND does NOT constitute a pattern	NO	YES
Series of Short-Term Removals Totaling > 10 Cumulative Days AND constitutes a pattern	YES	YES
Long-Term removals > 10 Consecutive Days	YES	YES

Practice Pointers

Fagen, Friedman & Fulfroost, LLP (2007)

- A student with a disability cannot be suspended or expelled from school for a long-term removal of more than 10 cumulative days due to behaviors that are a manifestation of his or her disability.

- Services (FAPE) must continue for students with disabilities who are suspended or expelled from school during any subsequent days of removal after the 10th day, and less than 10 days if services are provided to students without disabilities in similar removals.
- When the removal is NOT a change of placement, school personnel must consult at least one of the teachers of the student with a disability to determine the extent to which services are needed to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP.
- ****NOTE:*** *On the date of the decision to suspend or recommend the child for expulsion, school personnel must notify the parents of the child and provide the parents with a copy of the procedural safeguards notice. (34C.F.R. §300.530(h))*
- *The LEA shall notify a foster child's attorney and the appropriate representative of the county child welfare agency of potential expulsion proceedings pending manifestation determination. (EC 48853.5(c))*

Students Served in Nonpublic Schools or Regional Programs

Students with disabilities served in special day classes operated (a) by a certified nonpublic school or (b) by a regional provider such as the Merced County Office of Education (MCOE) are subject to the same suspension and expulsion guidelines contained in this document and pertinent Board of Education policies of the student's district of residence. Students enrolled in a county operated Community School Program have slightly different procedures.

Nonpublic Schools

The site principal of a contracting nonpublic, nonsectarian school providing services to individuals with exceptional needs under §56365 and §56366, shall have the same duties and responsibilities with respect to the suspension of pupils with previously identified exceptional needs prescribed for the suspension of pupils under §48911. (EC §48911.5)

The nonpublic school shall have a written policy regarding suspension procedures, which includes a process for documenting actions that may lead to expulsion and a process for communicating with the district of residence. The student's district of residence is responsible for taking the team members through the manifestation determination review process. Should the case move forward for further disciplinary action, the student's district of residence school personnel and Board of Education shall conduct the necessary procedures.

Regional Programs

When it is determined that a special education student enrolled in a regional (County) operated special day class has committed an act that prompts expulsion proceedings by the district of attendance, the Coordinator/Principal or his/her designee shall immediately, within 24 hours, notify the school district of residence by telephone to identify the expellable act and follow-up with a written report of the incident to the Superintendent/designee and the Special Education Administrator.

The Coordinator-Principal/administrator or designee will work cooperatively with the district of residence to schedule a Manifestation Determination IEP team meeting. The district of residence will determine the appropriate district IEP team representative(s) for the meeting. The Coordinator-Principal/administrator will identify County program staff necessary for the IEP team meeting and coordinate the notification of the meeting at least 48 hours in advance of the meeting.

County Community School Programs

A student who is expelled by a school district may enroll in county Community School.

SB 1111 narrowed the pupils who may be enrolled and established safeguards in the community school transfer process.

The most notable changes to the law under SB 1111, including important changes related to student placements in expulsion process where expulsion is not recommended by the hearing officer or administrative hearing panel, are summarized as follows:

- **Homeless Students.** *"Homeless children" have been removed as a specific category of students who may be referred for enrollment in a community school.*
- **SARB Referrals:** *County community schools may still enroll students referred by a school district pursuant to the SARB process, but only if the district and county office of education determine the community school: (1) has space available, (2) will meet the child's educational needs, and (3) the parent has not objected to the transfer. The grounds on which a parent may object include: (1) reasonable concerns regarding the student's safety; (2) geographic accessibility to the community school by the student; or (3) inability to obtain transportation to the community school. Education Code section 1981 now also provides requirements regarding alternative placement options for a student whose parent or guardian objected to the referral, and the right for students to return to their prior school or other "appropriate school" in the district at the end of the semester following the semester when the acts leading to the community school referral occurred. (Ed. Code, § 1981.)*
- **Probation Referrals.** *Community schools are still permitted to enroll students who are on probation, with or without the supervision of a probation officer, if consistent with an order of the juvenile court. Such students who were involuntarily transferred to a community school have the right to re-enroll in their former school or another comprehensive school immediately after the court-ordered placement ends. (Ed. Code, §§ 1981, subd. (c)(1)(A), 1981.5.) A community school may also enroll students who are on probation or parole and not in attendance at any school, if the parent consents. (Ed. Code, § 1981, subd. (c)(2).)*
- **Probation Officer Supervised Student.** *Students under supervision of a probation officer may be enrolled in a community school, with consent of the minor, minor's parent, and/or responsible adult appointed by the juvenile court, as applicable. For such students, the child's attorney or educational rights holder may address with the juvenile delinquency court any change of placement resulting in enrollment in a community school that is not the child's school of origin, and may, during a court hearing, raise concerns as to whether the community school meets the student's educational needs. (Ed. Code, § 1981, subd. (c)(1)(B)-(E).)*
- **Expelled Students.** *Community schools may still enroll students referred by a school district due to expulsion under Education Code section 48915, subdivisions (a) and (c). However, SB 1111 made a notable revision to Education Code section 48918, which now provides that if a hearing officer or administrative hearing panel does not recommend a student's expulsion, the student must be permitted to return to their previous classroom instructional program from which their expulsion referral was made, unless the parent requests another placement in writing. Before the parent makes a*

placement decision, the district superintendent must consult with the pupil's teachers and parent regarding other school placement options. If a hearing officer or administrative hearing panel finds that a pupil committed an act for which the pupil must be suspended and recommended for expulsion under Education Code section 48915, subdivision (c), but does not recommend expulsion, the pupil must be immediately reinstated and may be referred to their prior school, another comprehensive school, or continuation school. (Ed. Code, § 48918, subd. (e).) Students involuntarily transferred to a community school due to expulsion are also now entitled to re-enroll in their former school or another comprehensive school immediately after the expulsion ends. (Ed. Code, § 1981.5.)

- **Enrollment and Involvement in Juvenile Justice System.** Education Code section 1981 now provides that enrollment in a community school of a student due to a probation order, probation officer supervision, or expulsion must be consistent with Education Code section 48645.5, subdivision (b), i.e., such enrollment cannot be denied due to a student's contact with the juvenile justice system. (Ed. Code, § 1981, subd. (c)(4).)
- **Parent Request.** Community schools may enroll students whose school districts approve such enrollment at the request of a student's parent, but only if space is available and if it will promote the pupil's educational interests. If a parent rescinds the request to enroll their child in a community school, the pupil must be immediately re-enrolled in the school they attended at the time of the referral, or with parent consent, another appropriate school in the student's school district. (Ed. Code, § 1981, subd. (d).)
- **English Language Learners and Students with Disabilities.** SB 1111 revised Education Code section 1983 to specify county board of education responsibilities regarding English learners and students with disabilities. (Ed. Code, § 1983, subd. (g).)

Lozano Smith, August 2015

Manifestation Determination Review

Manifestation Determination Reviews need to be conducted for students with a disability when a change of placement occurs because:

- A. *The student has 10 cumulative days of suspension AND the removal constitutes a change in placement – IEP team meets to determine if the offenses are related to the student's disability and to see if they need to make changes in supports, services and/or placement to address the needs of the student. (34C.F.R. §300.530(d)(4))*
- B. *The student is suspended pending expulsion (34C.F.R. §300.530(d)(5))*

Per federal regulations (34C.F.R. §300.530(e-g)), such reviews need to occur *within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct. The LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents.*

***NOTE:** A written report of the "review" is provided to the parent at the IEP meeting. SELPA forms must be utilized in conducting Manifestation Determination Reviews. See the IEP Manual for directions on how to complete these forms.

