North Region SELPA

Board Policies & Administrative Regulations

May 22, 2025

North Region SELPA
1275 61st Street, Portable #8
Emeryville, CA 94608
(510)525-9806

North Region SELPA Policies
Table of Contents

SELPA Policies Document Overview

Code 0000: Philosophy, Goals, Objectives, & Comprehensive Plans

Policy		Board Policies (BP)		Administrative Regulations (AR)		Page
		Proposed	Adopted	Proposed	Adopted	
0010	Signing Authority	01/18/07	03/22/07			5
0100	Suspension of Policies	01/18/07	03/22/07			6
0300	Program Compliance Monitoring and Support	01/18/07 1/22/09 04/09/20	03/22/07 03/26/09 04/09/20			7-10
0310	Over-Identification and Disproportionality	06/20/11 01/19/23	06/20/11 01/19/23			11
0400	Maintenance of Effort Compliance Monitoring and Support	10/15/12 01/21/16 04/09/20	11/13/12 03/24/16 04/09/20			12-22
0430	Comprehensive Local Plan for Special Education	05/26/16 04/09/20 01/19/23	10/27/16 04/09/20 01/19/23	05/26/16 01/19/23	10/27/16 01/19/23	23-30

Code 1000: Community Relations

Policy		Board Policies (BPs)		Administrative Regulations (AR)		Page
		Proposed	Adopted	Proposed	Adopted	
1100	Community Advisory Committee	01/18/07 04/09/20 01/19/23 05/23/24	03/22/07 04/09/20 01/19/23 05/23/24			31-32
1200	Coordination with Other Agencies	01/18/07 04/09/20 10/19/23	03/22/07 04/09/20 10/19/23			33

Code 2000: Administration

Policy		Board Policies (BPs)		Administrative Regulations (AR)		Page
		Proposed	Adopted	Proposed	Adopted	
2200	SELPA Director Appointment and Evaluation	06/21/07	06/21/07			34
2300	Annual Evaluation	06/21/07	06/21/07			35
2400	Program Certification	06/21/07	06/21/07			36-37
2500	Data Collection	06/21/07 01/19/23	06/21/07 01/19/23			38
2600	Annual Service Plan	06/21/07 01/19/23	06/21/07 01/19/23			39
2700	Annual Budget Plan	06/21/07 10/29/20	06/21/07 01/21/21			40-41
2800	Regional Operations/ Service Roles and Responsibilities	04/09/20	04/09/20			42-44

Code 3000: Business & Non-Instructional Operations

Policy		Board Policies (BPs)		Administrative Regulations (AR)		Page
		Proposed	Adopted	Proposed	Adopted	
3100	Special Education Resource Allocation	01/20/11 05/08/17 10/29/20	01/20/11 05/23/17 01/21/21			45-48
3110	Allocation for Operation of the SELPA	03/27/14 11/01/21	05/22/14 11/01/21			49
3130	Infant Units Funding	04/13/05 10/29/20	05/31/05 01/21/21			50
3140	Part C Resources (Infants)	04/13/05 03/28/19 10/29/20	05/31/05 05/23/19 01/21/21			51-52
3150	K-12 Resources	10/26/06	03/22/07			53
3160	Federal Preschool	10/26/06 10/29/20	01/18/07 01/21/21			54
3200	Low Incidence Funds	10/26/06 03/23/23	03/22/07 03/23/23			55-57
3210	**Low Incidence Service Funds**	10/26/06	03/22/07	No longer		

				active as of 3/23/23		
3300	Income	04/13/05	05/31/05			58
3310	Expenditures	10/26/06	01/18/07			59
3320	Budget as a Spending Plan	10/26/06	01/18/07			60
3330	Purchase Orders	10/26/06	01/18/07			61
3350	Placements within NR SELPA of Special Education Students into Member School District Programs	05/11/06 03/24/16 05/08/17 11/01/21	06/22/06 05/26/16 05/25/17 11/01/21			62-63
3400	Conference and Meeting Expense	10/26/06	03/22/07			64
3410	Mileage Allowance	10/26/06	01/18/07			65
3700	Administrative Unit Services	04/13/05	05/31/05			66

Code 4000: Personnel

Policy		Board Policies (BPs)		Administrative Regulations (AR)		Page
		Proposed	Adopted	Proposed	Adopted	
4100	Comprehensive System of Staff Development	10/26/06	01/18/07			67
4600	Personnel Standards	10/26/06 04/09/20	01/18/07 05/21/20			68

Code 6000: Instruction

Policy		Board Policies (BPs)		Administrative Regulations (AR)		Page
		Proposed	Adopted	Proposed	Adopted	
6110	Prohibition on Mandatory Medicine	03/24/11	03/24/11			69
6146.4	Differential Graduation and Competency Standards for Students with Disabilities	01/18/23 01/23/25	03/21/24 01/23/25			70-73
6159	Individualized Education Program (IEP)	03/24/16 01/20/22 03/23/23 01/18/24	05/26/16 01/20/22 03/23/23 01/18/24	03/24/16 04/09/20 03/23/23 01/18/24	05/26/16 04/09/20 03/23/23 01/18/24	74-89

6159.1	**Procedural Safeguards and Complaints for Special Education**	05/26/16 04/09/20 01/19/23	10/27/16 04/09/20 01/19/23	05/26/16 01/19/23	10/27/16 01/19/23	90-99
6159.2	**Nonpublic Nonsectarian School and Agency Services for Special Education**	10/26/16 04/09/20 01/19/23 01/18/24	01/26/17 04/09/20 01/19/23 03/21/24	10/26/16 01/19/23 01/18/24	01/26/17 01/19/23 03/21/24	100-105
6159.4	**Positive Behavior Intervention for Special Education Students**	06/20/11 10/15/15	06/20/11 01/21/16	10/27/16 01/19/23	01/26/17 01/19/23	106-110
6160	**Special Circumstance Instructional Assistance**	10/23/14	02/03/15			111-112
6164.4	**Identification and Evaluation of Individuals for Special Education**	05/26/16 04/09/20 01/20/22	10/27/16 04/09/20 01/20/22	05/26/16 01/20/22 05/22/25	10/27/16 01/20/22 05/22/25	113-125
6164.41	**Children with Disabilities Enrolled by their Parents in Private Schools**	10/27/16 10/29/20 01/20/22	01/26/17 01/21/21 01/20/22	10/27/16 10/29/20 01/20/22	01/26/17 01/21/21 01/20/22	126-131
6165	**Services to Adult Students in County Jail Facilities**	04/09/20	05/21/20			132-134
6550	**Independent Educational Evaluations (IEE)**	06/20/11 03/23/17 03/24/22 03/21/24 05/22/25	06/20/11 05/08/17 05/26/22 03/21/24 05/22/25			135-140
6600	**Literacy**	Local Plan 2003	03/19/03	No longer active as of 1/23/25		
6610	**Access to Instructional Materials**	04/09/20	04/09/20			141
6700	**Participation in State/District Assessments**	06/21/07 04/09/20	06/21/07 04/09/20			142
6800	**Charter Schools**	Local Plan 2003	03/19/03			143-146

Code 9000: Governance

Policy		Board Policies (BPs)		Administrative Regulations (AR)		Page
		Proposed	Adopted	Proposed	Adopted	
9000	**Governance Bylaws**	04/13/05 04/09/20	05/31/05 05/21/20			147-150

CLASSIFICATION:
PHILOSOPHY, GOALS, OBJECTIVES & COMPREHENSIVE PLANS

PROPOSED: 1-18-07 **ADOPTED: 3-22-07**

SUBJECT: Signing Authority

Signing Authority

The Policy Board authorizes the individuals holding the following titles with the responsibility to sign official documents on behalf of the North Region Special Education Local Plan Area (SELPA):

- Policy Board Chair: signs documents requiring the signature of the governing body or other documents in the absence of other authorizing roles.
- Policy Board Vice Chair: in the absence of the Policy Board Chair, signs documents requiring the signature of the Policy Board Chair.
- Administrative Unit Superintendent: signs documents requiring the signature of the Administrative Unit on behalf of the SELPA (i.e. Grant Award Notifications), and following action as directed by the Policy Board.
- SELPA Director: signs all documents related to income, expense, and authorization of such activities. Personal reimbursement for the SELPA Director at or above $750 shall require additional authorization by the Chair or Administrative Unit Superintendent. Personal reimbursement for the SELPA Director under $750 shall not require additional authorization. Any documents which are necessary to the daily operation of the SELPA, such as all documents related to funding, pupil count, and other state reporting requirements. All contracts following action by the Policy Board. Signature will be provided on items where Policy Board action is required once action has been approved and documented in Policy Board minutes.

CLASSIFICATION:
PHILOSOPHY, GOALS, OBJECTIVES & COMPREHENSIVE PLANS

PROPOSED: 1-18-07 **ADOPTED: 3-22-07**

SUBJECT: Suspension of Policies

SUSPENSION OF POLICIES AND PROCEDURAL GUIDELINES

Policies and Procedural Guidelines are subject to suspension for a specified purpose and limited time or by revision by the action of the Policy Board in accordance with the provisions of the Local Plan.

The SELPA Director in consultation with the Policy Board Chair is authorized to suspend any Policy or Procedural Guideline when advised by competent legal authority that such document is wholly or in part in conflict with the laws or regulations of a superior authority. The SELPA Director may choose to suspend only that part which is in conflict if such action appears to be in the best interest of the SELPA. The suspension shall be valid only until the Policy Board;s next meeting, when the SELPA Director shall report the suspension and bring recommendation to the Policy Board for appropriate action.

CLASSIFICATION:
PHILOSOPHY, GOALS, OBJECTIVES & COMPREHENSION PLANS

PROPOSED: 1-18-07	**ADOPTED: 3-22-07**
REVISION #1 PROPOSED: 1-22-09	**REVISION #1 ADOPTED: 3-2-09**
REVISION #2 PROPOSED: 4-9-20	**REVISION #2 ADOPTED: 4-9-20**

SUBJECT: Program Compliance, Monitoring, and Support

Program Compliance, Monitoring, and Support

This policy is designed to identify the combination of factors that will be monitored by the LEA, SELPA, and State to ensure responsibilities are met and to direct the SELPA staff in the level of support to be provided by the SELPA.

LEA Responsibilities

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

- Implementation of local policies and procedures with applicable state and federal laws;
- Conduct regular staff meetings with special education staff;
- Provide training for administrators and other school staff/employees;
- School site and classroom visits;
- Review of Individual Education Plans (IEPs);
- Review of/address parental comments or complaints;
- Review of LEA's Compliance Determination Indicators;
- Comply with the requirements of the performance goals and indicators developed by the CDE and provide data as required by the CDE.
- Review of LEA's CALPADS data/reports;
- Review of LEA's Timely and Complete Reporting; and
- Review the implementation of findings from Special Education Self Review (SESR) process.

SELPA Responsibilities

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

- Develop policies and procedures in accordance with applicable state and federal laws;
- Review of the Annual Budget Plan;
- Review of the Annual Service Delivery Plan;
- Review of the LEA's Special Education performance goals and indicator requirements developed by the CDE and provide data as required by the CDE.
- Review of pertinent data/reports;
- Review of the SELPA Funding Allocation Plan;
- Review of LEA's Maintenance of Effort;
- Evaluate the effectiveness of services to support district compliance efforts offered by the SELPA office with LEA Directors;
- Review results of LEAs' Special Education Self Review with LEA Directors; and
- Consult with LEA staff regarding allegations of non-compliance filed with CDE.

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

- Monthly Special Education Director meetings held by the SELPA Director;
- At least one annual meeting with SELPA Director and LEA fiscal directors;
- At least four meetings per year by the Policy Board and the SELPA Director;
- Annual Program Certification meetings with Special Education and Fiscal Directors;
- Site visits and student file review by Compliance Review Team comprised of representatives from each district and SELPA;
- Compliance monitoring as a result of Alternative Dispute Resolution activities;
- SELPA sponsored trainings for staff members at all levels on compliance related topics; and/or
- Technical assistance to LEAs from the SELPA Director and/or the SELPA Program Specialist, such as technical assistance and consultation on corrective actions resulting from CDE Compliance Complaints, attendance at IEP meetings, attendance at staff meetings, fiscal consultation, compliance monitoring through computerized IEP program, etc.

State Responsibilities

California Department of Education has identified State Performance Plan Indicators, State test scores, Compliance Determination Reports, Complaint outcomes, Hearing outcomes, Pupil Count, Verification and Self Reviews, and Maintenance of Effort as some of the activities that will be monitored for compliance and potential State intervention. LEAs and the SELPA will monitor these areas as well. When a combination of characteristics is present, the SELPA

will provide specific support. The goal is to recognize the exemplary practices with commendations and target SELPA staff resources in support of LEAs requiring assistance, while assuring that the practices of one LEA are not detrimental to other LEAs or the SELPA as a whole.

1) Compliance Commendation
    a) No significant non-compliance findings identified
    b) Report data sources complete and provided in timely manner
    c) Dispute outcomes below Statewide levels
    d) No issues identified by the State

    ❖ SELPA Support
        ➢ Monitors data
        ➢ Provides general training
        ➢ Recognizes exemplary practices by sharing with other LEAs

2) Operational Non-Compliance

    a) Non-compliance issues identified
    b) Report data sources complete and provided in timely manner
    c) Dispute outcomes below Statewide levels
    d) No significant issues identified by the State from self review process

    ❖ SELPA Support
        ➢ Monitors data and notifies special education administrator and business manager
        ➢ Assists with development and implementation of corrective action plan or improvement plan
        ➢ Provides general training

3) Substantial Non-Compliance

    a) Corrective action plan requires SELPA involvement
    b) Data incomplete or not provided in a timely manner
    c) Dispute outcomes above the Statewide levels
    d) State involved in on-site review and identification of non-compliant issues

    ❖ SELPA Support
        ➢ Notifies Policy Board and LEA superintendent
        ➢ Provides technical assistance
        ➢ Assists with development and implementation of corrective action plan or improvement plan
        ➢ Provides specific training
        ➢ Delay monthly deposit of special education funding until reports, overdue after the State deadlines, are provided

4) Systemic Non-Compliance

a) Corrective action plan with outstanding issues after 3-12 months
b) Data incomplete or not provided in a timely manner
c) Dispute outcomes above the Statewide average and clusters of issues identified
d) Multiple issues with performance among the lowest 15% of the State
e) State involved in on-site corrective action plan or improvement plan

- ❖ SELPA Support
  - ➢ Notifies Policy Board, LEA superintendent, and Board President
  - ➢ Directs SELPA program specialist to support implementation of elements of the corrective action plan to focus on technical assistance, specific training and monitoring of outcomes
  - ➢ Delay monthly deposit of special education funding until reports, overdue after the State deadlines, are provided

5) State Sanctions

a) Corrective action plan with outstanding issues after 12 months
b) Data incomplete or not provided in a timely manner
c) Dispute outcomes above the statewide average and clusters of issues identified. Orders, agreements, or corrective action not implemented
d) Multiple issues with performance among the lowest 15% of the State with no substantial improvement over time
e) State involved in on-site corrective action plan or improvement plan including but not limited to assignment of an external monitor, court order, or the withholding of funds

- ❖ SELPA Support
  - ➢ Notifies Policy Board, LEA superintendent, LEA Board President, and Alameda County Superintendent of Schools
  - ➢ Withholds funds from the specified LEA reflective of State action impacting the SELPA allocation
  - ➢ Directs district assigned SELPA program specialist to support implementation of elements of the corrective action plan to focus on technical assistance, specific training and monitoring of outcomes
  - ➢ Delay monthly deposit of special education funding until reports, overdue after the State deadlines, are provided

CLASSIFICATION:
PHILOSOPHY, GOALS, OBJECTIVES & COMPREHENSION PLANS

PROPOSED: 6-20-11 **ADOPTED: 6-20-11**
REVISION PROPOSED: 1-19-23 **REVISION ADOPTED: 1-19-23**

SUBJECT: Over-Identification and Disproportionality

OVER-IDENTIFICATION AND DISPROPORTIONALITY

It is the responsibility of each member Local Education Agency (LEA) of the North Region SELPA to prevent the inappropriate disproportionate representation by race and ethnicity of students with disabilities.

Reference: EC 56205 (a)
20 USC Section 1412 (a) (24)

Procedures:

Each member Local Education Agency (LEA) of the North Region SELPA shall, with SELPA assistance, monitor student trends with the intent of averting inappropriate, disproportionate representation by race and ethnicity of students with disabilities. The SELPA shall provide the following assistance:

- Student trend data pertinent to the disproportionate calculation as reported through CALPADS to the California Department of Education (CDE).
- Provide up-to-date training and information provided to the SELPAs by CDE.
- Continue to apprise member LEAs concerning fiscal changes and/or responsibilities related to the potential 15% transfer of local assistance funds to reduce disproportionality under the Early Intervening requirement of IDEA.

CLASSIFICATION:
PHILOSOPHY, GOALS, OBJECTIVES & COMPREHENSIVE PLANS

PROPOSED: 10-15-12 **ADOPTED: 11-13-12**
REVISION #1 PROPOSED: 1-21-16 **REVISION #1 ADOPTED: 3-24-16**
REVISION #2 PROPOSED: 4-9-2020 **REVISION #2 ADOPTED: 4-9-20**

SUBJECT: Special Education Maintenance of Effort Compliance Monitoring and Support

SPECIAL EDUCATION MAINTENANCE OF EFFORT COMPLIANCE MONITORING AND SUPPORT

North Region Special Education Local Plan Area (SELPA) has been formed by member public school agencies to assure access to special education and services for all individuals with exceptional needs residing in the geographic area served by the member districts.

The North Region SELPA shall meet maintenance of effort (MOE) regulations requiring that federal funds be used only to pay the excess costs of providing special education and related services to children with disabilities and to supplement and not supplant state and local funds for special education (ref: 34 *Code of Federal Regulations (CFR),* sections 300.302-300.205)

As part of the distribution of Federal and State Grants to SELPA member LEAs, the Business Official and Special Education Administrator from each participating LEA are required to sign a Grant Awards Assurance Statement, which reads as follows:

"Each recipient LEA is required by Federal and State law to comply with the following conditions in accepting the grant funding:

1. *Account for income and expense for each grant in a separate account for audit purposes.*
2. *Expend funds according to the guidelines for the grant.*
3. *Complete all transactions by June 30 of the current fiscal year.*

*Failure to follow these requirements will result in funding being withheld by the SELPA until mechanisms are demonstrated as in place to assure compliance and/or recap*ture *of funds by the State."*

As the State Education Agency (SEA) monitors LEAs and takes action to encourage and enforce compliance, it is incumbent upon the SELPA to precede SEA sanction with prevention

and intervention activities. In the case of MOE, SEA has directed the SELPA, as the distributor of IDEA Part B funds to LEAs within a multi-district SELPA, to be responsible for the determination of eligibility of an LEA to receive IDEA Part B funds. Through monitoring of the practices of LEAs, the SELPA can support LEA effort with targeted prevention activities and appropriate intervention when necessary. The SELPA shall recapture funding from an LEA under specific circumstances when the SELPA has determined that LEA is not eligible to receive IDEA Part B funds.

Allocation to eligible LEAs is based on the SELPA's Special Education Allocation Policy including the allocation of recaptured funds from one LEA to other eligible LEAs. Recapture of funding from LEAs found not eligible shall be limited to the portion of IDEA Part B funds allocated to the LEA and not to exceed the amount of disparity in meeting the requirements of MOE. When the SELPA recaptures IDEA Part B funds from an LEA, the SELPA Director shall notify the County Superintendent in regard to the School District Fiscal Accountability Statutes.

The SELPA shall annually conduct and report to the SEA the required MOE information. The LEAs within the SELPA shall compile and submit budget and expenditure information, including LMC-A and LMC-B reports, to the SELPA within designated timelines. The two required comparison tests are as follows:

First Comparison Eligibility Requirement – Grant-Year Budget to Prior Actual Expenditures (LMC-B)

- Each LEA will submit to the SELPA the required MOE documentation each year.
- Budgeted local or state and local expenditures must equal or exceed prior year expenditures for each LEA and for the SELPA, as a whole, subject to the federal Subsequent Years rule.
- SELPA must ensure LEA meets the eligibility comparison test before the allocations of Part B funds are made to the LEAs.

Section 1 – Each year, LEAs should record any of the exceptions listed below:

These items will reduce the amount required to meet MOE:

- The voluntary departure, by retirement or otherwise or departure for just cause, of special education or related service personnel
- A decrease in the enrollment of children with disabilities
- The termination of the obligation of the agency to provide a program of special education to a particular child with a disability that is an exceptionally costly program because the child:
  a) Has left the jurisdiction of the agency
  b) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or
  c) No longer needs the program of special education

- The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities

Section 2 – LEAs that received a "meets requirement" compliance determination from CDE and have not been found to be significantly disproportionate may also reduce their MOE requirement. Under these conditions the LEA may reduce the level of local or state and local expenditures otherwise required by the LEA MOE requirement by calculating 50 percent of the increase in federal subgrant allocation received for the current fiscal year compared to the prior fiscal year and reducing the LEA's state and local MOE requirement by that amount.

Please note: The LEA must use an amount of local funds equal to the reduction in expenditures to carry out activities that could be supported with funds under the Elementary and Secondary Education Act (ESEA) of 1965. **This amount includes any activities under Title 1, Impact Aid, and other ESEA programs.**

- The amount of funds expended by an LEA for early intervening services under 34 *CFR*, Section 300.226 shall count toward the maximum amount of expenditures that the LEA may reduce under this section.

Section 3 – Four MOE Test Methods to Maintain Effort

Either local or state and local funding sources are used for comparison at the SELPA level as well as for each individual LEA. In addition, the comparison may be per capita (per child with a disability, unless some other basis is permitted by the SEA for determining "per capita"). The four methods to maintain effort are:

1. The combination of state and local funds
2. Local funds only
3. The combination of state and local funds on a per capita basis
4. Local funds only on a per capita basis

If the SELPA as a whole passes the first comparison (budget vs. actual), the SELPA as a whole is eligible to receive Part B funding.

Consequences for Failure to Maintain Effort

If the SELPA fails the first comparison test (budget vs. actual), the SELPA as a whole and all of its participating members will be ineligible to receive Part B funding until budgetary revisions are made to enable the SELPA as a whole to meet MOE requirements.

If the SELPA as a whole passes the first comparison test (budget vs. actual) but one or more individual LEA sub-grant recipients fails the first comparison test, the LEA shall have until the first principal apportionment (better known as P-1 certification) occurs to comply with MOE requirements. The P-1 certification is the first time the current year expenditure data is available. If an LEA has not rectified the problem by the date that P-1 certification is made, the SELPA will notify the CDE. The SELPA will provide the CDE with the LEA's IDEA subgrant amounts. The CDE will reduce the SELPA's grant awards by the amount of the LEAs subgrant amount.

When an LEA fails to meet the MOE test in one year, the LEA is required in subsequent fiscal years to maintain effort at the level prior to the failure. Thus, the LEA must calculate its level of effort on the most recent fiscal year in which the MOE test was met.

Second Comparison Compliance Requirement – Prior-Year Actuals vs. Second-Prior Year Actuals or the most recent year LEA met using the method (LMC-A)

- Actual local or state and local expenditures must equal or exceed prior-year expenditures, subject to the federal Subsequent Years rule.
- SELPA comparison is made after unaudited actuals data is submitted to CDE following the end of the fiscal year
- The comparison will occur annually

Section 1 - Each year LEAs should record any of the exceptions listed below:

These items will reduce the amount required to meet MOE:

- The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related service personnel
- A decrease in the enrollment of children with disabilities
- The termination of the obligation of the agency to provide a program of special education to a particular child with disabilities that is an exceptionally costly program because the child:
  a) Has left the jurisdiction of the agency
  b) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or
  c) No longer needs the program of special education
- The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities

Section 2 – LEAs that received a "meets requirement" compliance determination from CDE and have not been found to be significantly disproportionate may also reduce their

MOE requirement. Under these conditions the LEA may reduce the level of local or state and local expenditures otherwise required by the LEA MOE requirement by calculating 50 percent of the increase in federal subgrant allocation received for the current fiscal year compared to the prior fiscal year and reducing the LEA's state and local MOE requirement by that amount.

Please note: The LEA must use an amount of local funds equal to the reduction in expenditures to carry out activities that could be supported with funds under the Elementary and Secondary Education Act (ESEA) of 1965. **This amount includes any activities under Title 1, Impact Aid, and other ESEA programs.**

- The amount of funds expended by an LEA for early intervening services under 34 *CFR*, section 300.226 shall count toward the maximum amount of expenditures that the LEA may reduce under this section.

Section 3 – Four MOE Test Methods to Maintain Effort

Either local or state and local funding sources are used for comparison at the SELPA level as well as for each individual LEA. In addition, the comparison may be per capita (per child with a disability, unless some other basis is permitted by the SEA for determining "per capita"). The four methods to maintain effort are:

1. the combination of state and local funds
2. local funds only
3. the combination of state and local funds on a per capita basis
4. local funds only on a per capita basis

Consequences for Failure to Maintain Effort

If the SELPA as a whole fails the second comparison test (actual vs. actual) after applying the exceptions, the SELPA will be billed by the CDE for the amount the SELPA, collectively, failed to spend from local or state and local funds to maintain its level of effort. The SELPA AU will then bill the individual LEA sub-grant recipients that failed the MOE second comparison test for the amount the LEA(s) failed to spend from local or state and local funds to maintain their level of effort.

If the SELPA as a whole passes the second comparison (actual vs. actual) but one or more individual LEA sub-grant recipients fail to spend from local or state and local funds to maintain their level of effort, CDE will bill the SELPA for the amount that the LEA failed to spend from local or state and local funds to maintain its level of effort. The amount must be paid to CDE by the LEA from its state and/or local funding in the budget year.

When an LEA fails to meet the MOE test in one year, the LEA is required in subsequent fiscal years to maintain effort at the level prior to the failure. Thus, the LEA must calculate its level of effort on the most recent fiscal year in which the MOE test was met.

For the purposes of maintenance of effort, the SELPA AU is the recipient of the federal funds from CDE and is, in turn, a grantor of all or part of those funds as sub-grants to participating LEAs.

