

# **Tahoe-Alpine SELPA Procedural Manual 2024-2025**



## **Tahoe/Alpine SELPA**

**Tahoe-Alpine SELPA  
South Lake Tahoe Office  
1021 Al Tahoe Boulevard  
South Lake Tahoe, CA 96150  
530-541-2850**

**Tahoe-Alpine SELPA  
Alpine County Office  
43 Hawkside Dr.  
Markleeville, CA 96120  
530-694-2153**

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## A. Individualized Education Program

The Tahoe-Alpine SELPA desires to provide educational alternatives that afford students with disabilities full educational opportunities. Eligible students with disabilities, ages 3-22, 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.<sup>1</sup>

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

### A1. Members of the IEP Team

The IEP team for any student with a disability shall include the following members: (Education Code 56341, 56341.5; 20 USC 1414(d)(1); 34 CFR 300.321)

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

The regular education teacher shall, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of appropriate positive behavioral interventions, supports, and other strategies for the student, and supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student, consistent with 34 CFR 300.320. (Education Code 56341; 20 USC 1414(d)(3)(C); 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 and/or special education local plan area (SELPA) resources
5. An individual who can interpret the instructional implications of assessment results

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<sup>1</sup> See corresponding member LEA board policy and administrative regulation 6159

This individual may already be a member of the team as described in items #2-4 above or in item #6 below.

6. At the discretion of the parent/guardian or the Superintendent or designee, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate. The determination of whether the individual has knowledge or special expertise regarding the student shall be made by the party who invites the individual to be a member of the IEP team.
7. Whenever appropriate, the student with a disability

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

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

In accordance with 34 CFR 300.310, at least one team member other than the student's regular education teacher shall observe the student's academic performance and behavior in the areas of difficulty in his/her learning environment, including in the regular classroom setting. If the child is younger than five years 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. Whenever the IEP team is meeting to consider the student's postsecondary goals and the transition services needed to assist him/her in reaching the goals as stated in Education Code 56345(a)(8), the following individuals shall be invited to attend: (34 CFR 300.321)
  - a. The student, regardless of his/her age

If the student does not attend the IEP team meeting, the Superintendent or designee shall take other steps to ensure that the student's preferences and interests are considered.

- b. To the extent appropriate, and with the consent of the parent/guardian, a representative of any other agency that is likely to be responsible for providing or paying for the transition services
3. If the student was previously served under the Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004), and upon request of the student's parent/guardian, the Superintendent or designee shall invite the Infant and Toddlers with Disabilities Coordinator or other representative of the early education or early intervention system to the initial IEP team meeting to assist with the smooth transition of services. (Education Code 56341; 20 USC 1414(d)(1)(D); 34 CFR 300.321)

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

## A2. Contents of the IEP

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

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

- b. Meet each of the student's other educational needs that result from his/her disability
3. A description of the manner in which the student's progress toward meeting the annual goals described in item #2 above will be measured and when the district will provide periodic reports on the progress the student is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards
4. A 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 goals
  - b. Be involved and make progress in the general education curriculum in accordance with item #1 above and to participate in extracurricular and other nonacademic activities
  - c. Be educated and participate with other students with disabilities and nondisabled students in the activities described in the IEP
5. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in extracurricular and other nonacademic activities described in the IEP
6. A statement of any appropriate individual accommodations necessary to measure the academic achievement and functional performance of the student on state and districtwide assessments

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

7. The projected date for the beginning of the services and modifications described in item #4 above and the anticipated frequency, location, and duration of those services and modifications
8. Beginning not later than the first IEP to be in effect when the student is 16 years of age, or younger if determined appropriate by the IEP team, and updated annually thereafter, the following:

- a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills
  - b. The transition services, including courses of study, needed to assist the student in reaching those goals
9. Beginning at least one year before the student reaches age 18, a statement that the student has been informed of his/her rights, if any, that will transfer to him/her upon reaching age 18, pursuant to Education Code 56041.5

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

1. For a student in grades 7-12, any alternative means and modes necessary for the student to complete the district's prescribed course of study and to meet or exceed proficiency standards required for graduation
2. Linguistically appropriate goals, objectives, programs, and services for a student whose native language is not English
3. Extended school year services when the IEP team determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education (FAPE)
4. Provision for transition into the regular education program if the student is to be transferred from a special class or center or nonpublic, nonsectarian school into a regular education program in a public school for any part of the school day, including descriptions of activities intended to:
  - a. Integrate the student into the regular education program, including indications of the nature of each activity and the time spent on the activity each day or week
  - b. Support the transition of the student from the special education program into the regular education program
5. Specialized services, materials, and equipment for a student with low incidence disabilities, consistent with the guidelines pursuant to Education Code 56136

### A3. Development of the IEP

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

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

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

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

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

However, such instruction need not be included in the IEP if the IEP 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.

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)

#### A4. Provision of Special Education and Related Services

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

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

#### A5. Review and Revision of the IEP

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

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

- d. The student's anticipated needs
  - e. Any other relevant matter
3. Consider the special factors listed in items #5-9 above under "Development of the IEP," when reviewing the IEP of any student with a disability to whom one of those factors may apply

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

When a parent/guardian requests an IEP team meeting to review the IEP, the team shall meet within 30 calendar 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)

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(d); 34 CFR 300.324)

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

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

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

## A6. 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

## A7. 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)(6)
  - b. The provision of Education Code 56341(i) relating to the participation of the Infant and Toddlers with Disabilities Coordinator at the initial IEP team meeting, if the student was previously served under Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004)

In addition, when the IEP team meeting is to consider the development, review, or revision of the IEP of a student with a disability who is 16 years of age or older, or younger than 16 if

deemed appropriate by the IEP team, the Superintendent or designee's notice to the student's parents/guardians shall include the following: (Education Code 56341.5)

1. An indication that a purpose of the meeting will be the consideration of postsecondary goals and transition services for the student pursuant to Education Code 56345.1, 20 USC 1414(d)(1)(A)(i)(VIII), and 34 CFR 300.320(b)
2. An indication that the student is invited to the IEP team meeting
3. Identification of any other agency that will be invited to send a representative

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

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

The parent/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(f); 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)

#### **A8. 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 written consent of the student's parent/guardian pursuant to 20 USC 1414(a)(1). The district shall not provide services by utilizing the due process hearing procedures pursuant to 20 USC 1415(f) if the parent/guardian refuses to consent to the initiation of services. If the parent/guardian does not consent to all of the components of the IEP, then those components to which the parent/guardian has consented shall be implemented so as not to delay providing instruction and services to the student. (Education Code 56346)

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

If at any time subsequent to the initial provision of services, the student's parent/guardian, in writing, revokes consent for the continued provision of special education services, the Superintendent or designee shall provide prior written notice within a reasonable time before ceasing to provide services to the student. The Superintendent or designee shall not request a due process hearing or pursue mediation in order to require an agreement or ruling that services be provided to the student (Education Code 56346; 34 CFR 300.300, 300.503). Prior to the discontinuation of services, the Superintendent or designee may offer to meet with the parents/guardians to discuss concerns for the student's education. However, this meeting shall be voluntary on the part of the parent/guardian and shall not delay the implementation of the parent/guardian's request for discontinuation of services. In addition, the Superintendent or designee shall send a letter to the parent/guardian confirming the parent/guardian's decision to discontinue all services.

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

### A9. 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 calendar 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).

## B. Procedural Safeguards and Complaints for Special Education

The Tahoe-Alpine SELPA and the member LEAs recognize their obligation to provide a free appropriate public education (FAPE) to students with disabilities and to uphold the rights of parents/guardians to be involved in educational decisions regarding their child.

Parents/guardians of students with disabilities shall receive written notice of their rights under the federal Individuals with Disabilities Education Act. <sup>2</sup>

### B1. Prior Written Notice

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

1. Before the district initially refers the student for assessment
2. 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

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

1. A description of the action proposed or refused by the district
2. An explanation as to why the district proposes or refuses to take the action
3. A description of each assessment procedure, 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

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<sup>2</sup> See corresponding member LEA board policy and administrative regulation 6159.1

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

## **B2. 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(d)(1); 34 CFR 300.504; Education Code 56301)

1. Upon initial referral or parent/guardian request for assessment
2. Upon receipt of the first state compliance complaint in a school year, 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(d)(2); 34 CFR 300.504; Education Code 56301)

1. Independent educational evaluation
2. Prior written notice
3. Parental consent, including a parent/guardian's right to revoke consent, in writing, to the student'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 attorney's fees pursuant to 34 CFR 300.517

This notice shall also include the rights and procedures contained in Education Code 56500-56509, including: (Education Code 56321, 56321.5, 56321.6)

1. Information on the procedures for requesting an informal meeting, prehearing mediation conference, mediation conference, or due process hearing
2. The timelines for completing each process
3. Whether the process is optional
4. The type of representative who may be invited to participate
5. 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
6. Information regarding the state special schools for students who are deaf, hard of hearing, blind, visually impaired, or deaf-blind

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)

### **B3. Format of Parent/Guardian Notices**

The parents/guardians of a student with a disability shall be provided written notice of their rights in a language easily understood by the general public and in their native language or

other mode of communication used by them, unless to do so is clearly not feasible. (34 CFR 300.503; Education Code 56341, 56506)

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

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

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

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

#### **B4. Filing Due Process Complaints**

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

1. There is a proposal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student
2. There is a refusal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student
3. The parent/guardian refuses to consent to an assessment of the student
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(b); 34 CFR 300.508; Education Code 56502)

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

3. The name of the school the student attends
4. A description of the nature of the student's problem relating to the proposed or refused initiation or change, including facts relating to the problem
5. A proposed resolution to the problem to the extent known and available to the complaining party at the time

Parties filing a due process complaint shall file their request with state Office of Administrative Hearings, Special Education Division.

### **B5. District's Response to Due Process Complaints**

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

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

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

### **B6. 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)

## B7. 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 sixty days of the complaint, CDE will carry out an independent investigation.