***NOTE:** Any formal reports referenced in the review and the cumulative records should be available to the parents and the IEP team at the meeting. If any existing assessment is more than 2 years old or if adequate information is not available to make a manifestation determination, the IEP team may wish to initiate a formal pre-expulsion assessment. The LEA

must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors, and include information about social and emotional status in the assessment report.

It is the responsibility of the IEP team to determine —

- i. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or***
- ii. If the conduct in question was the direct result of the LEA's failure to implement the IEP.***

If the IEP team determined that the violation was not a manifestation of the student's disability and was not the direct result of failure to implement the IEP, school personnel will apply relevant disciplinary procedures in the same manner and duration as would be applied to a student without a disability. (34 CFR 300.530(c)).

The conduct must be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that either of the above conditions was met. If this determination was made, the LEA must take immediate steps to remedy those deficiencies by either of the following actions:

- i. Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or*
- ii. If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior.*
- iii. In addition, except as provided in special circumstances allowing for placement in an interim alternative education setting, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.*

Conducting a Functional Behavioral Assessment

Either before or not later than 10 school days after either first removing the child for more than 10 cumulative school days in a school year or commencing a removal that constitutes a change of placement (expulsion), if the LEA did not conduct a functional behavioral assessment and implement a behavioral intervention plan for the child before the behavior that resulted in the removal from school, the agency shall convene an IEP meeting to develop an assessment plan. As soon as practicable after developing the assessment plan, the LEA shall convene an IEP meeting to develop appropriate behavioral interventions to address that behavior, and shall implement those interventions. If the child already has a behavioral intervention plan, the IEP team shall meet to review the plan and its implementation, and modify the plan and its implementation as necessary to address the behavior. (34C.F.R. §300.530(e))

Interim Alternative Educational Settings

School personnel may remove a student to an Interim Alternative Education Setting (IAES) setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability if the student:

- 1. Carries a weapon to or possesses a weapon at school on school premises, or to or at a school function under the jurisdiction of a State Education Agency (SEA) or LEA;*
- 2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school on school premises, or at a school function under the*

jurisdiction of the SEA or LEA; or

3. *Has inflicted serious bodily injury upon another person while at school on school premises, or at a school function under the jurisdiction of the SEA or LEA.*

The IEP team will determine the appropriate alternative education setting and services for this placement. (34C.F.R. §300.531) Parents can appeal the Alternative Education Setting or Manifestation Determination decision by requesting a hearing through the complaint process. (34C.F.R. §300.532) A LEA may appeal the decision if they believe maintaining the current placement of the child is substantially likely to result in injury to the child or others by requesting a hearing through the complaint process. (34C.F.R. §300.532)

Provision of a Free Appropriate Public Education (FAPE)

A LEA does not need to provide services during periods of removal of a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if services are not provided to a child without disabilities who has been similarly removed. (34 C.F.R. §300.530 (b)(1))

In the case of a child with a disability who has been removed from his or her current placement for more than 10 school days in that school year, the LEA, for the remainder of the removals, must provide services to the extent necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP. (34 C.F.R. §300.530 (b)(2))

For behavior that is not a manifestation of the child's disability and a change in placement may occur, services must be provided. (34 C.F.R. §300.530 (d))

***NOTE:** The student's IEP team determines the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP if the student is removed because of behavior that has been determined **not** to be a manifestation of the student's disability.

If the IEP team determines the behavior is a manifestation of the student's disability, the IEP team should determine if further services are required and/or implement positive behavioral interventions and supports to address the student's needs.

The IEP team will make the determination of the appropriate interim alternative educational setting, if the removal is for drugs, weapons or infliction of serious bodily injury offenses (34 C.F.R. §300.530 (g)(2)(i)(ii)); or based on a hearing officer determination that maintaining the current placement of the child is substantially likely to result in injury to the child or to others if he or she remains in the current placement. (34 C.F.R. §300.532 (b)(2)(ii))

The State must ensure that all children with disabilities aged 3 through 21 residing in the State have the right to FAPE, including children with disabilities who have been suspended or expelled from school. (34 C.F.R. §300.101)

***NOTE:** In Letter to Ramirez, 113 LRP 3448 (OSEP December 5, 2012), OSEP opined that a hearing officer is permitted, but not required, to determine whether a student's conduct violated school rules.

Protections for Students Not Determined Eligible for Special Education Services

A student may assert the same protections provided to students with disabilities if the LEA had knowledge that the student was a student with a disability prior to the behavior that required disciplinary actions occurred.

The *Basis of Knowledge* is determined by the following:

- The parent of the child expressed a concern in writing to school personnel that they believe their child requires special education and related services.
- The parent of the child in writing requested an evaluation for special education and related services.
- The teacher of the student, or other school personnel, have expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education or site administrator.

***NOTE:** When determining *Basis of Knowledge*, it is important to consider information provided in all contexts including 504 meetings and student study team meetings. Also, districts must not limit “patterns of behavior” to behaviors that are associated with disciplinary incidents.

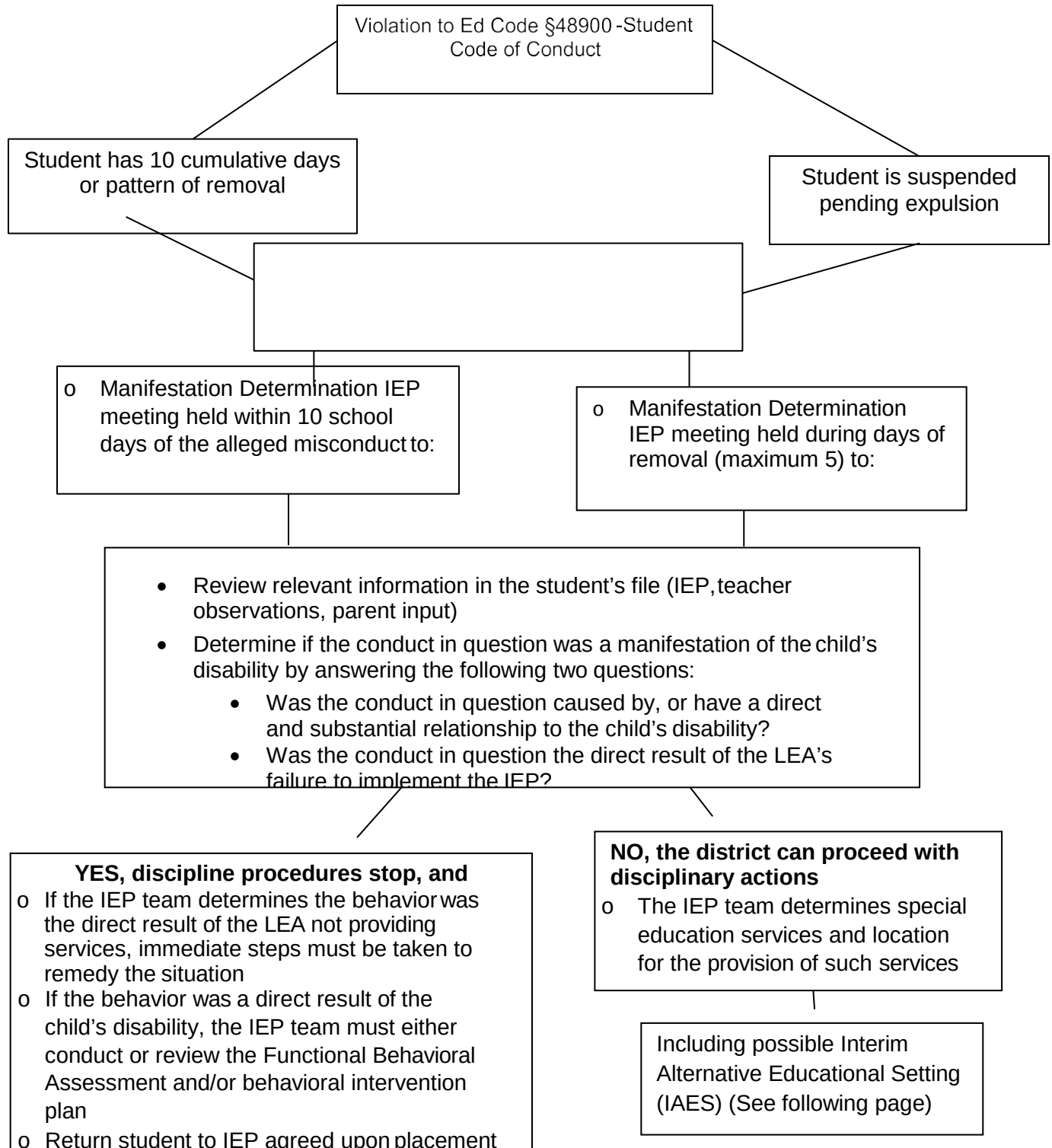
The following are exceptions to the *Basis of Knowledge*:

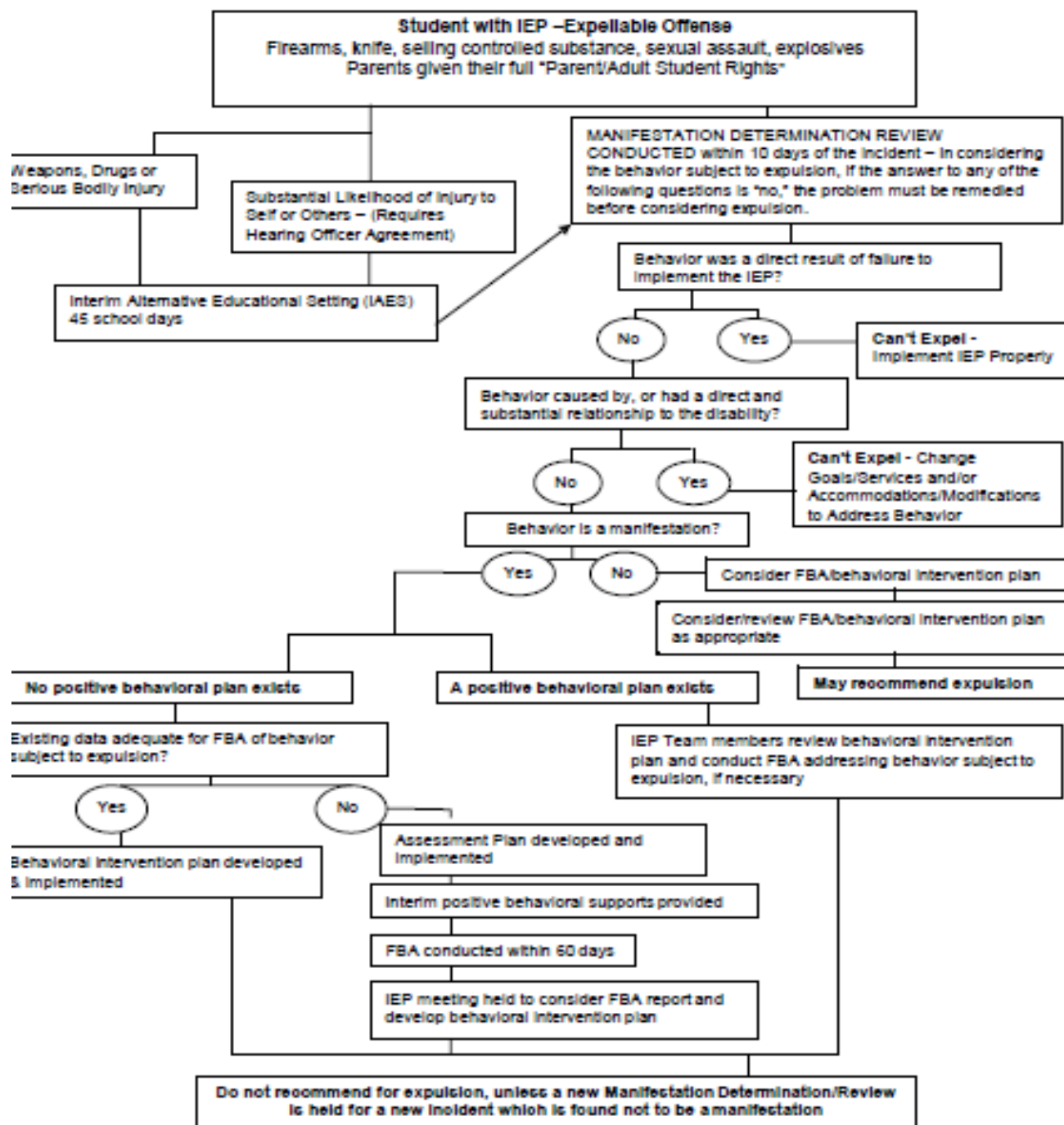
- If the parent of the student would not allow the LEA to conduct an evaluation for special education or related services.
- The student has been evaluated for special education and related services and did not meet the eligibility requirements.

If no *Basis of Knowledge* exist prior to the behavior which requires disciplinary actions,

- The LEA may use disciplinary measures which apply to students without disabilities who engage in comparable behaviors.
- If a request for assessment is made during this time period, an expedited evaluation will be conducted.
- During the evaluation period, the student will remain in the educational placement determined by school authority, which may include the continuation of the suspension and/or expulsion without educational services.
- If the evaluation determines the student meets eligibility requirements for special education and related services, the LEA must provide appropriate services in accordance to the student’s IEP

Merced County Special Education Local Plan Area Suspensions and Expulsions Discipline Flow Chart





Appendix 3 – Program Descriptions

Resource Specialist Program

Overview

The resource specialist program is designed primarily to serve students with mild disabilities whose IEP teams have determined that they can successfully access and participate in the general education program for a majority of the school day but who require curriculum accommodations and specialized instruction for a portion of the day. This may be provided to the student through consultation with the student, parent, and general education staff; direct instructional services to the student within the general education classroom; and/or, direct instruction to the student using a "pull-out" approach. The primary goal is to return the student to full-time enrollment in the general education program without any special education support. Students graduating high school while receiving support through a resource specialist program typically graduate with a diploma. A resource specialist must possess a credential authorizing instruction of students with mild to moderate disabilities. Most resource specialists are assigned one instructional assistant. Caseloads generally include 24 to 28 students. Related services are available for students as identified on each IEP. Most districts operate resource specialist programs for their own students. A few programs in smaller, remote districts may be operated by one district on behalf of several districts within a geographical zone.

Guidelines for Program Instruction

Referral for Placement

1. Students are referred for placement when the nature or severity of the disability is such that educational progress in less restrictive settings even with the use of accommodations, modifications, and supplementary aids and services is not satisfactory and the IEP team determines that such placement is required in order for the student to receive a free and appropriate public education (FAPE).
2. There is active family involvement in addressing student needs, determining the required placement and services, and designing the IEP.
3. Students who are placed in resource specialist programs operated by their district of residence are referred to those classes according to the district's established procedures.
4. If the program identified by the IEP team as required by the student is operated by a district other than the district of residence, SELPA approved procedures will be followed for referral and placement.