North Region Special Education Local Plan Area (SELPA) has been formed by member public school agencies to assure access to special education and services for all individuals with exceptional needs residing in the geographic area served by the member districts.

The North Region SELPA shall meet maintenance of effort (MOE) regulations requiring that federal funds received from Part B of the IDEA be expended in accordance with applicable provisions of the IDEA and will be used only to supplement and not supplant state, local and other federal funds for special education USC Section 1412(a)(17)(ref: 34 Code of Federal Regulations (CFR), sections 300.302-300.205).

Federal funds will not be used to reduce the level of local funds and/or combined level of local and state funds expended for the education of students with disabilities except as provided in federal laws and regulations. USC Section1412(a)(18).

As part of the distribution of Federal and State Grants to SELPA member LEAs, the Business Official and Special Education Administrator from each participating LEA are required to sign a Grant Awards Assurance Statement, which reads as follows:

“Each recipient LEA is required by Federal and State law to comply with the following conditions in accepting the grant funding:

1. Account for income and expense for each grant in a separate account for audit purposes.

2. Expend funds according to the guidelines for the grant.

3. Complete all transactions by June 30 of the current fiscal year.

Failure to follow these requirements will result in funding being withheld by the SELPA until mechanisms are demonstrated as in place to assure compliance and/or recapture of funds by the State.”

As the State Education Agency (SEA) monitors LEAs and takes action to encourage and enforce compliance, it is incumbent upon the SELPA to precede SEA sanction with prevention and intervention activities. In the case of MOE, SEA has directed the

SELPA, as the distributor of IDEA Part B funds to LEAs within a multi-district SELPA, to be responsible for the determination of eligibility of an LEA to receive IDEA Part B funds. Through monitoring of the practices of LEAs, the SELPA can support LEA effort with targeted prevention activities and appropriate intervention when necessary. The SELPA shall recapture funding from an LEA under specific circumstances when the SELPA has determined that LEA is not eligible to receive IDEA Part B funds.

Allocation to eligible LEAs is based on the SELPA's Special Education Allocation Policy including the allocation of recaptured funds from one LEA to other eligible LEAs. Recapture of funding from LEAs found not eligible shall be limited to the portion of IDEA Part B funds allocated to the LEA and not to exceed the amount of disparity in meeting the requirements of MOE. When the SELPA recaptures IDEA Part B funds from an LEA, the SELPA Director shall notify the County Superintendent in regard to the School District Fiscal Accountability Statutes.

The SELPA shall annually conduct and report to the SEA the required MOE information. The LEAs within the SELPA shall compile and submit budget and expenditure information, including LMC-A and LMC-B reports, to the SELPA within designated timelines. The two required comparison tests are as follows:

First Comparison Eligibility Requirement – Grant-Year Budget to Prior Actual Expenditures (LMC-B)

- Each LEA will submit to the SELPA the required MOE documentation each year.
- Budgeted local or state and local expenditures must equal or exceed prior year expenditures for each LEA and for the SELPA, as a whole, subject to the federal Subsequent Years rule.
- SELPA must ensure LEA meets the eligibility comparison test before the allocations of Part B funds are made to the LEAs.

Section 1 – Each year, LEAs should record any of the exceptions listed below:

These items will reduce the amount required to meet MOE:

- The voluntary departure, by retirement or otherwise or departure for just cause, of special education or related service personnel
- A decrease in the enrollment of children with disabilities
- The termination of the obligation of the agency to provide a program of special education to a particular child with a disability that is an exceptionally costly program because the child:

a) Has left the jurisdiction of the agency

b) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or

c) No longer needs the program of special education

- The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities

Section 2 – LEAs that received a “meets requirement” compliance determination from CDE and have not been found to be significantly disproportionate may also reduce their MOE requirement. Under these conditions the LEA may reduce the level of local or state and local expenditures otherwise required by the LEA MOE requirement by calculating 50 percent of the increase in federal subgrant allocation received for the current fiscal year compared to the prior fiscal year and reducing the LEA’s state and local MOE requirement by that amount.

Please note: The LEA must use an amount of local funds equal to the reduction in expenditures to carry out activities that could be supported with funds under the Elementary and Secondary Education Act (ESEA) of 1965. This amount includes any activities under Title 1, Impact Aid, and other ESEA programs.

• The amount of funds expended by an LEA for early intervening services under 34 CFR, Section 300.226 shall count toward the maximum amount of expenditures that the LEA may reduce under this section.

Section 3 – Four MOE Test Methods to Maintain Effort

Either local or state and local funding sources are used for comparison at the SELPA level as well as for each individual LEA. In addition, the comparison may be per capita (per child with a disability, unless some other basis is permitted by the SEA for determining “per capita”). The four methods to maintain effort are:

1. The combination of state and local funds
2. Local funds only
3. The combination of state and local funds on a per capita basis
4. Local funds only on a per capita basis

If the SELPA as a whole passes the first comparison (budget vs. actual), the SELPA as a whole is eligible to receive Part B funding.

Consequences for Failure to Maintain Effort

If the SELPA fails the first comparison test (budget vs. actual), the SELPA as a whole and all of its participating members will be ineligible to receive Part B funding until budgetary revisions are made to enable the SELPA as a whole to meet MOE requirements.

If the SELPA as a whole passes the first comparison test (budget vs. actual) but one or more individual LEA sub-grant recipients fails the first comparison test, the LEA shall have until the first principal apportionment (better known as P-1 certification) occurs to comply with MOE requirements. The P-1 certification is the first time the current year expenditure data is available. If an LEA has not rectified the problem by the date that P-1 certification is made, the SELPA will notify the CDE. The SELPA will provide the CDE with the LEA's IDEA subgrant amounts. The CDE will reduce the SELPA's grant awards by the amount of the LEAs subgrant amount.

When an LEA fails to meet the MOE test in one year, the LEA is required in subsequent fiscal years to maintain effort at the level prior to the failure. Thus, the LEA must calculate its level of effort on the most recent fiscal year in which the MOE test was met.

Second Comparison Compliance Requirement – Prior-Year Actuals vs. Second-Prior Year Actuals or the most recent year LEA met using the method (LMC-A)

- Actual local or state and local expenditures must equal or exceed prior-year expenditures, subject to the federal Subsequent Years rule.
- SELPA comparison is made after unaudited actuals data is submitted to CDE following the end of the fiscal year
- The comparison will occur annually

Section 1 - Each year LEAs should record any of the exceptions listed below:

These items will reduce the amount required to meet MOE:

- The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related service personnel
- A decrease in the enrollment of children with disabilities
- The termination of the obligation of the agency to provide a program of special education to a particular child with disabilities that is an exceptionally costly program because the child:

a) Has left the jurisdiction of the agency

b) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or

c) No longer needs the program of special education

- The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities

Section 2 – LEAs that received a “meets requirement” compliance determination from CDE and have not been found to be significantly disproportionate may also reduce their MOE requirement. Under these conditions the LEA may reduce the level of local or state and local expenditures otherwise required by the LEA MOE requirement by calculating 50 percent of the increase in federal subgrant allocation received for the current fiscal year compared to the prior fiscal year and reducing the LEA’s state and local MOE requirement by that amount.

Please note: The LEA must use an amount of local funds equal to the reduction in expenditures to carry out activities that could be supported with funds under the Elementary and Secondary Education Act (ESEA) of 1965. This amount includes any activities under Title 1, Impact Aid, and other ESEA programs.

• The amount of funds expended by an LEA for early intervening services under 34 CFR, section 300.226 shall count toward the maximum amount of expenditures that the LEA may reduce under this section.

Section 3 – Four MOE Test Methods to Maintain Effort

Either local or state and local funding sources are used for comparison at the SELPA level as well as for each individual LEA. In addition, the comparison may be per capita (per child with a disability, unless some other basis is permitted by the SEA for determining “per capita”). The four methods to maintain effort are:

1. the combination of state and local funds
2. local funds only
3. the combination of state and local funds on a per capita basis
4. local funds only on a per capita basis

Consequences for Failure to Maintain Effort

If the SELPA as a whole fails the second comparison test (actual vs. actual) after

applying the exceptions, the SELPA will be billed by the CDE for the amount the SELPA, collectively, failed to spend from local or state and local funds to maintain its level of effort. The SELPA AU will then bill the individual LEA sub-grant recipients that failed the MOE second comparison test for the amount the LEA(s) failed to spend from local or state and local funds to maintain their level of effort.

If the SELPA as a whole passes the second comparison (actual vs. actual) but one or more individual LEA sub-grant recipients fail to spend from local or state and local funds to maintain their level of effort, CDE will bill the SELPA for the amount that the LEA failed to spend from local or state and local funds to maintain its level of effort. The amount must be paid to CDE by the LEA from its state and/or local funding in the budget year.

When an LEA fails to meet the MOE test in one year, the LEA is required in subsequent fiscal years to maintain effort at the level prior to the failure. Thus, the LEA must calculate its level of effort on the most recent fiscal year in which the MOE test was met.

For the purposes of maintenance of effort, the SELPA AU is the recipient of the federal funds from CDE and is, in turn, a grantor of all or part of those funds as sub-grants to participating LEAs.

CLASSIFICATION:
PHILOSOPHY, GOALS, OBJECTIVES & COMPREHENSION PLANS

PROPOSED: 5-26-16 **ADOPTED: 10-27-16**
REVISION #1 PROPOSED: 4-9-20 **REVISION #1 ADOPTED: 4-9-20**
REVISION #2 PROPOSED: 1-19-23 **REVISION #2 ADOPTED: 1-19-23**

SUBJECT: Comprehensive Local Plan for Special Education

The Policy Board of the North Region SELPA provides a free appropriate public education to all individuals with disabilities, aged 3 to 21 years, who reside in member districts, including children who have been suspended or expelled or placed by the district in a nonpublic, nonsectarian school. Special education programs and services shall be reviewed on an ongoing basis. The results of such evaluations shall be used to identify and implement any program improvement needs.

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

The special education local plan area (SELPA) shall administer a local plan and administer the allocation of funds. Each year, the SELPA Director shall provide to the Policy Board and member district fiscal staff any data and/or information regarding the special education funding generated by the district as supplied by the Superintendent of Public Instruction and the SELPA in accordance with Education Code 56836.148. Member districts shall enter into agreements with other members of the SELPA in accordance with Education Code 56195.1 and 56195.7. Consistent with these agreements, member districts shall adopt policies governing the programs and services it operates in accordance with Education Code 56195.8.

In order to meet the needs of individuals with disabilities and employ staff with adequate expertise for this purpose, each of the five districts, Alameda Unified School District, Albany Unified School District, Berkeley Unified School District, Emery Unified School District, and Piedmont Unified School District, shall participate as a member of the North Region SELPA pursuant to Education Code 56195.1.

The SELPA Director shall work with the SELPA Policy Board to develop a local plan for the education of individuals with disabilities. The local plan is the basis for the operation and administration of special education programs, and the agency(ies) herein represented will meet all applicable requirements of state and federal laws and regulations, including

compliance with the IDEA; the Federal Rehabilitation Act of 1973, Section 504 of Public Law; and the provisions of the California Education Code, Part 30. The North Region SELPA Local Plan shall be approved by the SELPA Policy Board, adopted by the LEA school boards, and shall be submitted to the county office of education and the Superintendent of Public Instruction. (Education Code 56195.1, 56195.3)

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

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

The local plan shall be reviewed at least once every three years and updated as needed to ensure the information contained in the plan remains relevant and accurate. The local plan shall be updated cooperatively by a committee of representatives of special and regular education teachers and administrators selected by the groups they represent and with participation by parent/guardian members of the community advisory committee (or parents/guardians selected by the community advisory committee) to ensure adequate and effective participation and communication (Education Code 56195.9)

Legal Reference:

EDUCATION CODE
56000-56001 Education for individuals with exceptional needs
56020-56035 Definitions
56040-56046 General provisions
56048-56050 Surrogate parents
56055 Foster parents
56060--56063 Substitute teachers
56170-56177 Children enrolled in private schools
56190-56194 Community advisory committees
56195-56195.10 Local plans
56205-56208 Local plan requirements
56211-56214 Special education local plan areas with small or sparse space
56240-56245 Staff development
56300-56385 Identification and referral, assessment, instructional planning
56440-56447.1 Programs for individuals between the ages of three and five years
56500-56508 Procedural safeguards, including due process rights
56520-56524 Behavioral interventions
56600-56606 Evaluation, audits and information

56836-56836.05 Administration of local plan

GOVERNMENT CODE
7579.5 Surrogate parent, appointment, qualifications, liability
95000-95004 California Early Intervention Services Act

WELFARE AND INSTITUTIONS CODE
361 Limitations on parental control
726 Limitations on parental control

CODE OF REGULATIONS, TITLE 5
3000-3089 Regulations governing special education

UNITED STATES CODE, TITLE 20
1232g Family Educational Rights and Privacy Act (FERPA) of 1974
1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29
794 Rehabilitation Act of 1973, Section 504

UNITED STATES CODE, TITLE 42
12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 34
99.10-99.22 Inspection, review and procedures for amending education records
104.1-104.39 Section 504 of the Rehabilitation Act of 1973
300.1-300.818 Assistance to states for the education of children with disabilities, including:
300.500-300.520 Due process procedures for parents and children
303.1-303.654 Early intervention program for infants and toddlers with disabilities

Management Resources:

WEB SITES
California Department of Education, Special Education:
http://www.cde.ca.gov/sp/se
U.S. Department of Education, Office of Special Education Programs:
http://www.ed.gov/about/offices/list/osers/osep
CSBA District and County Office of Education Legal Services
http://legalservices.csba.org

CLASSIFICATION:
PHILOSOPHY, GOALS, OBJECTIVES & COMPREHENSION PLANS

PROPOSED: 5-26-16 **ADOPTED: 10-27-16**
REVISION PROPOSED: 1-19-23 **REVISION ADOPTED: 1-19-23**

SUBJECT: Comprehensive Local Plan for Special Education

Free appropriate public education (FAPE) means special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the California Department of Education, including the requirements of 34 CFR 300.1-300.818; include an appropriate preschool, elementary school, or secondary school education for individuals between the ages of 3 and 21; and are provided in conformity with an individualized education program (IEP) that meets the requirements of 34 CFR 300.320-300.324. (Education Code 56040; 34 CFR 300.17, 300.101, 300.104)

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

Elements of the Local Plan
The local plan developed by the Special Education Local Plan Area (SELPA) shall include, but not be limited to: (Education Code 56122, 56205, 56206)

1. Policies, procedures, and programs, that are consistent with state laws, regulations, and policies and 20 USC 1412(a), 20 USC 1413(a)(1), and 34 CFR 300.201 governing the following:
   a. Free appropriate public education
   b. Full educational opportunity
   c. Child Find and referral
   d. Individualized education programs, including development, implementation, review, and

revision

e. Least restrictive environment
f. Procedural safeguards
g. Annual and triennial assessments
h. Confidentiality
i. Transition from the Infants and Toddlers with Disabilities programs pursuant to 20 USC 1431 to the preschool program
j. Children in private schools
k. Compliance assurances, including general compliance with the federal Individuals with Disabilities Education Act (20 USC 1400-1482), Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794), the federal Americans with Disabilities Act of 1990 (42 USC 12101-12213), related federal regulations, and Education Code 56000-56865
l. A description of the governance and administration of the local plan in accordance with Education Code 56205(a)(12)
m. Personnel qualification to ensure that personnel, including special education teachers and personnel and paraprofessionals are appropriately and adequately prepared and trained in accordance with Education Code 56058 and 56070 and 20 USC 1412(a)(14) and 1413(a)(3)
n. Performance goals and indicators
o. Participation in state and districtwide assessments, including assessments described in 20 USC 6301 et seq. and alternate assessments in accordance with 20 USC 1412(a)(16), and reports relating to assessments
p. Supplementation of state, local, and other federal funds, including nonsupplantation of funds
q. Maintenance of financial effort
r. Opportunities for public participation before adoption of policies and procedures
s. Suspension and expulsion rates
t. Access to instructional materials by blind individuals with exceptional needs and others with print disabilities in accordance with 20 USC 1412(a)(23)
u. Overidentification and disproportionate representation by race and ethnicity of children as individuals with exceptional needs, including children with disabilities with a particular impairment described in 20 USC 1401 and 1412(a)(24)
v. Prohibition of mandatory medication use pursuant to Education Code 56040.5 and 20 USC 1412(a)(25)

2. An annual budget plan, including descriptions of the SELPA's allocation plan in accordance with Education Code 56836-56845, all revenues by revenue source received by the SELPA

specifically for the purpose of special education, a breakdown of the distribution of funds to each LEA within the SELPA, projected total special education expenditures by each LEA, projected total expenditures by the SELPA and the LEAs within the SELPA, projected funding to be received specifically for regionalized operations, and a breakdown of projected SELPA operating expenditures

3. An annual service plan, describing the services to be provided by each LEA, regardless of whether the LEA participates in the local plan, including the nature of the services and the physical location at which the services will be provided. This description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs.

4. Beginning July 1, 2027, an annual assurances support plan to demonstrate how the SELPA and its participating agencies are coordinating for purposes of assuring effective outcomes for students with disabilities, including a description of:
   a. Support the governing board of the SELPA will provide to participating agencies in achieving the goals, actions, and services identified in their Local Control and Accountability Plans
   b. The ways in which the governing board of the SELPA will connect participating agencies in need of technical assistance to the statewide system of support
   c. The services, technical assistance, and support the governing board of the SELPA will provide to meet the required policies, procedures, and programs specified in Education Code 56205

5. A description of programs for early childhood special education from birth through five years of age

6. A description of the method by which members of the public, including parents/guardians of individuals with exceptional needs who are receiving services under the plan, may address questions or concerns pursuant to Education Code 56205

7. A description of a dispute resolution process, including mediation and arbitration to resolve disputes over the distribution of funding, the responsibility for service provision, and the other governance activities specified within the local plan

8. Verification that the plan has been reviewed by the community advisory committee in accordance with Education Code 56205 and that the committee had at least 30 days to conduct

this review before submission of the local plan to CDE

9. A description of the process being utilized to refer students for special education instruction pursuant to Education Code 56303

10. A description of the process being utilized to oversee and evaluate placements in nonpublic, nonsectarian schools, the method of ensuring that all requirements of each student's IEP are being met, and a method for evaluating whether the student is making appropriate educational progress

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

The local plan, annual budget plan, annual service plan, and annual assurances support plan shall be written in language that is understandable to the general public. They shall be adopted at a public hearing of the SELPA, for which notice of the hearing shall be posted in each school in the SELPA at least 15 days before the hearing. (Education Code 56205)

Availability of the Plan

The Superintendent or designee shall post on the district's web site the approved local plan, annual budget plan, annual service plan, and annual assurances support plan and any updates or revisions to the plans. A complete copy of the local plan, annual budget plan, annual service plan, annual assurances support plan, and policies and procedures shall be held on file in the district office and shall be accessible to any interested party. (Education Code 56205.5)

Legal Reference:

EDUCATION CODE
56000-56001 Education for individuals with exceptional needs
56020-56035 Definitions
56040-56046 General provisions
56048-56050 Surrogate parents
56055 Foster parents
56060--56063 Substitute teachers
56170-56177 Children enrolled in private schools
56190-56194 Community advisory committees
56195-56195.10 Local plans
56205-56208 Local plan requirements
56211-56214 Special education local plan areas with small or sparse space
56240-56245 Staff development
56300-56385 Identification and referral, assessment, instructional planning
56440-56447.1 Programs for individuals between the ages of three and five years

56500-56508 Procedural safeguards, including due process rights
56520-56524 Behavioral interventions
56600-56606 Evaluation, audits and information
56836-56836.05 Administration of local plan

GOVERNMENT CODE
7579.5 Surrogate parent, appointment, qualifications, liability
95000-95004 California Early Intervention Services Act

WELFARE AND INSTITUTIONS CODE
361 Limitations on parental control
726 Limitations on parental control

CODE OF REGULATIONS, TITLE 5
3000-3089 Regulations governing special education

UNITED STATES CODE, TITLE 20
1232g Family Educational Rights and Privacy Act (FERPA) of 1974
1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29
794 Rehabilitation Act of 1973, Section 504

UNITED STATES CODE, TITLE 42
12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 34
99.10-99.22 Inspection, review and procedures for amending education records
104.1-104.39 Section 504 of the Rehabilitation Act of 1973
300.1-300.818 Assistance to states for the education of children with disabilities, including:
300.500-300.520 Due process procedures for parents and children
303.1-303.654 Early intervention program for infants and toddlers with disabilities

Management Resources:

WEB SITES
California Department of Education, Special Education:
http://www.cde.ca.gov/sp/se
U.S. Department of Education, Office of Special Education Programs:
http://www.ed.gov/about/offices/list/osers/osep
CSBA District and County Office of Education Legal Services
http://legalservices.csba.org

CLASSIFICATION: COMMUNITY RELATIONS

PROPOSED: 1-18-07	**ADOPTED: 3-22-07**
REVISION #1 PROPOSED: 4-9-20	**REVISION #1 ADOPTED 4-9-20**
REVISION #2 PROPOSED: 1-19-23	**REVISION #2 ADOPTED: 1-19-23**
REVISION #3 PROPOSED: 5-23-24	**REVISION #3 ADOPTED: 5-23-24**

SUBJECT: Community Advisory Committee (CAC)

COMMUNITY ADVISORY COMMITTEE (CAC)

Procedures for Appointment of Members to the Community Advisory Committee:

North Region Special Education Local Plan Area (SELPA) Community Advisory Committee (CAC) is comprised of parents/guardians of persons with disabilities enrolled in public or non-public schools within the SELPA and may include: pupils and adults with disabilities; general education teachers; special education teachers; other school personnel within the SELPA; representatives of other public and non-public agencies; and persons concerned with the education of persons with disabilities who are located with the school district boundaries of SELPA. The school boards of the participating Local Education Agencies (LEAs) shall appoint members.

A majority of the CAC shall be composed of parents/guardians of pupils enrolled in schools participating in the SELPA, and a majority of such parents/guardians shall be parents/guardians of persons with disabilities. The SELPA Director, or SELPA designee, shall be a non-voting ex-officio member of the CAC, and shall act as the CAC's liaison to the SELPA Policy Board when appropriate.

Individual members of the CAC shall be appointed by and responsible to their local governing boards. The SELPA Director shall work with the various governing boards to ensure that the CAC is composed in accord with the Education Code. In the event that inadequate representation is foreseen by the SELPA Director, the Director shall have the authority to designate, with input from CAC members, the constituency from which a governing board shall make its appointment.

Responsibilities of the Community Advisory Committee:
The community advisory committee shall have the authority and fulfill the responsibilities that are defined for it in the local plan. The responsibilities shall include, but need not be limited to, all the following:

Advising the SELPA Policy Board and Administrative Entity (the SELPA Director) Regarding the Development, Amendment, and Review of the Local Plan.
Provide representation to the Local Plan Committee and review the Local Plan as an integral part of the development, amendment, and revision of the Local Plan. A minimum of thirty days opportunity is provided to review the Local Plan prior to submission to the State to provide opportunity for the CAC to forward ~~a~~ recommendations to the SELPA Director. The entity shall review and consider comments from the Community Advisory Committee.

Recommending Annual Priorities to be Addressed by the Plan.

Assisting in Parent Education and in Recruiting Parents and Other Volunteers Who May Contribute to the Implementation of the Plan.
Developing activities to raise awareness, inform and educate parents and the community, including activities such as newsletters, activity fliers, co-sponsorship of workshops, and hosting of informational events such as disability awareness, parental role in the IEP process, transition planning, etc.

Encouraging Community Involvement in the Development and Review of the Local Plan

Supporting Activities on Behalf of Individuals with Exceptional Needs
During each school year, the CAC explores topics of concern based on recommendations made by the previous and current year membership. An annual needs assessment is conducted, followed by a planning activity with the officers and members of the CAC. The CAC addresses the identified needs by hosting pertinent speakers and other related activities. Consideration is given in the SELPA operations budget to support CAC requests, communications, and logistics needed to implement support activities. Members have the responsibility of forwarding relevant information shared by the CAC to their local boards.

Assisting in Parent Awareness of the Importance of Regular School Attendance
The CAC provides assistance in parent awareness of the importance of regular school attendance through word-of-mouth within the community and also through highlighting this topic periodically in its meetings.

The SELPA will provide fiscal and logistical support for CAC meetings, parent education, and other events. The Policy Board will ensure the SELPA has sufficient resources to provide fiscal and logistical support to the CAC.

CLASSIFICATION: COMMUNITY RELATIONS

PROPOSED: 1-18-07 **ADOPTED: 3-22-07**
REVISION #1 PROPOSED: 4-9-20 **REVISION #1 ADOPTED 4-9-20**
REVISION #2 PROPOSED: 10-19-23 **REVISION #2 ADOPTED: 10-19-23**

SUBJECT: Coordination with Other Agencies

Coordination with Other Agencies

Various state codes and regulations require the development and implementation of interagency agreements between education and other public funded agencies serving children with exceptional needs. The primary purpose of these agreements is to assure that each child receives the necessary support services and program to meet his needs in the most efficient and effective manner.

North Region Special Education Local Plan Area (SELPA) has developed, is reviewing, or has revised interagency agreements with California Children's Services and Head Start. An agreement with Regional Center of the East Bay is maintained to ensure that children participating in early intervention programs under the Individuals with Disabilities Education Act (IDEA), Part C, and who will participate in preschool programs, experience a smooth and effective transition to preschool programs in a manner consistent with 20 USC Section 1437(a)(9). The transition process shall begin prior to the child's third birthday." The liaison for each of these interagency agreements is the SELPA Director.

The local plan shall be adopted by the appropriate local board(s) (district/county) and is the basis for the operation and administration of special education programs, and that the agency(ies) herein represented will meet all applicable requirements of state and federal laws and regulations, including compliance with the IDEA; the Federal Rehabilitation Act of 1973, Section 504 of Public Law; and the provisions of the California Education Code, Part 30.

Copies of the completed agreements are kept on file in the SELPA office.