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)

## C. Appointment of Surrogate Parent for Special Education Students

In order to protect the rights of students with disabilities, the Superintendent or designee shall appoint a surrogate parent to represent a student with disabilities as necessary in accordance with law. He/she shall develop procedures for recruiting, training and assigning adults to serve as surrogate parents.<sup>3</sup>

The Superintendent or designee shall appoint a surrogate parent to represent a student with disabilities under one or more of the following circumstances: (Government Code 7579.5; 20 USC 1415(b)(2); 34 CFR 300.519)

1. No parent/guardian for the student can be identified.
2. The district, after reasonable efforts, cannot discover the location of a parent or legal guardian of the student.
3. The student is adjudicated a dependent or ward of the court pursuant to Welfare and Institutions Code 300, 601 or 602 and all of the following conditions are satisfied:
  - a. The court has referred the student for special education and related services or the student has a valid individualized education program (IEP)
  - b. The court has specifically limited the right of the parent/guardian to make educational decisions for his/her child
  - c. The student has no responsible adult to represent him or her pursuant to Welfare and Institutions Code 361 or 726 or Education Code 56055
4. The student is an unaccompanied homeless youth not in the custody of a parent/guardian, as defined in 42 USC 11434a
5. The student has reached the age of majority but has been declared incompetent by a court of law

### C1. Appointment of Surrogate Parents

Upon a determination that a student needs a surrogate parent, the Superintendent or designee shall make reasonable efforts to ensure that the surrogate is appointed within 30 days. (20 USC 1412(b)(2)(B))

When appointing a surrogate parent, the Superintendent or designee shall give first

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<sup>3</sup> See corresponding member LEA board policy and administrative regulation 6159.3

preference to a relative caretaker, foster parent or court-appointed special advocate, provided any of these individuals exists and is willing and able to serve. If none of these individuals is willing or able to act as a surrogate parent, the Superintendent or designee shall select the surrogate parent of his/her choice. If the student is moved from the home of the relative caretaker or foster parent who was appointed as the student's surrogate parent, the Superintendent or designee shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the student. (Government Code 7579.5)

The Superintendent or designee shall ensure that individuals to be appointed as surrogate parents have passed a criminal background check and have demonstrated interest and skill in working with students with disabilities.

Surrogate parents shall have no interests that conflict with the student's educational interests and shall have knowledge and skills that ensure adequate representation of the student. If a conflict of interest arises after the appointment of a surrogate parent, the Superintendent or designee shall terminate the appointment and appoint another surrogate parent. (34 CFR 300.519; Government Code 7579.5)

## C2. Duties of Surrogate Parent

The surrogate parent shall have all the rights relative to the student's education that a parent has under the Individuals with Disabilities Education Act pursuant to 20 USC 1400-1482 and 34 CFR 300.1-300.818. The surrogate parent may represent the student in all matters relating to identification, assessment, instructional planning and development, educational placement, review and revision of the IEP, and in other matters relating to the provision of a free and appropriate public education. (Education Code 56050; Government Code 7579.5)

In addition, the representation of the surrogate parent shall include the provision of written consent to the IEP including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to Government Code 7570-7587. (Education Code 56050)

Surrogate parents shall volunteer their services to the district and serve without compensation. The district may reimburse them for mileage and other incidental expenses directly associated with their duties as surrogate parents.

Surrogate parents shall have access to the student's school records as necessary to fulfill their responsibilities as surrogate parents and in accordance with Board policy and administrative regulation.

## C3. Termination of Appointment

The Superintendent or designee shall terminate the appointment of a surrogate parent under the following conditions:

1. When the student is no longer in need of special education (Government Code 7579.5)
2. When the student reaches 18 years of age, unless he/she chooses not to make education decisions for himself/herself or is deemed by a court to be incompetent (Government Code 7579.5)
3. Another responsible adult is appointed to make educational decisions for the student (Government Code 7579.5)
4. The right of the parent/guardian to make educational decisions for the student is fully restored (Government Code 7579.5)

When the surrogate parent no longer satisfies the requirements for appointment as a surrogate parent, as specified above translators, unless to do so is clearly not feasible.

## D. Child Find

### D1. Identification, Location, and Evaluation

Each local education agency within the SELPA shall establish and maintain procedures for the identification, location, and evaluation of students who may require special education services. Information regarding Child Find activities is included in the annual notice that is distributed to parents of all children currently enrolled in their LEA.

The member LEAs of the Tahoe-Alpine SELPA shall assure an ongoing effort to identify all eligible individuals with disabilities including infants; children for whom English is not a primary language; students with low incidence disabilities; students attending private, including religious, schools; highly mobile individuals with exceptional needs, such as students who are migrant or homeless; students who are advancing from grade to grade even though they are suspected of being an individual with exceptional needs and in need of special education and related services; students who are wards of the State .

The Tahoe-Alpine SELPA collaborates with public agencies, such as Alta California Regional Center (ACRC), Head Start, California Children's Services, Mental Health, and others as appropriate, in the identification of individuals with disabilities. Tahoe-Alpine SELPA distributes child find materials to pediatricians, private schools, health care professionals, and other agencies within the SELPA annually.

### D2. Consultation with Private School Representatives

The LEAs that comprise the SELPA shall consult annually with representatives of all private schools within their respective jurisdictions, in order to determine how to carry out the identification, location, and evaluation of children enrolled in the private schools. Child Find activities for private school children with disabilities are comparable to activities undertaken for children with disabilities in public schools.

### D3. Written Request for Referral

All referrals for special education and related services shall initiate the process to determine if an assessment is warranted and shall be documented. When a verbal referral is made, the LEA shall inform the individual making the referral of the need to file a written request. Staff of the local education agency shall offer assistance to the parent or any other individual in making a request in writing.

Parents with a primary language other than English shall be informed of the need to file a written request when a verbal request is made. They shall be informed of this requirement in their primary language, unless to do so is clearly not feasible.

## E. Identification and Evaluation of Individuals for Special Education

The Governing Board 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.<sup>4</sup>

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

The district's identification procedures shall include methods for utilizing referrals from parents/guardians, teachers, appropriate professionals, and others, and shall be coordinated with school site procedures for referral of students whose needs cannot be met with modifications to the regular instructional program. (Education Code 56302)

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

### E1. Referrals for Special Education Services

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

All referrals from school staff for special education and related services shall include a brief reason for the referral and description of the regular program resources that were considered and/or modified for use with the student and their effect. (5 CCR 3021)

### E2. 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 a full and individual initial evaluation of the student. (Education Code 56320; 34 CFR 300.301)

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<sup>4</sup> See corresponding member LEA board policy and administrative regulation 6164.4

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. 34 CFR 300.29 defines "native language" as the language normally used by the individual and, for a child, the language regularly used in the home environment
3. Explain the types of evaluation to be conducted
4. State that no individualized education program (IEP) will result from the evaluation without parent/guardian consent

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

1. Upon completion of the administration of tests and other evaluation materials, an IEP team meeting that includes the parent/guardian or his/her representative shall be scheduled pursuant to Education Code 56341. At this meeting, the team shall determine whether or not the student is a student with disabilities, as defined in Education Code 56026, and shall discuss the evaluation, the educational recommendations, and the reasons for the recommendations.
2. When making a determination of eligibility for special education, the district shall not determine that the student is disabled if the primary factor for such determination is lack of appropriate instruction in reading, including the essential components of reading instruction as defined in 20 USC 6368, lack of appropriate instruction in mathematics, or limited English proficiency.
3. A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent/guardian.
4. If the parent/guardian disagrees with an evaluation obtained by the district, he/she

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

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

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

If the parent/guardian obtains an IEE at private expense, the results of the IEE shall be considered by the district with respect to the provision of a free appropriate public education (FAPE) to the student, and may be 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.

### E3. Parent/Guardian Consent for Evaluations

Upon receiving the proposed evaluation plan, the parent/guardian shall have at least 15 days to decide whether 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 his/her consent is sought and the consent describes that activity and lists the records (if any) that will be released and to whom
3. Understands that the granting of consent is voluntary on his/her part and may be revoked at any time
4. Understands that if he/she revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked)

The district shall make reasonable efforts to obtain the informed consent of the parent/guardian for an initial evaluation or reevaluation of 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 his/her parent/guardian, 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 California law.
3. The rights of the parent/guardian to make educational decisions have been subrogated by a judge in accordance with California law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student.

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

#### E4. Conduct of the Evaluation

The district shall complete the determination as to whether the student is a student with a disability, conduct the initial evaluation to determine his/her educational needs, and develop an IEP within 60 days of receiving informed parent/guardian consent for the evaluation. (Education Code 56344; 34 CFR 300.300, 300.301)

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

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. (34 CFR 300.302)

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

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

The district shall also ensure that assessments and other evaluation materials provide relevant information that assists in determining the student's educational needs and are:

(Education Code 56320; 34 CFR 300.304)

1. Selected and administered so as not to be discriminatory on a racial, cultural, or sexual basis
2. Provided and administered in the language and form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to 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
5. Administered in accordance with any instructions provided by the producer of the assessments
6. Tailored to assess specific areas of educational need and not merely designed to provide a single general intelligence quotient
7. If administered to a student with impaired sensory, manual, or speaking skills, selected and administered to best ensure that the results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure

Students shall be assessed in all areas related to the suspected disability, including, if appropriate, health and development, vision (including low vision), hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. When appropriate, a developmental history shall be obtained. The district shall ensure that the evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability 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)

## E5. Eligibility Determination

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

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

1. Whether the student may need special education and related services
2. The basis for making the determination
3. The relevant behavior noted during the observation of the student in an appropriate setting
4. The relationship of that behavior to the student's academic and social functioning
5. The educationally relevant health, developmental, and medical findings, if any
6. For students with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special

education and related services

7. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate
8. The need for specialized services, materials, and equipment for students with low incidence disabilities, consistent with Education Code 56136

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

If a determination is made that a student has a disability and needs special education and related services, an IEP shall be developed within a total time not to exceed 60 days, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days, from the date of the receipt of the parent/guardian's consent for evaluation, unless the parent/guardian agrees, in writing, to an extension. (Education Code 56043; 34 CFR 300.306)

## E6. Independent Educational Evaluation (IEE)

The parents/guardians of a student with a disability have the right to obtain an IEE at public expense under the same criteria that the district uses for a district-initiated evaluation. An independent educational evaluation is an evaluation conducted by a qualified examiner who is not employed by the district. Public expense means the district either pays for the full cost of the IEE or ensures that the evaluation is otherwise provided at no cost to the parent/guardian. (Education Code 56329; 34 CFR 300.502)

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

If a parent/guardian has requested an IEE, the district may ask for the reason that he/she objects to the district's evaluation. However, the parent/guardian is not required to provide the reason to the district. (34 CFR 300.502)

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

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

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

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

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. (34 CFR 300.502) (c.f. Section F – Independent Educational Evaluations)

## E7. 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)

## F. Independent Educational Evaluations (IEE)

The Tahoe-Alpine Special Education Local Plan Area (“SELPA”) has developed this policy, corresponding procedures and criteria that govern Independent Educational Evaluations (IEE). (20 USC 1415; EC 56506[c] and 56329[b]; 34 CFR 300.502) For purposes of this policy, the term “SELPA” also includes the school district and/or administrative unit responsible for an individual’s education. Parents should be sure to read the entire document carefully. The policy, procedures, and criteria are to be read in conjunction with one another as one comprehensive document. Parents who need additional information about IEEs should contact the Director of the Tahoe-Alpine SELPA or contact the California Department of Education as outlined in their Notice of Procedural Safeguards.