Curriculum, Instruction, and Assessment

1. IEP goals are developed in each area of identified need and are standards-based.

2. Support is provided to the student using an integrated delivery model in all subjects specified on the IEP.
3. Students are supported in accessing the general education core curriculum through provision of resources to and training of general education teachers in the use of appropriate instructional strategies and classroom accommodations as identified on each student's IEP; this may include "push-in" services.
4. Students receive specific skills instruction in areas of need, as specified in the IEP, using state-approved intervention programs and instructional materials; this may include "pull-out" services.
5. Students receive information through use of instructional approaches and techniques that match their learning style including appropriate accommodations.
6. Students are instructed, as appropriate, about their disability, effective compensatory skills, and how to obtain necessary accommodations and modification.
7. Students are provided with a classroom environment that stimulates learning, assists in personal-social development, and fosters increasing independence.
8. Behavior problems are viewed as areas of instructional need, indicating where skills for more appropriate behaviors must be acquired and practiced; behavior goals and behavior plans are developed and utilized when appropriate.
9. Appropriate support is provided for English learners including instruction in English language development, use of techniques such as SDAIE, and primary language support.
10. Data on student performance (mastery tests, data sheets, graphing, homework, etc.) is collected regularly and this data is used to inform instruction and to make program changes as needed.
11. Student progress is communicated to parents through informal means as well as in progress reports as specified in the IEP.
12. Students will participate in statewide assessments through the California Standards Test (CST) and/or the California Modified Assessment (CMA) and the California High School Exit Exam (CAHSEE) as specified in the IEP.

Staff Development and Team Collaboration

1. Team collaboration is an integral component of planning and delivery of instruction; teams are encouraged to meet at least bimonthly for the purpose of reviewing data, revising instructional practices; modifying classroom procedures, etc.
2. Informal and ongoing communication between service providers occurs on a regular basis.

3. Special education staff members attend special education staff meetings as scheduled, attend general education staff meetings when possible and appropriate, and regularly interact with all school staff.
4. Resource Specialists receive ongoing professional development in assessment and data collection, developing compliant and effective IEPs, the general education core curriculum, state curriculum standards, methods and techniques for accommodating and modifying the curriculum, intervention programs and strategies, inclusive practices, and coaching/mentoring/collaborating.
5. Instructional Assistants are provided with relevant and ongoing training.
6. Each staff member participates in professional growth activities.

Other Agency Involvement

Operating resource specialist programs may require collaboration and/or partnership with other community agencies including, but not limited to, the Merced County Mental Health, Project Workability, the Merced County Department of Social Services, and the Merced County Department of Rehabilitation.

Facilities/Equipment/Materials

1. Programs are operated at age-appropriate sites.
2. The RSP room provides adequate space to allow for adaptive equipment and a variety of instructional activities.
3. Appropriate furniture and equipment is provided to implement general classroom instruction as well as individual IEP goals.
4. District-approved textbooks are provided to the Resource Specialist in each subject appropriate to grade-levels served in the classroom.
5. Supplemental texts and other instructional materials as determined necessary by the age, grade, and unique needs of the students are provided.
6. The facility is maintained in good repair and at an appropriate level of cleanliness to assure healthy conditions for all.

Learning Center

Overview

The learning center is designed primarily to serve students with mild to moderate disabilities whose IEP teams have determined that they can successfully access and participate in the general education program but who require access strategies, specialized instruction in one or more areas and/or subjects, and monitoring of student progress. This support may be delivered in a classroom or set of classrooms where a diverse group of educators provides varied levels of instruction and intervention to students and may be part of a tiered school-wide intervention program. The learning center allows for flexibility in service provision; one student may receive instruction for a short intense period while another may require more extensive support. All students remain in general education classes for the extent determined appropriate by the IEP team. The primary goal is to return the student to full-time enrollment in the general education program without any special education support. Students graduating high school while receiving support through a learning center program typically graduate with a diploma. A special education teacher with a credential authorizing instruction of students with mild to moderate disabilities and one instructional assistant are typically assigned to the learning center. Special and general educators may work together in a learning center. Caseloads vary depending upon the grade-level and unique needs of the assigned students. Related services are available for students as identified on each IEP. Districts operate learning centers for their own students.

Guidelines for Program Instruction

Referral for Placement

1. Students are referred for placement when the nature or severity of the disability is such that educational progress in less restrictive settings even with the use of accommodations, modifications, and supplementary aids and services is not satisfactory and the IEP team determines that such placement is required in order for the student to receive a free and appropriate public education (FAPE).
2. There is active family involvement in addressing student needs, determining the required placement and services, and designing the IEP.
3. Students are placed in learning center programs according to the district's established procedures.

Curriculum, Instruction, and Assessment

1. IEP goals are developed in each area of identified need and are standards-based.
2. Students receive instruction in all district-required subject areas using district-approved content or modified content standards, as specified in the IEP.

3. Instruction in core subject areas (reading/language arts, mathematics) is provided for the same number of minutes that are required for same-grade general education classes in each subject either in the general education class or in the learning center.
4. Students are supported in accessing the general education core curriculum through provision of resources to and training of general education teachers in the use of appropriate instructional strategies and classroom accommodations as identified on each student's IEP.
5. Students receive specific skills instruction in areas of need, including access skills, as specified in the IEP, using state-approved intervention programs and instructional materials.
6. Students receive information through use of instructional approaches and techniques that match their learning style including appropriate accommodations.
7. Students are instructed, as appropriate, about their disability, effective compensatory skills, and how to obtain necessary accommodations and modification.
8. Students are provided with a classroom environment that stimulates learning, assists in personal-social development, and fosters increasing independence.
9. Behavior problems are viewed as areas of instructional need, indicating where skills for more appropriate behaviors must be acquired and practiced; behavior goals and behavior plans are developed and utilized when appropriate.
10. Appropriate support is provided for English learners including instruction in English language development, use of techniques such as SDAIE, and primary language support.
11. Data on student performance (mastery tests, data sheets, graphing, homework, etc.) is collected regularly and this data is used to inform instruction and to make program changes as needed.
12. Student progress is communicated to parents through informal means as well as in progress reports as specified in the IEP.
13. Students will typically participate in statewide assessments through the California Standards Test (CST) and the California High School Exit Exam (CAHSEE) as specified in the IEP.

Staff Development and Team Collaboration

1. Team collaboration is an integral component of planning and delivery of instruction; teams are encouraged to meet at least bimonthly for the purpose of reviewing data, revising instructional practices; modifying classroom procedures, etc.
2. Informal and ongoing communication between service providers occurs on a regular basis.

3. Special education staff members attend special education staff meetings as scheduled, attend general education staff meetings when possible and appropriate, and regularly interact with all school staff.
4. Teachers receive ongoing professional development in assessment and data collection, developing compliant and effective IEPs, the general education core curriculum, state curriculum standards, methods and techniques for accommodating and modifying the curriculum, intervention programs and strategies, inclusive practices, coaching/mentoring/collaborating, classroom management, and behavior intervention.
5. Instructional Assistants are provided with relevant and ongoing training.
6. Each staff member participates in professional growth activities.

Other Agency Involvement

Operating learning center programs may require collaboration and/or partnership with other community agencies including, but not limited to, the Merced County Mental Health, Project WorkAbility, the Merced County Department of Social Services, Probation Department, and the Merced County Department of Rehabilitation.

Facilities/Equipment/Materials

1. Learning centers are operated at age-appropriate sites.
2. The learning center provides adequate space to allow for adaptive equipment and a variety of instructional activities.
3. Appropriate furniture and equipment is provided to implement general classroom instruction as well as individual IEP goals.
4. District-approved textbooks are provided to the Teacher in each subject appropriate to grade-levels served in the classroom.
5. Supplemental texts and other instructional materials as determined necessary by the age, grade, and unique needs of the students are provided.
6. The facility is maintained in good repair and at an appropriate level of cleanliness to assure healthy conditions for all.