CLASSIFICATION: ADMINISTRATION

PROPOSED: 6-21-07 **ADOPTED: 6-21-07**

SUBJECT: SELPA Director Appointment & Evaluation

SELPA DIRECTOR APPOINTMENT & EVALUATION

The SELPA Director shall serve as the chief administrator of the SELPA; represent the SELPA in all matters and is responsible to the Policy Board. The SELPA Director shall provide leadership and coordination for all matters related to Special Education with the member Local Education Agencies (LEAs), State, related organizations and SELPA.

The SELPA Director shall be responsible for all areas of function required to operate the SELPA. The SELPA Director shall possess valid and appropriate certification to act as SELPA Director in the State of California.

The Policy Board shall establish the procedure to select and make the final appointment of a SELPA Director. The SELPA Director shall be an employee of the SELPA under an "Agreement for Employment." The "Agreement for Employment" shall address specific conditions of employment and evaluation.

CLASSIFICATION: ADMINISTRATION

PROPOSED: 6-21-07 **ADOPTED: 6-21-07**

SUBJECT: Annual Evaluation

ANNUAL EVALUATION

The SELPA in cooperation with the State Department of Education, realizes the need to establish an on-going evaluation process to ensure that programs are offered at optimum levels for all individuals with disabilities. Such evaluation shall provide the information necessary to refine and improve policies, regulations, guidelines and procedures. The SELPA shall allocate funding to collect the necessary information and report the results to the State to fulfill these requirements.

CLASSIFICATION: ADMINISTRATION

PROPOSED: 6-21-07 **ADOPTED: 6-21-07**

SUBJECT: Program Certification

PROGRAM CERTIFICATION

The Program Certification process allows an annual review of data from the previous year and explores options for the current year. The process provides consultation to the member LEA in the areas of students, services, personnel, expenses, and resources. The products of the meeting provide information for State mandated reports including the Annual Service Plan and Annual Budget Plan and for the Federal mandate to document Maintenance of Effort.

The North Region SELPA director shall meet with each member LEA's special education administrator, business official, and other LEA staff at the LEA's request. Both the LEA and SELPA staff will prepare materials for the review prior to the meeting. Data to be reviewed may include but not be limited to:

1. Pupil Count
2. Personnel Lists
3. Service Delivery Model
4. Case Loads
5. Attendance Reports
6. Compliance and Other State Key Performance Indicators
7. Expenditure Reports
8. Funding Reports
9. Budget Reports
10. Service Delivery Locations

Every effort will be made to support LEAs in the appropriate reporting of allocation and expenditures related to special education. The SELPA shall recapture funding in accord with SELPA Policies when the documentation reviewed in the Program Certification process it reveals that:

- Restricted Special Education funds are not used appropriately;
- A member LEA does not meet the federal and state requirements for compliance, maintenance of effort, and/or reallocation of recaptured resources;

- Out of Home Care funding is not used to serve students with IEPs who reside in Foster Family Homes, Group Homes, and Skilled Nursing or Intermediate Care Facilities.

The amount of funding recaptured shall match the amount not used for special education or the amount of un-met responsibility for maintenance of effort. Such issues shall be documented from actual expenditure and resource calculations from the prior year and applied to the current year allocation. When the SELPA recaptures funds, the SELPA Director shall notify the Alameda County Superintendent in regard to the School District Fiscal Accountability Statutes.

Appeal of the recapture of funding by an LEA may be made to the Policy Board after notification to the Superintendent of the LEA by the SELPA Director and at least sixty days before the end of the fiscal year in which funding is recaptured.

CLASSIFICATION: ADMINISTRATION

PROPOSED: 6-21-07 **ADOPTED: 6-21-07**
REVISION PROPOSED: 1-19-23 **REVISION ADOPTED: 1-19-23**

SUBJECT: Data Collection

DATA COLLECTION

The SELPA Director is responsible for the overall coordination, implementation and reporting of data for special education, as required by California Department of Education. Data on special education personnel will be provided in a manner prescribed by the CDE. Data on pupils in special education, special education services, postsecondary training/education/employment, and discipline (including suspension and expulsion rates) will be reported through CALPADS. When indicated by data analysis, the SELPA assures that policies, procedures, and practices related to the development and implementation of the IEPs will be revised.

Data gathering, compilation, reporting and local review will be completed by the designated responsible individual(s) assigned by the SELPA Director. Member Districts of the SELPA will provide personnel to process data and certify the accuracy of information gathered. The SELPA will provide training and technical support to LEA staff.

Data collected shall be forwarded to the SELPA Director for compilation into reports, which shall be forwarded to the LEA Special Education Administrators and the State Department. Published reports shall be available for review by interested community members.

CLASSIFICATION: ADMINISTRATION

PROPOSED: 6-21-07 **ADOPTED: 6-21-07**
REVISION PROPOSED: 1-19-23 **REVISION ADOPTED: 1-19-23**

SUBJECT: Annual Service Plan

ANNUAL SERVICE PLAN

An Annual Service Plan is required by law and shall be adopted at a public hearing. The Annual Service Plan shall follow the regulations provided by the California Department of Education (CDE). The North Region SELPA Director shall prepare such materials and forward the required documents to the CDE. The purpose of the Annual Service Plan is to provide the public with an overview of the programs and services available within North Region SELPA.

The continuum of service options available in North Region SELPA offer a range for consideration by Individualized Education Plan (IEP) teams to address the individual needs of students with disabilities. Names for programs and services are used to communicate the structures present in a particular setting and are not intended to limit or restrict the flexibility that staff can provide in delivery of service or location of service to meet the needs of an individual student. When appropriate, new labels and descriptions may be added to the list of existing service labels and descriptions to acknowledge current practice which may be required to meet the needs of eligible students. Goals and objectives listed on a student's IEP should determine the services required to enable the student to benefit from his/her educational program.

The service labels provided by CDE and service descriptions outlined in the CDE Special Education Division Local Plan Guidance are those used by North Region SELPA.
The service labels for North Region SELPA shall be used for:

- Reporting to CDE through the SELPA's Annual Service Plan
- Writing IEPs for students
- Recording student data for the special education pupil count
- Reporting for Program Certification
- All purposes requiring use of such service labels

CLASSIFICATION: ADMINISTRATION

PROPOSED: 6-21-07 **ADOPTED: 6-21-07**
10-29-21 **1-21-21**

SUBJECT: Annual Budget Plan

ANNUAL BUDGET PLAN

An Annual Budget Plan is required and shall be adopted at a public hearing. The Annual Budget Plan shall follow the regulations provided by the California Department of Education. The SELPA Director shall prepare such materials and forward the required documents to the CDE. The purpose of the Annual Budget Plan is to provide the public with an overview of the resources available as allocated within SELPA. For SELPA the requirements are met through the application of policy with updated fiscal calculations submitted for the current year. General provisions for use and allocation of funds are addressed below with specific policies addressing the technical implementation.

K-12 Resources
Resources provided under AB 602 The Special Education Funding Reform Act intended for the operation of special education programs and services shall be blended into a single funding model as described in Policy 3100: Special Education Resource Allocation.

Part C Resources (Infants)
Resources provided to meet the needs of eligible infants and their families shall be shared among the LEAs providing services and the SELPA. Provider LEAs and the SELPA will design and fund services to be provided by the SELPA and share equally remaining resources as described in Policy 3140: Part C Resources (Infants).

Federal Preschool
Federal Preschool program revenue will be distributed based upon the previous year's Pupil Count of three and four year olds served by District. LEAs may assign their pupil count for service and funding to another LEA.

Federal Preschool Personnel Development Revenue shall be assigned to the SELPA.
Details are described in Policy 3160: Federal Preschool.

Low Incidence Funds
Low Incidence funding is restricted to the use for students in the following disability categories:

hard of hearing, deaf, visual disability, orthopedically impaired and deaf-blind. Low Incidence Equipment Funds shall be used to reimburse LEAs for the cost of specific equipment as described in Policy 3200: Low Incidence Equipment Funds. Low Incidence Service Funds shall be used to reimburse LEAs for the cost of specific service as described in Policy 3210: Low Incidence Service Funds.

Regionalized Service Funds

Regionalized services and program specialist funds shall be allocated to the SELPA to support regionalized services and other administrative costs of the implementation of the SELPA Local Plan. The Policy Board shall review and adopt an expenditure plan, which includes, but is not limited to, the use of these funds to operate the SELPA. Details are presented in Policy 3110: Allocation for Operation of the SELPA.

CLASSIFICATION: ADMINISTRATION

PROPOSED: 4-9-20 **ADOPTED: 4-9-20**

SUBJECT: Regional Operations/Service Roles and Responsibilities

The North Region Special Education Local Plan Area (SELPA) is a multi-district SELPA comprised of five local educational agencies (LEAs) joined together to provide for the coordinated delivery of programs and services to students with disabilities. The Albany Unified School District is designated as the Administrative Unit (AU) for the North Region SELPA. In adopting the Local Plan, each participating LEA agrees to carry out the duties and responsibilities assigned to it within the plan and to ensure equal access to programs and services to eligible persons requiring special education in the service region.

The Albany Unified School District is designated as the Administrative Unit (AU) for the North Region SELPA. The AU is the SELPA's fiscal agent and a written agreement is maintained by the Policy Board that describes the AU responsibilities for implementing the following functions:

a. Receipt and distribution of special education funds for the operation of special education programs and services, pursuant to state and federal law
b. Administrative support of the SELPA, including payroll, benefits, information technology, expenditure accounting, and ensuring that facilities to house and operate the SELPA are provided by a member district.
c. Employment of SELPA staff to coordinate implementation of the Local Plan, including human resource activities required to recruit, interview, and start new employees.

The SELPA Director assures equal access to all programs and services in the SELPA and provides information and guidance to members of the public, including parents or guardians of individuals with disabilities who are receiving services under the Local Plan, on the availability of established due process and legal service options and procedures. In cooperation with the State Department of Education, the SELPA Director provides information to assure that all special education pupils receive due process of law. In order to implement the local plan, the SELPA Director shall be considered a "school official and employee" in regards to access to student records. Specific duties include, but are not limited to:

a. Coordinate Local Plan development and amendments
b. Develop and monitor Interagency Agreements
c. Develop and monitor non-public school/agency contracts and services
d. Determine and evaluate SELPA Program Specialist services
e. Complete program review, data collection, and evaluation
f. Assist LEAs with curriculum and program development

g. Hire, monitor and evaluate SELPA personnel
h. Coordinate and conduct staff development
i. Allocate special education fiscal resources
j. Compile and submit to the state special education fiscal reports
k. Maintain special education policies and procedures documentation and recommend new policies and policy updates for Policy Board adoption
l. Participate in dispute resolution
m. Coordinate necessary services for individuals with disabilities among LEAs
n. Provide LEAs with technical assistance to meet special education compliance requirements
o. Consult with LEAs to ensure students with disabilities are appropriately represented in Local Control Accountability Plans
p. Advocate for legislation that supports special education policy and funding
q. Facilitate member LEAs to communicate and collaborate on common goals
r. Inform the Policy Board, CAC, and LEAs of legislative and fiscal changes, proposals, trends, and concerns related to the provision of services for students with disabilities.

LEAs will:

a. Ensure a full continuum of service is available to provide a free appropriate public education to all students with disabilities for whom they are responsible
b. Consult with the SELPA Director to assure each LEA's Local Control Accountability Plan (LCAP) goals appropriately address the learning needs of students with disabilities.
c. Conduct Child Find activities to ensure all children within their jurisdiction suspected of having a disability are identified, located, and assessed including children in medical facilities, foster homes, LCI facilities, and private schools.
d. Provide appropriate career, vocational, and transition services as required under federal and state laws for students with disabilities
e. Ensure that students with disabilities will have access to instructional materials, support**,** and all required core curriculum including state adopted core curriculum and supplementary materials

The SELPA Program Specialist assists in the development of SELPA policies, Local Plan, and procedures related to the provision of special education and related services. In order to implement the local plan, the Program Specialist shall be considered a "school official and employee" in regards to access to student records. The North Region SELPA Program Specialist is employed through the Administrative Unit and serves the SELPA under the direction of the SELPA Director. The SELPA Director evaluates the program specialist. The program specialist must hold at least one of the following: a valid California Education Specialist credential, a California Special Education credential, a basic Pupil Personnel Services credential, or a Pupil Personnel Services credential in School Psychology, Counseling, or Social Work. The SELPA Program Specialist shall have advanced training and related experiences in the education of individuals with disabilities and a specialized in-depth knowledge in one or more areas of disabling condition. In order to implement the

local plan, Program Specialist shall be considered a “school official and employee” in regards to access to student records. The program specialist may do all of the following:

a. Plan and implement staff development and innovation of special methods and approaches for the instruction of individuals with disabilities.
b. Assist districts in the identification, selection, and use of instructional materials, curriculum and methodologies.
c. Assist in supervision of selected support staff within the member districts to assure quality services are provided to students and parents.
d. Serve as intake coordinator for and provider of the SELPA Alternate Dispute Resolution Program.
e. Serve as liaison between member districts, SELPA, and other public agencies to ensure timely services are provided.
f. Assist districts in monitoring compliance with state and federal laws.
g. Assist in the development of SELPA policies, Local Plan, and procedures related to the provision of special education and related services.
h. Provide coordination and consultation in program development within member districts.
i. Assist with placement of students outside of their districts of residence into member districts, neighboring SELPAs, nonpublic schools, etc.
j. Provide other services as directed by the Director of North Region SELPA.

CLASSIFICATION:
BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

PROPOSED: 1-20-11	**ADOPTED: 1-20-11**
REVISION #1 PROPOSED: 5-8-17	**REVISION #1 ADOPTED: 5-23-17**
REVISION #2 PROPOSED: 10-29-20	**REVISION #2 ADOPTED: 1-21-21**

SUBJECT: SPECIAL EDUCATION RESOURCE ALLOCATION

It is the responsibility of each member district and the SELPA to assure a free and appropriate education for each special education pupil residing within its geographical boundaries. This responsibility shall be met by direct provision of services, establishing an agreement with another public education agency, or contracting with non-public school and agencies. The allocation plan for distribution of resources must recognize the responsibility for all children in the SELPA while addressing the need to equitably share resources among the districts and other LEA members of the SELPA. The allocation process and procedures are for the distribution of available resources and are not a restriction of services to be provided for eligible pupils.

To provide maximum flexibility to the SELPA, the SELPA Director is authorized to notify the California Department of Education (CDE) to provide all resources to the SELPA through the Administrative Unit. Allocation to the LEAs will be made according to SELPA policy and processed through the Alameda County Office of Education for apportionment directly to the entitled LEA. If additional funds are received beyond those anticipated, they would be apportioned to the Administrative Unit for deposit to SELPA accounts. Additional funds will be distributed according to SELPA policy and/or decisions made by the SELPA Policy Board.

Funding under this policy shall mean the sources referenced in the state certification process including Federal Local Assistance and shall be allocated under the terms of this policy unless specifically identified and directed otherwise by policy.

The coordination and implementation of the State Apportionment for Special Education allocation plan shall be the responsibility of the SELPA Director. The SELPA Director will monitor revenues at each Certification period and make adjustments according to policy to assure that each LEA receives the full share of funding as provided by the State and SELPA policy. Notification will be made to the Alameda County Office of Education for immediate transfer of apportionment directly to the entitled LEA upon receipt of funds to the extent possible. Adjustments will be made as projections are revised and actual revenues are received to fully allocate all resources to LEAs by SELPA policy.

LEAs shall follow data collection procedures established by the SELPA Director and provide

the required information in a timely manner. The SELPA Director shall collect data during the prior year for application to the process. A report will be provided in March to all districts for the current school year and projections for the following school year. Actual operations and allocation will be made at the time of State report periods. The cost of living adjustment referenced in this policy shall be the statutory rate provided in the State budget.

The SELPA Director shall use the following steps to determine resource allocation:

1. Guidelines for the allocation procedures must include:
   a. Assurance that all State authorized allocations are fully utilized.
   b. Consideration for generation of maximum State revenue.
   c. Implementation in a timely manner to accommodate fiscal and personnel considerations.
   d. Adherence to State and SELPA regulations and policy.
   e. Review in the Program Certification process by the special education administrator, in conjunction with the LEA Business Services/Financial staff, and SELPA staff to assure the effective utilization of all resources and meeting of maintenance of effort standards.

2. An Annual Budget Plan shall be developed annually to display the SELPA budget plan at a Public Hearing. The plan will include the SELPA's current year expected special education revenue and expenditures based on specific SACS codes as required by CDE and used by the LEAs. LEA and aggregated SELPA information will be presented in a form that is understandable to the general public and meets the requirements for reporting to the state.

3. An Annual Service Plan shall be developed annually to display the SELPA's service delivery models at a Public Hearing. LEA and aggregated SELPA information will be presented in a form that is understandable by the general public and meets the requirements for reporting to the state.

4. The SELPA Director shall monitor and evaluate the progress of the allocation plan and make recommendations to the Policy Board.

5. A hold harmless subsidy shall be provided to support each district in transitioning to modifications to the allocation policy required by the SELPA. Allocations to districts entitled to increased funds shall be restricted to provide maintenance of allocation for other districts at the prior year rate where specifically based on the policy change.

Allocation procedures shall include:

1. CALPADS data collected in fall of the prior school year for each LEA shall be used to determine each LEA's percentage of the SELPA's total CALPADS.

2. Member districts shall share Out of Home Care funding for children receiving special education services and residing in a Licensed Children's Institution, Foster Family Home, Skilled Nursing Facility, etc. based on the students' reporting district in the prior year

CALPADS October Census Day pupil count or, for facilities not specified in CALPADS, the district where the facility is located if the address is published.

3. Preschool funding shall be provided from the allocation at a rate of 8.57% of the available funding to the districts of service of preschoolers. Grants for preschool age children shall be in addition to the Allocation Plan revenue. Districts receive proportional funding from the allocation and grants based on the prior year Pupil Count of 3 and 4 year olds by reporting district.

4. Additional policy may be established by the Policy Board to establish specific parameters for recapture and reallocation of resources from districts that do not meet federal and state requirements for compliance and maintenance of effort.

5. The SELPA Director will assign resources, to give flexibility to the plan and provide for the needs of small districts and programmatic requirements. Program Flexibility revenue shall include three percent (3%) of the current year's total SELPA allocation and any additional funding necessary to accomplish hold harmless provisions during policy transition as defined at the time of the policy change. Primary use of the funds should allow limited subsidy of districts experiencing a reduction in funding from the prior year. Districts allocated resources less than the previous year shall receive a subsidy up to a maximum of $150,000 for 2005-06 adjusted annually by the cost of living adjustment. Any unused balance Program Flexibility revenue shall be distributed based on percent of SELPA. In the event that districts' allocation needs exceed the total of program flexibility revenue allocation, the excess need will be prorated. The proration will be based on each LEA's percent of the SELPA's enrollment total and subtracted from each LEA's program flexibility entitlement. This calculation will equally share the impact of the shortfall in program flexibility funds.

6. Deduct from the current year's total Dollars Available resources provided by the state for the SELPA, the Out of Home Care allocation, Low Incidence allocation, Preschool allocation, and Program Flexibility allocation to determine the total revenue available for District Allocation.

7. Calculate by the District Percent of SELPA Total, the District Allocation for each district.

8. Allocate the proportion of the Federal Local Assistance Grant (Resource 3310) that had previously been received through the Federal Preschool Local Assistance Grant (discontinued Resource 3320) to goal 5730.

9. Add or subtract any revenue transferred from or to a member district to another member district. At the option of the district, the district may authorize transfer of revenue to another district within the SELPA to pay for placement costs of students per written agreement.

10. Determine the total revenue for each LEA. This becomes Special Education funding for district operation.

11. An Allocation Worksheet shall be developed to implement the calculations represented in this policy.

12. A Distribution Worksheet shall be developed to display all sources of funding received by a district for providing special education programs and services.

13. A Monthly Transfer Worksheet and Year To Date Summary Worksheet shall be developed to notify the County Office Of Education and communicate with districts.

14. Allocation and Distribution Worksheets shall be used at each projection and certification period for each funding year that remains open and active.

CLASSIFICATION:
BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

PROPOSED: 3-27-14 **ADOPTED: 5-22-14**
REVISION PROPOSED: 11-1-21 **REVISION PROPOSED: 11-1-21**

SUBJECT: Allocation for Operation of the SELPA

ALLOCATION FOR OPERATION OF THE SELPA

The allocation for operation of the SELPA shall be consistent with prior years. Resources provided to support the operation of the SELPA shall include the 2012-13 Program Specialist/Regionalized Services funding, the Personnel Staff Development Grant, and any other grants allocated to the SELPA in 2012-13. In 2013-14 and in subsequent years, these amounts shall be increased by any annual cost of living adjustment identified in the State Certification process.

Other funds, which may in part be sought by the SELPA staff, shall be added for the operation of the SELPA when funds are identified. Such funds are not intended for the delivery of direct service to students based on their IEP but rather as support to students, parents, and districts in the coordination and administration of the operation of special education programs and services and related matters.

The SELPA Director is authorized by the SELPA Policy Board to enter into contracts on behalf of the SELPA for the acquisition of services, supplies, equipment, and other resources necessary to achieve the SELPA goals. In exercising this authority the North Region SELPA Director shall ensure that the interest of the SELPA is protected and that contracts conform to applicable legal standards. The SELPA Director is authorized to enter into contracts for the amount of $50,000 or less without Policy Board approval. All contracts in excess of $50,000 shall be approved by the Policy Board.

Funds provided for the operation of the SELPA shall be restricted in nature to the legal intentions for Program Specialist and Regionalized Services. Funds may be carried over from year to year but shall continue to be restricted to this budget process and purpose.

CLASSIFICATION:
BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

PROPOSED: 4-13-05 **ADOPTED: 5-31-05**
REVISIONS PROPOSED: 10-29-20 **REVISIONS ADOPTED: 1-21-21**

SUBJECT: Infant Units Funding

INFANT UNITS FUNDING (Resource #6510)

State funds are allocated through the AB 602 apportionments to SELPAs that operate Early Education Programs for individuals with exceptional needs younger than three years of age. SELPAs that have historically received state funding for this specific infant program are the only eligible recipients. No new participants are allowed. The Local Early Access Program (LEAP) at UCSF Benioff Children's Hospital Oakland meets eligibility requirements for these funds. North Region SELPA distributes AB 602 Infant Units funds to the Alameda Unified School District which writes a check payable to the LEAP program in the amount defined through a Memorandum of Understanding between the Alameda Unified School District and UCSF Benioff Children's Hospital Oakland. The balance of the grant funding is retained by the Alameda Unified School District for administrative costs and supports for LEAP incurred by the Alameda Unified School District.

CLASSIFICATION:
BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

PROPOSED: 4-13-05	**ADOPTED: 5-31-05**
REVISION #1 PROPOSED: 3-28-19	**REVISION #1 ADOPTED: 5-23-19**
REVISION #2 PROPOSED: 10-29-20	**REVISION #2 ADOPTED: 1-21-21**

SUBJECT: PART C RESOURCES (INFANTS)

PART C RESOURCES (INFANTS)

Federal Grant Part C, Early Education Programs (Resource #3385)
In 1986, the federal government enacted PL 99-457, which authorized grants to states to plan and implement a comprehensive, community-based interagency system of early education services for infants and toddlers with disabilities and their families. The lead agency for Part C of IDEA is the Department of Developmental Services (DDS). State legislation (The California Early Intervention Services Act - *Government Code* [*GC*] §s 95000 et. seq.) enabled California to participate in the Part C program and created a statewide mandate for LEAs to serve all infants and toddlers with solely low incidence disabilities. Allocations are based on an Interagency Agreement with the DDS and the California Department of Education (CDE). The grants fund each SELPA based on their specific cost impacts.

SELPA Allocation
Grant resources provided to meet the needs of eligible infants and their families shall be allocated to the SELPA and shared among the LEAs providing services.

As intended in the development of the grant as described by the CDE $25,000 shall be assigned to the SELPA Operations Budget for administration, coordination, and staff development. The balance of grant funding for this purpose shall be distributed to member districts based on prior year District of Residence count of students age birth, one, and two that are case managed by a North Region SELPA member district. In the case of a District of Residence contracting with another district in the North Region SELPA to provide services to an infant, the District of Residence will inform the North Region SELPA Director and the count for that infant will be the District of Service.

The participating LEAs shall expend the funds as prescribed by the grant and shall provide information to the SELPA to maximize the availability of resources for this population.

State Grant, Infant Discretionary Funds (Resource #6515):
Infant Discretionary Funds are established for direct early education services for infants who have disabilities. In the past, these funds were used to offset shortfalls in the growth appropriation for infants. With the implementation of the Early Intervention Program (Part C), the California Department of Education reserved these funds to address unanticipated direct service impacts of transitioning to the new Part C program.

SELPA Allocation

Grant resources provided to meet the needs of eligible infants and their families shall be allocated to the SELPA and shared among the LEAs providing services.

The grant funding shall be distributed based on prior year District of Residence count of students age birth, one, and two that are case managed by a North Region SELPA member district. In the case of a District of Residence contracting with another district in the North Region SELPA to provide services to an infant, the District of Residence will inform the North Region SELPA Director and the count for that infant will be the District of Service.

The participating LEAs shall expend the funds as prescribed by the grant and shall provide information to the SELPA to maximize the availability of resources for this population.

CLASSIFICATION:
BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

PROPOSED: 10-26-09 **ADOPTED: 3-22-07**

SUBJECT: K-12 Resources

K-12 RESOURCES

An equitable distribution of resources to the member LEAs of North Region SELPA shall be based on each district's prior year CBEDs count. Out-of-Home Care funding shall be distributed to each LEA based on prior year pupil count of those children and youth ages 3 to 21 years inclusive, who are residing in (1) foster family homes, small family homes, or foster family agency licensed by the State Department of Developmental Services or (2) skilled nursing or intermediate care facility licensed by the State Department of Health Services, or (3) community care facility licensed by the State Department of Social Services.