### F1. Notice to Parents

1. Please read this document before obtaining or paying for an IEE. This policy delineates your right to, and limitations regarding, reimbursement.
2. Before obtaining an IEE, please contact the special education administrator to discuss your child’s assessment and related questions and options.
3. The district will not automatically reimburse parents who unilaterally obtain IEEs.
4. Parents may only request one publicly funded IEE for each evaluation completed by the district. A request for an IEE must be made within two years of the date of the district's evaluation report.

### F2. Definitions

“Independent Educational Evaluation (IEE)” means an evaluation conducted by a qualified examiner who is not employed by the responsible local educational agency.

“Public expense” means that the district ensures the IEE is provided at no cost to the parent.

### F3. Parameters for Seeking IEE

The SELPA requires that the parent first inform the district, either in writing or during an IEP meeting, that the parent:

1. Disagrees with a district’s evaluation and
2. Is requesting an IEE at public expense.

### F4. Explanation of Disagreement

If parents request an IEE at the expense of the district, the parents may be asked for a reason why they object to the district’s evaluation. There is no requirement that the parents specify areas of disagreement with district’s evaluation as a prior

condition to obtaining the IEE.F5. Tahoe-Alpine SELPA's Response to a Request for an IEE

Upon request for an IEE at public expense, the district will respond without unnecessary delay. The district may either initiate a due process hearing to show that its evaluation is appropriate or will provide the parent an opportunity to obtain an IEE.

If the district initiates a hearing and the final decision is that the district's evaluation and/or criteria appropriate the parent still has the right to an IEE, but not at public expense.

If the district agrees to provide an IEE, the parent may select a qualified examiner, and/or the district may propose a qualified examiner. The district may provide a nonexclusive list of public agencies and private individuals who the district/SELPA has determined are qualified in their respective areas of evaluation.

If the Parent requests an examiner who is not qualified in accordance with 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 examiner who is not qualified.

1. If the district agrees that the unique circumstances justify utilizing an examiner who does not meet the criteria set forth in this policy, then the district and parent may proceed with obtaining the IEE from that examiner.
2. If the district does not agree that unique circumstances justify the use of an examiner who does not meet the criteria set forth in this policy, and the parent does not agree to use an examiner meeting those criteria, the district shall initiate a due process request to resolve the dispute.

## F6. Timeline Regarding IEEs

The only timeline imposed upon a district related to provision of an IEE is that the district must respond to the parent's request for an IEE without unnecessary delay.

Once the district and parent have agreed upon an assessor, the district will arrange for, or initiate, a contract with the examiner.

Districts have little to no control related to the behavior of independent assessors, including but not limited to the time taken to respond to a request for information, execution of a contract or completion of an IEE.

## F7. Information Provided to Parents

Upon parent request for an IEE, the district will provide the parents with a copy of this policy for IEEs and the parent's procedural safeguards.

## F8. Parent Initiated Evaluations

If the parents obtain an IEE at private expense or obtains an evaluation by an individual who does not meet the criteria set forth in this policy, the results of the evaluation:

1. Must be considered by the District; and
2. May be presented as evidence at a due process hearing regarding that student

## F9. Evaluations Ordered by Hearing Officers

If a hearing officer orders an IEE as part of a hearing, the cost of the evaluation must be at the district's expense.

## F10. Tahoe-Alpine SELPA's Criteria

1. If an IEE is at the district's expense, the criteria under which the evaluation is obtained, including the location limitations for the evaluation, the minimum qualifications of the examiner, cost limits, and use of approved instruments must be the same as the criteria that the district uses when it initiates an evaluation.
2. Except for the criteria described in the SELPA Policy and Procedures and Criteria, the SELPA imposes no other conditions related to obtaining an IEE at the district's expense.

## F11. Circumstances Resulting in Evaluations not Funded by the District

Because the parent must first disagree with the district's evaluation in writing, the district does not have an obligation to reimburse parents for privately obtained evaluations obtained prior to the date that the district's evaluation is completed and discussed at an IEP team meeting. The district is not obligated to reimburse parents for privately obtained evaluations if the parent disagrees with the district's evaluation and independently seeks a private evaluation without first notifying the district in writing of their disagreement with the district's evaluation and requesting an IEE from the district except as provided below.

## F12. Circumstances Resulting in a Privately Obtained Evaluation Reimbursed by the Tahoe-Alpine SELPA

The district may reimburse parents for a privately obtained IEE even though the policy above was not followed in any one of the following three circumstances:

1. All the following conditions have been met:
  - a) The parent disagreed with the district's evaluation,
  - b) The parentally obtained evaluation meets the SELPA criteria,
  - c) The parent upon request provides the district with timely, written consent to exchange information with the examiner,
  - d) The parent provides a copy of the written evaluation report and all other documents / tests related to the report, and
  - e) The examiner attends the relevant IEP team meeting by phone or in person to discuss his or her findings and provides protocols of all evaluations to the district.
2. The district's evaluation has not been provided in compliance with the law.
3. The privately obtained evaluation assessed the student in an area of suspected disability that was not previously assessed by the district.

Reimbursement will be in accordance with the Tahoe-Alpine SELPA policy, procedures, and criteria and in an amount no greater than the actual cost to the parents.

In all cases, if the district initiates a due process hearing to show that the district's evaluation is appropriate, no reimbursement shall be made unless ordered by a Hearing Officer.

## F13. Criteria

### Minimum Qualifications for Evaluators

All evaluations must be conducted by persons competent to perform the evaluation as determined by the District/SELPA (E.C. 56322).

Evaluators with credentials other than those listed below in F16 will not be approved unless the parent and District agree that the student's unique circumstances warrant utilizing an assessment by an individual who does not meet the criteria.

Independent evaluators must agree to release their evaluation information and results to the District prior to receipt of payment for services.

## F14. 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 evaluation. Costs include observations, administration and scoring of tests, report writing, and attendance in person or by phone at the IEP team meeting where the IEE is presented. Reimbursement will be in an amount no greater than the actual cost to the parent and will be subject to proof of payment.

Guidelines for all IEE costs are calculated by considering time required for the evaluation and the appropriate District employee hourly rate. Costs above these amounts will not be approved unless the parent can demonstrate that such costs reflect unique circumstances justifying the selection of an evaluator whose fees fall outside these criteria.

When insurance will cover all or partial costs of the IEE, the school district will request that the parent voluntarily have their insurance pay the IEE costs covered by their insurance. However, parents will not be asked to have insurance cover independent evaluation costs if such action would result in a financial cost to the parents 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.

As part of the contracted evaluation, independent evaluators must:

1. provide original protocols of all the evaluations, and
2. provide a written report prior to the IEP team meeting

Independent evaluators must agree to release their evaluation information and results to the school district prior to receipt of payment for services. 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.

## F15. Fingerprinting and TB Clearance

All Independent Educational Evaluators shall be fingerprinted and have a current TB clearance, consistent with all requirements for public school assessors, on file prior to the administration of any evaluation

## F16. 2024-2025 Cost Containment for Independent Educational Evaluations

### 2024-2025 Cost Containment for Independent Educational Evaluations (IEE)

As stated in the Tahoe-Alpine SELPA IEE Policy:

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 evaluation. Costs include observations, administration and scoring of tests, report writing, and attendance in person or by phone at the IEP team meeting where the IEE is presented. Reimbursement will be in an amount no greater than the actual cost to the parent and will be subject to proof of payment.

Costs above these amounts will not be approved unless the parent can demonstrate that such costs reflect unique circumstances justifying the selection of an evaluator whose fees fall outside these criteria.

The following table provides cost limitations based upon the types of assessment being conducted for the 2024-25 school year. Rates are reviewed and adjusted, as appropriate, annually.

Type of Assessment	Qualifications	Maximum Allowable Rate
Academic Achievement	Credentialed Special Education Teacher Credentialed School Psychologist	\$2,200
Assistive Technology (AT)	Clinical or Rehabilitative Services Credential Credentialed Special Education Teacher	\$1,500
Adapted Physical Education (APE)	Credentialed Adapted Physical Education Specialist	\$1,800
Audiological Assessment	Licensed Educational Audiologist Clinical or Rehabilitative Services Credential Language, Speech and Hearing and Audiology Credential	\$500
Educationally Related Mental Health Services (ERMHS)	Licensed Clinical Social Worker Credentialed School Psychologist	\$1,500
Functional Behavioral Assessment (FBA)	Board Certified Behavior Analyst (BCBA) Credentialed School Psychologist	\$3,700

	Licensed Educational Psychologist	
Functional Vision	Education Specialist Instruction Credential: Visual Impairments	
Health and Nursing	Credentialed School Nurse	\$300
Orientation and Mobility (OM)	Instruction Specialist Instruction Credential: Physical and Health Impairment Clinical or Rehabilitative Services Credential - Orientation and Mobility:	\$1,500
Occupational Therapy (OT)	Licensed Occupational Therapist	\$1,500
Physical Therapy (PT)	Licensed Physical Therapist	\$1,500
Psycho-Educational (Psychological Assessment with Academic Achievement)	Credentialed Special Education Teacher Credentialed School Psychologist Licensed Educational Psychologist	\$4,100
Psychological Assessment	Credentialed School Psychologist Licensed Educational Psychologist	\$2,900
Speech & Language	Credentialed/Licensed Speech-Language Pathologist	\$1,800
Social-Emotional	Credentialed School Psychologist Licensed Educational Psychologist	\$700
Transition/Vocational	Credentialed Special Education Teacher Adult Education Credential: Career Development Authorization Credentialed School Psychologist Licensed Educational Psychologist	\$900
Visual Acuity	Licensed Ophthalmologist Optometrist	\$500

## **G. Medically Necessary Occupational and Physical Therapy**

In accordance with the State Interagency Cooperative Agreement between the California Department of Education and the California Department of Health Services Children's Medical Services Branch California Children Services Medical Therapy Program, CCS provides occupational therapy and physical therapy as part of a student's IEP when it is medically necessary.

## H. Suspension and Expulsion/Due Process for Students with Disabilities

A student identified as an individual with a disability pursuant to the Individuals with Disabilities Education Act (IDEA), 20 USC 1400-1482, is subject to the same grounds and procedures for suspension and expulsion which apply to students without disabilities, except as otherwise specified in this procedure.<sup>5</sup>

### H1. Suspension

The Superintendent or designee may suspend a student with a disability for up to 5 consecutive school days for a single incident of misconduct, and for up to 20 school days in a school year, as long as the suspension(s) does not constitute a change in placement pursuant to 34 CFR 300.536. (Education Code 48903; 34 CFR 300.530)

The principal or designee shall monitor the number of days, including portions of days, in which a student with a valid individualized education program (IEP) has been suspended during the school year.