Special Class – General Academics

Overview

These classes are primarily designed for students with mild to moderate disabilities whose IEP teams have determined that they require specialized instruction for a majority of the school day and are able to benefit from instruction in a modified general education curriculum using alternative instructional strategies. The primary goal is to return the students a less restrictive educational setting. Students graduating high school while enrolled in this type of special class may graduate either with a diploma or a certificate as identified on the student's IEP. A teacher with a credential authorizing instruction of students with mild to moderate disabilities and, typically, one instructional assistant are assigned to each class. Additional instructional assistants are provided as determined necessary to implement developed IEPs and maintain the safety of students and staff. The recommended FCMAT caseload is 10-12 students at the preschool level, 12 students at the elementary and middle school level, and 12-15 students at the high school level. Related services are available for students as identified on each IEP. Each district typically operates these classes for its own students. Some classes may be operated by one district on behalf of several districts within a geographical zone.

Guidelines for Program Operation

Referral for Placement

1. Students are referred for placement when the nature or severity of the disability is such that educational progress in less restrictive settings even with the use of accommodations, modifications, and supplementary aids and services is not satisfactory and the IEP team determines that such placement is required in order for the student to receive a free and appropriate public education (FAPE).
2. There is active family involvement in addressing student needs, determining the required placement and services, and designing the IEP.
3. Students who are placed in classes operated by their district of residence are referred to those classes according to the district's established procedures.
4. If the class identified by the IEP team as required by the student is a class operated by a district other than the district of residence, SELPA approved procedures will be followed for referral and placement.

Curriculum, Instruction, and Assessment

1. IEP goals are developed in each area of identified need and are standards-based.
2. Students receive instruction in all district-required subject areas using district-approved modified content standards, unless otherwise specified in the IEP.

3. Instruction in core subject areas (reading/language arts, mathematics) is provided for the same number of minutes that are required for same-grade general education classes in each subject.
4. Students receive specific skills instruction in areas of need, as specified in the IEP, using state-approved intervention programs and instructional materials.
5. Students receive information through use of instructional approaches and techniques that match their learning style.
6. Students are instructed, as appropriate, about their disability, effective compensatory skills, and how to obtain necessary accommodations and modification.
7. Students are provided with a classroom environment that stimulates learning, assists in personal-social development, and fosters increasing independence.
8. Behavior problems are viewed as areas of instructional need, indicating where skills for more appropriate behaviors must be acquired and practiced; behavior goals and behavior plans are developed and utilized when appropriate.
9. Appropriate support is provided for English learners including instruction in English language development, use of techniques such as SDAIE, and primary language support.
10. Data on student performance (mastery tests, data sheets, graphing, homework, etc.) is collected regularly and this data is used to inform instruction and to make program changes as needed.
11. Student progress is communicated to parents through informal means as well as in progress reports as specified in the IEP.
12. Students will participate in statewide assessments through the California Standards Test (CST) and the California High School Exit Exam (CAHSEE) as specified in the IEP.

Mainstreaming

1. All students are integrated with age peers in the general education program, including extra-curricular activities, based upon IEP team recommendations.
2. General education teachers participate in the IEP team meeting and assist in identifying appropriate integration opportunities.
3. Goals are developed as part of the IEP that will be implemented within the general education program.
4. Mainstreaming classrooms are chosen for each student to ensure a good instructional match.

5. The student's teacher/case manager consults with the general education teacher regarding appropriate curriculum modifications and instructional strategies and closely monitors the student's progress while participating in the integrated setting.

Staff Development and Team Collaboration

1. Team collaboration is an integral component of planning and delivery of instruction; teams are encouraged to meet at least bimonthly for the purpose of reviewing data, revising instructional practices; modifying classroom procedures, etc.
2. Informal and ongoing communication between service providers occurs on a regular basis.
3. Special education staff members attend special education staff meetings as scheduled, attend general education staff meetings when possible and appropriate, and regularly interact with all school staff.
4. Teachers receive ongoing professional development in assessment and data collection, developing compliant and effective IEPs, the general education core curriculum, state curriculum standards, methods and techniques for accommodating and modifying the curriculum, intervention programs and strategies, classroom management and behavior intervention.
5. Instructional Assistants are provided with relevant and ongoing training.
6. Each staff member participates in professional growth activities.

Other Agency Involvement

Operating these special classes may require collaboration and/or partnership with other community agencies including, but not limited to, the Merced County Mental Health, Project Workability, the Merced County Department of Social Services, the Merced County Department of Rehabilitation, and the Central Valley Regional Center.

Facilities/Equipment/Materials

1. Classes are operated at age-appropriate sites.
2. The classroom provides adequate space to support the unique learning and safety needs of individuals and/or groups as necessary (group instructional areas, individual work stations, safe movement of wheelchairs, use of adapted equipment, etc.)
3. Appropriate furniture and equipment is provided to implement general classroom instruction as well as individual IEP goals.
4. District-approved textbooks are provided in each subject appropriate to grade-levels served in the classroom.

5. Supplemental texts and other instructional materials as determined necessary by the age, grade, and unique needs of the students are provided.
6. The facility is maintained in good repair and at an appropriate level of cleanliness to assure healthy conditions for all.

Special Class – Functional Academics/Life Skills

(MCOE-TABS: Tiered Academic and Behavior Support)

Overview

These classes are designed primarily for students with moderate to severe disabilities whose IEP teams have determined that they require specialized instruction for a majority of the school day using an alternative curriculum that focuses on applied or functional academics. This alternative curriculum teaches basic academics as they apply to daily living. This may involve instruction in community sites off of the school campus. As the student approaches high school, prevocational skills become a key component of the curriculum as well. This curriculum is based upon state-approved standards-based curriculum guides. The primary goal of these classes is to prepare students to function effectively in current and future home, school, community, and work environments. Students enrolled in these classes earn a high school certificate and typically go on to participate in a post-secondary transition class. A teacher with a credential authorizing instruction of students with moderate to severe disabilities and the equivalent of two instructional assistants are assigned to each class. Additional instructional assistants are provided as determined necessary to implement developed IEPs and maintain the safety of students and staff. The FCMAT recommended caseload is 10-12 students depending upon age-level and unique make-up of each class. Related services are available for students as identified on each IEP. Merced County Office of Education operates most of these classes on behalf of all districts within the SELPA. Merced Union High School District operates a few of these classes.

Guidelines for Program Operation

Referral for Placement

1. Students are referred for placement when the nature or severity of the disability is such that educational progress in less restrictive settings even with the use of accommodations, modifications, and supplementary aids and services is not satisfactory and the IEP team determines that such placement is required in order for the student to receive a free and appropriate public education (FAPE).
2. There is active family involvement in addressing student needs, determining the required placement and services, and designing the IEP.
3. Students who are placed in classes operated by their district of residence are referred to those classes according to the district's established procedures.
4. If the class identified by the IEP team as required by the student is a class operated by a MCOE or a district other than the district of residence, SELPA approved procedures will be followed for referral and placement.

Curriculum, Instruction, and Assessment

1. IEP goals are developed in each area of identified need and are standards-based.
2. Students receive instruction in all district-required subject areas using an alternative curriculum, unless otherwise specified in the IEP.

Curriculum is based upon state approved alternative curriculum guides and organized around the following domains:

- a. Functional Academics
 - b. Domestic
 - c. Community
 - d. Pre Vocational/Vocational
 - e. Recreation and Leisure
3. Instruction in core subject areas (reading/language arts, mathematics) is provided for the same number of minutes that are required for same-grade general education classes in each subject unless otherwise specified in the IEP.
 4. Students receive direct training in actual situations and environments where skills are to be used, whenever possible.
 5. Students receive information through use of instructional approaches and techniques that match their learning style.
 6. Students are instructed, as appropriate, about their disability, effective compensatory skills, and how to obtain necessary accommodations and modification.
 7. Alternative communication modes and adapted equipment devices are used as needed for instruction of individual students.
 8. Community-based instruction is provided on a regular basis, when age-appropriate.
 9. Behavior problems are viewed as areas of instructional need, indicating where skills for more appropriate behaviors must be acquired and practiced; behavior goals and behavior plans are developed and utilized when appropriate.
 10. Students are provided with a classroom environment that stimulates learning, assists in personal-social development, and fosters increasing independence.
 11. Data on student performance (mastery tests, data sheets, graphing, task analyses, homework, etc.) is collected regularly and this data is used to inform instruction and to make program changes as needed.
 12. Student progress is communicated to parents through informal means as well as in progress reports as specified in the IEP.
 13. Students typically participate in statewide assessment through an Alternative Performance Assessment.