Property taxes raised for special education purposes are distributed to the each district as part of their entitlement for special education services rendered to the participants in the SELPA. [56205(b)(1)(G)]

Procedures shall be undertaken to ensure that all resources are allocated and operated. Through review and amendment of reports, districts will be assisted in the enhancement of revenues.

The SELPA will coordinate the implementation of a review of facilities with each school district to ensure equitable sharing in the responsibility for providing classroom spaces to house special education programs and services. The district of residence is responsible for the facility needs of all students residing within their boundaries.

CLASSIFICATION:
BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

PROPOSED: 10-26-06 **ADOPTED: 1-18-07**
REVISION PROPOSED: 10-29-20 **REVISION ADOPTED: 1-21-21**

SUBJECT: Federal Preschool

FEDERAL PRESCHOOL Resource 3345

Federal Preschool Personnel Development Revenue shall be assigned to the SELPA.

CLASSIFICATION:
BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

PROPOSED: 10-26-06 **ADOPTED: 3-22-07**
REVISION PROPOSED: 3-23-23 **REVISION ADOPTED: 3-23-23**

SUBJECT: Low Incidence Funds

LOW INCIDENCE BOOKS, MATERIALS, EQUIPMENT, AND SERVICES FUNDS

Each member district recognizes the need to utilize funding for the purchase of specialized equipment, materials, books, and services as specified in the IEPs of students with low incidence disabilities. Low incidence disabilities are defined in EC Section 56026.5 as hearing impairments, vision impairments, severe orthopedic impairments, or any combination thereof. Vision impairments do not include disabilities within the function of vision specified in Section 56338 (i.e., specific learning disability resulting from visual perceptual or visual motor dysfunction). Students with more than one disabling condition may access low incidence services and equipment if their primary or secondary disability is a qualifying low incidence disability.

Education Code Section 56836.22 provides for funds to support special education and related services as required under the individualized education program for each pupil with low-incidence disabilities, as defined in Section 56026.5. Education Code Section 56363(b)(16) states that Related Services "may include but not be limited to: Specialized services for low-incidence disabilities, such as readers, transcribers, and vision and hearing services." The California Code of Regulations under Title 5, Section 3051.16 further defines these services: "Specialized services for low-incidence disabilities may include:
1. Specially designed instruction related to the unique needs of pupils with low-incidence disabilities provided by teachers credentialed pursuant to Education Code 44265.
2. Specialized services related to the unique needs of pupils with low-incidence disabilities provided by qualified individuals such as interpreters, note takers, readers, transcribers, and other individuals who provide specialized materials and equipment."

Limitations
Funds may be expended only to purchase specialized equipment, materials, supplies, and services for students with a low incidence disability.
1. Equipment funds may not be used to:
   a. furnish CCS medical therapy units
   b. purchase medical equipment needed for providing specialized health care procedures
   c. construct or alter facilities or to acquire storage units
   d. supplant funding for books, materials, and equipment provided through the base

program to students or to furnish classrooms
e. supplant books, equipment and materials which have been provided by other agencies

2. Services are limited to direct services to the student or students with low-incidence disabilities. Specialized services must relate to the unique educational needs resulting from the student's low incidence disability or disabilities. Services funds may not be used:
   a. for services to staff or for any other purpose
   b. to provide services to meet other special education needs of these students or regular education needs provided through the base program
   c. to supplant existing services
   d. to supplant services which may have been provided by another agency

3. Funds may be expended for any pupil who qualifies as a student with a low incidence disability.

Equipment, material, and books purchased with low incidence funds are the property of the State of California and not the property of students, parents, member Districts, or the North Region SELPA. These materials are on loan to the students for whom the purchases were made and will be utilized according to individual needs.

Funds may be expended for equipment required by a student's IEP to complete goals/objectives and to access general education. It may be further determined that the student requires access to this equipment during specific non-school hours in order to maintain skills and complete school related assignments. This use of equipment will be determined on an individual basis.

Low Incidence Equipment Funds are distributed to the member Local Education Agencies (LEAs) based on prior year pupil count of those students, ages 0 – 21, identified as having a low incidence disability.

Funds not expended in a current year are to be carried over to the following year.

Member LEAs are responsible for approving all purchases of low incidence specialized books, materials, equipment, or services as well as expenses for repair, and maintenance. Low incidence funds may be used for the repair and maintenance of low incidence equipment, but not for coordination activities.

It is the responsibility of the member District to check within the North Region SELPA to determine if the item is available from those sources before making a purchase.

Low incidence equipment/materials/supplies will transfer with the student if the student transfers to a member district within the North Region SELPA. Except as specified in Education Code 56040.3 regarding assistive technology, if the student transfers out of the North Region SELPA, the equipment/material/supplies purchased with low incidence funds remain with the member district that made the purchase. Districts will notify the SELPA about low incidence equipment that is no longer needed nor anticipated to be needed by any student

(i.e., surplus). The SELPA will communicate the availability of surplus equipment to other districts in the SELPA and if not needed by any of them, communicate the availability of surplus equipment to other SELPAs in the state. Equipment that is not needed through any of these steps may be stored by the member district that purchased the equipment. Equipment that is no longer needed anywhere, that is antiquated or broken beyond cost-effective repair is disposed of by the District in the same manner as other district surplus.

Regardless of Low Incidence Fund reimbursement, member LEAs are responsible for providing equipment and services documented in individual student IEP.

Legal Reference: California Education Code 56836.22

CLASSIFICATION:
BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

PROPOSED: 4-13-15 **ADOPTED: 5-31-05**

SUBJECT: Income

INCOME

The SELPA Director shall provide for the collection and receipt of all monies payable to the SELPA, shall keep accurate records, and shall deposit such monies as provided by law.

Legal Reference: California Education Code 41000,41017

CLASSIFICATION:
BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

PROPOSED: 10-26-06 **ADOPTED: 1-18-07**

SUBJECT: Expenditures

EXPENDITURES

The Policy Board shall authorize expenditures through approval of the SELPA Operations Budget as a spending plan and monitoring of disbursements. The SELPA Director shall provide for the expenditure of all monies, shall keep accurate records, and shall report all activity as provided by law.

All personnel shall observe the letter and the spirit of all laws and regulations relating to the expenditures of SELPA funds and to the control of its property.

All expenditures shall be accomplished in accordance with good business practices in coordination with the practices of the Administrative Unit.

Legal Reference: California Education Code 35020

CLASSIFICATION:
BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

PROPOSED: 10-26-06 **ADOPTED: 1-18-07**

SUBJECT: BUDGET AS SPENDING PLAN

The budget, as adopted by the Policy Board, constitutes the operating and spending plan for the SELPA during the fiscal year for which it is intended. The Policy Board may modify the budget from time to time.

The SELPA Director shall file all fiscal reports with the county, state or federal agencies, as required.

The SELPA Director shall establish a system of classification of accounts in compliance with the School Accounting Codes System and using the accounting methods required by the Administrative Unit so that proper control may be exercised over the expenditure of funds.

The SELPA Director shall administer the expenditure of funds in accordance with the budget adopted by the Policy Board.

The SELPA Director shall provide for a system of accounting in such a manner as to provide regular reports of the financial condition of the SELPA to the Policy Board and to provide accountability and audit ability of all funds in the control of the SELPA. The SELPA Director shall prepare and submit financial reports to the Policy Board following adoption of the final budget at required periodic report times and at end of the fiscal year showing revenues and expenditures. At each meeting of the Policy Board Monthly Activity Registers and Accounts Payable Activity Registers shall be presented for information only. The Policy Board must approve Budget Adjustments or Transfers.

The Policy Board requires the SELPA Director to submit for approval only those transfers between major classifications of expenditures as are necessary, during the year, to prevent over expenditure of major classifications. In the event any major classification is overspent at year-end, the SELPA Director will submit appropriate recommendations to the Policy Board.

The SELPA Director shall authorize payment of approved expenditures.

The SELPA Director shall be charged with the responsibility of proper fiscal management of the budget. In coordination with the Administrative Unit the SELPA Director or other specifically designated SELPA staff shall design the system of budgeting and accounting including preparation of materials for the review of the Policy Board.

Legal Reference: California Education Code 35035, 35161, 35166, 35250, 41010, 42100, 45167, 42600, 42601, 42800

CLASSIFICATION:
BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

PROPOSED: 10-26-06 **ADOPTED: 1-18-07**

SUBJECT: Purchase Orders

PURCHASE ORDERS

The SELPA Director shall establish a system of purchase orders in order to regulate and control the purchase of goods and services and to control the relationship with vendors. A separate system or adoption of the Administrative Unit's system shall be used in cooperation with the Administrative Unit.

Legal Reference: California Education Code 39657

CLASSIFICATION:
BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

PROPOSED: 5-11-06	**ADOPTED: 6-22-07**
REVISION #1 PROPOSED: 5-24-16	**REVISION #1 ADOPTED: 5-26-16**
REVISION #2 PROPOSED: 5-8-17	**REVISION #2 ADOPTED: 5-25-17**
REVISION #3 PROPOSED: 11-1-21	**REVISION #3 ADOPTED: 11-1-21**

SUBJECT: Placements Within North Region SELPA of Special Education Students Into Member School District Programs

Rationale

School districts within the North Region Special Education Local Plan Area (SELPA) have the responsibility of providing special education programs and services to all eligible students. In accordance with the Local Plan, special education students are assured equal access to special education services, as determined by each Individual Education Program (IEP) plan. When necessary, students may have access to special education programs and services from another school district within the SELPA when an appropriate program is not available in the student's district of residence. This SELPA policy allows the district of residence to bill the district of service within the SELPA for the cost of programs and services.

Policy Statement

School districts within North Region Special Education Local Plan Area (SELPA) may enter into a "Special Education Placements within North Region SELPA Agreement" with another member district to charge for programs and services attributed to the operation of a special education program for a student with a disability. The costs will be determined as follows:

1. For K-12 students receiving special education classroom-based services, the cost of an annual placement will be calculated as follows: Use the average SELPA cost of the salaries, health benefits, and STRS/PERS contributions for one special education teacher and two paraeducators. Add the Counseling related service rate (see 5.d. below) to the cost of classroom programs specifically designed for students with significant social/emotional learning needs (e.g., counseling enriched, etc.) Multiply this cost by a caseload factor of 0.10 (10 students). Subtract the prior year base Local Control Funding Formula (LCFF) amount for the grade level of the student. Annually, apply any special education cost of living adjustment (COLA) identified in the Governor's approved budget. Review costs every three years and recalculate the rates as necessary.

2. For K-12 students who are receiving special education services in a resource or learning center program, there will be no “classroom” charge for the services because the district of service receives the LCFF base funding for the grade level of the student.
3. For preschool students, the cost will be calculated as outlined in #1 above and prorated by the number of hours the student attends the program. The SELPA rates per preschool student, calculated per SELPA policy (i.e., 8.57% of SELPA revenue), will be subtracted from the cost.
4. For students in adult transition programs, the cost will be calculated as outlined in #1 above, and using the LCFF base rate for grades 9-12. When these programs are provided in conjunction with other agency programs, for example Community College programs or cooperative Regional Center programs, the district of service will identify the cost of the program annually and inform the SELPA Director and the LEA Special Education Directors no later than May 31st of any changes for the following year.
5. Related services will be billed using the SELPA average related-service provider hourly salary and multiplying by a caseload factor as follows:
    a. Speech/language, K-22 and Preschool – (0.025) 40 students
    b. Occupational therapy – (0.025) 40 students
    c. Adaptive PE – (0.033) 30 students
    d. Counseling – (0.050) 20 students
6. Extended School Year (ESY) costs will be based on an hourly cost, using the classroom-based formula defined in #1 above and multiplied by the number of hours per day times the number of days of ESY. Related service costs for ESY will also be based on an hourly rate.

Within SELPA Placement costs will be added and/or deducted from the total allocation per member district at P-1 and P-2; adjustments will be made accordingly. ESY costs will be included in P-2 allocations. When students are placed for only a part of a school year, the costs will be prorated and districts will be charged for the number of months the student attends.

Additional services, (for example 1:1 instructional aide or related service costs not identified in #5) will be negotiated separately between the districts.

School districts will follow the referral and placement process as outlined in the “Special Education Placement within North Region SELPA Procedures” in the North Region SELPA Procedural Guidelines Handbook.

CLASSIFICATION:
BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

PROPOSED: 10-26-06 **ADOPTED: 3-22-07**

SUBJECT: Conference and Meeting Expense

CONFERENCE AND MEETING EXPENSE

In conjunction with the SELPA Administrative Unit, procedures shall be established to reimburse SELPA employees for expenses incurred in conjunction with attendance at conferences and meetings that are related to the performance of assigned duties. Conference and meeting expenses, in order to be reimbursed, must have prior approval of the SELPA Director. Receipts will be required, except for meal per diem. The SELPA Director shall approve the actual reimbursement when the requirements of this policy have been met.

SELPA expenses shall be reviewed quarterly by the Policy Board.

Legal Reference: California Education Code 44032

CLASSIFICATION:
BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

PROPOSED: 10-26-06 **ADOPTED: 1-18-07**

SUBJECT: Mileage Allowance

MILEAGE ALLOWANCE

The SELPA Director shall establish procedures to provide reimbursement to SELPA employees for the authorized and required use of personal vehicles used in the performance of assigned duties.

The SELPA Director shall annually establish mileage reimbursement rates in accordance with the Internal Revenue Service adoptions.

Legal Reference: California Education Code 44032, 44033

CLASSIFICATION:
BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

PROPOSED: 4-13-05 **ADOPTED: 5-31-05**

SUBJECT: Administrative Unit Services

ADMINISTRATIVE UNIT SERVICES

The Policy Board shall identify a member Local Educational Agency (LEA) to serve as the Administrative Unit for the SELPA. Such services shall be set forth in a written "Administrative Unit Agreement." The Policy Board and the governing board of the LEA shall adopt the Agreement For Service.

The "Administrative Unit Agreement: shall provide for additional agreements between the administration of the AU and the SELPA for additional specified services and an identified a=cost.

It is intended that the SELPA maintain independent operation to the maximum extent possible, including oversight responsibility, while contracting with the Administrative Unit to satisfy legal and technical requirements that must be fulfilled by an Administrative Unit.

CLASSIFICATION: PERSONNEL

PROPOSED: 10-26-06 **ADOPTED: 3-22-07**

SUBJECT: Comprehensive System of Staff Development

COMPREHENSIVE SYSTEM OF STAFF DEVELOPMENT

Statement of Philosophy

The purpose of staff (& community) development is to provide the continuing education of personnel, parents and the community regarding individuals with exceptional needs (persons with disabilities). The goals of the SELPA for personnel development are:

1. To further develop the skills of personnel who deal with the special needs of students in order to provide effective educational opportunities and promote successful transitions to adulthood.

2. To promote cooperative efforts of special educators and general educators, at all levels, in planning and providing educational programs for students.

3. To inform and assist administrators in fulfilling the intent of current special education legislation.

4. To provide information and assistance to parents on systems, programs, disabilities and the law and promote parent-professional collaboration

Numerous staff & community development activities are conducted on an ongoing basis throughout the school year. A calendar, which includes state, regional, agency, SELPA and LEA inservice activities is produced and maintained by the SELPA office. This calendar is available on the SELPA website.

CLASSIFICATION: PERSONNEL

PROPOSED: 10-26-06 **ADOPTED: 3-22-07**
REVISIONS PROPOSED: 4-9-20 **REVISIONS ADOPTED: 5-21-20**

SUBJECT: Personnel Standards

PERSONNEL STANDARDS

It is the goal of the SELPA to provide highly qualified staff to serve students with disabilities and deliver special education and related services. Standards for employee categories shall be contained in the Annual Service Delivery Plan.

Personnel providing special education and related services are appropriately and adequately prepared and trained and that those personnel have the content knowledge and skills to serve students with disabilities. This policy shall not be construed to create a right of action on behalf of an individual student for failure of a particular staff member to be highly qualified or to prevent a parent from filing a State complaint with the CDE about staff qualifications.

When fully credentialed individuals are not available, the district may employ persons with intern permits, emergency permits, pre-intern certificates or credential waivers under the conditions and limitations provided in state and federal law. Such employees shall be required to complete the requirements for full certification and to meet the standards for highly qualified.

CLASSIFICATION: INSTRUCTION

PROPOSED: 3-24-11 **ADOPTED: 3-24-11**

SUBJECT: Prohibition On Mandatory Medicine

Prohibition on Mandatory Medicine

It is the responsibility of member Local Education Agencies (LEAs) of the North Region SELPA to prohibit school personnel from requiring a student to obtain a prescription for a substance covered by the Controlled Substances Act as a condition of attending school or receiving a special education assessment and/or services.

References: EC 56540.5, 56207.5.
USC Title 20 § 1400, § 1412 (a)(25)

CLASSIFICATION: INSTRUCTION

PROPOSED: 1-18-23 **ADOPTED: 3-21-24**
REVISION PROPOSED: 1-23-25 **REVISION ADOPTED: 1-23-25**

SUBJECT: Differential Graduation and Competency Standards for Students with Disabilities

The SELPA Policy Board recognizes that students with disabilities are entitled to a course of study that provides them with a free appropriate public education (FAPE) and that modifications to the district's regular course may be needed on an individualized basis to provide FAPE. In accordance with law, each student's individualized education program (IEP) team shall determine the appropriate goals, as well as any appropriate individual accommodations necessary for measuring the academic achievement and functional performance of the student on state and district wide assessments.

Exemption from District-Established Graduation Requirements
District students shall complete all course requirements for high school graduation as specified in Board Policy 6146.1 - High School Graduation Requirements. However, a student with a disability that entered the ninth grade in the 2022-23 school year and later shall be exempted from all coursework and other requirements adopted by the School Board that are in addition to the statewide course requirements for high school graduation if the student's IEP provides for both of the following requirements: (Education Code 51225.31).

1. That the student is eligible to take the alternate assessment as described in Education Code 60640

2. That the student complete state standards aligned coursework to meet the statewide coursework specified in Education Code 51225.3

A student with a disability that entered the tenth grade or higher in the 2022-23 school year may be eligible for the same exemption and diploma award if their IEP provides for the same two requirements specified above.

Any such exempted student shall receive a diploma and be eligible to participate in any graduation ceremony and school activity related to graduation in which a student of similar age without a disability would be eligible to participate. (Education Code 51225.31)

The district's responsibility to provide FAPE shall not terminate when a student with a disability who is exempted from district-adopted graduation requirements participates in graduation activities unless the student's IEP team, which includes the parent/guardian and student, has determined that the student has completed the high school experience. (Education code 51225.31)

Certificate of Educational Achievement or Completion

Instead of a high school diploma, a student with a disability may be awarded a certificate or document of educational achievement or completion if the student has met one of the following requirements: (Education Code 56390)

1. Satisfactorily completed a prescribed alternative course of study approved by the board of the district in which the student attended school or the district with jurisdiction over the student as identified in the student's IEP

2. Satisfactorily met the student's IEP goals and objectives during high school as determined by the IEP team

3. Satisfactorily attended high school, participated in the instruction as prescribed in the student's IEP, and met the objectives of the statement of transition services

A student with a disability who meets any of the criteria specified above shall be eligible to participate in any graduation ceremony and any school activity related to graduation in which a graduating student of similar age without disabilities would be eligible to participate. (Education Code 56391)

State	**Description**
5 CCR 3070	Graduation
Ed Code 60900.2	Students with Disabilities Graduation Reporting
Ed. Code 51225.31	Graduation exemption for students with disabilities
Ed. Code 56341	Individualized education program team
Ed. Code 56345	Individualized education program contents
Ed. Code 56390-56392	Recognition for educational achievement; special education

Federal	**Description**
20 USC 1400-1482	Individuals with Disabilities Education Act
34 CFR 300.1-300.818	Individuals with Disabilities Education Act
34 CFR 300.320	Definition of IEP

Management Resources	Description
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Education, Office of Special Education and Rehabilitative Services
Website	California Department of Education

Cross References

Code	Description
0430	Comprehensive Local Plan For Special Education
0430	Comprehensive Local Plan For Special Education
5127	Graduation Ceremonies And Activities
6146.1	High School Graduation Requirements
6146.3	Reciprocity Of Academic Credit
6146.3	Reciprocity Of Academic Credit
6159	Individualized Education Program
6159	Individualized Education Program
6159.1	Procedural Safeguards And Complaints For Special Education
6159.1	Procedural Safeguards And Complaints For Special Education
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education
6159.3	Appointment Of Surrogate Parent For Special Education Students
6159.3	Appointment Of Surrogate Parent For Special Education Students
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6164.4	Identification And Evaluation Of Individuals For Special Education

6164.4	Identification And Evaluation Of Individuals For Special Education
6200	Adult Education
6200	Adult Education

CLASSIFICATION: INSTRUCTION

PROPOSED: 3-24-16	**ADOPTED: 5-26-16**
REVISION #1 PROPOSED: 1-20-22	**REVISION #1 ADOPTED: 1-20-22**
REVISION #2 PROPOSED: 3-23-23	**REVISION #2 ADOPTED: 3-23-23**
REVISION #3 PROPOSED: 1-18-24	**REVISION #3 ADOPTED: 1-18-24**

SUBJECT: Individualized Education Program (IEP)

The Policy Board of the North Region SELPA desires to provide educational alternatives that afford students with disabilities full educational opportunities. Students with disabilities shall receive a free appropriate public education and be placed in the least restrictive environment which meets their needs to the extent provided by law.

The Director shall develop administrative regulations regarding the appointment of the individualized education program (IEP) team, the contents of the IEP, and the development, review, and revision of the IEP.

Further, the SELPA shall develop a “Procedural Handbook” to provide guidance to parents, students, and staff regarding best practices and SELPA procedures for ensuring compliance with Board Policy and Administrative Regulations.

For each student with disabilities, an individualized education program (IEP) shall be developed which identifies the special education instruction and related services (including transportation when necessary) to be provided to the student.

The member districts of the North Region SELPA shall make FAPE available to individuals with disabilities ages 3-21 who reside in the district, including: (Education Code 56040; 20 USC 1412; 34 CFR 300.17, 300.101, 300.104)

1. Students who have been suspended or expelled from school
2. Students who are placed by the district in a nonpublic, nonsectarian school
3. Individuals aged 18-21 years who are incarcerated in an adult correctional facility and were identified as being an individual with disabilities or had an IEP in their prior educational placement
4. Students placed in medical facilities that are located within member Districts
5. Students who reside in foster homes or licensed children’s institutions located within member Districts.

The confidentiality of personally identifiable data, information, and records related to students with disabilities and their parents and families shall be protected pursuant to the Family Education Rights and Privacy Act.

Legal Reference:
EDUCATION CODE
46392 Emergencies
51225.3 Requirements for high school graduation and diploma
56040.3 Assistive technology
56055 Rights of foster parents pertaining to foster child's education
56136 Guidelines for low incidence disabilities areas
56195.8 Adoption of policies
56321 Development or revision of IEP
56321.5 Notice to include right to electronically record
56340.1-56347 Instructional planning and individualized education program
56350-56354 IEP for visually impaired students
56380 IEP reviews; notice of right to request
56390-56392 Certificate of completion, special education
56500-56509 Procedural safeguards
60640-60649 California Assessment of Student Performance and Progress

FAMILY CODE
6500-6502 Age of majority

GOVERNMENT CODE
7572.5 Seriously emotionally disturbed child, expanded IEP team

WELFARE AND INSTITUTIONS CODE
300 Children subject to jurisdiction
601 Minors habitually disobedient
602 Minors violating law defined as crime

CODE OF REGULATIONS, TITLE 5
853-853.5 State assessments, accommodations
3021-3029 Identification, referral and assessment
3040-3043 Instructional planning and the individualized education program
5 CCR 3051-3053 Implementation of the individualized education program

UNITED STATES CODE, TITLE 20
1232g Family Educational Rights and Privacy Act of 1974
1400-1482 Individuals with Disabilities Education Act

CODE OF FEDERAL REGULATIONS, TITLE 34
300.1-300.818 Individuals with Disabilities Education Act

ATTORNEY GENERAL OPINIONS
85 Ops.Cal.Atty.Gen 157 (2002)

COURT DECISIONS
Marshall v. Monrovia Unified School District, (9th Circuit, 2010) 627 F.3d 773
Schaffer v. Weast (2005) 125 S. Ct. 528
Shapiro v. Paradise Valley Unified School District, No. 69 (9th Circuit, 2003) 317 F.3d 1072
Sacramento City School District v. Rachel H. (9th Cir. 1994) 14 F.3d 1398
Endrew F. v. Douglas County School District Re-1, 137 S. Ct. 988

Management Resources:
CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS
Frequently Asked Questions: Promotion, Retention, and Grading (Students with Disabilities)
California Practitioners' Guide for Educating English Learners with Disabilities, July 2019

WEB SITES
CSBA District and County Office of Education Legal Services: http://legalsrvices.csba.org
California Department of Education: http://www.cde.ca.gov
U.S. Department of Education, Office of Special Education and Rehabilitative Services: http://www.ed.gov/about/offices/list/osers/osep

CLASSIFICATION: INSTRUCTION

PROPOSED: 3-24-16	**ADOPTED: 5-26-16**
REVISION #1 PROPOSED: 4-9-20	**REVISION #1 ADOPTED: 4-9-20**
REVISION #2 PROPOSED: 3-23-23	**REVISION #2 ADOPTED: 3-23-23**
REVISION #3 PROPOSED: 1-8-24	**REVISION #3 ADOPTED: 1-18-24**

SUBJECT: Individualized Education Program (IEP)

Each district within the North Region SELPA shall have an IEP in effect at the beginning of the school year for each student with a disability within district jurisdiction who requires special education and related services in accordance with 20 U.S.C. Section 1414(d). The IEP shall be a written statement developed, reviewed, and revised by the IEP team to meet the unique educational needs of a student with a disability. (Education Code 56344, 56345; 34 CFR 300.320, 300.323)

Members of the IEP Team

Unless excused by written agreement in accordance with Education Code 56341, the IEP team for any student with a disability shall include the following members: (Education Code 56341, 56341.5; 20 USC 1414; 34 CFR 300.321)

1. One or both of the student's parents/guardians and/or a representative selected by them. To the extent permitted by federal law, a foster parent shall have the same rights relative to his/her foster child's IEP as a parent/guardian. (Education Code 56055)

2. If the student is or may be participating in the general education program, at least one of the student's general education teachers is designated by the Superintendent or designee to represent the student's teachers.