The Superintendent or designee shall determine, on a case-by-case basis, whether a pattern of removals of a student from his/her current educational placement for disciplinary reasons constitutes a change of placement. A change of placement shall be deemed to have occurred under either of the following circumstances: (34 CFR 300.536)

1. The removal is for more than 10 consecutive school days
2. The student has been subjected to a series of removals that constitute a pattern because of all of the following:
  - a. The series of removals total more than 10 school days in a school year.
  - b. The student's behavior is substantially similar to his/her behavior in previous incidents that resulted in the series of removals.
  - c. Additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another, indicate a change of placement.

If a student's removal is determined to be a change of placement as specified in items #1-2 above, or the student is suspended for more than 10 school days in the same school year, the student's IEP team shall determine the appropriate educational services. Such services shall be designed to enable the student to continue to participate in the general education

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<sup>5</sup> See corresponding member LEA administrative regulation 5144.2

curriculum in another setting, to progress toward meeting the goals set out in his/her IEP, and to address the student's behavior violation so that it does not recur. (20 USC 1412(a)(1)(A); 34 CFR 300.530)

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

## H2. Interim Alternative Educational Placement Due to Dangerous Behavior

The district may unilaterally place a student with a disability in an appropriate interim alternative educational setting for up to 45 school days, without regard to whether the behavior is a manifestation of the student's disability, when the student commits one of the following acts while at school, going to or from school, or at a school-related function: (20 USC 1415(k)(1)(G); 34 CFR 300.530)

1. Carries or possesses a weapon, as defined in 18 USC 930
2. Knowingly possesses or uses illegal drugs
3. Sells or solicits the sale of a controlled substance as identified in 21 USC 812(c), Schedules I-V
4. Inflicts serious bodily injury upon another person as defined in 18 USC 1365

The student's interim alternative educational setting shall be determined by his/her IEP team. (20 USC 1415(k)(1)(G); 34 CFR 300.531)

On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504. (20 USC 1415(k)(1)(H); 34 CFR 300.530)

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

## H3. Manifestation Determination

The following procedural safeguards shall apply when a student with a disability is suspended for more than 10 consecutive school days, when a series of removals of a student constitutes a

pattern, or when a change of placement of a student is contemplated due to a violation of the district's code of conduct:

1. Notice: On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504. (20 USC 1415(k)(1)(H); 34 CFR 300.530)
2. Manifestation Determination Review: Immediately if possible, but in no case later than 10 school days after the date the decision to take disciplinary action is made, a manifestation determination review shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

At the manifestation determination review, the district, the student's parent/guardian, and relevant members of the IEP team (as determined by the district and parent/guardian) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents/guardians, to determine whether the conduct in question was either of the following: (20 USC 1415(k)(1)(E); 34 CFR 300.530)

- a. Caused by or had a direct and substantial relationship to the student's disability
- b. A direct result of the district's failure to implement the student's IEP, in which case the district shall take immediate steps to remedy those deficiencies

If the manifestation review team determines that either of the above conditions applies, the student's conduct shall then be determined to be a manifestation of his/her disability. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

3. Determination that Behavior is a Manifestation of the Student's Disability: When the student's conduct has been determined to be a manifestation of his/her disability, the IEP team shall conduct a functional behavioral assessment, unless one had been conducted before the occurrence of the behavior that resulted in the change of placement, and shall implement a behavioral intervention plan for the student. If a behavioral intervention plan has already been developed, the IEP team shall review the behavioral intervention plan and modify it as necessary to address the behavior. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

The student shall be returned to the placement from which he/she was removed, unless the parent/guardian and Superintendent or designee agree to a change of

placement as part of the modification of the behavioral intervention plan. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

4. Determination that Behavior is Not a Manifestation of the Student's Disability: When it has been determined that the student's conduct was not a manifestation of his/her disability, the student may be disciplined in accordance with the procedures for students without disabilities. However, the student's IEP team shall determine services necessary to enable him/her to participate in the general education curriculum in another setting and to allow him/her to progress toward meeting the goals set out in his/her IEP. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

As appropriate, the student also shall receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

#### H4. Due Process Appeals

If the parent/guardian disagrees with any district decision regarding placement under 34 CFR 300.530 (suspension and removal for dangerous circumstances) or 34 CFR 300.531 (interim alternative placement), or the manifestation determination under 34 CFR 300.530(e), he/she may appeal the decision by requesting a hearing. The district may request a hearing if the district believes that maintaining the student's current placement is substantially likely to result in injury to the student or others. In order to request a due process hearing, the requesting party shall file a complaint pursuant to 34 CFR 300.507 and 300.508(a) and (b). (20 USC 1415(k)(3); 34 CFR 300.532)

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

If the student's parent/guardian or the district has initiated a due process hearing under 34 CFR 300.532 as detailed above, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and district agree otherwise. (20 USC 1415(k)(4); 34 CFR 300.533)

#### H5. Readmission

Readmission procedures for students with disabilities shall be the same as those adopted for students without disabilities. Upon readmission of a student with disabilities, an IEP team meeting shall be convened to review and, as necessary, modify the student's IEP.

## H6. Decision Not to Enforce Expulsion Order

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

## H7. Notification to Law Enforcement Authorities

Law enforcement notification requirements involving students with disabilities shall be the same as those specified for all students in AR 5144.1 - Suspension and Expulsion/Due Process.

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

## H8. Report to County Superintendent of Schools

The Superintendent or designee shall report to the County Superintendent of Schools when any special education student has been expelled or suspended for more than 10 school days. The report shall include the student's name, last known address, and the reason for the action. (Education Code 48203)

## H9. Procedures for Students Not Yet Eligible for Special Education Services

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

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

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

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

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

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

## I. Location of Special Education Programs

Special education programs shall be located on regular school campuses and dispersed within LEAs and throughout the SELPA to the maximum extent possible to ensure that individuals with disabilities are served in their neighborhood schools, or in schools or locations as close to their homes as possible.

Students with special disabilities receive services in their neighborhood schools unless their IEP's document reasons that placement in alternative settings is appropriate. Inherent in any decision to relocate programs is sensitivity to the need to minimize frequent or disruptive moves and consideration of cost- effective programming.

## J. Transition from Early Intervention Services Under Part C of the IDEA

### J1. Definitions

“Lead Agency” refers to the agency providing services to a student under Part C of the IDEA. In the Tahoe-Alpine SELPA this may be Alta California Regional Center (ACRC) or, for students with solely a low incidence disability, the Lake Tahoe Unified School District Infant Development Program.

### J2. Overview

The Program for Infants and Toddlers with Disabilities (Part C of IDEA) is a federal grant program that assists states in operating a comprehensive statewide program of early intervention services for infants and toddlers with disabilities, ages birth through age 2 years, and their families. Infant services are to:

1. enhance the development of infants and toddlers with disabilities,
2. reduce educational costs by minimizing the need for special education through early intervention,
3. minimize the likelihood of institutionalization, and maximize independent living, *and*
4. enhance the capacity of families to meet their child's needs.

LEAs are responsible for providing Early Start Part C services to infants and toddlers with Solely Low Incidence (SLI) Disabilities, defined as severe disabling conditions that include hearing impairments, vision impairments, and severe orthopedic impairments, or any combination thereof. (Education Code 56425)

### J3. Eligibility

An infant or toddler shall be eligible for intervention services from birth to 36 months of age if he/she meets one of the following criteria as determined by means of evaluation: (Government Code 95014(a))

1. Infants and toddlers with a developmental delay in one or more of the following five areas: cognitive development; physical and motor development, including vision and hearing; communication development; social or emotional development; or adaptive development. Developmentally delayed infants and toddlers are those who are determined to have a significant difference between the expected level of development

for their age and their current level of functioning. This determination shall be made by qualified personnel who are recognized by, or part of, a multidisciplinary team, including the parents. A significant difference is defined as a 33-percent delay in one or more developmental areas.

2. Infants and toddlers with established risk conditions, who are infants and toddlers with conditions of known etiology or conditions with established harmful developmental consequences. The conditions shall be diagnosed by qualified personnel recognized by, or part of, a multidisciplinary team, including the parents. The condition shall be certified as having a high probability of leading to developmental delay if the delay is not evident at the time of diagnosis.
3. Infants and toddlers who are at high risk of having substantial developmental disability due to a combination of biomedical risk factors, the presence of which are diagnosed by qualified personnel recognized by, or part of, a multidisciplinary team, including the parents.

#### J4. Evaluation and Assessment of the Child and Family

The lead agency must ensure that, subject to obtaining parental consent in accordance with 34 CFR § 303.420(a)(2), each child under the age of three who is referred for evaluation or early intervention services under this part and suspected of having a disability, receives:

1. A timely, comprehensive, multidisciplinary evaluation of the child
2. If the child is determined eligible as an infant or toddler with a disability as defined in 34 CFR § 303.21
  - a. A multidisciplinary assessment of the unique strengths and needs of that infant or toddler and the identification of services appropriate to meet those needs;
  - b. A family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of that infant or toddler.

A child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child) under this part if those records indicate that the child's level of functioning in one or more of the developmental areas identified in 34 CFR § 303.21(a)(1) constitutes a developmental delay or that the child otherwise meets the criteria for an infant or toddler with a disability under 34 CFR § 303.21. If the child's Part C eligibility is

established under this paragraph, the lead agency or early intervention service (EIS) provider must conduct assessments of the child and family.

Qualified personnel must use informed clinical opinion when conducting an evaluation and assessment of the child. In addition, the lead agency must ensure that informed clinical opinion may be used as an independent basis to establish a child's eligibility under this part even when other instruments do not establish eligibility; however, in no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility.

All evaluations and assessments of the child and family must be conducted by qualified personnel, in a nondiscriminatory manner, and selected and administered so as not to be racially or culturally discriminatory.

Unless clearly not feasible to do so, all evaluations and assessments of a child must be conducted in the native language of the child, in accordance with the definition of *native language* in 34 CFR § 303.25.

Unless clearly not feasible to do so, family assessments must be conducted in the native language of the family members being assessed, in accordance with the definition of “native language” in 34 CFR § 303.25.