Mainstreaming

1. All students are integrated with age peers in the general education program, including extra-curricular activities, based upon IEP team recommendations.
2. General education teachers participate in the IEP team meeting and assist in identifying appropriate integration opportunities.
3. Goals are developed as part of the IEP that will be implemented within the general education program.
4. Mainstreaming classrooms are chosen for each student to ensure a good instructional match.
5. The student's teacher/case manager consults with the general education teacher regarding appropriate curriculum modifications and instructional strategies and closely monitors the student's progress while participating in the integrated setting.

Staff Development and Team Collaboration

1. Team collaboration is an integral component of planning and delivery of instruction; teams are encouraged to meet at least bimonthly for the purpose of reviewing data, revising instructional practices; modifying classroom procedures, etc.
2. Informal and ongoing communication between service providers occurs at least weekly.
3. Special education staff members attend special education staff meetings as scheduled, attend general education staff meetings when possible and appropriate, and regularly interact with all school staff.
4. Teachers receive ongoing professional development in assessment and data collection, developing compliant and effective IEPs, alternative curriculum guides, state curriculum standards, community-based instruction, alternative communication systems, classroom management and behavior intervention, and practices to promote a healthy and safe classroom environment.
5. Instructional Assistants are provided with relevant and ongoing training.
6. Each staff member participates in professional growth activities.

Other Agency Involvement

Operation of these special classes may require collaboration and/or partnership with other community agencies including, but not limited to, the Merced County Mental Health, the Merced County Department of Health, the Merced County Department of Social Services, the Merced County Department of Rehabilitation, the Central Valley Regional Center, and various nonpublic agencies (NPAs).

Facilities/Equipment/Materials

1. Classes are operated at age-appropriate integrated sites.
2. The classroom provides adequate space to support the unique learning and safety needs of individuals and/or groups as necessary (group instructional areas, individual work stations, safe movement of wheelchairs, use of adapted equipment, etc.)
3. Appropriate furniture and equipment is provided to implement general classroom instruction as well as individual IEP goals.
4. Bathroom and kitchen facilities are adapted and either in or near the classroom.
5. Instructional materials appropriate to the adopted alternative curriculum are provided.
6. The facility is maintained in good repair and at an appropriate level of cleanliness to assure healthy conditions for all.

Special Class – Therapeutic Intervention/Sierra Program

Overview

Therapeutic intervention classes are primarily designed to serve students with emotional disturbances or other disabilities who are also experiencing significant emotional issues and whose IEP teams have determined the need for an intensive therapeutic environment in order to derive benefit from their educational program. The main focus is on developing and maintaining appropriate emotional and social behavior. Students are provided with instruction in the general education core curriculum using appropriate accommodations and modifications. The primary goal is to return the students to full-time enrollment in the general education program. Students graduating high school while enrolled in this type of special class may graduate either with a diploma or a certificate as identified on the student's IEP. A teacher with a credential authorizing instruction of students with emotional disabilities and the equivalent of two instructional assistants are typically assigned to each class. Additional instructional assistants are provided as determined necessary to implement the developed IEPs and maintain the safety of students and staff. Each program has the additional support of a credentialed or licensed psychologist or therapist. Other therapeutic support personnel may be assigned as appropriate and needed. Classes generally serve from ten to fourteen students, depending upon age level and unique make-up of each class. Related services are available for students as identified on each IEP.. These classes are operated by the Merced County Office of Education on behalf of all districts within the SELPA.

Guidelines for Program Instruction

Referral for Placement

1. Students are referred for placement when the nature or severity of the disability is such that educational progress in less restrictive settings even with the use of accommodations, modifications, and supplementary aids and services is not satisfactory and the IEP team determines that such placement is required in order for the student to receive a free and appropriate public education (FAPE).
2. Prior to referral to a therapeutic intervention class, the referring LEA must make all reasonable efforts to implement appropriate behavioral interventions including behavioral goals, behavior plans, and counseling within a less restrictive setting.
3. There is active family involvement in addressing student needs, determining the required placement and services, and designing the IEP.
4. Students who are placed in classes operated by their district of residence are referred to those classes according to the district's established procedures.
5. If the class identified by the IEP team as required by the student is operated by a district other than the district of residence, SELPA approved procedures will be followed for referral and placement.

Curriculum, Instruction, and Assessment

1. IEP goals are developed in each area of identified need and are standards-based.
2. Positive social, emotional, and behavioral growth is fostered through facilitation of successful academic experiences, instruction in social skills development, and use of a leveled behavior intervention program.
3. Qualified personnel employed or contracted by the LEA of operation provide school-based individual and group counseling on a regular basis.
4. Individual and family therapy is provided through an interagency is provided by staff assigned to the program.
5. Students receive instruction in all district-required subject areas using district-approved content standards, unless otherwise specified in the IEP.
6. Instruction in core subject areas (reading/language arts, mathematics) is provided for the same number of minutes that are required for same-grade general education classes in each subject unless otherwise specified in the IEP.
7. Students receive specific skills instruction in areas of need, as specified in the IEP, using

state-approved intervention programs and instructional materials.

8. Students receive information through use of instructional approaches and techniques that match their learning style including appropriate accommodations.
9. Students are instructed, as appropriate, about their disability, effective compensatory skills, and how to obtain necessary accommodations and modification.
10. Appropriate support is provided for English learners including instruction in English language development, use of techniques such as SDAIE, and primary language support.
11. Data on student performance (mastery tests, data sheets, graphing, homework, etc.) is collected regularly and this data is used to inform instruction and to make program changes as needed.
12. Student progress is communicated to parents through informal means as well as in progress reports as specified in the IEP.
13. Students will participate in statewide assessments through the California Standards Test (CST) and the California High School Exit Exam (CAHSEE) as specified in the IEP.

Mainstreaming

1. Students are integrated with age peers in the general education program based upon IEP team recommendations and placement in leveled behavior intervention program.
2. General education teachers participate in the IEP team meeting and assist in identifying appropriate integration opportunities.
3. Goals are developed as part of the IEP that will be implemented within the general education program.
4. Mainstreaming classrooms are chosen for each student to ensure a good instructional match.
5. The student's teacher/case manager consults with the general education teacher regarding appropriate curriculum modifications and instructional strategies and closely monitors the student's progress while participating in the integrated setting.

Staff Development and Team Collaboration

1. Team collaboration is an integral component of planning and delivery of instruction; teams are encouraged to meet at least bimonthly for the purpose of reviewing data, revising instructional practices; modifying classroom procedures, etc.
2. Informal and ongoing communication between service providers occurs at least weekly.
3. Special education staff members attend special education staff meetings as scheduled,

attend general education staff meetings when possible and appropriate, and regularly interact with all school staff.

4. Teachers receive ongoing professional development in assessment and data collection, developing compliant and effective IEPs, the general education core curriculum, state curriculum standards, methods and techniques for accommodating and modifying the curriculum, intervention programs and strategies, classroom management and behavior intervention, social skills development, and non-violent crisis intervention including physical restraint.
5. Instructional Assistants are provided with relevant and ongoing training.
6. Each staff member participates in professional growth activities.
7. Parent education and training is provided on a regular basis and parents are expected to agree to program standards for parent participation.

Other Agency Involvement

Classes for students who require therapeutic intervention require collaboration and/or partnership with a variety of community agencies including, but not limited to: The Merced County Mental Health, the Merced County Department of Social Services, the multi-agency Wrap-Around program, Foster Youth Services, the Department of Rehabilitation, and the Regional Occupational Program.