   The general education teacher shall, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of appropriate positive behavioral interventions, supports, and other strategies for the student, and supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student, consistent with 34 CFR 300.320. (Education Code 56341; 20 USC 1414; 34 CFR 300.324)

3. At least one of the student's special education teachers or, where appropriate, special education providers.

4. A representative of the district who is:

a. Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities.
b. Knowledgeable about the general education curriculum.
c. Knowledgeable about the availability of district resources.

5. An individual who can interpret the instructional implications of assessment results. This individual may already be a member of the team as described in items #2-4 above or in item #6 below.

6. At the discretion of the parent/guardian or the Superintendent or designee, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate.

   The determination of whether the individual has knowledge or special expertise regarding the student shall be made by the party who invites the individual to be a member of the IEP team.

7. Whenever appropriate, the student with a disability.

   In the development, review, or revision of his/her IEP, the student shall be allowed to provide confidential input to any representative of his/her IEP team. (Education Code 56341.5)

8. When the student is suspected of having a specific learning disability, at least one individual who is qualified to conduct individual diagnostic examinations of the student such as a school psychologist, speech language pathologist, or remedial reading teacher.

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

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

1. When the student has been placed in a group home by the juvenile court, a representative of the group home shall be invited to attend IEP team meetings. (Education Code 56341.2)

2. No later than the student's 16th birthday (earlier if appropriate), whenever the IEP team is meeting to consider the student's postsecondary goals and the transition services needed to assist him/her in reaching the goals as stated in Education Code 56345(a)(8), the following individuals shall be invited to attend: (34 CFR 300.321)

a. The student, regardless of the student's age. If the student does not attend the IEP team meeting, the Superintendent or designee shall take other steps to ensure that the student's preferences and interests are considered.
b. To the extent appropriate, and with the consent of the parent/guardian, a representative of any other agency that is likely to be responsible for providing or paying for the transition services.

3. If the student was previously served under the Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004), and upon request of the student's parent/guardian, the Superintendent or designee shall invite the Infant and Toddlers with Disabilities Coordinator or other representative of the early education or early intervention system to the initial IEP team meeting to assist with the smooth transition of services. (Education Code 56341; 20 USC 1414; 34 CFR 300.321)

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

Contents of the IEP

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

1. A statement of the present levels of the student's academic achievement and functional performance, including:
   a. The manner in which the student's disability affects his/her involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students).
   b. For a preschool child, as appropriate, the manner in which the disability affects his/her participation in appropriate activities.
   c. For a student with a disability who takes alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.

2. A statement of measurable annual goals, including academic and functional goals, designed to:
   a. Meet the student's needs that result from his/her disability in order to enable the student to be involved in and progress in the general education curriculum.
   b. Meet each of the student's other educational needs that result from his/her disability.

3. A description of the manner in which the student's progress toward meeting the annual goals described in item #2 above will be measured and when the district will provide periodic reports on the progress the student is making toward meeting the annual goals,

such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards.

4. A statement of the special education instruction and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student to:
   a. Advance appropriately toward attaining the annual goal.
   b. Be involved and make progress in the general education curriculum in accordance with item #1 above and to participate in extracurricular and other nonacademic activities.
   c. Be educated and participate with other students with disabilities and nondisabled students in the activities described in the IEP.

5. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the general education class and in extracurricular and other nonacademic activities described in the IEP

6. A statement of any appropriate individual accommodations necessary to measure the academic achievement and functional performance of the student on state and district-wide assessments

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

7. The projected date for the beginning of the services and modifications described in item #4 above and the anticipated frequency, location, and duration of those services and modifications

8. Beginning not later than the first IEP to be in effect when the student is 16 years of age, or younger if determined appropriate by the IEP team, and updated annually thereafter, the following:
   a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills.
   b. The transition services, including courses of study, needed to assist the student in reaching those goals.

9. A description of the means by which the IEP will be provided under emergency conditions, as described in Education Code 46392, in which instruction and/or services cannot be provided to the student either at school or in person for more than 10 school days. The description shall take into account public health orders and shall include special education and related services, supplementary aids and services, transition services, and extended school year services.

10. Beginning at least one year before the student reaches age 18, a statement that the student has been informed of his/her rights, if any, that will transfer to him/her upon reaching age 18, pursuant to Education Code 56041.5.

11. For a student in grades 7-12, any alternative means and modes necessary for the student to complete the district's prescribed course of study and to meet or exceed proficiency standards required for graduation.

12. Linguistically appropriate goals, objectives, programs, and services for a student whose native language is not English.

13. Extended school year services when the IEP team determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education (FAPE).

14. Provision for transition into the general education program at a public school if the student is to be transferred from a special class or nonpublic, nonsectarian school into a general education program in a public school for any part of the school day, including descriptions of activities intended to:
    a. Integrate the student into the general education program, including the nature of each activity and the time spent on the activity each day or week.
    b. Support the transition of the student from the special education program into the general education program.

15. Specialized services, materials, and equipment for a student with low incidence disabilities, consistent with the guidelines pursuant to Education Code 56136.

    To assist a student who is blind, has low vision, or is visually impaired, the IEP team may consider instruction in the expanded core curriculum, including compensatory skills such as Braille, concept development, or other skills needed to access the core curriculum; orientation and mobility; social interaction skills; career technical development; assistive technology, including optical devices; independent living skills; recreation and leisure; self-determination; and sensory efficiency. When appropriate, such services may be offered before or after school. (Education Code 56353)

Development of the IEP

Within 30 days of a determination that a student needs special education and related services, the Superintendent or designee shall ensure that a meeting to develop an initial IEP is conducted. (Education Code 56043; 34 CFR 300.323)

Any IEP required as a result of an assessment of a student shall be developed within 60 days from the date of receipt of the parent/guardian's written consent for assessment, unless the parent/guardian agrees, in writing, to an extension. Days between the student's regular school sessions, terms, or vacation of more than five school days shall not be counted. In the case of school vacations, the 60-day time limit shall recommence on the date that the student's school days reconvene. (Education Code 56043, 56344)

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

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

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

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

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

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

9. Whether the student requires assistive technology devices and services.

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

<u>Provision of Special Education and Related Services</u>

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

LEAs identify and serve students with disabilities who are placed in public hospitals, state-licensed children's hospitals, psychiatric hospitals, proprietary hospitals, or other health facilities for medical purposes located within their District. The SELPA facilitates services to medical facilities by the designated LEA and assures full educational opportunity for students placed there regardless of district of special education accountability.

Special education services for students residing in foster homes or licensed children's institutions are the responsibility of the district where the foster home or licensed children's institution is located unless based on Education Code there is another district of special education accountability that is responsible. The SELPA facilitates services to students residing in foster homes and licensed children's institutions by the designated LEA and assures full educational opportunity for students placed there regardless of district of residence.

Districts are responsible to provide transportation when determined by an IEP team to be necessary for a student to access special education. The SELPA provides technical assistance and training to Districts as needed to support coordination of transportation related services for students with disabilities.

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

If an orientation and mobility evaluation is determined to be needed for a student who is blind, has low vision, or is visually impaired, the evaluation shall be conducted by a person who is appropriately certified as an orientation and mobility specialist and shall occur in familiar and unfamiliar environments, in varying lighting conditions, and in the home, school and community, as appropriate. The Superintendent or designee may require annual written parent/guardian consent to provide orientation and mobility services when such services are provided before or after school and when they are provided away from the school site. (Education Code 56354; 5 CCR 3051.3)

If a student's IEP requires the provision of assistive technology devices or services, the district shall provide such devices or services and shall, on a case-by-case basis, provide for the use of school-purchased devices in the student's home or other settings if the IEP team determines that the student needs access to those devices in order to receive FAPE. If the student who requires the use of an assistive technology device transfers to another local educational agency, the district shall provide the student with continued access to that device or a comparable device for two months from the date the student ceased to be enrolled in the district or until alternative arrangements can be made to provide access to the device, whichever occurs first. (Education Code 56040.3; 34 CFR 300.105)

Review and Revision of the IEP

The Superintendent or designee shall ensure that the IEP team reviews the IEP periodically,

but at least annually, in order to: (Education Code 56043, 56341.1, 56380; 20 USC 1414; 34 CFR 300.324)

1. Determine whether the annual goals for the student are being achieved

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

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

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

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

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

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

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

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

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

Audio Recording of IEP Team Meetings

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

1. Inspect and review the audio recordings

2. Request that an audio recording be amended if they believe it contains information that is inaccurate, misleading, or in violation of the student's privacy rights or other rights

3. Challenge, in a hearing, information that the parents/guardians believe is inaccurate, misleading, or in violation of the student's privacy rights or other rights

Parent/Guardian Participation and Other Rights

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

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

1. Indicate the purpose, time, and location of the meeting.

2. Indicate who will be in attendance at the meeting.

3. Inform them of:
   a. Their right to bring to the meeting other individuals who have knowledge or special expertise about the student, pursuant to Education Code 56341.
   b. The provision of Education Code 56341 relating to the participation of the Infant and Toddlers with Disabilities Coordinator at the initial IEP team meeting, if the student was previously served under Early Education for Individuals with Exceptional Needs

(Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-98004).

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

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

2. An indication that the student is invited to the IEP team meeting.

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

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

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

If neither parent/guardian can attend the meeting, the Superintendent or designee shall use other methods to ensure parent/guardian participation, including video conferences or individual or conference telephone calls. (Education Code 56341.5; 20 USC 1414; 34 CFR 300.322)

An IEP team meeting may be conducted without a parent/guardian in attendance if the Superintendent or designee is unable to convince the parent/guardian that he/she should attend. In such a case, the Superintendent or designee shall maintain a record of the attempts to arrange a mutually agreed upon time and place for the meeting, including: (Education Code 56341.5; 34 CFR 300.322)

1. Detailed records of telephone calls made or attempted and the results of those calls.

2. Copies of correspondence sent to the parent/guardian and any responses received.

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

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

The Superintendent or designee shall give the parents/guardians of a student with a disability a copy of his/her child's IEP at no cost. (Education Code 56341.5; 34 CFR 300.322)

Parent/Guardian Consent for Provision of Special Education and Services
Before providing special education and related services to any student, the Superintendent or designee shall seek to obtain informed consent of the student's parent/guardian pursuant to 20 USC 1414. (Education Code 56346)

The district shall not use the due process hearing procedures pursuant to 20 USC 1415 to obtain agreement or a ruling that the services may be provided to the student if the parent/guardian fails to respond or refuses to consent to the initiation of services. In such circumstances, the district shall not be required to convene an IEP team or develop an IEP for the student. (Education Code 56346)

If the parent/guardian consents in writing to the receipt of special education and related services for the student, but does not consent to all of the components of the IEP, then those components to which the parent/guardian has consented shall be implemented so as not to delay providing instruction and services to the student. (Education Code 56346)

If the Superintendent or designee determines that a part of a proposed IEP to which the parent/guardian does not consent is necessary in order to provide the student with FAPE, a due process hearing shall be initiated in accordance with 20 USC 1415. While the due process hearing is pending, the student shall remain in the current placement unless the parent/guardian and the Superintendent or designee agree otherwise. (Education Code 56346)

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

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

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

Transfer Students

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

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

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

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

Legal Reference:

EDUCATION CODE
46392 Emergencies
51225.3 Requirements for high school graduation and diploma
56040.3 Assistive technology
56055 Rights of foster parents pertaining to foster child's education
56136 Guidelines for low incidence disabilities areas
56195.8 Adoption of policies
56321 Development or revision of IEP
56321.5 Notice to include right to electronically record
56340.1-56347 Instructional planning and individualized education program
56350-56354 IEP for visually impaired students
56380 IEP reviews; notice of right to request
56390-56392 Certificate of completion, special education
56500-56509 Procedural safeguards
60640-60649 California Assessment of Student Performance and Progress

FAMILY CODE
6500-6502 Age of majority

GOVERNMENT CODE
7572.5 Seriously emotionally disturbed child, expanded IEP team

WELFARE AND INSTITUTIONS CODE
300 Children subject to jurisdiction
601 Minors habitually disobedient
602 Minors violating law defined as crime

CODE OF REGULATIONS, TITLE 5
853-853.5 State assessments, accommodations
3021-3029 Identification, referral and assessment
3040-3043 Instructional planning and the individualized education program
5 CCR 3051-3053 Implementation of the individualized education program

UNITED STATES CODE, TITLE 20
1232g Family Educational Rights and Privacy Act of 1974
1400-1482 Individuals with Disabilities Education Act

CODE OF FEDERAL REGULATIONS, TITLE 34
300.1-300.818 Individuals with Disabilities Education Act

ATTORNEY GENERAL OPINIONS
85 Ops.Cal.Atty.Gen 157 (2002)

COURT DECISIONS
Marshall v. Monrovia Unified School District, (9th Circuit, 2010) 627 F.3d 773
Schaffer v. Weast (2005) 125 S. Ct. 528
Shapiro v. Paradise Valley Unified School District, No. 69 (9th Circuit, 2003) 317 F.3d 1072
Sacramento City School District v. Rachel H. (9th Cir. 1994) 14 F.3d 1398
Endrew F. v. Douglas County School District Re-1, 137 S. Ct. 988

Management Resources:
CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS
Frequently Asked Questions: Promotion, Retention, and Grading (Students with Disabilities)
California Practitioners' Guide for Educating English Learners with Disabilities, July 2019

WEB SITES
CSBA District and County Office of Education Legal Services: http://legalsrvices.csba.org
California Department of Education: http://www.cde.ca.gov
U.S. Department of Education, Office of Special Education and Rehabilitative Services: http://www.ed.gov/about/offices/list/osers/osep

CLASSIFICATION: INSTRUCTION

PROPOSED: 5-26-16 **ADOPTED: 10-27-16**
REVISION #1 PROPOSED: 4-9-20 **REVISION #1 ADOPTED: 4-9-20**
REVISION #2 PROPOSED: 1-19-23 **REVISION #2 ADOPTED: 1-19-23**

SUBJECT: Procedural Safeguards and Complaints for Special Education

The North Region Special Education Local Plan Area (SELPA) affords students with disabilities and their parents with all procedural safeguards according to state and federal laws and regulations. Parents/guardians shall receive written notice of their rights in accordance with law, Board policy, and administrative regulation.

Whenever there is a dispute between the district and the parent/guardian of a student with a disability regarding the identification, assessment, or educational placement of the student or the provision of FAPE to the student, the Superintendent or designee shall encourage the early, informal resolution of the dispute at the school level to the extent possible. The district or parent/guardian may also request mediation and/or a due process hearing in accordance with law, Board policy, and administrative regulation.

The Superintendent or designee of each district within the North Region SELPA shall represent the district in any due process hearing conducted with regard to district students and shall inform the Board about the result of the hearing.

Any complaint alleging the district's noncompliance with federal or state laws or regulations related to the provision of a free appropriate public education to students with disabilities shall be filed in accordance with 5 CCR 3200-3205.

Legal Reference:

EDUCATION CODE
56000 Education for individuals with disabilities
56001 Provision of the special education programs
56020-56035 Definitions
56195.7 Written agreements
56195.8 Adoption of policies for programs and services
56300-56385 Identification and referral, assessment
56360-56369 Implementation of special education
56440-56447.1 Programs for individuals between the ages of three and five years

56500-56509 Procedural safeguards, including due process rights
56600-56606 Evaluation, audits and information

CODE OF REGULATIONS, TITLE 5
3000-3100 Regulations governing special education
3080-3089 Procedural Safeguards
3200-3205 Special Education Compliance Complaints

UNITED STATES CODE, TITLE 20
1232g Family Educational Rights and Privacy Act
1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29
794 Section 504 of the Rehabilitation Act

UNITED STATES CODE, TITLE 42
11434 Homeless assistance

CODE OF FEDERAL REGULATIONS, TITLE 34
99.10-99.22 Inspection, review and procedures for amending education records
104.36 Procedural safeguards
300.1-300.818 Assistance to states for the education of students with disabilities
300.150-300.153 State compliance complaints
300.500-300.520 Procedural safeguards and due process for parents and students

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

Management Resources:
WEB SITES
CSBA District and County Office of Education Legal Services: http://legalservices.csba.org
Office of Administrative Hearings, Special Education Division:
http://www.dgs.ca.gov/OAH/Case-Types/Special:Education
California Department of Education, Special Education: http://www.cde.ca.gov/sp/se
U.S. Department of Education, Office of Special Education Programs:
http://www.ed.gov/about/offices/list/osers/osep

CLASSIFICATION: INSTRUCTION

PROPOSED: 5-26-16 **ADOPTED: 10-27-16**
REVISION PROPOSED: 1-19-23 **REVISION ADOPTED: 1-19-23**

SUBJECT: Procedural Safeguards and Complaints for Special Education

Prior Written Notice

The Superintendent or designee of each district within the North Region Special Education Local Plan Area (SELPA) shall send to the parents/guardians of any student with disabilities a prior written notice: (20 USC 1415; 34 CFR 300.102, 300.300, 300.503; Education Code 56346, 56500.4, 56500.5)

1. Before the district initially refers the student for assessment.

2. Within a reasonable time before the district proposes to initiate or change the student's identification, assessment, educational placement, or the provision of a free appropriate public education (FAPE) to the student.

3. Within a reasonable time before the district refuses to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student.

4. Within a reasonable time before the student graduates from high school with a regular diploma thus resulting in a change in placement.

5. Upon receipt of the parent/guardian's written revocation of consent for the continued provision of special education and related services to the student.

The prior written notice shall include: (20 USC 1415); 34 CFR 300.503; Education Code 56500.4)

1. A description of the action proposed or refused by the district.

2. An explanation as to why the district proposes or refuses to take the action.

3. A description of each assessment procedure, assessment, record, or report the district used as a basis for the proposed or refused action.

4. A statement that the parents/guardians of the student have protection under procedural

safeguards and, if this notice is not an initial referral for assessment, the means by which a copy of the description of procedural safeguards can be obtained.

5. Sources for parents/guardians to obtain assistance in understanding these provisions.

6. A description of any other options that the individualized education program (IEP) team considered and why those options were rejected.

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

Procedural Safeguards Notice

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

1. Upon initial referral or parent/guardian request for assessment.

2. Upon receipt of the first state compliance complaint in a school year, filed in accordance with the section “State Compliance Complaints” below.

3. Upon receipt of the first due process hearing request in a school year.

4. In accordance with the discipline procedures pursuant to 34 CFR 300.530(h), when removal of a student because of a violation of a code of conduct constitutes a change of placement.

5. Upon request by a parent/guardian.

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

1. Independent educational evaluation.

2. Prior written notice.

3. Parental consent, including a parent/guardian's right to revoke consent, in writing, to his/her child's continued receipt of special education and related services.

4. Access to educational records.

5. Opportunity to present complaints and resolve complaints through the due process complaint and state compliance complaint procedures, including the time period in which to file a complaint, the opportunity for the district to resolve the complaint, and the

difference between a due process complaint and the state compliance complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.

6. The availability of mediation.

7. The student's placement during the pendency of any due process complaint.

8. Procedures for students who are subject to placement in an interim alternative educational setting

9. Requirements for unilateral placement by parents/guardians of students in private schools at public expense.

10. Hearings on due process complaints, including requirements for disclosure of assessment results and recommendations.

11. State-level appeals.

12. Civil actions, including the time period in which to file those actions.

13. Availability of attorneys' fees pursuant to 34 CFR 300.517.

This notice shall also include the rights and procedures contained in Education Code 56500-56509, including information on the procedures for requesting an informal meeting, prehearing mediation conference, mediation conference, or due process hearing; the timelines for completing each process; whether the process is optional; the type of representative who may be invited to participate; the right of the parent/guardian and/or the district to electronically record the proceedings of IEP meetings in accordance with Education Code 56341.1; and information regarding the state special schools for students who are deaf, hard of hearing, blind, visually impaired, or deaf-blind. (Education Code 56321, 56321.5, 56321.6)

A copy of this notice shall be attached to the student's assessment plan. At each IEP meeting, the Superintendent or designee shall inform the parent/guardian of the federal and state procedural safeguards that were provided in the notice. (Education Code 56321, 56500.1)

Format of Parent/Guardian Notices

The parents/guardians of a student with a disability shall be provided written notice of their rights in a language easily understood by the general public and in their native language or other mode of communication used by them, unless to do so is clearly not feasible. (34 CFR 300.503, 300.504; Education Code 56341, 56506)

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

1. The notice is translated orally or by other means to the parent/guardian in his/her native

language or other mode of communication.

2. The parent/guardian understands the contents of the notice.

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

Alternative Dispute Resolution

It is the goal of the North Region SELPA to assure that member districts meet the needs of all students and involve their parents in planning and decision-making. When a disagreement or conflict arises between the parents and the district, it is to the advantage of all parties to resolve the dispute at the lowest level and in the timeliest manner. The SELPA is committed to providing support to districts in the prevention and early resolution of disagreements involving assessment, identification, placement and services to individuals with exceptional needs.

Through the SELPA Alternative Dispute Resolution (ADR) Program, parents are supported at every stage of the IEP process and have the opportunity to access a variety of processes that assist the parties directly involved in the dispute to create an agreement that meets the interests of the parties involved. In addition to the cost and time savings, relationships between the parent and district are maintained or even enhanced. The components of the ADR Program include but are not limited to the following:

1. Intake Coordinator. The Intake Coordinator is responsible for dispute resolution, staff development and community awareness. The Intake Coordinator facilitates the allocation of resources to integrate compliance, alternative dispute resolution, due process, parent and staff training and community awareness into a program of support for parents and professionals.

2. Neutral Facilitators for IEP team meetings. Facilitators guide the IEP team through a collaborative decision-making process focused on the needs of the student with the goal of creating a mutually acceptable IEP.

3. Neutral Facilitators for resolution sessions. The Resolution Session Facilitator assists parents and districts to complete the legally-required resolution meeting prior to a due process hearing. The goal of the meeting is to assist the parties to engage in a confidential problem-solving process which results in a signed agreement.

Due Process Complaints

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

1. There is a proposal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student.

2. There is a refusal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student.

3. The parent/guardian refuses to consent to an assessment of his/her child.

4. There is a disagreement between a parent/guardian and the district regarding the availability of a program appropriate for the student, including the question of financial responsibility, as specified in 34 CFR 300.148.

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

1. The student's name.

2. The student's address or, in the case of a student identified as homeless pursuant to 42 USC 11434, available contact information for that student.

3. The name of the school the student attends.

4. A description of the nature of the student's problem relating to the proposed or refused initiation or change, including facts relating to the problem.

5. A proposed resolution to the problem to the extent known and available to the complaining party at the time.

Parties filing a due process complaint shall file their request with the state Office of Administrative Hearings, Special Education Division. The request shall be filed within two years from the date the party initiating the request knew or had reason to know of the facts underlying the basis for the request. This timeline shall not apply if the district misrepresented that it had solved the problem or withheld required information from the parent/guardian. (Education Code 56505; 20 USC 1415; 34 CFR 300.505, 300.511).

District's Response to Due Process Complaints

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

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

1. An explanation of why the district proposed or refused to take the action raised in the complaint.

2. A description of other options that the IEP team considered and the reasons that those options were rejected.

3. A description of each evaluation procedure, assessment, record, or report the district used as the basis for the proposed or refused action.

4. A description of the factors that are relevant to the district's proposal or refusal.

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

Informal Process/Pre-Hearing Mediation Conference

Prior to or upon initiating a due process hearing, the Superintendent or designee and a parent/guardian may, if the party initiating the hearing so chooses, agree to meet informally to resolve any issue(s) relating to the identification, assessment, education and placement, or provision of FAPE for a student with disabilities. The Superintendent or designee shall have the authority to resolve the issue(s). In addition, either party may file a request with the state Office of Administrative Hearings for a mediation conference. (Education Code 56500.3)

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

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

State Compliance Complaints

Any individual, including a person's duly authorized representative or an interested third party, public agency, or organization may file with the California Department of Education (CDE) a written and signed statement alleging that, within the previous year, any of the following occurred: (5 CCR 3200, 3201)

1. The district violated Part B of the Individuals with Disabilities Education Act (20 USC 1411-1419) and its implementing regulations (34 CFR 300.1-300.818).
2. The district violated Part 30 of the Education Code (Education Code 56000-56865) and 5 CCR 3200-3205.
3. The district violated the terms of a settlement agreement related to the provision of FAPE, excluding any allegation related to an attorney fees provision in a settlement agreement.
4. The district failed or refused to implement a due process hearing order to which the district is subject.
5. Physical safety concerns interfered with the provision of FAPE.