#### Procedures for evaluation of the child.

In conducting an evaluation, no single procedure may be used as the sole criterion for determining a child's eligibility under this part. Procedures must include:

1. Administering an evaluation instrument;
2. Taking the child's history (including interviewing the parent);
3. Identifying the child's level of functioning in each of the developmental areas in 34 CFR § 303.21(a)(1);
4. Gathering information from other sources such as family members, other caregivers, medical providers, social workers, and educators, if necessary, to understand the full scope of the child's unique strengths and needs; and
5. Reviewing medical, educational, or other records.

#### Procedures for assessment of the child and family.

1. An assessment of each infant or toddler with a disability must be conducted by qualified personnel in order to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs. The assessment of the child must include the following:
  - a. A review of the results of the evaluation conducted under paragraph (b) of

this section;

- b. Personal observations of the child; and
  - c. The identification of the child's needs in each of the developmental areas in 34 CFR§ 303.21(a)(1).
2. A family-directed assessment must be conducted by qualified personnel in order to identify the family's resources, priorities, and concerns and the supports and services necessary to enhance the family's capacity to meet the developmental needs of the family's infant or toddler with a disability. The family-directed assessment must:
- a. Be voluntary on the part of each family member participating in the assessment;
  - b. Be based on information obtained through an assessment tool and also through an interview with those family members who elect to participate in the assessment; and
  - c. Include the family's description of its resources, priorities, and concerns related to enhancing the child's development.

#### **J5. Individualized Family Service Plan (IFSP) 34 CFR §303.114**

For each infant or toddler with a disability and his or her family an IFSP is developed and implemented that meets the requirements of 34 CFR §303.340 through 34 CFR § 303.345, and that includes service coordination services, as defined in 34 CFR §303.34.

#### **J6. Early Intervention Services in Natural Environments**

Each system must include policies and procedures to ensure, consistent with 34 CFR §303.13(a)(8) (early intervention services), 34 CFR §303.26 (natural environments), and 34 CFR §303.344(d)(1)(ii) (content of an IFSP), that early intervention services for infants and toddlers with disabilities are provided:

1. To the maximum extent appropriate, in natural environments; and
2. In settings other than the natural environment that are most appropriate, as determined by the parent and the IFSP Team, only when early intervention services cannot be achieved satisfactorily in a natural environment.

#### **J7. Notification to the State Educational Agency (SEA) and appropriate LEA (34 CFR 303.209 (b))**

1. The lead agency must ensure that:

- a. Not fewer than 90 days before the third birthday of the toddler with a disability if that toddler may be eligible for preschool services under Part B of the IDEA, the lead agency notifies the LEA for the area in which the toddler resides that the toddler on his or her third birthday will reach the age of eligibility for services under Part B;
- b. If the lead agency determines that the toddler is eligible for early intervention services under Part C of the IDEA more than 45 but less than 90 days before that toddler's third birthday and if that toddler may be eligible for preschool services under part B of the IDEA, the lead agency, as soon as possible after determining the child's eligibility, notifies the LEA for the area in which the toddler with a disability resides that the toddler on his or her third birthday will reach the age of eligibility for services under part B of the IDEA; or
- c. If a toddler is referred to the lead agency fewer than 45 days before that toddler's third birthday and that toddler may be eligible for preschool services under part B of the IDEA, the lead agency, with parental consent, refers the toddler to the LEA for the area in which the toddler resides; but, the lead agency is not required to conduct an evaluation, assessment, or an initial IFSP meeting under these circumstances.

#### J8. Transition Planning Meeting (34 CFR 303.209 (c))

The lead agency must ensure that:

1. If a toddler with a disability may be eligible for preschool services under Part B of the IDEA, the lead agency, with the approval of the family of the toddler, convenes a conference (i.e., Transition Planning Meeting), among the lead agency, the family, and the LEA not fewer than 90 days - and, at the discretion of all parties, not more than 9 months - before the toddler's third birthday to discuss any services the toddler may receive under Part B of the IDEA; and.
2. If the lead agency determines that a toddler with a disability is not potentially eligible for preschool services under part B of the IDEA, the lead agency, with the approval of the family of that toddler, makes reasonable efforts to convene a conference (i.e., Transition Planning Meeting) among the lead agency, the family, and providers of other appropriate services for the toddler to discuss appropriate services that the toddler may receive.

#### J9. Transition Plan (34 CFR 303.209(d))

The lead agency must ensure that for all toddlers with disabilities:

1. It reviews the program options for the toddler with a disability for the period

from the toddler's third birthday through the remainder of the school year; and each family of a toddler with a disability who is served under this part is included in the development of the transition plan;

2. It establishes a transition plan in the IFSP not fewer than 90 days - and, at the discretion of all parties, not more than 9 months - before the toddler's third birthday; and
3. The transition plan in the IFSP includes, as appropriate
  - a. Steps for the toddler with a disability and his or her family to exit from the Part C program; and
  - b. Any transition services that the IFSP Team identifies as needed by that toddler and his or her family.

### J10. Participation of LEA of Residence

A representative from the local education agency of residence shall attend an IFSP/Transition Planning Meeting held by 90 days of the child turning 3 years of age. Assessments required for the transition to age three shall be completed as follows:

1. If the child is receiving IFSP services coordinated by Alta California Regional Center (ACRC), the local education agency of residence, upon receiving a referral from the Alta California Regional Center (ACRC) service coordinator, shall be responsible for transition to preschool assessments as necessary to determine eligibility for special education services.
2. If IFSP services are coordinated by the LTUSD Infant Development Program, the assessments shall be determined and conducted by the providing LEA, with collaboration of the resident LEA.

### J11. Completion of IEP and Provision of Services

An IEP shall be scheduled by the District of Special Education Accountability and services initiated upon the child's third birthday, or at the beginning of the next school term after the child's third birthday during a period when the LEA special education preschool program is not in session.

## K. Students with Disabilities Enrolled in Private School

The following procedures shall be followed by the school districts in the Tahoe-Alpine Special Education Local Plan Area (“SELPA”)<sup>6</sup>:

The district where a private school is situated shall: locate, identify, and evaluate all children suspected as having a disability enrolled by their parents in private, including religious, elementary schools and secondary schools who may be eligible for special education services.

The district of parent residence has a continuing obligation to locate, identify, and evaluate all children suspected as having a disability who may be eligible for special education services and offer a free and appropriate public education (FAPE) to all children ages three (3) to twenty-two (22) with disabilities, enrolled by their parents in private, including religious, elementary schools and secondary schools, who are determined to be eligible for special education services.

This policy focuses on addressing the responsibilities of the district where the private school is located.

### K1. Definitions

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

Private school means a private, nonprofit, elementary or secondary, full-time day school, including a religious school, located within district boundaries.

### K2. Consultation with Private School Representatives

The 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)(3); 34 CFR 300.134; Education Code 56301)

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

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<sup>6</sup> See corresponding member LEA board policy and administrative regulation 6164.41

child find process

3. The determination of the proportionate share of federal funds available to serve parentally placed private school children with disabilities and how this share is calculated
4. How the consultation process will operate throughout the school year to ensure that identified children can meaningfully participate in equitable services
5. How, where, and by whom equitable services will be provided including a discussion about the types of services, alternate service delivery mechanisms, how services will be apportioned if funds are insufficient to serve all of the identified children, and how and when those decisions will be made
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 district shall obtain a written affirmation signed by the representatives of participating private schools. If the private school representatives do not provide the affirmation within a reasonable period of time, the district shall forward documentation of the consultation process to the California Department of Education. (34 CFR 300.135; Education Code 56172)

After the consultation has occurred, the district shall ensure an annual count of the number of parentally placed children with disabilities attending private schools located within the district. This count shall be conducted between October 1 and December 1 each year and shall be used to determine the amount the district must spend on providing equitable services to the children in the subsequent fiscal year. (34 CFR 300.133)

### K3. 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)

The district shall evaluate all identified parentally placed private school children with disabilities for purposes of 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 providing the

parent/guardian with a copy of the procedural safeguards notice. (34 CFR 300.131, 300.504)

In order to ensure that each child entitled to special education and related services receives an offer of a free appropriate public education (FAPE), the district where parents reside, which may also be the district where the private school is located, shall develop an individualized education program (IEP) for each identified child.

However, the district shall not develop an IEP if the parent/guardian makes clear his/her 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 he/she 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 shall develop and implement an individual services plan (ISP) for each identified private school child with a disability that describes the equitable services that the district will provide, as agreed to by the district and private school representatives during the consultation process. (34 CFR 300.138)

The ISP shall, to the extent appropriate, be developed, reviewed, and revised consistent with 34 CFR 300.121-300.324. A representative of the private school shall be invited to attend each ISP 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 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. 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 ISP team determines that transportation is necessary for the child to benefit from or participate in the services provided in the ISP. 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)

The district may place equipment and supplies in a private school for the period of time necessary to provide the services pursuant to the ISP. All such equipment shall remain the

property of the district and must be able to be removed without 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)

#### K4. IEP Meetings after the Initial IEP Team Meeting

Districts shall not prepare an IEP for pupils enrolled by their parents in private schools unless a parent requests that an IEP be developed.

#### K5. Dispute Resolution

With the exception of disputes related to child find, special education due process procedures are not available to parents for resolving disagreements about the services provided to private school children with disabilities who are placed by their parents in private schools when FAPE is not at issue.

No LEA or District of Residence is required to pay for the cost of educating a child with a disability at a private school (including special education and related services) if: (1) the District of Residence made a FAPE available to the child, and (2) the parents voluntarily elected to place their child in a private school.

Disputes regarding whether the LEA complied with child find requirements (such as the initial location, identification, and assessment of the parentally placed private school child with disabilities by the LEA and/or the District of Residence, as appropriate) may be resolved pursuant to local policies and procedures and/or by filing a request for a due process hearing with the Office of Administrative Hearings.

Disputes regarding the LEA's policy regarding *Children with Disabilities Enrolled by their Parents in Private Schools* Policy may be resolved pursuant to local policies and procedures, and/or by filing a complaint with the California Department of Education pursuant to Title 5 of the California Code of Regulations, section 4600 et seq.

## L. Hospitals, Licensed Children's Institutions (LCIs), Juvenile Detention Facilities, Adult Correctional Facilities

Every student eligible to receive special education services pursuant to an IEP shall receive them regardless of where they live within the SELPA.

### L1. Coordinating Services with Other Local Public Agencies That Are Funded to Serve Individuals with Exceptional Needs and Adult Correctional Institutions

To ensure that individuals with exceptional needs receive services from other local agencies that are funded to provide services to students, the Tahoe-Alpine SELPA and these agencies enter into interagency agreements that describe in detail the processes by which eligible students receive appropriate services. Tahoe-Alpine SELPA maintains interagency agreements with El Dorado and Alpine County Mental Health, California Children's Services, Alta California Regional Center (ACRC) and Head Start when appropriate. These agreements are on file locally.