Facilities/Equipment/Materials

1. Classes are operated at age-appropriate integrated sites or in a special school that may be located on an isolated site.
2. The instructional space provides adequate space to support the unique learning and safety needs of individuals and/or groups as necessary (group instructional areas, individual work stations, safe movement of wheelchairs, use of adapted equipment, private therapeutic and one-to-one behavior intervention sessions, etc.)
3. The classroom is in a location that allows easy access to bathrooms and an identified space for removal of students to a safe environment when necessary.
4. Appropriate furniture and equipment is provided to implement general classroom instruction as well as individual IEP goals.
5. Instructional materials appropriate to the adopted alternative curriculum are provided.
6. The facility is maintained in good repair and at an appropriate level of cleanliness to assure healthy conditions for all.

Special Class – Preschool: Ready Set Go!

Overview

These classes are designed for students with autism and other disabilities who also have significant social/ communication skill deficits, emotional regulation issues, and/or developmental delays, and whose IEP teams have determined that the student requires instruction specifically designed for children with autism. This program provides intensive intervention within a self-contained class for the majority of the school day. The curriculum is typically based upon state-approved standards-based alternative curriculum guides. Instructional methodologies are selected for each student based upon evidence-based best practice recommendations. Family involvement is considered an integral component of the program. The primary goal of these classes is to prepare students to function effectively in current and future home, school, community, and work environments. Students enrolled in these classes earn a high school certificate and typically go on to participate in a post-secondary transition class. A teacher with a credential authorizing instruction of students with moderate to severe disabilities and two instructional assistants are assigned to each class. Additional instructional assistants are provided as determined necessary to implement developed IEPs and maintain the safety of students and staff. The classes will have 10-12 students depending upon age-level and unique make-up of each class. Related services are available for students as identified on each IEP. The Merced County Office of Education operates these classes on behalf of all districts within the SELPA.

Guidelines for Program Operation

Referral for Placement

1. Students are referred for placement when the nature or severity of the disability is such that educational progress in less restrictive settings even with the use of accommodations, modifications, and supplementary aids and services is not satisfactory and the IEP team determines that such placement is required in order for the student to receive a free and appropriate public education (FAPE).
2. Prior to referral, students are assessed using developmental and/or standardized tools in the following systems: social relatedness and interaction, receptive and expressive language and non-verbal communication, fine and gross motor skills, sensory development, cognitive development, adaptive functioning, and academics or functional academics.
3. There is active family involvement in assessing student needs, determining the required placement and services, and designing the IEP.
4. Students are referred for placement according to SELPA approved procedures for regional programs.

Curriculum, Instruction, and Assessment

1. IEP goals are developed in each area of identified need and are standards-based where appropriate.

2. Curriculum is based upon state approved typical and alternative curriculum guides and organized around the following functional domains (unless otherwise specified in the IEP):
3. Embedded within the curriculum, is direct evidence-based instruction within the areas of play and social interaction, communication, motor and sensory skills, emotional regulation, and appropriate behavior.
4. Students receive information through use of instructional approaches and techniques that match their learning style, are evidence-based, and are specifically designed for students with autism (e.g., structured teaching, ABA, picture communication systems, etc.).
5. Students are instructed, as appropriate, about their disability, effective compensatory skills, and how to obtain necessary accommodations and modification.
6. Students receive direct training within the special class and assistance in generalizing learned skills to natural environments.
7. Students are provided with a classroom environment that stimulates learning, assists in personal-social development, and fosters increasing independence.
8. Behavior problems are viewed as areas of instructional need, indicating where skills for more appropriate behaviors must be acquired and practiced; behavior goals and behavior plans are developed and utilized when appropriate.
9. Appropriate support is provided for English learners including instruction in English language development, use of techniques such as SDAIE, and primary language support.
10. Data on student performance (task analyses, data sheets, graphing, etc.) is collected regularly and this data is used to inform instruction and to make program changes as needed.
11. Student progress is communicated to parents through informal means as well as in progress reports as specified in the IEP.
12. Students participate in statewide assessment as identified in the IEP.

Mainstreaming

1. All students are integrated with age peers in the general education program, including extra-curricular activities, based upon IEP team recommendations.
2. General education teachers participate in the IEP team meeting and assist in identifying appropriate integration opportunities.
3. Goals are developed as part of the IEP that will be implemented within the general education program.
4. Mainstreaming classrooms are chosen for each student by the IEP team to ensure a good instructional match.
5. The student's teacher/case manager consults with the general education teacher regarding appropriate curriculum modifications and instructional strategies and closely monitors the student's progress while participating in the integrated setting.

Parent Education, Staff Development, Team Collaboration

1. Parent education and training is provided on a regular basis and parents are expected to agree to program standards for parent participation.
2. Team collaboration is an integral component of planning and delivery of instruction; teams are encouraged to meet at least bimonthly for the purpose of reviewing data, revising instructional practices; modifying classroom procedures, etc.
3. Informal and ongoing communication between service providers occurs at least weekly.
4. Special education staff members attend special education staff meetings as scheduled, attend general education staff meetings when possible and appropriate, and regularly interact with all school staff.
5. Teachers receive ongoing professional development in the areas of autism spectrum disorders, communication disorders, language development, behavior intervention, sensory integration, curriculum modification, and instructional strategies.
6. Instructional Assistants are provided with relevant and ongoing training.
7. Each staff member participates in professional growth activities.

Other Agency Involvement

Classes for students with autism and developmental disabilities require collaboration and/or partnership with other community agencies including, but not limited to:

1. The Central Valley Regional Center
2. Merced County Mental Health
3. Local colleges and universities
4. Community hospitals
5. Parent groups

Facilities/Equipment/Materials

1. Most classes are operated at age-appropriate sites.
2. The classroom provides adequate space to support the unique learning and safety needs of individuals and/or groups as necessary (group instructional areas, individual work stations, sensory-motor activities, safe movement of wheelchairs, use of adapted equipment, etc.)
3. Appropriate furniture and equipment is provided to implement general classroom instruction as well as individual IEP goals.
4. Bathroom and kitchen facilities are adapted and either in or near the classroom.
5. Instructional materials as determined necessary by the age, grade, and unique needs of the students are

provided.

6. The facility is maintained in good repair and at an appropriate level of cleanliness to assure healthy conditions for all.

Special Class – Deaf/Hard-Of-Hearing

Overview

These classes are for students who are deaf or hard-of-hearing and whose IEP teams have determined that they require specialized instruction for a majority of the school day. The primary goal is to provide learning experiences that will allow students to become effective communicators and to participate meaningfully within their family, school, and community environments. Students graduating high school while enrolled in this type of special class may graduate either with a diploma or a certificate as identified on the student's IEP. A credentialed teacher of the deaf and hard-of-hearing and, typically, two instructional assistants/interpreters are assigned to each class. Additional instructional assistants/interpreters are provided as determined necessary to implement developed IEPs and maintain the safety of students and staff. The typical caseload is 6-10 students depending upon age and intensity of special needs. Related services are available for students as identified on each IEP. The Merced County Office of Education typically operates these classes on behalf of all districts within the SELPA.

Guidelines for Program Operation

Referral for Placement

1. Students are referred for placement when the nature or severity of the disability is such that educational progress in less restrictive settings even with the use of accommodations, modifications, and supplementary aids and services is not satisfactory and the IEP team determines that such placement is required in order for the student to receive a free and appropriate public education (FAPE).
2. Prior to consideration for placement, a team of specialists including, but not limited to, a credentialed teacher of the deaf and hard-of-hearing, a speech therapists, an educational audiologist, and a psychologist assesses referred students.
3. There is active family involvement in assessing student needs, determining the required placement and services, and designing the IEP.
4. Students are referred for placement according to SELPA approved procedures for regional programs.