The complaint shall include: (5 CCR 3202; 34 CFR 300.153)

1. A statement that the district has violated or failed to comply with any provision set forth in 5 CCR 3201
2. The facts on which the statement is based
3. The signature and contact information for the complainant
4. If alleging violations with respect to a specific student, the student's name and address (or other available contact information for a homeless student), the name of the school that the student is attending, a description of the nature of the student's problem and facts related to the problem, and a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed

The complainant shall forward a copy of the complaint to the Superintendent or designee at the same time the complaint is filed with CDE. (5 CCR 3202)

Within 30 days of the date of CDE's investigation report, the district or complainant may request reconsideration of the decision in accordance with 5 CCR 3204. Pending CDE's response, any corrective actions set forth in the report shall remain in effect and enforceable, unless stayed by a court. (5 CCR 3204)

Legal Reference:

EDUCATION CODE
56000 Education for individuals with disabilities
56001 Provision of the special education programs
56020-56035 Definitions
56195.7 Written agreements
56195.8 Adoption of policies for programs and services
56300-56385 Identification and referral, assessment
56360-56369 Implementation of special education
56440-56447.1 Programs for individuals between the ages of three and five years
56500-56509 Procedural safeguards, including due process rights
56600-56606 Evaluation, audits and information

CODE OF REGULATIONS, TITLE 5
3000-3100 Regulations governing special education
3080-3089 Procedural Safeguards
3200-3205 Special Education Compliance Complaints

UNITED STATES CODE, TITLE 20
1232g Family Educational Rights and Privacy Act
1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29
794 Section 504 of the Rehabilitation Act

UNITED STATES CODE, TITLE 42
11434 Homeless assistance

CODE OF FEDERAL REGULATIONS, TITLE 34
99.10-99.22 Inspection, review and procedures for amending education records
104.36 Procedural safeguards
300.1-300.818 Assistance to states for the education of students with disabilities.
300.150-300.153 State compliance complaints
300.500-300.520 Procedural safeguards and due process for parents and students

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

Management Resources:

WEB SITES
CSBA District and County Office of Education Legal Services: http://legalservices.csba.org
Office of Administrative Hearings, Special Education Division:
http://www.dgs.ca.gov/OAH/Case-Types/Special:Education
California Department of Education, Special Education: http://www.cde.ca.gov/sp/se
U.S. Department of Education, Office of Special Education Programs:
http://www.ed.gov/about/offices/list/osers/osep

1/23

CLASSIFICATION: INSTRUCTION

PROPOSED: 5-26-16	**ADOPTED: 10-27-16**
REVISION #1 PROPOSED: 4-9-20	**REVISION #1 ADOPTED: 4-9-20**
REVISION #2 PROPOSED: 1-19-23	**REVISION #2 ADOPTED: 1-19-23**
REVISION #3 PROPOSED: 1-18-24	**REVISION #3 ADOPTED: 3-21-24**

SUBJECT: Nonpublic, Nonsectarian School and Agency Services for Special Education

The Policy Board of the North Region SELPA recognizes its responsibility to provide all district students, including students with disabilities, a free appropriate public education in accordance with law. When the district is unable to provide direct special education and/or related services to students with disabilities, the Board may enter into a contract with a nonpublic, nonsectarian school or agency (NPS/A) to meet the students' needs consistent with the comprehensive Special Education Local Plan Area.

Prior to entering into a contract to place any student in an NPS/A, the Superintendent or designee of each member district shall verify that the NPS/A is certified to provide special education and related services to individuals with disabilities and complies with staff training requirements in accordance with Education Code 56366 and 56366.1. In addition, the Superintendent or designee of each member district shall monitor, on an ongoing basis, the certification of any NPS/A with which the district has a contract to ensure that the NPS/A's certification has not expired. The district shall notify the parent/guardian of a student attending an NPS/A of any NPS/A certification status change within 14 days of becoming aware of the change in accordance with Education Code 56366.45.

No district student shall be placed in an NPS/A unless the student's individualized education program (IEP) team has determined that the NPS/A placement is appropriate for the student. (Education Code 56342.1)

The District shall pay to the NPS/A the full amount of the tuition fees, as applicable, for students with disabilities who are enrolled in programs or receiving services provided by the NPS/A pursuant to the contract. (Education Code 56365)

In accordance with law, any student with disabilities placed in an NPS/A shall have all the rights and protections to which students with disabilities are generally entitled, including, but not limited to, the procedural safeguards, due process rights, and periodic review of their IEP. (Education Code 56195.8, 56342.1)

During the period when any student with disabilities is placed in an NPS/A, the student's IEP team shall retain responsibility for monitoring the student's progress towards meeting the goals identified in his/ her IEP.

The Superintendent or designee shall ensure that any contract with an NPS/A contains a requirement for the NPS/A to comply with the district policy, procedures, and practices related to student rights, health, and safety, including the use of seclusion and restraint. All NPS/A staff that serve district students shall be made aware of, and trained in such policies, procedures, and practices.

Districts shall verify through documentation submitted to the District by the NPS/A that each NPS/A trains staff who will have contact or interaction with students during the school day in the use of specified evidence-based practices and interventions specific to the unique behavioral needs of the students it serves.

The Superintendent or designee may apply to the Superintendent of Public Instruction to waive any of the requirements of Education Code 56365, 56366, and 56366.6. (Education Code 56366.2)

CLASSIFICATION: INSTRUCTION

PROPOSED: 10-27-16 **ADOPTED: 1-26-17**
REVISION #1 PROPOSED: 1-19-23 **REVISION #1 ADOPTED: 1-19-23**
REVISION #2 PROPOSED: 1-18-24 **REVISION #2 ADOPTED: 3-21-24**

SUBJECT: Nonpublic, Nonsectarian School and Agency Services for Special Education

Master Contract

Every master contract between the district and a nonpublic, nonsectarian school or agency (NPS/A) shall include an individual services agreement (ISA) negotiated for each student. The master contract shall be for a term not to exceed one year and shall be renegotiated prior to June 30. The ISA for each student will be negotiated for the length of time for which NPS/A special education and designated instruction and services are specified in the student's IEP.

Each master contract shall specify the general administrative and financial agreements for providing the special education and designated instruction and services, including student-teacher ratios, as well as transportation if specified in a student's individualized education program (IEP). The contract shall not include special education transportation provided through the use of services or equipment owned, leased, or contracted by the district for students enrolled in the NPS/A unless provided directly or subcontracted by that NPS/A. The administrative provisions of the contract shall include procedures for recordkeeping and documentation, and the maintenance of school records by the district to ensure that appropriate high school graduation credit is received by any participating student. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school. (Education Code 56366)

The master contract shall include a description of the process to be utilized by the district to oversee and evaluate placements in nonpublic, nonsectarian schools. This description shall include a method for evaluating whether each student is making appropriate educational progress. (Education Code 56366)

The master contract shall include procedures and responsibilities for attendance and unexcused absences. The master contract shall also include payment schedules, including but not limited to payment amounts, payment demand, right to withhold, and audit exceptions.

The master contract shall include general provisions related to modifications and amendments to the contract, waivers, disputes, contractor’s status, conflicts of interest, termination, inspection and audits, compliance with applicable state and federal laws and regulations, and

indemnification and insurance requirements.

With mutual agreement of the district and a nonpublic, nonsectarian school or agency, changes may be made to the administrative and financial agreements in the master contract at any time, provided the change does not alter a student's educational instruction, services, or placement as outlined in his/her individual services agreement. (Education Code 56366)

Within 14 days of becoming aware of any change to the certification status of a NPS/A, the district will notify parents of pupils who attend the NPS/A (through email or regular mail) of the certification status change and include a copy of the procedural safeguards The district shall maintain a record of the notice and shall make this notice available for inspection upon request of the department. Becoming aware of any change in certification status may include, but is not limited to, receiving notification pursuant to subdivision (c) of Section 56366.4 of a determination to suspend or revoke the certification of the NPS/A, including, but not limited to, a determination resulting from a department investigation into pupil restraint or seclusion. (Education Code 56366.45).

Placement and Services

The Superintendent or designee of each member district shall develop an individual services agreement for each student to be placed in a nonpublic, nonsectarian school or agency based on the student's IEP. Each individual services agreement shall specify the length of time authorized in the student's IEP for the nonpublic, nonsectarian school services, not to exceed one year. Changes in a student's educational instruction, services, or placement shall be made only on the basis of revisions to the student's IEP. (Education Code 56366)

The IEP team of a student placed in a nonpublic, nonsectarian school or agency shall annually review the student's IEP and evaluate the student’s educational progress, including a review of state assessment results. The student's IEP and individual services agreement shall specify the review schedules. (5 CCR 3069)

During the annual IEP Plan review meeting, the IEP team shall consider whether the student's needs continue to be met at the NPS/A and whether changes to the student's IEP are necessary, including whether the student may be transitioned to a public school setting.

When a student in special education meets district requirements for completion of the prescribed course of study as designated in the student’s IEP, the district shall award the student a diploma of graduation. (5 CCR 3070)

Out-of-State Placements

Before contracting with an NPS/A outside California, the Superintendent or designee shall document the district's efforts to find an appropriate program offered by an NPS/A within California. (Education Code 56365)

Within 15 days of any decision for an out-of-state placement, the student's IEP team shall submit to the Superintendent of Public Instruction a report with information about the services provided by the out-of-state program, the related costs, and the district's efforts to locate an appropriate public school or NPS/A within California. (Education Code 56365)

If the district decides to place a student with an NPS/A outside the state, the district shall indicate the anticipated date of the student's return to a placement within California and shall document efforts during the previous year to return the student to California. (Education Code 56365)

On-Site Visits

The Superintendent or designee shall conduct an on-site visit to an NPS/A before the placement of a student at the school or agency, if the district does not have any other students currently enrolled at the NPS/A. (Education Code 56366.1)

At least once per year, the Superintendent or designee shall conduct an on-site monitoring visit to each NPS/A at which the district has a student attending and with which it maintains a master contract. The monitoring visit shall include, but is not limited to: (Education Code 56366.1)

1. A review of services provided to the student through the individual services agreement
2. A review of progress the student is making toward the goals set forth in the student's IEP
3. A review of progress the student is making toward the goals set forth in the student's behavioral intervention plan, if applicable
4. An observation of the student during instruction
5. A walkthrough of the facility

The district shall report the findings resulting from the monitoring visit to CDE within 60 calendar days of the on-site visit. (Education Code 56366.1)

Legal Reference:

EDUCATION CODE
56034-56035 Definitions of nonpublic, nonsectarian school and agency

56042 Placement not to be recommended by attorney with conflict of interest

56101 Waivers

56163 Certification

56168 Responsibility for education of student in hospital or health facility school

56195.8 Adoption of policies

56342.1 Individualized education program; placement

56360-56369 Implementation of special education

56711 Computation of state aid

56740-56743 Apportionments and reports

56760 Annual budget plan; service proportions

56775.5 Reimbursement of assessment and identification costs

56836.20-56836.21 Special Education funding: SELPA contracts with nonpublic, nonsectarian schools

FAMILY CODE
7911-7912 Interstate compact on placement of children

GOVERNMENT CODE
7570-7587 Interagency responsibilities for providing services to children with disabilities, especially:

7572.55 Seriously emotionally disturbed child; out-of-state placement

WELFARE AND INSTITUTIONS CODE
362.2 Out-of-home placement for IEP

727.1 Out-of-state placement of wards of court

CODE OF REGULATIONS, TITLE 5
3001 Definitions

3051-3051.24 Special education standards for related services and staff qualifications

3060-3070 Nonpublic, nonsectarian school and agency services

UNITED STATES CODE, TITLE 20
1400-1487 Individuals with Disabilities Education Act

CODE OF FEDERAL REGULATIONS, TITLE 34

300.129-300.148 Children with disabilities in private schools

Management Resources:
COURT DECISIONS
Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997

WEB SITES

Website	CSBA District and County Office of Education Legal Services: http:/legalservices.csba.org
Website	U.S. Department of Education, Office of Special Education and Rehabilitative Services: http://www.ed.gov/about/officeslist/osers
Website	California Department of Education: http://www.cde.ca.gov

CLASSIFICATION: INSTRUCTION

PROPOSED: 6-20-11 **ADOPTED: 6-20-11**
REVISIONS PROPOSED: 10-15-15 **REVISIONS ADOPTED: 1-21-16**

SUBJECT: Positive Behavior Intervention for Special Education Students

POSITIVE BEHAVIOR INTERVENTION

It shall be the policy of the North Region SELPA that each member Local Education Agency (LEA) will follow positive behavior intervention requirements according to both California Education Code and the Federal Individuals with Disabilities Education Act (IDEA) and its implementing regulations. .

It is the philosophy of the North Region SELPA that all students have a right to a safe and secure school environment which supports learning and personal development. In the case of a special education student whose behavior impedes his/her learning or that of others, appropriate positive behavior interventions, strategies, and supports shall be developed to address the behavior. Behavior supports and interventions focus on identification of the function of the behavior, environmental modifications to support the use of positive behaviors, and the teaching of alternative behaviors to replace the maladaptive behaviors.

When any behavioral intervention, support, or other strategy is to be used, LEAs in the North Region SELPA shall consider the student's physical freedom and social interaction, administer the intervention, support, or other strategy in a manner that respects the student's dignity and personal privacy, and ensure the student's right to be placed in the least restrictive educational environment.

Legal References:

California Education Code 56520, as amended by AB 86 (Ch. 48, Statutes of 2013)
California Education Code 56521.1 and 56521.2, as added by AB 86 (Ch. 48, Statues of 2013)
20 USC 1400-1482; 34 CFR 300.1-300.818

CLASSIFICATION: INSTRUCTION

PROPOSED: 10-27-16 **ADOPTED: 1-26-17**
REVISION PROPOSED: 1-19-23 **REVISION ADOPTED: 1-19-23**

SUBJECT: Positive Behavior Intervention for Special Education Students

Disciplinary Procedures
Generally, any student identified as a student with a disability pursuant to the Individuals with Disabilities Education Act, 20 USC 1400-1482, is subject to the same disciplinary measures applicable to all students for violations of the code of conduct, except when the student's behavior is determined to be a manifestation of his/her disability.

However, when the behavior of a student with a disability impedes his/her learning or the learning of others, the student's individualized education program (IEP) team shall consider the use of positive behavioral interventions and supports and other strategies consistent with 20 USC 1414(d) to address the student's behavior. (Education Code 56521.2; 34 CFR 300.324)

If, pursuant to a manifestation determination conducted as specified in 34 CFR 300.530, the student's behavior is determined to be a manifestation of his/her disability, the IEP team shall conduct a functional behavioral assessment (FBA) and implement a behavioral intervention plan (BIP) for the student. If a BIP is already in place for the student, the IEP team shall review and modify the BIP to address the student's behavior. (Education Code 56520; 34 CFR 300.324, 300.530)

In addition, when the disciplinary removal of a student with a disability will result in a change in the student's placement as specified in 34 CFR 300.530, the student shall receive an FBA and behavioral intervention services and modifications designed to address the student's behavior so that it does not recur. (34 CFR 300.530)

Functional Behavioral Assessment (FBA)
Any FBA to be conducted for a student with a disability shall focus on identifying the function or purpose of the student's behavior.

Before any FBA is conducted, the Superintendent of designee shall notify the student's parent/guardian in accordance with Education Code 56321 and obtain the parent/guardian's consent. (Education Code 56321; 34 CFR 300.324)

If the parent/guardian disagrees with the result of an FBA, he/she has the right to obtain an independent educational evaluation at district expense, subject to the conditions specified in

34 CFR 300.502.

Behavioral Intervention Plan (BIP) and Services

Behavior intervention plans shall include positive strategies based on the determination made by the student's IEP team about the function or purpose of the student's behaviors. Plans shall include, as appropriate, environmental modifications to support the student's use of positive behaviors, the teaching of alternative behaviors to replace the maladaptive behaviors, procedures to reinforce the student for increasing the use of positive behaviors, and reactive strategies to be used if the student exhibits the maladaptive behaviors.

When any behavioral intervention, support, or other strategy is to be used by the district, the Superintendent or designee shall consider the student's physical freedom and social interaction, administer the intervention, support, or other strategy in a manner that respects the student's dignity and personal privacy, and ensure the student's right to be placed in the least restrictive educational environment. (Education Code 56520)

When a student for whom a BIP is to be developed is also the responsibility of another agency for residential care or related services, the Superintendent or designee shall cooperate with the other agency to ensure that the BIP, to the extent possible, is implemented in a consistent manner. (Education Code 56520)

Behavior assessments and behavioral intervention services shall be provided only by individuals who possess the qualifications specified in Education Code 56525 or 5 CCR 3051.23.

Emergency Interventions

Emergency interventions may be used only 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 a systematic BIP that is designed to change, replace, modify, or eliminate a targeted behavior. (Education Code 56521.1)

No emergency intervention shall be used for longer than is necessary to contain the behavior. For any situation that requires a prolonged use of an emergency intervention, staff shall seek assistance of the principal or law enforcement agency, as applicable to the situation. (Education Code 56521.1)

Emergency interventions shall not involve the use of force exceeding what is reasonable and necessary under the circumstances. In addition, use of locked seclusion or a device, material, or objects that simultaneously immobilize all hands and feet shall not be allowed except as allowed by law. (Education Code 56521.1)

Parents/guardians and, if appropriate, residential care providers shall be notified within one school day whenever emergency intervention is used or serious property damage occurs. A behavior emergency report shall immediately be completed, kept in the student's file, and forwarded to the Superintendent or designee for review. This report shall include all of the

following information: (Education Code 56521.1)

1. The name and age of the student
2. The setting and location of the incident
3. The name of the staff or other persons involved
4. A description of the incident and the emergency intervention used
5. A statement of whether the student is currently engaged in a systematic BIP
6. Details of any injuries sustained by the student or others, including staff, as a result of the incident

If the behavior emergency report is for a student who does not have a BIP, the Superintendent or designee shall, within two days, schedule an IEP team meeting to review the emergency report, determine the necessity for an FBA, and determine the necessity for an interim BIP. The IEP team shall document the reasons for not conducting the FBA and/or not developing the interim BIP. (Education Code 56521.1)

If the behavior emergency report is for a student who has a BIP, any incident involving a previously unseen serious behavior problem or where a previously designed intervention is not effective shall be referred to the IEP team. The IEP team shall review the incident and determine whether the student's plan needs to be modified. (Education Code 56521.1)

Prohibited Interventions

The district prohibits the use of corporal punishment as defined in Education Code 49001 as an intervention. In addition, the district prohibits all of the following: (Education Code 56521.2)

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

Reporting

All discipline incidents that occur through the last day of school will be entered by school sites into the Student Information System for upload into the End Of Year 3 CALPADS report. All incidents that violate the Education Code must be reported whether or not the student was suspended or expelled. All incidents involving restraints or seclusion must be reported whether or not the Education Code was violated.

Legal Reference:

EDUCATION CODE
49001 Prohibition of corporal punishment
56321 Assessment and Parent Consent
56500-56509 Procedural safeguards, including due process rights
56520-56525 Behavioral interventions

CODE OF REGULATIONS, TITLE 5
3065 Staff qualifications - related services

UNITED STATES CODE, TITLE 20
1400-1482 Individuals with Disabilities Education Act, especially:
1412 State eligibility
1415 Procedural safeguards

CODE OF FEDERAL REGULATIONS, TITLE 34
300.1-300.818 Assistance to states for the education of students with disabilities

Management Resources:

FEDERAL REGISTER
Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845
WEB SITES
Behavior Analyst Certification Board: http://www.calaba.org/bacb.shtm
U.S. Department of Education, Office of Special Education Programs:
http://www2.ed.gov/about/offices/list/osers/osep

CLASSIFICATION: INSTRUCTION

PROPOSED: 10-23-14 **ADOPTED: 2-3-15**

SUBJECT: Special Circumstance Instructional Assistance

SPECIAL CIRCUMSTANCE INSTRUCTIONAL ASSISTANCE

Every school district within the North Region SELPA is required to provide a full continuum of placement options for students with identified disabilities who are receiving special education services. The Individuals with Disabilities Education Improvement Act (IDEIA) and California laws and regulations describe a continuum of placements such as instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions (CFR 300.552(b)(1)).

The IDEA also defines related services as the utilization of aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with non-disabled children to the maximum extent appropriate, i.e., in the least restrictive environment (LRE). This applies to any general education program or special education program in which the student may participate (34 CFR Part 300.550-300.556). There may be special circumstances when a student may need additional support in order to be successful in his/her educational placement.

A goal for any student with special needs is to encourage, promote, and maximize independence. The Individualized Education Plan (IEP) team is responsible for developing and implementing a program that promotes that independence. Natural supports and existing staff supports should be used whenever possible.

Before an IEP team recommends a Special Circumstance Instructional Assistant (SCIA) as a support for the classroom staff, the team must determine the following:

a. Natural supports and/or existing staff supports are not adequate for the student to participate and progress in the general education curriculum;
b. Additional support is necessary to assist classroom staff in facilitating the student in:
    - Advancement toward the annual goals and/or:
    - Involvement in and progress in the general curriculum and/or;
    - Participation in extracurricular and other nonacademic activities and/or;
    - Participation with other disabled and non-disabled students.
c. A method for systematic evaluation to assess readiness for increased independence and more natural environmental supports (i.e., a systematic fade plan).

If the IEP team recommends SCIA support, the team is also responsible for monitoring so that additional supports may be faded as soon as possible. If not carefully monitored and evaluated on a regular basis, additional paraeducator support can unintentionally foster dependence.

Detailed procedures for assessing the need for, evaluating the effectiveness of, and planning the fading of Special Circumstance Instructional Assistance can be found in the North Region SELPA Special Circumstances Instructional Assistance Handbook.

References: California Education Code 56520-56525

CLASSIFICATION: INSTRUCTION

PROPOSED: 5-26-16 **ADOPTED: 10-27-16**
REVISION #1 PROPOSED: 4-9-20 **REVISION #1 ADOPTED: 4-9-20**
REVISION #2 PROPOSED: 1-20-22 **REVISION #2 ADOPTED: 1-20-22**

SUBJECT: Identification and Evaluation of Individuals for Special Education

The Policy Board of the North Region SELPA recognizes the need to actively seek out and evaluate district residents from birth to age 21 who have disabilities in order to provide them with appropriate educational opportunities in accordance with state and federal law. All children with disabilities (including children who are homeless, wards of the state, or attending private schools), regardless of the severity of their disabilities, who are in need of special education and related services are identified, located, and evaluated. A practical method has been developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

The Superintendent or designee of each member district shall establish a comprehensive system that includes procedures for the identification, screening, referral, and regular and triennial assessment of individuals eligible for special education, as well as procedures for the planning, implementation, and review of the education and related services provided to such individuals. (Education Code 56301)

The identification procedures of the districts within the North Region SELPA shall include systematic methods for utilizing referrals from parents/guardians, teachers, agencies, appropriate professionals, and others members of the public, and shall be coordinated with school site procedures for referral of students whose needs cannot be met with modifications to the regular instructional program. (Education Code 56302)

The Superintendent or designee of each member district shall notify parents/guardians, in writing, of their rights related to identification, referral, assessment, instructional planning, implementation, and review, including the right to consent to any assessment concerning their child. In addition, the Superintendent or designee shall notify parents/guardians of procedures for initiating a referral for assessment to identify individuals for special education services. (Education Code 56301)

The SELPA shall develop a “Procedural Handbook” to provide guidance to parents, students, and staff regarding best practices and SELPA procedures for ensuring compliance with Board Policy and Administrative Regulations.

Legal Reference:

EDUCATION CODE
44265.5 Professional preparation for teachers of impaired students
56000-56885 Special education programs, especially:
56043 Timelines affecting special education programs
56195.8 Adoption of policies
56300-56304 Identification of individuals with disabilities
56320-56331 Assessment
56333-56338 Eligibility criteria for specific learning disabilities
56340-56347 Instructional planning and individualized education program
56381 Reassessment of students
56425-56432 Early education for individuals with disabilities
56441.11 Eligibility criteria, children ages 3-5
56445 Transition to grade school; reassessment
56500-56509 Procedural safeguards

GOVERNMENT CODE
95000-95029.5 California Early Intervention Services Act

CODE OF REGULATIONS, TITLE 5
3021-3029 Identification, referral and assessment
3030-3031 Eligibility criteria

UNITED STATES CODE, TITLE 20
1232g Family Educational Rights and Privacy Act of 1974
1400-1482 Individuals with Disabilities Act, especially
1412 State eligibility
1415 Procedural safeguards

CODE OF FEDERAL REGULATIONS, TITLE 34
104.35 Evaluation and placement
104.36 Procedural safeguards
300.1-300.818 Individuals with Disabilities Education Act, especially:
300.301-300.306 Evaluations and reevaluations
300.323 When IEPs must be in effect
300.502 Independent educational evaluation

COURT DECISIONS
Timothy O. v. Paso Robles Unified School District (9th Cir. 2016) 822 F.3d 1105
M.M. v. Lafayette School District (9th Cir. 2014) 767 F.3d 842
Compton Unified School District v. Addison, (9th Cir. 2010) 598 F.3d 1181
N.B. and C.B v. Hellgate Elementary School District (9th Cir. 2008) 541 F.3d 1202
Hood v. Encinitas Union School District, (2007) 486 F.3d 1099

Management Resources:

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

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS
California Practitioners' Guide for Educating English Learners with Disabilities, 2019

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS
Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, August 2021
Long COVID under Section 504 and the IDEA: A Resource to Support Children, Students, Educators, Schools, Service Providers, and Families, July 2021
A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA): Memorandum 11-07, January 2011

WEB SITES
California Department of Education, Special Education: http://www.cde.ca.gov/sp/se
U.S. Department of Education, Office of Special Education Programs: http://www.ed.gov/about/offices/list/osers/osep

CLASSIFICATION: INSTRUCTION

PROPOSED: 5-26-16	**ADOPTED: 10-27-16**
REVISION #1 PROPOSED: 1-20-22	**REVISION #1 ADOPTED: 1-20-22**
REVISION #2 PROPOSED: 5-22-25	**REVISION #2 ADOPTED: 5-22-25**

SUBJECT: Identification and Evaluation of Individuals for Special Education

The Superintendent or designee shall ensure that the district's child find process includes the collection of data and, at reasonable intervals, the screening of such data to determine if students are making adequate progress, as appropriate.

Referrals for Special Education Services

A student shall be referred for special education instruction and services only after the resources of the regular education program have been considered and used where appropriate. (Education Code 56303). However, the district shall ensure that evaluations of children suspected of having a disability are not delayed or denied because of the implementation of response to intervention strategies.

A parent/guardian or the district may initiate a request for an initial evaluation to determine if the student is a student with a disability. (34 CFR 300.301)

When a verbal referral is made, staff shall offer assistance to the individual to make the request in writing and shall assist the individual if the individual requests such assistance. (5 CCR 3021)

All referrals from school staff for special education and related services shall include a brief reason for the referral and description of the regular program resources that were considered and/or modified for use with the student and when appropriate, the results of the intervention. This documentation shall not delay the timelines for completing the assessment plan or assessment. (5 CCR 3021)

Initial Evaluation for Special Education Services

Before the initial provision of special education and related services to a student with a disability, the district shall conduct an individual initial evaluation of the student's educational needs related to all areas of suspected disability. (Education Code 56320; 34 CFR 300.301)

Upon receipt of a referral of any student for special education and related services, a proposed evaluation plan shall be developed within 15 days, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days, unless the parent/guardian agrees, in writing, to an extension. If the referral is made within 10 days or less prior to the end of the student's regular school year or term, the proposed evaluation plan shall be developed within 10 days after the beginning of the next regular school year or term. (Education Code 56043, 56321)

The proposed evaluation plan shall meet all of the following requirements: (Education Code 56321)

1. Be in a language easily understood by the general public.

2. Be provided in the native language of the parent/guardian or other mode of communication used by the parent/guardian unless it is clearly not feasible.