To ensure that eligible students with exceptional needs incarcerated in adult correctional facilities continue to receive services, the Tahoe-Alpine SELPA shall coordinate enrollment and service provision between the El Dorado County Sheriff's Department, South Lake Tahoe law enforcement agencies, and Washoe Tribe law enforcement and public safety agencies, and Alpine County law enforcement agencies and the district of parent residence.

### L2. Public Hospitals, Proprietary Hospitals, and Other Residential Medical Facilities

LEAs within the SELPA provide free appropriate public education to individuals with exceptional needs who have been placed in public hospitals, proprietary hospitals, and other residential medical facilities located within the LEAs. Services are provided pursuant to IEP's designed to meet the student's unique needs. LEAs assign a case manager who serves as the liaison person to the facility that a student is placed in and who is responsible for monitoring the implementation of the student's IEP.

### L3. Licensed Children's Institutions (LCI) and Foster Homes

Students who reside in LCIs and foster homes who are eligible for special education instruction and/or services are provided the same procedural safeguards as all other students enrolled throughout the SELPA. The same procedures for identification, referral, placement and review apply. Free appropriate public education is provided pursuant to IEPs designed to meet the students' unique needs.

#### L4. Juvenile Court and Community Schools

Students with disabilities placed in Juvenile Court and Community School (JCCS) programs are provided the same procedural safeguards as those students enrolled throughout the SELPA. Free appropriate public education is provided pursuant to IEPs that are designed to meet their unique needs. Detailed procedures are following.

The JCCS located in Tahoe-Alpine SELPA include:

1. the Juvenile Treatment Center South Lake Tahoe (JTC), and
2. may include, in the future, an Alpine County Community School (CCS)

#### L5. County Community Schools

Generally, enrollment in a CCS occurs via:

1. Expulsion pursuant to Education Code 48915 et seq.,
2. Probation referral or
3. School Attendance Review Board (SARB) placement order

When a pupil with an IEP is expelled and enrolls in a CCS, a properly constituted IEP team shall meet to address the offer of a Free and Appropriate Public Education (FAPE) in that setting.

When a pupil with an IEP is referred for enrollment in CCS as a result of a probation or SARB referral, an expanded IEP team including staff from the CCS shall meet to address the change in placement.

Enrollment of probation and SARB referred students shall only occur after a manifestation determination meeting.

The District of Special Education Accountability (DSEA) remains responsible for implementation of the local plan for students in attendance in a CCS program including, but not limited to, child find, assessment and the provision of FAPE for students.

When a student is recommended to return to the DSEA, case manager will convene an expanded IEP team meeting, to include the staff of the DSEA to address the potential change of placement. The IEP team will include student, parent(s), and probation officer as appropriate.

## L6. Juvenile Detention Facility (JDF)

Upon entrance into the school program at the JDF, each student will be interviewed by the intake staff. As part of that interview, staff will inquire into the student's enrollment in special programs, including special education.

JDF staff shall request the pupil's records from the prior district, including special education records.

The El Dorado County Office of Education is responsible for implementation of the local plan for students in the JDF including, but not limited to, child find, assessment and the provision of FAPE for students.

## L7. Record Keeping and Continuation of Services

Student records are maintained by EDCOE for each student. Should any student for whom the identification, referral, assessment, instructional planning, implementation, and review process has been initiated as it related to special education needs or services re-enter the JDF, such processes shall be continued from the last step taken, as reflected by the records.

Special education services will be provided by a qualified staff. This service will be provided in individual/small group instruction pursuant to the IEP. This instruction should be interfaced with the education programs at the facility to promote LRE and maximum access to core instruction.

In an effort to ensure child find, EDCOE will notify the student's previous district upon release of the student from JDF.

## L8. Adult Correctional Facilities

Students who were found eligible for special education services prior to incarceration in an El Dorado Alpine County Detention Center, shall be identified by the El Dorado County Sheriff, the adult student or the adult student's appointed representative.

Upon referral from the El Dorado County Sheriff, South Lake Tahoe law enforcement agencies, Washoe Tribe public safety/law enforcement agencies, and or Alpine County law enforcement agencies the Tahoe-Alpine SELPA shall ensure the provision of special education services for inmates who remain eligible for such services, and (a) whose parent or conservator currently resides within the Tahoe-Alpine SELPA's boundaries; or (b) whose parents resided within the Tahoe-Alpine SELPA's boundaries when the inmate turned 18, and who remain residents of the SELPA.

It shall be the responsibility of the DSEA to provide services to the identified individual in an El Dorado or Alpine County Detention Center.

If the Tahoe-Alpine SELPA is not the responsible SELPA for an inmate identified by the appropriate El Dorado County and or Alpine County law enforcement agency, the Tahoe-Alpine SELPA shall make every effort to identify and contact the responsible district/SELPA.

## M. Low Incidence Equipment and Services

Each participating district and the county office operating under the Tahoe-Alpine SELPA 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 one of the student's disabilities is a qualifying 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 LEAs, or the Tahoe-Alpine SELPA. These materials are on loan to the students for whom the purchases were made and will be utilized according to individual needs.

### M1. Low Incidence Pupils and Funding

Education Code Section 56771(d) provides funds to purchase specialized books, materials, and equipment required under the IEP for each student (as appropriately identified) with a low incidence disability.

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."

### M2. Limitations of Expenditures

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:
  - a. to furnish CCS medical therapy units
  - b. to purchase medical equipment needed for providing specialized health care procedures
  - c. to construct or alter facilities or to acquire storage units
  - d. to supplant funding for books, materials, and equipment provided through the base program to students or to furnish classrooms
  - e. to 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. 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 low incidence student.

The equipment/materials/supplies will transfer with the student if the student transfers to a district operating program within the Tahoe-Alpine SELPA. Except as specified in Education Code 56040.3, if the student transfers out of the Tahoe-Alpine SELPA, the equipment/material/supplies remain unless release is obtained from the SELPA Director.

Funds may be expended for equipment required by a student's IEP to complete goals and objectives or 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 funds received will be allocated by the SELPA Governance Council to include a Low Incidence Pool available to provide reimbursement to member LEAs for low incidence expenditures based on recommendation of the Tahoe-Alpine SELPA Low Incidence Committee.

Funds not expended in a current year are to be carried over to the following year if allowable by state and federal regulations.

### M3. The SELPA Low Incidence Committee and Functions

The Low Incidence Committee consists of the two administrators from member LEAs; SELPA Director; and the appropriate SELPA staff. A meeting will be held, if needed, monthly to review all requests. The purpose of the Low Incidence Committee is to review and approve/deny requests for Low Incidence reimbursement requests. The SELPA Director will approve requests based upon the committee's input.

1. Before submitting any request, it is the responsibility of the LEAs to check with the CDE Clearinghouse Depository for Specialized Media and Technology at (916) 445-5103 and

LEA members within the Tahoe-Alpine SELPA to determine if the item is available from those sources.

2. The LEAs will complete the appropriate Request for Low Incidence Funds form including the following:
  - a. all required identifying information
  - b. a short needs justification specifying the intended use
  - c. specific IEP documentation
  - d. identification of the primary and alternate sources--manufacturer, supplier, etc., for the item
  - e. a description of the item
  - f. all costs, including shipping/handling and tax
  - g. administrator's/director's signature
3. The completed application is submitted to the SELPA office and will be reviewed at the next committee meeting.
4. Approval Process:
  - a. The Tahoe-Alpine SELPA program staff member reviews requests and provide a recommendation to the Low Incidence Committee.
  - b. The Low Incidence Committee will review the applications and recommendations and determine the disposition of the requests.
  - c. The Tahoe-Alpine SELPA office will inform member LEA of the outcome of the applications and the amount of the approved

purchase, as appropriate.

- d. Member LEAs may claim reimbursement for approved purchases by submitting a district invoice and a copy of the vendor invoice to the Tahoe-Alpine SELPA.

Requests for reimbursements will only be considered for the fiscal year the items and/or services are purchased.

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

#### **M4. Inventory Procedure**

Each member LEA will maintain an inventory of all materials and equipment purchased with low incidence funds, including item, vendor, cost, and location.

A comprehensive list of approved low incidence requests will be maintained by the Tahoe-Alpine SELPA.

## N. Nonpublic School and Agency Policy

The Tahoe-Alpine SELPA and member LEAs recognizes its responsibility to provide a free appropriate public education to students with disabilities in accordance with law. When the district is unable to provide direct special education and/or related services to students with disabilities, the LEA may enter into a contract with a nonpublic, nonsectarian school (NPS) or agency (NPA) (collectively NPS/A) to meet student needs consistent with the Tahoe-Alpine SELPA comprehensive local plan.<sup>7</sup> The Tahoe-Alpine SELPA will provide technical support to the Tahoe-Alpine LEAs, when needed, for them to implement *Board Policy 6159.2: Nonpublic, Nonsectarian School And Agency Services For Special Education*. The SELPA will also provide the most current NPS/A Master Contract and ISA to the LEAs.

Prior to entering into a contract to place any student in an NPS/A, the District of Special Education Accountability (DSEA) Superintendent or designee shall verify that the school or agency 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 DSEA Superintendent or designee of the LEA shall monitor, on an ongoing basis, the certification of any NPS/A with which the district has a contract to ensure that the certification has not expired with support from the Tahoe-Alpine SELPA.

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

The district shall pay to the NPS/A the full amount of the tuition or 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, procedural safeguards, due process rights, and periodic review of the student's IEP.

During the period when any student with disabilities is placed in an NPS/A, the student's LEA IEP team shall retain responsibility for monitoring the student's progress towards meeting the goals identified in the IEP. The SELPA will provide technical assistance to the LEA, if needed.

The Superintendent or designee of the LEA shall ensure that any contract with an NPS/A contains a requirement for the NPS/A to comply with 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. The SELPA will provide technical assistance to the LEA, if needed. The Superintendent or designee of the LEA shall notify the Board prior to approving an out-of-

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<sup>7</sup>See corresponding member LEA board policy and administrative regulation 6159.2

state placement for any district student. The SELPA will provide technical assistance to the LEA, if needed.

The Superintendent or designee of the LEA 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). The SELPA will provide technical assistance to the LEA, if needed.