Curriculum, Instruction, and Assessment

1. IEP goals are developed in each area of identified need and are standards-based when possible.
2. Students receive instruction using state content standards, unless otherwise specified in the IEP.
3. Instruction in core subject areas (reading/language arts, mathematics) is provided for the same number of minutes that are required for same-grade general education classes in each subject unless otherwise specified in the IEP.
4. Students receive specific instruction in communication (usually through total communication techniques), use and care of amplification, FM systems, and other assistive listening devices as well as

other areas of need as specified in the IEP.

5. Students receive information through use of instructional approaches and techniques that match their learning style.
6. Students and their families are instructed about hearing loss, effective compensatory skills, and how to obtain necessary accommodations and modifications.
7. Students are provided with a classroom environment that stimulates learning, assists in personal-social development, and fosters increasing independence.
8. Behavior problems are viewed as areas of instructional need, indicating where skills for more appropriate behaviors must be acquired and practiced; behavior goals and behavior plans are developed and utilized when appropriate.
9. Appropriate support is provided for English learners including instruction in English language development, use of techniques such as SDAIE, and primary language support.
10. Data on student performance (mastery tests, data sheets, graphing, homework, etc.) is collected regularly and this data is used to inform instruction and to make program changes as needed.
11. Student progress is communicated to parents through informal means as well as in progress reports as specified in the IEP.
12. Students typically participate in statewide assessments through the California Standards Test (CST) and the California High School Exit Exam (CAHSEE) as specified in the IEP; a few students participate in statewide Alternative Performance Assessment.

Mainstreaming

1. All students are integrated with age peers in the general education program, including extra-curricular activities, based upon IEP team recommendations.
2. General education teachers participate in the IEP team meeting and assist in identifying appropriate integration opportunities.
3. Goals are developed as part of the IEP that will be implemented within the general education program.
4. Mainstreaming classrooms are chosen for each student to ensure a good instructional match.
5. The student's teacher/case manager consults with the general education teacher regarding appropriate curriculum modifications and instructional strategies and closely monitors the student's progress while participating in the integrated setting.

Staff Development and Team Collaboration

1. Team collaboration is an integral component of planning and delivery of instruction; teams are encouraged to meet at least bimonthly for the purpose of reviewing data, revising instructional practices; modifying classroom procedures, etc.

2. Informal and ongoing communication between service providers occurs on a regular basis.
3. Special education staff members attend special education staff meetings as scheduled, attend general education staff meetings when possible and appropriate, and regularly interact with all school staff.
4. Teachers receive ongoing professional development in assessment and data collection, curriculum and instruction for students who are deaf or hard-of-hearing, developing compliant and effective IEPs, the general education core curriculum, state curriculum standards, alternative curricula, methods and techniques for accommodating and modifying the curriculum, classroom management and behavior intervention.
5. Instructional Assistants/Interpreters are provided with relevant and ongoing training; interpreters meet state mandated testing requirements.
6. Each staff member participates in professional growth activities.

Other Agency Involvement

Operating these special classes may require collaboration and/or partnership with other community agencies including, but not limited to, the Merced County Department of Health, the Merced County Mental Health, , the Merced County Department of Social Services, and the Central Valley Regional Center. Additionally, there is regular communication with students' physicians and audiologists.

Facilities/Equipment/Materials

1. Classes are operated at age-appropriate sites.
2. The classroom provides adequate space to support the unique learning and safety needs of individuals and/or groups as necessary (group instructional areas, individual work stations, use of adapted equipment and assistive technology, etc.)
3. Appropriate furniture and equipment is provided to implement general classroom instruction as well as individual IEP goals.
4. Appropriate textbooks are provided in each subject for the grade-levels served in the classroom.
5. Supplemental texts and other instructional materials as determined necessary by the age, grade, and unique needs of the students are provided.
6. The facility is maintained in good repair and at an appropriate level of cleanliness to assure healthy conditions for all.

Related and Support Services

A wide variety of related and support services are available to students who are eligible for special education. The IEP team determines the specific services that each student requires. Described below are the most frequently needed services.

Speech, Language, and Communication Therapy

For students with speech, language, or hearing disabilities, specialized support and/or instruction is sometimes a necessary component of their regular or special education curriculum. This may be provided through consultation with the student, parent, and school staff; direct instructional services to the student within the regular or special class; and/or, direct instruction to the student using a “pull-out” approach. The primary goal is to maximize the student's ability to be a successful communicator within their current and future school, home, and work environments. Each specialist has a credential authorizing provision of therapeutic intervention for students with speech, language, and communication needs. The SELPA-wide average caseload is 55 students per therapist.

Adapted Physical Education

For students with medical conditions, gross motor delays, or emotional disabilities, specialized support and/or instruction is sometimes necessary as part of their special education program. This may be provided through consultation with the student, parent, and school staff; direct instructional services to the student within the regular or special class; and/or, direct instruction to the student using a "pull-out" approach. The primary goal is to maximize the student's ability to develop and maintain physical fitness and recreation/leisure skills that can be applied within the student's current and future environments. Each APE specialist has a credential authorizing instruction in the areas of adapted physical education. The typical caseload for this program is approximately 45-55 students.

Behavioral Intervention

Students who are enrolled in special education sometimes have significant behavioral needs. When an IEP team determines that a student may require a behavior plan, a specialist in the area of behavior intervention may be provided to assist in developing the plan and to train and consult with teachers and classified support staff in implementing the plan. Classified support may include instructional assistants specifically trained to provide behavioral support under the supervision of a behavior specialist or other qualified personnel.

Low Incidence Itinerant Support (OH, VH, Deaf and HH)

Students who have orthopedic or visual disabilities or who are deaf or hard-of-hearing (OH, VH, Deaf/HH) are provided with support services from appropriate specialists as determined by their IEPs. These services are generally provided using a combination of direct service and consultation with the student's family and school personnel. The primary goal is to maximize the student's ability to access and benefit from their educational program. Each low incidence specialist has a credential authorizing instruction in his or her area of specialty. The typical caseload for these programs ranges from 20 to 30 students depending upon the specific population served.

Psychological Services

Students who require support in the area of social, emotional, and behavioral development may require psychological services which may be provided by employees or contracted vendors.

Occupational Therapy (Educationally Necessary)

Students with varying disabilities leading to difficulty in the areas of fine and gross motor skills, visual-motor integration and organization, sensory integration, and visual perception may require specialized support and/or instruction in order to benefit from their educational program. This may be provided through consultation with the teacher and parent, monitoring of the student's progress, or direct service to the student. Each student may receive each type of service over

time depending on his or her current level of need. The primary goal is to maximize the student's ability to access and benefit from their educational program. Each occupational therapist is licensed. The typical caseload for an occupational therapist is approximately 50-60 students.

Occupational and Physical Therapy (Medically Required)

California Children's Services (CCS) provides occupational and physical therapy to special education students who are medically eligible. Qualification is determined through a referral and assessment process. These services should not be listed on the service section of the IEP but the team may elect to indicate that the student is receiving the services on the notes page of the IEP.

School Nursing Services

School Nurses are available to assist students, parents, and staff when a student is in need of specialized health care. They also conduct follow-up with physicians, perform health screenings, and monitor immunization schedules. School nurses provide information, consultation, training, and liaison services with outside agencies.

School Psychology Services

School Psychologists are often the first contact for parents, teachers, and others who are concerned about a student's progress. They are involved in a variety of activities related to supporting students who have been identified as "at risk". Examples of the many duties they are responsible for are: coordination of the assessment team; conducting psycho-educational assessments; participating in IEP meetings; providing individual and group counseling; facilitation of referrals to outside agencies for significant emotional/social/behavioral problems; and consultation with students, parents, and staff in the areas of cognitive development, learning style, emotional/social/behavioral development, and instructional strategies.