3. Explain the types of evaluation to be conducted.

4. State that no individualized education program (IEP) will result from the evaluation without parent/guardian consent.

A copy of the notice of a parent/guardian's rights and procedural safeguards shall be attached to the evaluation plan. (Education Code 56321)

The proposed written evaluation plan shall include a description of recent assessments conducted, including available independent assessments and assessment information requested by the parent/guardian to be considered, as well as information indicating the student's primary language and the student's primary language proficiency as determined by Education Code section 52164.1. (5 CCR 3022)

Before conducting an initial evaluation, the district shall provide the parent/guardian with prior written notice in accordance with 34 CFR 300.503. In addition, as part of the evaluation plan, the parent/guardian shall receive written notice that includes all of the following information: (Education Code 56329; 34 CFR 300.304, 300.502, 300.504)

1. Upon completion of the administration of tests and other evaluation materials, an IEP team meeting that includes the parent/guardian or his/her representative shall be scheduled pursuant to Education Code 56341. At this meeting, the team shall determine whether or not the student is a student with disabilities, as defined in Education Code 56026, and shall discuss the evaluation, the educational recommendations, and the reasons for the recommendations.

2. When making a determination of eligibility for special education, the district shall not determine that the student is disabled if the primary factor for such determination is lack of appropriate instruction in reading, including the essential components of reading instruction as defined in 20 USC 6368, lack of appropriate instruction in mathematics, or

limited English proficiency, if the student does not otherwise meet the eligibility criteria under 34 CFR 300.8.

3. A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent/guardian.

4. If the parent/guardian disagrees with an evaluation obtained by the district, the parent/guardian has the right to obtain, at public expense, an independent educational evaluation (IEE) of the student from qualified specialists, in accordance with 34 CFR 300.502. The parent/guardian is entitled to only one such evaluation at public expense each time the district conducts an assessment with which the parent/guardian disagrees.

   If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of the student, an equivalent opportunity shall apply to the IEE. This equivalent opportunity shall apply to the student's current placement and setting as well as observation of the district's proposed placement and setting, if any, regardless of whether the IEE is initiated before or after the filing of a due process hearing proceeding.

5. The district may initiate a due process hearing pursuant to Education Code 56500-56508 to show that its evaluation is appropriate. If the final decision resulting from the due process hearing is that the evaluation is appropriate, the parent/guardian maintains the right for an IEE, but not at public expense.

   If the parent/guardian obtains an IEE at private expense, the results of the IEE shall be considered by the district with respect to the provision of a free appropriate public education (FAPE) to the student, and may be presented as evidence at a due process hearing regarding the student. If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of a student, an equivalent opportunity shall apply to an IEE of the student in the student's current educational placement and setting and in any educational placement and setting proposed by the district, regardless of whether the IEE is initiated before or after the filing of a due process hearing.

6. If the parent/guardian proposes a publicly financed placement of the student in a nonpublic school, the district shall have an opportunity to observe the proposed placement and, if the student has already been unilaterally placed in the nonpublic school by his/her parent/guardian, the student in that proposed placement. Any such observation shall only be of the student who is the subject of the observation and shall not include the observation or evaluation of any other student in the proposed placement unless that other student's parent/guardian consents to the observation or evaluation. The results of any observation or evaluation of another student in violation of Education Code 56329(d) shall be inadmissible in any due process or judicial proceeding regarding FAPE of that other student.

<u>Parent/Guardian Consent for Evaluations</u>

Upon receiving the proposed evaluation plan, the parent/guardian shall have at least 15 days to decide whether or not to consent to the initial evaluation. The district shall not interpret parent/guardian consent for initial evaluation as consent for initial placement or initial provision of special education services. (Education Code 56321; 34 CFR 300.300)

Informed parental consent means that the parent/guardian: (Education Code 56021.1; 34 CFR 300.9)

1. Has been fully informed, in his/her native language or other mode of communication, of all information relevant to the activity for which consent is sought.

2. Understands and agrees, in writing, to the carrying out of the activity for which the parent/guardian's consent is sought and the consent describes that activity and lists the records (if any) that will be released and to whom.

3. Understands that the granting of consent is voluntary on his/her part and may be revoked at any time.

4. Understands that if the parent/guardian revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked). The district is not required to amend the education records of a student to remove any reference to the student's receipt of special education and services if the student's parent/guardian submits a written revocation of consent after the initial provision of special education and related services to the student.

The district shall make reasonable efforts to obtain the informed consent of the parent/guardian for an initial evaluation or reevaluation of a student. The district shall maintain a record of its attempts to obtain consent, including: (Education Code 56321, 56341.5; 34 CFR 300.300, 300.322)

1. Detailed records of telephone calls made or attempted and the results of those calls.

2. Copies of correspondence sent to the parent/guardian and any responses received.

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

If a parent/guardian refuses to consent to the initial evaluation or fails to respond to a request to provide consent, the district may, but is not required to, pursue an evaluation by utilizing the procedural safeguards, including the mediation and due process procedures pursuant to 20 USC 1415 and 34 CFR 300.506-300.516. (Education Code 56321; 34 CFR 300.300)

For a student who is a ward of the state and not residing with the student's parent/guardian, the district shall make reasonable efforts to obtain the informed consent from the parent/guardian of the student for an initial evaluation to determine whether the student is a student with a disability. The district may conduct an initial evaluation without obtaining informed consent if any of the following situations exists: (Education Code 56321.1; 20 USC 1414; 34 CFR 300.300)

1. Despite reasonable efforts to do so, the district cannot discover the whereabouts of the parent/guardian of the student.

2. The rights of the parent/guardian of the student have been terminated in accordance with state law.

3. The rights of the parent/guardian to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student.

The district need not obtain parent/guardian consent before reviewing existing data as part of an evaluation or re-evaluation, or before administering a test or other evaluation that is administered to all students, unless consent is required from the parents/guardians of all students. (Education Code 56321; 34 CFR 300.300)

Conduct of the Evaluation

Within 60 calendar days of receiving parental consent for the initial assessment of a student, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five schooldays, a determination whether the student is eligible for special education and the educational needs of the student shall be made, an IEP team meeting shall occur, and an IEP shall be developed, unless the parent/guardian agrees in writing to an extension, pursuant to Education Code 56344. If the 60-day time is interrupted by a student school vacation, the 60-day time shall recommence on the date that student schooldays reconvene and a meeting to develop an IEP for the student shall be conducted within 30 days of a determination that the student needs special education and related services. (Education Code 56043, 56344)

However, when a referral has been made for a student 30 days or less prior to the end of the regular school year, an IEP required as a result of an assessment of the student shall be developed within 30 days after the commencement of the subsequent regular school year. (Education Code 56043, 56344; 34 CFR 300.301, 300.323)

The evaluations shall be conducted by qualified personnel who are competent to perform the assessment as determined by the district. (Education Code 56320, 56322)

In addition, evaluations and reevaluations shall be administered by qualified personnel who are competent in the oral or sign language skills and written skills of the student's primary language or mode of communication and have a knowledge and understanding of the cultural and ethnic background of the student. If it is clearly not feasible to do so, an interpreter shall be used, and the assessment report shall document this condition and note that the validity of the assessment may have been affected. The normal process of second-language acquisition, as well as manifestations of dialect and sociolinguistic variance shall not be diagnosed as a disabling condition. (5 CCR 3023)

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for

eligibility for special education and related services. (Education Code 56321; 20 USC 1414; 34 CFR 300.302)

In conducting the evaluation, the district shall use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student. The district shall also use any information provided by the parent/guardian that may assist the district in making the determination as to whether the student is a student with a disability and, if so, the necessary components of his/her IEP when the IEP is developed, including information related to enabling the student to be involved in and to progress in the general education curriculum. (34 CFR 300.304)

The district's evaluation shall not use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability and for determining the appropriate educational program for the student. The assessment shall use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors. (Education Code 56320; 34 CFR 300.304)

The district shall also ensure that assessments and other evaluation materials provide relevant information that assists in determining the student's educational needs and are: (Education Code 56320; 34 CFR 300.304)

1. Selected and administered so as not to be discriminatory on a racial, cultural, or sexual basis.

2. Provided and administered in the language and form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer.

3. Used for the purposes for which the assessments or measures are valid and reliable.

4. Administered by trained and knowledgeable personnel, except that individually administered tests of intellectual or emotional functioning shall be administered by a credentialed school psychologist

5. Administered in accordance with any instructions provided by the producer of the assessments.

6. Tailored to assess specific areas of educational need and not merely designed to provide a single general intelligence quotient.

7. If administered to a student with impaired sensory, manual, or speaking skills, selected and administered to best ensure that the results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

Students shall be assessed in all areas related to the suspected disability, including, if

appropriate, health and development, vision (including low vision), hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. When appropriate, a developmental history shall be obtained. For students with residual vision, a low vision assessment shall be provided in accordance with guidelines established pursuant to Education Code 56136. The district shall ensure that the evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in which the student has been classified. (Education Code 56320; 34 CFR 300.304)

As part of the initial evaluation and any reevaluation, the IEP team and other qualified professionals shall, if appropriate, review existing evaluation data on the student, including evaluations and information provided by the parents/guardians, current classroom-based local or state assessments and classroom-based observations, and observations by teachers and related services providers. On the basis of that review and input from the student's parent/guardian, the team shall identify what additional data, if any, are needed to determine: (Education Code 56381; 34 CFR 300.305)

1. Whether the student is a student with a disability, or in the case of a reevaluation, whether the student continues to have a disability, and the educational needs of the student

2. The present levels of academic achievement and related developmental needs of the student

3. Whether the student needs, or continues to need, special education and related services

4. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in his/her IEP and to participate, as appropriate, in the general education curriculum

If a student has transferred from another district in the same school year or leaves this district, the district shall coordinate with the student's prior or subsequent district as necessary and as expeditiously as possible to ensure prompt completion of full evaluations. (34 CFR 300.304)

Evaluation Report

The personnel who evaluate the student shall prepare a written report of the results of each evaluation. The report shall include, but not be limited to, the following: (Education Code 56327)

1. Whether the student may need special education and related services.

2. The basis for making the determination.

3. The relevant behavior noted during the observation of the student in an appropriate setting.

4. The relationship of that behavior to the student's academic and social functioning.

5. The educationally relevant health, developmental, and medical findings, if any.

6. For students with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services.

7. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate.

8. The need for specialized services, materials, and equipment for students with low incidence disabilities, consistent with Education Code 56136.

Eligibility Determination

Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent/guardian shall determine whether the student is a student with a disability and, if so, the student's educational needs. In interpreting the data, the group shall draw information from a variety of sources, including aptitude and achievement tests, parent/guardian input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior. The group shall ensure that the information obtained from these sources is documented and carefully considered. (34 CFR 300.306)

When making a determination of eligibility for special education and related services, the district shall not determine that a student is disabled if the primary factor for such determination is a lack of appropriate instruction in reading, including the essential components of reading instruction pursuant to 20 USC 6368, lack of instruction in mathematics, limited English proficiency, or that the student does not otherwise meet the eligibility criteria. (Education Code 56329; 34 CFR 300.306)

The normal process of second-language acquisition, as well as manifestations of dialect and sociolinguistic variance, shall not be diagnosed as a disabling condition. (5 CCR 3023)

Independent Educational Ev aluation

An independent educational evaluation is defined as an evaluation conducted by a qualified examiner who is not employed by the district. (34 CFR 300.502)

Public expense means the district either pays for the full cost of the independent educational evaluation or ensures that the evaluation is otherwise provided at no cost to the parent/guardian. 34 CFR 300.502)

The parents/guardians of a student with a disability have the right to obtain an IEE at public expense under the same criteria, including the location of the evaluation and the qualifications of the examiner that the district uses for a district-initiated evaluation. (34 CFR 300.502)

The parent/guardian is entitled to only one IEE at public expense each time the district conducts an evaluation with which the parent/guardian disagrees. (Education Code 56329; 34 CFR 300.502)

If a parent/guardian has requested an IEE, the district may ask for the reason that he/she objects to the district's evaluation. However, the parent/guardian is not required to provide an explanation and the district may not unreasonably delay either providing the IEE at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation. (34 CFR 300.502)

Upon receiving the request for an IEE, the district shall, without unnecessary delay, either: (34 CFR 300.502)

1. File a due process complaint to request a hearing to show that its evaluation is appropriate.

2. Ensure that an IEE is provided at public expense, unless the district demonstrates at a hearing that the evaluation obtained by the parent/guardian did not satisfy the district's criteria.

If a due process hearing decision determines that the district's evaluation is appropriate, then the parent/guardian may obtain an IEE but not at public expense. (Education Code 56329; 34 CFR 300.502)

In any decision made with respect to providing FAPE to a student with a disability, the result of any IEE obtained by the student's parent/guardian shall be considered by the district if it meets district criteria. Any such result also may be presented as evidence at a hearing on a due process complaint. (Education Code 56329; 34 CFR 300.502)

Reevaluation

A reevaluation shall be conducted when the district determines that the educational or related service needs of the student, including improved academic achievement and functional performance, warrant a reevaluation or if the student's parent/guardian or teacher requests reevaluation. Such reevaluations shall occur every three years, unless the parent/guardian and district agree in writing that a reevaluation is unnecessary. A reevaluation may not occur more than once a year, unless the parent/guardian and the district agree otherwise. (Education Code 56043, 56381; 34 CFR 300.303)

The district shall ensure that any reevaluations of the student are conducted in accordance with the evaluation procedures pursuant to 34 CFR 300.304-300.311. (34 CFR 300.303)

Before entering kindergarten or first grade, children with disabilities who are in a preschool program shall be reevaluated to determine if they still need special education and services. IEP teams shall identify a means of monitoring the continued success of children who are determined to be eligible for less intensive special education programs to ensure that gains made are not lost by a rapid removal of individualized programs and supports for these

children. (Education Code 56445)

Coordinating Transitions

Each member district designates a main point of contact for coordinating and completing, with other agencies and persons, the transition of a child and family from infant/toddler programs to preschool (Part C to Part B of the federal Individuals with DIsabilities Education Act), including establishing practices to educate and support families during transition. (Government Code 95008)

The District's point of contact for transitioning a child and family from Part C to Part B may also coordinate the re-evaluation and monitoring for a child transitioning from Preschool to kindergarten or first grade.

CLASSIFICATION: INSTRUCTION

PROPOSED: 10-27-16	**ADOPTED: 1-26-17**
REVISION PROPOSED: 10-29-20	**REVISION ADOPTED: 1-21-21**
REVISION #2 PROPOSED: 1-20-22	**REVISION #2 ADOPTED: 1-20-22**

SUBJECT: Children with Disabilities Enrolled by their Parent in Private Schools

The Policy Board of the North Region SELPA recognizes its obligations under federal and state law to identify and provide equitable services to children voluntarily enrolled by their parents/guardians in private schools located within the district.

The Superintendent or designee of each member district recognizes that children enrolled by their parents/guardians in private schools located within the district are only entitled to child-find. (34 CFR 300.130, 300.13, 300.36)

The Superintendent or designee of each member district shall ensure that activities to locate, identify, and evaluate children with disabilities enrolled by their parents/guardians in private schools within the district are comparable to activities undertaken for individuals with disabilities aged three to 22 in public schools within the district. (34 CFR 300.111, 300.130, 300.131; Education Code 56171)

The Superintendent or designee of each member district shall develop a budget for the provision of services to children with disabilities enrolled by their parents in private school based on the proportionate share of federal funds received and the number of eligible children, including the possibility of mid-year enrollees, and the types of services to be provided.

Legal Reference:

EDUCATION CODE

56000 Education for individuals with exceptional needs

56020-56035 Definitions

56170-56177 Children in private schools

56195.8 Adoption of policies for programs and services

56300-56385 Identification and referral, assessment

56500-56509 Procedural safeguards, including due process rights

56600-56606 Evaluation, audits and information

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

1400-1482 Individuals with Disabilities Education Act

1412 State eligibility

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act

CODE OF FEDERAL REGULATIONS, TITLE 34

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

300.111, 300.130-300.144 Children with disabilities enrolled by their parents in private schools

COURT DECISIONS

Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997

Management Resources:

UNITED STATES DEPARTMENT OF EDUCATION PUBLICATIONS

Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, August 2021

Long COVID under Section 504 and the IDEA: A Resource to Support Children, Students, Educators, Schools, Service Providers, and Families, July 2021

A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA): Memorandum 11-07, January 2011

Questions and Answers on Serving Children with Disabilities Placed by Their Parents at Private Schools, April 2011

FEDERAL REGISTER

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

WEB SITES

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

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

CLASSIFICATION: INSTRUCTION

PROPOSED: 10-27-16 **ADOPTED: 1-26-17**
REVISION PROPOSED: 10-29-20 **REVISION PROPOSED: 1-21-21**
REVISION #2 PROPOSED: 1-20-22 **REVISION #2 PROPOSED: 1-20-22**

SUBJECT: Children with Disabilities Enrolled by their Parent in Private Schools

Definitions

Parentally placed private school children with disabilities means children with disabilities who are voluntarily enrolled by their parents/guardians in a private school or facility within district boundaries, including children who are attending a private school or facility within district boundaries but who reside in another district or state. (34 CFR 300.130, 300.131)

However, the regulation in 34 CFR 300.130 narrows the definition to meet those in 34 CFR 300.13 (elementary) and 34 CFR 300.36 (secondary) which specify that the school must be nonprofit.

Private school or facility means a private full-time day school, including a religious school, located within district boundaries, that has filed an affidavit with the California Department of Education pursuant to Education Code 33190 and is registered in the California Private School Directory.

Consultation with Private School Representatives

The Director of North Region SELPA (or designee) and the District Superintendent (or designee) shall consult with all private school representatives and representatives of parents/guardians of parentally placed private school children with disabilities during the design and development of equitable services for the children. In order to ensure a meaningful and timely consultation, the consultation shall include: (20 USC 1412(a)(10)(A)(iii); 34 CFR 300.134

1. The child find process and how parentally placed private school children suspected of having a disability can participate equitably.

2. How parents/guardians, teachers, and private school officials will be informed of the child find process.

3. The determination of the proportionate share of federal funds available to serve parentally placed private school children with disabilities and how this share is calculated.

4. How the consultation process among district staff, private school officials, and representatives of parents of parentally placed private school children with disabilities will operate throughout the school year to ensure that identified children can meaningfully participate in equitable services.

5. The provision of equitable special education and related services including how, where, when, and by whom equitable services will be provided including a discussion about the types of services, alternate service delivery mechanisms, how services will be apportioned if funds are insufficient to serve all of the identified children, and how and when those decisions will be made.

6. In the event that the district and private school disagree on the provision of or the types of services, how the district will provide the private school officials with a written explanation of the reasons that the district chose to not provide the services.

When meaningful and timely consultation has occurred, the SELPA shall obtain a written affirmation signed by the representatives of participating private schools. If the private school representatives do not provide the affirmation within a reasonable period of time, the SELPA shall forward documentation of the consultation process to the California Department of Education. (34 CFR 300.135; Education Code 56172; 20 USC 1412)

After the consultation has occurred, the member districts shall ensure an annual count of the number of parentally placed children with disabilities attending private schools located within the district. This count shall be conducted between October 1 and December 1 each year and shall be used to determine the amount the district must spend on providing equitable services to the children in the subsequent fiscal year. (34 CFR 300.133)

Provision of Services

A child with a disability parentally placed in a private school has no individual right to receive some or all of the special education and related services that he/ she would receive if enrolled in public school. Such a child may receive a different amount of services than students with disabilities in public schools. (34 CFR 300.137, 300.138)

And, children enrolled in for-profit private schools are only entitled to child-find. These children are not counted for the purpose of determining the proportionate share or eligible to receive equitable services. The regulations in 34 CFR 300.130 exclude these children, however, under 34 CFR 300.111, the State must ensure that all children with disabilities, including children with disabilities attending private schools, who are in need of special education and related services, are identified, located, and evaluated. This includes children with disabilities attending for-profit schools.

The district shall evaluate all identified parentally placed private school children with disabilities for purposes of child-find, and for those in nonprofit schools for considering them for equitable services. This evaluation shall be conducted in accordance with the timelines and procedures for evaluating public school students with disabilities pursuant to 34 CFR 300.300-300.311, including obtaining parent/guardian consent and providing the parent/guardian with a copy of the procedural safeguards notice. (34 CFR 300.111, 300.130, 300.131, 300.504)

If the child resides in the district and is eligible for an individualized education program (IEP), the district where the child resides shall make a free appropriate public education (FAPE) available to the child. However, the district is not required to develop an IEP if the parent/guardian makes clear the intention to keep the child enrolled in private school. In such situations, the district shall obtain written certification confirming the parent/guardian's intention to keep his/her child enrolled in private school, including the fact that the parent/guardian is not interested in the development of an IEP or the district's offer of FAPE. If the parent/guardian does not provide confirmation in writing, the district shall obtain oral confirmation of the parent/guardian's intention and confirm the conversation in writing.

If the child resides in a different district, then this district and the district of residence shall work together to ensure that the parent/guardian receives an offer of FAPE in accordance with law.

The district where the private school is located shall develop and implement a service plan (SP) for each identified child with a disability enrolled by their parent/guardian in a nonprofit private school child. The SP describes the equitable services that the district will provide, as determined by the district after the consultation process with representatives from private schools located in the district. (34 CFR 300.138)

The SP shall be developed, reviewed, and revised consistent with 20 USC 1414. A representative of the private school shall be invited to attend each SP team meeting. If the representative cannot attend the meeting, the district shall use other methods to ensure the representative's participation, including individual or conference calls. (34 CFR 300.137, 300.138)

The district may provide services on the nonprofit private school premises, including a religious school, to the extent consistent with law. The services shall be provided by personnel meeting the same standards as personnel providing services in the public school, except private elementary school and secondary school teachers who are providing equitable services to the parentally placed private school children do not have to meet the special education teacher qualification requirements in 34 CFR 300.156. The personnel shall either be district employees or contractors of the district. (34 CFR 300.138, 300.139)

The district shall offer transportation to the child if services are provided on a site other than the child's school and the SP team determines that transportation is necessary for the child to benefit from or participate in the services provided in the SP. Depending on the timing of the services, the district shall provide transportation from the child's school or home to the service site and from the service site to the child's school or home. (34 CFR 300.139) It would be extraordinary circumstances for this to occur since there is not an individual entitlement to any or all of the services that the child would receive if enrolled in a public school. (34 CFR 300.132(b), 300.138(b).)

The district may place equipment and supplies in a private school for the period of time necessary to provide the services pursuant to the SP. All such equipment shall remain the property of the district and must be able to be removed without remodeling or causing damage to the private school. The district shall remove the equipment when no longer required by the child, when the child no longer attends the private school, or when removal is necessary to prevent unauthorized use. (34 CFR 300.144)

Preschool Children

Preschool regulations indicate that private school settings may be appropriate for the delivery of special education services. When the Individualized Education Program team determines that it is appropriate, children in these settings may receive FAPE and all the accompanying procedural safeguards.

CLASSIFICATION: INSTRUCTION

PROPOSED: 4-9-20 **ADOPTED: 5-21-20**

SUBJECT: Services to Adult Students in County Jail Facilities

Free Appropriate Public Education

Every individual with exceptional needs who is eligible to receive special education instruction and related services under the Individuals with Disabilities Education Act (IDEA) and state special education laws, shall receive that instruction and those services at no cost to his or her parents or, as appropriate, to him or her. A Free Appropriate Public Education (FAPE) shall be available to individuals with exceptional needs in accordance with Section 1412(a)(1) of Title 20 of the United States Code and Section 300.101 of Title 34 of the Code of Federal Regulations.

Eligible Adults

Adults who are age 18 through 22 years, who have not graduated with a high school diploma, who at the time they turned 18 years were identified as an individual with exceptional needs and had an individualized education program (IEP) under the IDEA, are also entitled to a FAPE (hereinafter, "eligible adults"). (See 20 U.S.C. § 1400 (d) (1) (A), (B), (C); U.S.C. § 1412(a) (1) (A); Education Code, § 56000,56040 (b).) This applies to adults incarcerated in California adult jails and prisons. However, an individual aged 18 through 22 years, who, in the educational placement prior to his or her incarceration in an adult correctional facility was not identified as an individual with exceptional needs or did not have an IEP under the IDEA, is not entitled to a FAPE. (20 U.S.C. § 1412 (a) (1) (B); Education Code, § 56040(b).)

Child Find

For eligible adults who prior to reaching the age of majority resided within the North Region SELPA geographic boundaries, the applicable local educational agency (LEA) within the SELPA shall ensure they have available to them a FAPE. Generally, the district of residence (DOR) responsible for providing special education and related services to pupils between the ages of 18 to 22 years, inclusive, shall be assigned, as follows: (a) For non-conserved pupils, the last district of residence in effect prior to the pupil's attaining the age of majority shall become and remain as the responsible local educational agency, as long as and until the parent or parents relocate to a new district of residence. At that time, the new district of residence shall become the responsible local educational agency. (b) For conserved pupils, the district of residence of the conservator shall attach and remain the responsible local

educational agency, as long as and until the conservator, relocates or a new one is appointed. At that time, the new district of residence shall attach and become the responsible local educational agency. (Education Code §56041)

Provision of Service

Once the SELPA or the responsible LEA is informed that an eligible adult is incarcerated in an adult correctional facility, the responsible LEA will determine whether the eligible adult requests to receive FAPE. Once the request has been made, the responsible LEA shall review and revise the IEP as necessary, subject to the cooperation of the correctional facility where the eligible adult is located.