## N1. Master Contract

Every master contract between a Tahoe-Alpine SELPA member LEA and an NPS/A shall specify the general administrative and financial agreements for providing special education and designated instruction and services. The master contract shall be for a term not to exceed one year and shall be renegotiated prior to June 30 by the LEA. Provisions of the contract shall include, but not be limited to: (Education Code 56366; 5 CCR 3062)

1. Student-teacher ratios
2. Transportation 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.
3. Procedures for recordkeeping and documentation
4. The maintenance of school records by the district to ensure that appropriate high school graduation credit is received by any participating student
5. An Individual Services Agreement (ISA) for each student, which 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
6. A description of the process to be utilized by the district to oversee and evaluate placements in the NPS/A, including a method for evaluating whether each student is making appropriate educational progress
7. Procedures and responsibilities for attendance and unexcused absences
8. 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
9. Payment schedules, including, but not limited to, payment amounts, payment demand, right to withhold, and audit exceptions

The contract may allow for partial or full-time attendance at the NPS/A. (Education Code 56366)

With mutual agreement, the participating Tahoe-Alpine SELPA LEA and NPS/A, 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 the student's ISA. (Education Code 56366)

The master contract or ISA may be terminated for cause if either party gives 20 days' notice. However, the availability of a public education program initiated during the period of the contract shall not give cause for termination unless the parent/guardian agrees to transfer the student to the program. (Education Code 56366)

## N2. Placement and Services

For any student to be placed in an NPS/A, the LEA designee shall develop an individual services agreement based on the student's IEP. Each individual services agreement shall specify the length of time authorized in the student's IEP for the NPS/A 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 SELPA will provide technical assistance to the designee when needed/requested.

At least once each year, the placing district shall: (Education Code 56366)

1. Evaluate the educational progress of each student placed in an NPS/A, including a review of state assessment results
2. During the annual meeting held to review the student's IEP pursuant to Education Code 56343, consider whether the student's needs continue to be best 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 special education student meets the district requirements for completion of the prescribed course of study as designated in the student's IEP, the district shall award the student a diploma of graduation. (5 CCR 3070)

## N3. Out-of-State Placements

Before contracting with a nonpublic, nonsectarian school or agency outside California, the SELPA Director, or designee shall document that the participating Tahoe-Alpine SELPA LEA made appropriate attempts 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 LEA 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 costs of the special education and related services provided, 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)

#### N4. On-Site Visits

The District of Special Education Accountability (DSEA) 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 District of Special Education Accountability (DSEA) director/administrator/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 NPS/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 participating LEA shall report the findings resulting from the NPS/A shall report the findings resulting from the NPS/A monitoring visit to the Tahoe-Alpine SELPA Director within 40 calendar days and the SELPA Director shall report the findings resulting from the LEA monitoring visit to the CDE within 60 calendar days of the on-site visit. (Education Code 56366.1)

#### N5. LEA Notification of Placement

Within five (5) business days of an IEP meeting that places a student in an NPS, the district administrator/designee shall complete the NPS/A Master Contract and ISA and submit it to the Tahoe-Alpine SELPA office. The district must provide access to the documents authorizing the placement (e.g., upload the IEP in special education database or provide a copy of pertinent portions of a settlement agreement). The SELPA will provide technical assistance to the LEA, if needed.

## N6. SELPA Assistance with NPS Placements

Member districts may place students in an NPS without assistance from the Tahoe-Alpine SELPA, however, the Tahoe-Alpine SELPA is available to assist member districts. Member districts may request assistance by contacting the SELPA office.

Tahoe-Alpine SELPA program staff are available to assist member districts by:

1. Assist the LEA, when needed, in locating an appropriate NPS based upon the unique needs of a student
2. Conducting a case review to ensure that an NPS is the least restrictive environment for the student, when required by the LEA
3. Assist the LEA with arranging a parent/guardian site visit to proposed NPS placements with or without district staff, when required by the LEA.

## N7. Residential Placements

Tahoe-Alpine SELPA staff will support the LEA case management and placement in residential settings and act as a liaison between the NPS and the other agencies when needed to support the LEA. The Tahoe-Alpine SELPA does not maintain a residential placement risk pool for the purpose of funding the board and care portion of residential placements. This responsibility is held by the participating DSEA.

## N8. NPS/A Case management

DSEA case manager responsibilities include the following:

1. Monitor and supervise the student's IEP, including scheduling and conducting IEP review meetings.
2. Monitor student academic achievement testing and progress towards either graduation or a certificate of completion.
3. Inform the Tahoe-Alpine SELPA office within 72 hours of any NPS/A IEP meeting updates that change the ISA.
4. During the period when any student with disabilities is placed in an NPS/A, the student's LEA IEP team shall retain responsibility for monitoring the student's progress towards meeting the goals identified in his/her IEP.

## O. Positive Behavioral Interventions

It is the policy that each participating LEA in the SELPA shall implement the procedures for systematic use of the positive behavioral interventions and emergency interventions described in this plan.

In the case of a child whose behavior impedes the child's learning or that of others, the individualized education program team shall consider the use of positive behavioral interventions and supports and other strategies to address behaviors (Education Code 56521.1 (b)).

### O1. Qualifications and Training of Behavioral Intervention Plan Personnel

Pursuant to Education Code section 56520, behavioral interventions shall be designed or planned only by personnel who have a:

1. Pupil Personnel Services Credential that authorizes school counseling or school psychology; or
2. credential authorizing the holder to deliver special education instruction; or
3. license as a Marriage and Family Therapist certified by the Board of Behavioral Sciences, within the Department of Consumer Affairs; or
4. license as a Clinical Social Worker by the Board of Behavioral Sciences, within the Department of Consumer Affairs; or
5. license as an Educational Psychologist issued by a licensing agency within the Department of Consumer Affairs; or
6. license in psychology regulated by the Board of Psychology, within the Department of Consumer Affairs; or
7. master's degree issued by a regionally accredited post-secondary institution in education, psychology, counseling, behavior analysis, behavior science, human development, social work, rehabilitation, or in a related field.

To provide behavioral intervention, including implementation of behavior intervention plans, but not including development or modification of behavior intervention plans, an LEA shall deliver those services using personnel who possess any of the qualifications to design or plan behavior interventions or personnel who:

1. are under the supervision of personnel qualified to design or plan behavior interventions; and
2. possess a high school diploma or its equivalent; and

3. receive the specific level of supervision required in the pupil's IEP.

If the IEP team determines that a BIP is necessary for the pupil, it must be included in the IEP.

## O2. Functional Behavioral Assessment and Behavior Intervention Plan

A functional behavior assessment (FBA) must be conducted when:

1. school authorities seek to change the placement of an individual with exceptional needs because of a violation of a code of student conduct,
2. the IEP team determines that the conduct was a manifestation of the child's disability, and
3. the LEA had not conducted an FBA prior to such determination before the behavior that resulted in the change of placement.

The LEA shall implement a behavioral intervention plan for the student.

If a behavioral intervention plan has already been developed, the IEP team shall review the behavioral intervention plan and modify it as necessary to address the behavior.

An FBA may be conducted in cases of disciplinary removals involving a change in placement in which the IEP team determines that the conduct was not a manifestation of the child's disability.

An FBA must be conducted when the IEP team determines that it would be appropriate for the child.

## O3. Emergency Interventions

Because emergency interventions pose risk of injury to students and others involved, only procedures that are designed to provide for staff and student safety during emergency interventions shall be permitted. Only staff members who have received training in such procedures and have demonstrated competence in their use during simulated emergency interventions shall be permitted to conduct an emergency intervention.

The procedures taught by the Crisis Prevention Institute (CPI) shall be permitted.

## O4. Emergency Interventions (Education Code 56521.1)

Emergency interventions may only be used to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the individual with exceptional needs, 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 the systematic behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior.

No emergency intervention shall be employed for longer than is necessary to contain the behavior. A situation that requires prolonged use of an emergency intervention shall require the staff to seek assistance of the school site administrator or law enforcement agency, as applicable to the situation.

Emergency interventions shall not include:

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

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

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

All behavioral emergency reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator, and sent to the SELPA Office within 24 hours.

If a behavioral emergency report is written regarding an individual with exceptional needs who does not have a behavioral intervention plan, the designated responsible administrator shall,

within two days, schedule an individualized education program (IEP) team meeting to review the emergency report, to determine the necessity for a functional behavioral assessment, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the functional behavioral assessment, not developing an interim plan, or both.

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

### **O5. Prohibited Interventions: (Education Code 56521.2)**

A local educational agency or nonpublic, nonsectarian school or agency serving individuals with exceptional needs pursuant to Sections 56365 and 56366, shall not authorize, order, consent to, or pay for the following interventions, or any other interventions similar to or like the following:

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

### **O6. Seclusion and Restraint**

Staff shall enforce standards of appropriate student conduct in order to provide a safe and secure environment for students and staff on campus, but are prohibited from using

seclusion and behavioral restraint to control student behavior except to the limited extent authorized by law.

### **Definitions**

Behavioral restraint includes mechanical restraint or physical restraint used as an intervention when a student presents an immediate danger to self or to others. Behavioral restraint does not include postural restraints or devices used to improve a student's mobility and independent functioning rather than to restrict movement. (Education Code 49005.1)

Mechanical restraint means the use of a device or equipment to restrict a student's freedom of movement. Mechanical restraint does not include the use of devices as prescribed by an appropriate medical or related services professional, including, but not limited to, adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment; vehicle safety restraints during the transport of a student; restraints for medical immobilization; or orthopedically prescribed devices which permit a student to participate in activities without risk of harm. Mechanical restraint also does not include the use of devices by peace officers or security personnel for detention or for public safety purposes. (Education Code 49005.1)

Physical restraint means a personal restriction that immobilizes or reduces the ability of a student to move the torso, arms, legs, or head freely. Physical restraint does not include a physical escort in which a staff member temporarily touches or holds the student's hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location. Physical restraint also does not include the use of force by peace officers or security personnel for detention or for public safety purposes. (Education Code 49005.1)

Prone restraint means the application of a behavioral restraint on a student in a facedown position. (Education Code 49005.1)

Seclusion means the involuntary confinement of a student alone in a room or an area from which the student is physically prevented from leaving. Seclusion does not include a timeout involving the monitored separation of the student in an unlocked setting, which is implemented for the purpose of calming the student. (Education Code 49005.1)

### **Prohibitions**

Seclusion and behavioral restraint of students shall not be used in any form as a means of coercion, discipline, convenience, or retaliation. (Education Code 49005.8)

In addition, staff shall not take any of the following actions: (Education Code 49005.2, 49005.8)

1. Administer a drug that is not a standard treatment for a student's medical or

psychiatric condition in order to control the student's behavior or restrict the student's freedom of movement

2. Use locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use as a locked room
3. Use a physical restraint technique that obstructs a student's respiratory airway or impairs a student's breathing or respiratory capacity, including a technique in which a staff member places pressure on the student's back or places his/her body weight against the student's torso or back
4. Use a behavioral restraint technique that restricts breathing, including, but not limited to, the use of a pillow, blanket, carpet, mat, or other item to cover a student's face
5. Place a student in a facedown position with the student's hands held or restrained behind the student's back
6. Use a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the student or others

### **Limited Use of Seclusion or Restraint**

Staff shall avoid the use of seclusion and behavioral restraint of students whenever possible. Seclusion or behavioral restraint may be used only to control student behavior that poses a clear and present danger of serious physical harm to the student or others, which cannot be prevented by a response that is less restrictive. (Education Code 49005.4, 49005.6, 49005.8)

If a student is put in seclusion, the student shall be under constant, direct observation of a staff member. Such observation may be through a window or another barrier through which the staff member is able to make direct eye contact with the student, but shall not be made through indirect means such as a security camera or closed-circuit television. (Education Code 49005.8)

If a student is restrained, staff shall afford the student the least restrictive alternative and the maximum freedom of movement, and shall use the least number of restraint points, while ensuring the physical safety of the student and others. (Education Code 49005.8)

If a prone restraint technique is used on a student, a staff member shall observe the student for any signs of physical distress throughout the use of the restraint. Whenever possible, the staff member monitoring the student shall not be involved in restraining the student. (Education Code 49005.8)

## P. Continuum of Services

The Tahoe-Alpine SELPA maintains a continuum of services to meet the varied special education needs of students of the member LEAs. The SELPA has established a local system of programs and services identified as District Base Programs, District Regional Programs, and SELPA Regional Programs. These programs are maintained and operated locally and work in conjunction with the available nonpublic schools and agencies to provide a complete continuum of services.