The responsible Local Educational Agency (LEA) will determine within 30 days of eligibility notification whether the qualified individual requires a FAPE and if so, the LEA will ensure that the qualified individual is provided a Free Appropriate Education (FAPE) pursuant to the IDEA and corresponding California special education law. To receive special education services while incarcerated, the student must consent to the receipt of such services such as but not limited to transition services, specialized academic instruction and other services as determined by the IEP team. The student may revoke their consent for special education services at any time.

Limitations

The following special education requirements do not apply to eligible individuals who are convicted as adults under State law and incarcerated in adult prisons:

1. The requirements set out in 20 U.S.C. § 1412(a) (16) and 20 U.S.C. § 1414(d) (1) (A) (i) (VI) relating to participation in general assessment) do not apply. Eligible individuals convicted as adults under State law and incarcerated in adult prisons are exempted from participation in State and district-wide assessment programs under the IDEA.

2. The requirements of items (aa) and (bb) of 20 U.S.C.§ 1414(d) (1) (A) (i) (VIII) (relating to transition planning and transition services), do not apply with respect to such individuals whose eligibility under the IDEA will end, because of their age, before such individuals will be released from county jail.

3. If an individual with a disability is convicted as an adult under State law and incarcerated in an adult county jail, the individual's IEP team may modify the individual's IEP or placement notwithstanding the least restrictive environment (LRE) requirements of 20 U.S.C.§ 1412(a)(5)(A) and the IEP contents requirements of 20 U.S.C. § 1414(d)(1)(A) if there is a bona fide security or compelling penological interest that cannot otherwise be accommodated.

An individual who was not identified as a student with exceptional needs or did not have an IEP under IDEA in the educational placement prior to his or her incarceration in an adult

correctional facility is not entitled to a FAPE.

Adults (aged 18-22 years) incarcerated in California adult jails and prisons are entitled to a Free Appropriate Education (FAPE) if they meet the following criteria:

1. The inmate is not a graduate with a high school diploma and

2. At the time they turned 18, the inmate was identified as an individual with exceptional needs and had an individualized educational program (IEP) under IDEA. (students who reach age 22 are no longer eligible)

Legal References:
UNITED STATES CODE, TITLE 20
§ 1400 Individuals with Disabilities Education Act (d),(1). (A), (B), (C)
§ 1412 State eligibility FAPE (a), (1), (A), (B), (5), (16)
§ 1414 Evaluations, eligibility determinations, individualized education programs, and educational placements (d), (1), (7), (A), (i), (VI), (VIII)

CODE OF FEDERAL REQUIREMENT TITLE 34
§ 300.101 Free appropriate public education
§ 300.324(d) Children with disabilities in adult prisons

GOVERNMENT CODE
§ 7579 (D)

EDUCATION CODE
§ 56000
§56026 (c), (4)
§ 56040 (b)
§ 56041

Letter to Yudien, 39 IDELR 270,103 LRP 37913 (OSEP 2003)

CLASSIFICATION: INSTRUCTION

PROPOSED: 6-20-11	**ADOPTED: 6-20-11**
REVISION #1 PROPOSED: 3-23-17	**REVISION #1 ADOPTED: 5-8-17**
REVISION #2 PROPOSED: 3-24-22	**REVISION #2 ADOPTED: 5-26-22**
REVISION #3 PROPOSED: 3-21-24	**REVISION #3 ADOPTED: 3-21-24**
REVISION #4 PROPOSED: 5-22-25	**REVISION #4 PROPOSED: 5-22-25**

SUBJECT: Independent Educational Evaluations (IEE)

This policy sets forth the procedures under which IEP-eligible students with disabilities, or students who have been assessed for eligibility purposes, are entitled to an Independent Educational Evaluation at public expense.

Definitions

- *Independent Educational Evaluation* (IEE) means an evaluation conducted by a qualified examiner who is not employed by the District of residence.
- *Qualified Examiner* is an evaluator who is competent to perform the evaluations through criteria established in this policy by the District in accordance with Ed. Code, Section 56322 and as a member of the North Region SELPA.
- *Public expense* means that the District pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.
- *Parent Initiated Evaluation* is an educational evaluation obtained by the parent at private expense.

Parents have the right to request an IEE at public expense if they disagree with an evaluation completed by the local educational agency/District A request for an IEE must be made within two years of the date of the District's evaluation report.

GETTING STARTED

Parents must notify the District in writing (or verbally during an IEP meeting) that they:

1. Disagree with the District's evaluation, and
2. That they are requesting an IEE at public expense.
   - The District may ask for the parent's reason(s) for disagreeing with the District's evaluation, but the parent is not required to provide those reasons.
   - The District may offer to conduct another evaluation of its own with parent consent. If the parent does not agree to another District evaluation and, consequently, does not withdraw the request for an IEE, the District must respond to the parent's request by ensuring an IEE is provided at public expense in a timely manner or initiate a due process hearing in accordance with this policy.

- The District may not unnecessarily delay either providing the IEE at public expense or initiating a due process hearing to defend its evaluation.
- Parents may only request one publicly funded independent evaluation for each evaluation completed by the District.

After the parent communicates disagreement with the District's evaluation and requests an IEE at public expense the District will:

1. Provide the parent with a copy of this IEE policy and a copy of procedural safeguards
2. Decide whether to:
   a. proceed with obtaining an independent educational evaluation
   b. initiate a due process hearing to establish the appropriateness of its evaluation

IF THE DECISION IS TO FUND AN IEE

The District will:

1. Notify parents in prior written notice of this decision.
2. Provide to the parent options for an IEE evaluator that meet the criteria set forth in this policy. The list of evaluators:
   a. may include staff from another District, a public sector provider, or private sector provider.
   b. is not intended to be exhaustive nor intended to limit a parent's options in obtaining an IEE from other qualified professionals who meet the criteria set forth in this policy.
   c. is not an endorsement of the evaluators, it is an acknowledgement that they meet the criteria set forth in this policy.

Parents will communicate to the District, in writing, of their evaluator choice. Parents may choose any evaluator that meets the North Region SELPA criteria for IEE evaluators as defined by this policy.

If the parent has chosen an evaluator that meets SELPA criteria:

1. The District will notify the parent in writing through prior written notice of its agreement with the parent regarding choice of IEE evaluator and area(s) to be assessed.
2. Parents will sign a release and exchange of information between the IEE evaluator(s) and the District. Refusal to sign this document will cause unnecessary delay by the parent.
3. The District will initiate a contract with the evaluator without unnecessary delay.
4. If there is disagreement about the chosen evaluator,, the District will work with the parents to resolve the dispute or to choose another assessor.

Code of Federal Regulations, Title 34, Subpart 300.502 does not impose timelines concerning IEEs, and a District cannot impose such a timeline on an independent assessor. However, the District will monitor timelines to avoid unnecessary delay, recognizing that Districts have little control over when an independent assessor responds to a request for information, executes a contract, or completes the IEE.

IF THE DECISION IS TO NOT FUND AN IEE

1. The District will notify the parent in writing through prior written notice of the decision to initiate a due process hearing to establish the appropriateness of its evaluation.
2. If a Hearing Officer decides that the District's evaluation is appropriate, the parent still has the right to an IEE, but not at public expense.

3. If a Hearing Officer requests an IEE as part of a hearing, the cost of the evaluation must be at the District's expense.
4. No reimbursement shall be made unless ordered by a Hearing Officer

IF PARENT OBTAINS AN IEE AT PRIVATE EXPENSE

The parent must disagree with a District's evaluation in order to have the right to request an IEE. Therefore, the District does not have an obligation to reimburse a parent for an evaluation privately obtained:

1. prior to the date that the District's evaluation is completed and then discussed at an IEP meeting.
2. if the parent disagrees with the District's evaluation and independently seeks a private evaluation without first notifying the District of their disagreement with the District's evaluation and requesting an IEE from the District.

The District may reimburse the parent for a privately obtained IEE (even if the policy requirements described in this section were not followed) if all of the following conditions were met:

1. The parent disagreed with the District's evaluation.
2. The parentally obtained evaluation meets the criteria set forth in this policy
3. The parent, upon request, provided the District with written consent to exchange information with the assessor.
4. The parent provides a copy of the written evaluation report.
5. The assessor attends the relevant IEP team meeting by phone or in person to discuss their findings and provides protocols of all evaluations to the District.

Reimbursement will be in accordance with the North Region SELPA policy and criteria and in an amount no greater than actual cost to parent.

Whether the parent obtains an educational evaluation at public expense or private expense, the results of the evaluation:

1. Must be considered by the District, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the student; and
2. May be presented as evidence at a due process hearing regarding the student.

CFR 300.502 (c)(1) & (2)

GENERAL CRITERIA FOR AN IEE OBTAINED AT PUBLIC EXPENSE

- The criteria under which an IEE is obtained at public expense, including the location limitations for the evaluation, minimum qualifications of the evaluator, cost containment criteria, and use of approved instruments, must be consistent with the criteria set forth in this policy, and consistent with the criteria that the District uses when it initiates an evaluation.
- Except for the criteria described in this policy and criteria, no other conditions are imposed related to obtaining an IEE at the District's expense.
- The results of the IEE will be considered in the determination of eligibility, program decisions, and placement of the student with disabilities as required by the Individuals with Disabilities Education Act.
- IEEs will not control, but may inform, the District's determinations regarding eligibility for special education, appropriate goals, objectives, and/or placement recommendations.

EVALUATOR CRITERIA

1. IEE evaluators must agree to release their written evaluation and results to the District prior to receipt of payment for services. If a parent requests an evaluator who does not meet the criteria set forth in this policy, the District will attempt to confer with the parent to determine the unique circumstances justifying the use of an evaluator who does not meet the criteria. (Ed. Code 56320 (b)(3)
   a. If the District agrees that the unique circumstances justify using an evaluator who does not meet the criteria set forth in this policy, then the District and parent may proceed with obtaining an IEE from that evaluator.
   b. If the District does not agree that unique circumstances justify the use of an evaluator who does not meet the criteria set forth in this policy, and the parent does not agree to use an evaluator meeting those criteria, the District shall initiate a due process request to resolve the dispute.

As part of the contracted evaluation, independent evaluators must:

1. Provide protocols of all the assessments, and
2. Provide a written report prior to the IEP team meeting.

<u>EVALUATOR LOCATION LIMITATIONS</u>

- Evaluators will be located within the greater Bay Area, specifically: Marin, Sonoma, Napa, San Francisco, Contra Costa, Alameda, San Mateo, and Santa Clara Counties. Evaluators outside of this area may be approved only on an exceptional basis, providing the parent can demonstrate the necessity of using personnel outside the specified area and providing District agrees.
- Any expenses beyond the evaluation (i.e., food, lodging, transportation, etc.) are not covered in the cost of the IEE.

<u>EVALUATOR MINIMUM QUALIFICATIONS</u>

- All evaluations must be conducted by persons competent to perform the evaluation as determined by the DIstrict/SELPA (E.C. 56322).
- Evaluators must meet the criteria for any public school evaluator (i.e. TB testing and fingerprinting, as well as any other contract requirements (e.g., Nonpublic Agency Master Contract, Contract Services Agreement) enforced by the District.

Type of Assessment	Qualifications
Adaptive Behavior	School Psychologist Licensed Educational Psychologist Credentialed Special Education Teacher
Assistive Technology	Credentialed Assistive Technology Specialist Credentialed or Licensed Speech/Language Pathologist Credentialed Special Education Teacher
Auditory Acuity Central Auditory Processing	Licensed Educational Audiologist
Auditory Perception/Processing	Licensed or Credentialed Speech/Language Pathologist School Psychologist Licensed Educational Psychologist

Behavioral	School Psychologist Credentialed Special Education Teacher Board Certified Behavior Analyst
Cognitive	School Psychologist Licensed Educational Psychologist
Health (including neurological)	Licensed Physician Nurse
Motor	Licensed Physical Therapist Licensed Occupational Therapist Registered (OTR) Credentialed Teacher of the Physically Impaired Credentialed Adaptive Physical Education Teacher
Occupational Therapy	Licensed Occupational Therapist Registered (OTR)
Speech and Language	Credentialed or Licensed Speech/Language Pathologist
Social/Emotional	School Psychologist Licensed Educational Psychologist
Visual Acuity Developmental Vision	Licensed Ophthalmologist Optometrist
Functional Vision	Credentialed Teacher of the Visually Impaired
Vision Perception	Credentialed Special Education Teacher School Psychologist
Post Secondary Transition	Credentialed Special Education Teacher
Psycho-Educational Evaluation (to include, but not limited to: academic, adaptive behavior, cognitive, visual motor, social/ emotional)	Credentialed School Psychologist Licensed Educational Psychologist

EVALUATION CRITERIA

The contents of the evaluation must meet the criteria as set forth in CFR 300.301-311, and as applicable to 300.502(c)(1). The District will define the nature and scope of an independent examiner's in-class observations consistent with the right to an equivalent opportunity to observe, but also consistent with its obligations to prevent unnecessary disruption in the class and to protect the privacy and interests of other students. This will include, but is not limited to, identifying the time constraints of such observation, District personnel who will participate in the observation, and restrictions on student/teacher interactions. This opportunity will also be provided if the parent obtains an evaluation at private expense.

EVALUATION COST CONTAINMENT

- The cost of an IEE shall be comparable to those costs that the District incurs when it uses its own employees or contractors to perform a similar assessment, as identified above.
- Costs include observations, administration and scoring of tests, report writing, and attendance in person or by phone at an IEP team meeting; costs will be delineated on the independent evaluator's contract with the District.
- Reimbursement to a parent for the cost of an IEE obtained by the parent will be in an amount no greater than the actual cost to the parent, and will be subject to proof of payment.

- The cost of an IEE shall be comparable to those costs that the District incurs when it uses its own employees or contractors to perform a similar assessment. Costs above these amounts will not be approved unless the parent can demonstrate and the District agrees that such costs reflect unique circumstances justifying the selection of an evaluator whose fees fall outside these criteria.

Type of Assessment	Cost Limit
Academic Achievement (Transition Assessment may be included for students ages 15-21)	*$2,300*
Assistive Technology/Augmentative and Alternative Communication (AAC)	*$2,500*
Functional Behavior Assessment, including Behavior Intervention Plan	$4,200
Occupational Therapy	*$2,500*
Speech/Language	*$2,800*
Post Secondary Transition	*$1,200*
Psycho-Educational Evaluation (to include, but not limited to: academic, adaptive behavior, cognitive, visual motor, social emotional)	*$6,300*

Family Insurance

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

1. A decrease in available lifetime coverage or any other benefit under an insurance policy,
2. An increase in premiums or the discontinuance of the policy, or
3. An out-of-pocket expense such as payment of a deductible amount incurred in filing a claim unless the parent is willing to have the District reimburse them for the amount of the deductible.

EDUCATION CODE

56329 Notice to parent or guardians; independent educational assessments; hearings; proposals for publicly financed nonpublic placements

56506(c) Due process rights of pupil and parent

CALIFORNIA CODE OF REGULATIONS, TITLE 5

3022 Assessment Plan.

UNITED STATES CODE, TITLE 20

1415(b)(l)

CODE OF FEDERAL REGULATIONS, TITLE 34

300.502 Independent Educational Evaluation

CLASSIFICATION: INSTRUCTION

PROPOSED: 4-9-20 **ADOPTED: 4-9-20**

SUBJECT: Access to Instructional Materials

The SELPA member districts shall provide instructional materials to students who are blind or other students with print disabilities in a timely manner according to the state-adopted National Instructional Materials Accessibility Standard.

CLASSIFICATION: INSTRUCTION

PROPOSED: 6-21-07 **ADOPTED: 6-21-07**
REVISION PROPOSED: 4-9-20 **REVISION ADOPTED: 4-9-20**

SUBJECT: Participation in State/District Assessments

PARTICIPATION IN STATE/DISTRICT-WIDE ASSESSMENTS

It is the policy of the SELPA and member LEAs that all students with disabilities shall participate in state and district-wide assessment programs described in 20 USC Subsection 6311. The IEP determines how a student will access assessments with or without accommodations, or access alternative assessments where necessary and as indicated in their respective IEPs.

CLASSIFICATION: INSTRUCTION

PROPOSED: Local Plan 2003 **ADOPTED: 3-19-03**

SUBJECT: Charter Schools

CHARTER SCHOOLS

Rationale

This policy applies to all Charter Schools that are chartered by educational entities located within the Alameda County North Region SELPA. Additionally, this policy applies to any charter school petition granted by the State Board of Education (SBE) in which oversight responsibilities have been assigned to a district within the SELPA. As students enrolled in charter schools are entitled to special education services provided by State and Federal funding, the charter schools will follow all requirements of state and federal law regarding provision of special education services.

Policy Statement

Special education and related services shall be provided to all eligible individuals within North Region Alameda County SELPA in accordance with this Local Plan. Students enrolled in charter schools chartered within this SELPA shall receive services in a manner similar to students enrolled in member districts within the SELPA. Funding for special education services, participation in the governance structure and responsibility for provision of services shall be based on the status of the individual charter school.

For the provision of special education services, charter schools may be categorized as either a separate LEA or a Public Charter School within a district. All approved charter schools will be deemed public schools within a district unless the charter school has been deemed an LEA by the SELPA Policy Board and approved by the County Superintendent of Schools.

1. SELPA Involvement with Approval and Renewal of Charters

Prior to approval of a new charter, or renewal of an existing charter, the superintendent or designee of the chartering entity shall consult with the SELPA Administrator regarding the status of the charter school. The chartering entity will provide assurances that all eligible students, including those students enrolled in the charter school, will receive appropriate special education services.

2. Status of Charter Schools

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

a. Public School Within a School District

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

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

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

b. Charter School as an LEA within the SELPA

A charter school may apply to participate *as* an LEA for the provision of special education services. A request to participate as an LEA in the SELPA may not be treated differently from a similar request by a school district. Application must be made to the SELPA by February 1 of the school year preceding the school year in which the charter school anticipates operating as an LEA within the SELPA. The Policy Board will make the final determination whether the charter school has met all *the* requirements of an LEA. These requirements include:

- Provide a current operating budget in order to assure fiscal responsibility;
- Provide assurances that students and staff will be instructed in a safe environment;
- Provide a copy of the original petition;

- Be responsible for any legal fees as it relates to the application and assurances process in becoming an LEA;
- Meet the terms of the assurances required in every Local Plan, including those regarding Identification, Screening, Referral, Assessment, Instructional Planning, Implementation and Review.;
- Procedural Safeguards*;* and
- Regionalized Services

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

- Participate in governance of the SELPA in the same manner as other LEAs of the SELPA.
- Participate in state and federal funding for special education and the allocation plan developed in the same manner as other LEAs of the SELPA.
- Be responsible for all costs incurred in the provision of special education services. These costs may include, but are not limited to, instruction, transportation, nonpublic school/agency placements, inter/intra SELPA placements, due process proceedings, complaints and attorney fees.

3. Administrative Guidelines

a. The governing board of each LEA shall not approve a petition for creation of a charter school unless the petition contains adequate assurances that the proposed school will comply with all provisions of federal law and implementing regulations related to the rights of students with disabilities and their parents.

b. The governing board shall require that a petition include the means by which the charter school intends to serve students with disabilities. This will include a specific reference as to whether the charter school intends to be deemed an LEA or public school for the provision of special education services.

c. The governing board shall require that a petition contain assurances that no student will be denied admission to the charter school based on disability or lack of available services.

d. Prior to approving a charter school petition, the superintendent or designee of the chartering entity may consult with the SELPA Administrator regarding the provision of special education services to students enrolled in the prospective charter school.

e. The charter petition, or an accompanying Memorandum of Understanding or Business Services Agreement may provide for the allocation of excess costs and/or the charter school's fair share of special education encroachment on the district general fund.

f. Once admitted to a charter school, any special education services required by enrolled students will be provided by the chartering district, if the school is deemed a public school of the district, or a charter school, if deemed an LEA.

g. If a charter school IEP team places a student in a special education program provided by another educational entity, i.e., a COE, another district or SELPA, the charter school will be responsible for any excess costs attributable to the placement. Responsibility for excess costs will rest with the placing charter school.

h. A district IEP team may place a student in a charter program only with agreement between responsible educational entities and parental consent. Under such circumstances, the placing district will be responsible for any excess costs in accordance with the Local Plan.

i. The chartering district will be allocated all special education funds that are generated by a charter school that is deemed a public school. The chartering district will represent the needs of charter schools that are deemed public schools in the SELPA governance structure. The charter school will receive SELPA services in the same manner as other schools within the chartering district.

j. If the charter school wishes to be deemed an LEA, the approved charter school will apply to the SELPA for LEA status prior to February 1 of the preceding school year.

k. Charter schools that are deemed an LEA will be allocated special education funds in the same manner as other districts within the SELPA. Charter schools that are deemed LEAs will be included in the SELPA governance structure in the same manner as other districts.

l. If the approval of a charter school requires a change in the SELPA allocation plan, such change shall be adopted pursuant to the policy making process outlined in the SELPA local plan.

CLASSIFICATION: GOVERNANCE

PROPOSED: 4-13-05 **ADOPTED: 65-31-05**
REVISIONS PROPOSED: 4-9-20 **REVISIONS ADOPTED: 5-21-20**

SUBJECT: Governance Bylaws

Bylaws
Of the SELPA Policy Board

1. Purpose

A. These Bylaws are established by and for the Policy Board of the SELPA under the authority granted by the SELPA Local Plan and the member district board of trustees to the Policy Board to be the official governing body of the SELPA.
B. The Policy Board shall be the policy making body of the SELPA as directed by the Local Plan.
C. Official SELPA documents once referenced in policy are an extension of Policy Board Policy upon adoption and are of equal authority as other forms of policies that are approved by the Policy Board as provided in the Local Plan.
D. The Policy Board under the authority of the adopting LEA board have the same status as other LEA board policy. [56205(a)(12)(D)(ii)(I-II)]
E. The SELPA Director who shall, in turn, be advised by the Community Advisory Committee (CAC), shall advise the Policy Board.
F. Input may be received from parents, staff, public and non-public agencies and members of the public at large. Individuals wishing an opportunity to address the Board on a particular agenda item or have the Board consider a topic is invited to send a written request to the SELPA Director.
G. The functions of the Policy Board consist of the adoption of policies designed to give direction to the SELPA in the areas of, but not limited to, personnel, budget, policy, contracts, and disputes.
H. The Policy Board shall select, direct the activities of, and evaluate the performance of the SELPA Director. The Policy Board shall receive ongoing assessment reports on SELPA staff and LEA programs and services from the SELPA Director.

2. Membership

A. The membership of the Policy Board shall be the corresponding Superintendents of the member districts or Local Education Agencies (LEAs).
B. The SELPA Director shall serve as the Chief Executive Officer, and report directly to the Policy Board. The SELPA Director will have a nonvoting status on the Policy Board.
C. In the absence of a superintendent such absent superintendent may appoint a substitute administrator to represent the member district at the Policy Board meeting. An appointed substitute may participate in the discussion but is not a voting member of the Policy Board.

3. Officers

A. The Policy Board will elect a chairperson and vice chairperson from their members.
B. The term of office shall be one year.
C. Each of these officers shall serve at the pleasure of the Policy Board until a successor is elected.
D. Elections are held the last meeting of the fiscal year or as scheduled by Policy Board action.
E. New officers are to take office at the first meeting of the new fiscal year or following selection as determined by the Policy Board.

4. Quorum

A. A quorum for purposes of conducting official business shall be a majority of the voting members of the Policy Board.
B. Action shall be taken only when a majority of at least three (3) of the members present agree.

5. Rules of Order

A. The business of the Policy Board shall be conducted under the bylaws or as specifically determined by the Policy Board.
B. The chairperson shall use Roberts Rules of Order as a guide when procedural questions arise.

6. Meetings

A. The Policy Board shall meet not less than four times per school year.
B. Additional meetings may be called at the request of any member of the Policy Board pursuant to adopted policies.

C. The Policy Board applying a standard customary for district boards shall determine format for Agendas, Agenda Exhibits, and Minutes.

D. All meetings of the Policy Board shall be held according to law and meet the standards for open public meetings including but not limited to:

a. Requirements for posting of meeting notices at every district in the SELPA. Emergency provisions are also available to the Policy Board.

b. Access to the Agenda by requesting individuals.

c. Attendance at meetings by members of the public.

d. Opportunity for public comments, including individuals with disabilities and their parents of children with disabilities

e. Legal limitation to use of closed session activity.

f. Historical documentation of meetings through use of adopted minutes.

g. Meetings held prior to the adoption of any policies and/or regulations needed to comply with Part B of the IDEA

E. The SELPA Director shall be responsible for preparing the agenda and all support materials for each meeting, and serve as secretary to the Council.

7. Disputes

A. If a dispute arises over the responsibility for service provision, governance activities, program transfer, or distribution of funding; or if a school district, including any charter LEA or group of school districts believes that an action taken by the North Region SELPA Policy Board will create an undue hardship on the LEAs; or that an action taken exceeds the authority granted the Policy Board within the Local Plan and/or state or federal statute, the aggrieved district(s) may submit the matter for dispute resolution.

B. The goal of the North Region SELPA is for disputes to be resolved at the lowest possible level. The first step in the dispute resolution process, therefore, is for the aggrieved party(s) to contact the other party(s) and attempt to resolve the matter informally. If the matter is not resolved at this level, the aggrieved party(s) may request formal mediation. Any request for mediation must be submitted in writing to the North Region SELPA Director.

C. If the issue is related to an action taken by the Policy Board, the request must be submitted within thirty (30) days of the action taken by the Policy Board. The written request must clearly identify the reason(s) for the request and the potential resolution(s) to the problem.

D. If the mediation is not successful, the aggrieved party(ies) may request a review by an independent review panel of the results of the mediation. A request for review by an independent review panel must be submitted in writing to the North Region SELPA Director within thirty (30) days of the completion of the mediation process, and must include the reason(s) for the request and the potential resolution(s) to the problem. Panel members will be selected by the SELPA Director and agreed upon by both parties.

8. Modification of Policy Board Bylaws

A. These Bylaws may be modified by action of the Policy Board at any time.

B. The Policy Board may adopt policies outside of these Bylaws, which may direct the operation of the Policy Board and their functions.

C. Modifications of the Policy Board Bylaws take effect as soon as adopted.