The following table identifies the programs and services provided by the member LEAs:

<b>District Base Programs</b>	<b>District Regional Programs</b>	<b>SELPA Regional Programs</b>
Resource Specialist Program (RSP) or Learning Center Program	Orientation & Mobility (O&M)	WorkAbility I (WAI)
Early Childhood Special Education Preschool	Deaf/Hard of Hearing (D/HH)	Al Tahoe Infant Development Program
Special Day Class (SDC)	Physical Therapy Services (PT)	Low incidence
Speech/Language Services	Low Vision Services (VI)	Alternative Dispute Resolution (ADR) when needed for placements
Psychological Services and Assessment	Adaptive Physical Education (APE)	
Occupational Therapy (OT)	Adult Transition Program	
Behavior Services	Assistive Technology (AT) Services	
Mental Health Services	Special Day Class (SDC)/Extensive Supports	
Health and Nursing Services		

## Q. District Base Programs

Each member school district is responsible for maintaining and operating services identified as District Base Programs, including:

1. Resource Specialist Program (RSP)
2. Early Childhood Special Education Preschool
3. Special Day Class (SDC)
4. Speech/Language Services
5. Psychological Services and Assessment
6. Occupational Therapy (OT)
7. Behavior Services
8. Mental Health Services/ERMHS
9. Health and Nursing Services
10. Low incidence services

The provision of additional services shall be the responsibility of the district of special education accountability unless otherwise available through a District Regional Program or SELPA Regional Programming.

Member LEAs may enter into agreements with one another or other LEAs outside the Tahoe-Alpine SELPA for services. Examples of such inter LEA contracting are:

1. one member district may contract with another member LEA for services identified as district base program, such as a shared RSP teacher working for two LEAs or
2. A member LEA contracting with an LEA outside the Tahoe-Alpine SELPA for placement or services.

## R. District Regionalized Programs

District Regionalized Programs are operated and funded by the operating districts and are available, as appropriate to other member LEAs based upon a district-to-district Fee-For-Service (FFS) schedule.

The FFS schedule is approved annually through the LEA hosting the program/service. Factors include, but are not limited to, personnel costs for the prior fiscal year based upon the agreed upon program personnel, direct and indirect costs, and a billing factor. The FFS schedule identifies two billing periods:

1. the first billing covers the period from July 1 through January 31, with invoices sent by February 28 and
2. the second billing covers the period from February 1 through June 30, with invoices sent by July 5

Invoices are prorated based on actual days of enrollment for a particular student in a particular program. The district providing the service will initiate the invoicing process.

District Regional Programs include:

1. Resource Specialist Program (RSP) or Learning Center Program
2. Early Childhood Special Education Preschool
3. Speech/Language Services
4. Special Day Class (SDC)/Extensive Supports
5. Psychological Services and Assessment
6. Occupational Therapy (OT)
7. Behavioral Services
8. Mental Health Services/ERMHS
9. Low Vision Services
10. Orientation & Mobility (O&M)
11. Deaf/Hard of Hearing (DHH) Programs & Services
12. Assistive Technology (AT) Services
13. Adaptive Physical Education (APE)
14. Adult Transition Program
15. Health and Nursing Services

In addition to the referral processes described below, a member LEA may contact the SELPA to assist with placement options within the SELPA.

### R1. Special Day Class (SDC) Programs

Special Day Class Programs are designed to meet the individual needs of student with unique

needs typical of specific conditions and or disabilities. Placement is individually determined by the IEP team and is not restricted to any specific disability category.

#### Referral Guidelines: Special Day Class (SDC) Programs

To refer a student to a Special Day Class (SDC) program in another member District, the District of Special Education Accountability (DSEA) contacts the Director of the LEA operating the District Regional Program (hereinafter called the District of Service or DOS) where the desired program is located.

A copy of the completed IEP shall be provided to the DOS which is responsible for disseminating the information within the district. IEPs must be redacted unless the parent has consented to the release of the information.

Staff from the DOS may observe the student if the parent has provided consent.

If it is determined that the placement may be appropriate, the DSEA will convene an IEP meeting to include representatives of the DOS.

#### Transfer Students: Special Day Class (SDC) Programs

For transfer-in students, with special education services similar to those in Tahoe-Alpine SELPA District Regionalized Programs, the DSEA will provide all documentation, prior to the intake appointment, to the DOS. Documents must be redacted unless the parent has consented to the release of the information. The DOS will be invited to the intake appointment. At the intake appointment, with input from the parent, a placement will be made.

#### Programmatic Responsibility: Special Day Class (SDC) Programs

The DOS shall maintain the student's special education record in the IEP database and provide access to the DSEA. The DSEA shall designate individuals to be included as service providers to ensure ongoing access to the pupil record.

The DOS is responsible for convening all IEP meetings, including scheduling and preparation of IEP documents. The DOS shall coordinate with and invite the DSEA.

Monitoring timelines is a joint responsibility.

The DOS is responsible for assigning a case manager and conducting assessments related to the services being provided in the regional program, including psycho-educational, academic, speech and language, OT, behavioral services (BCBA), mental health, as a related service, as appropriate. The DSEA is responsible for any additional assessments. The DOS is responsible for coordinating the development of assessment plans and the related prior written notice

with the DSEA.

In the event that an IEE is requested, the DSEA shall be responsible to respond and fund the IEE or file to defend the assessment. The DSEA shall coordinate with the DOS to convene an IEP meeting to consider completed IEEs or private assessments furnished to the DSEA.

Notwithstanding parents right to request stay-put in due process proceedings, placement in an SDC program may be terminated with or without cause by the DOS. To terminate the placement the DOS shall give twenty (20) calendar days written notice to the DSEA and parent. Prior to issuing a 20-day notice, the DOS shall have attempted to address the concerns by convening an IEP meeting and taking other appropriate actions, e.g., conducting a behavioral assessment and attempting interventions. At the time of termination, DOS shall provide to the DSEA any and all pupil records. If requested, the DOS shall participate in an IEP team meeting to support the student's transition to another program.

## R2. Low Vision Services, Orientation & Mobility (O&M) and Adaptive Physical Education (APE)

### Referrals Guidelines: Low Vision Services, O&M and APE

Referrals for Low Vision, O&M and APE shall be initiated from the DSEA by sending the DOS an email addressed to the Director of Special Education with the assessment plan attached.

### Transfer Students: Low Vision Services, O&M and APE

For transfer students with Low Vision, O&M and/or APE as a related service, the DSEA shall send the DOS an email addressed to the Director of Special Education with the most current IEP attached.

### Programmatic Responsibility: Low Vision Services, O&M and APE

As a related service provider, Low Vision, O&M and APE Specialists shall not serve as the primary case manager.

The DOS shall provide SEIS access to the Low Vision, O&M and APE provider at the time of referral.

In the event that an IEE is requested, the DSEA shall be responsible to respond and fund the IEE or file to defend the assessment. The DSEA shall coordinate with the DOS to convene an IEP meeting to consider completed IEEs or private assessments furnished to the DSEA.

## S. Records Policy

The Governance Council (GC) recognizes the importance of securing and retaining SELPA documents. The SELPA Director, or designee, shall ensure that SELPA records are developed, maintained, and disposed of in accordance with law and SELPA policies and procedures.

### S1. Classification of Records

Records of continuing nature (active and useful for administrative, legal, fiscal, or other purposes over a period of years) shall not be classified until such usefulness has ceased. (5 CCR 16022)

The SELPA Director, or designee, shall review the prior year's SELPA records and classify them as either a Class 1 (Permanent), Class 2 (Optional), or Class 3 (Disposable) record. (5 CCR 16022)

### S2. Pupil, Personnel, Audit and Property Records

The SELPA shall not maintain any pupil records. Any individual requesting pupil records shall be assisted in making the request to the appropriate LEA.

The SELPA's AU shall maintain Personnel, Audit and Property Records as required by law.

### S3. Class 1 - Permanent Records

The original of each of the following records, or one exact copy of it when the original is required by law to be filed with another agency, is a Class 1 (Permanent) record and shall be retained indefinitely unless microfilmed in accordance with 5 CCR 16022: (5 CCR 16023)

1. Annual Reports
  - a. Official budget
  - b. Average daily attendance, including Period 1 and Period 2 reports
  - c. Other major annual reports, including those declared by GC minutes to be permanent
2. Official Actions
  - a. Minutes of the Executive Leadership Council and GC, or GC committees, including the text of rules, regulations, policies, or resolutions included by reference only

### S4. Class 2 - Optional Records

Any records considered temporarily worth keeping, but which are not Class 1 records, may be classified as Class 2 (Optional) records and shall be retained until reclassified as Class 3 (Disposable) records. If, by agreement of the Executive Leadership Council, GC and SELPA

Director, or designee, classification of the prior year records has not been made before January 1 as specified in 5 CCR 16022, all records of the prior year may be classified as Class 2 (Optional) records pending further review and classification within one year. (5 CCR 16024)

Class 2 (Optional) Records shall include past master contracts with nonpublic school or agencies and individual service agreements, until such records are reclassified as Class 3 (Disposable) records.

### S5. Class 3 - Disposable Records

All records not classified as Class 1 (Permanent) or as Class 2 (Optional) records shall be classified as Class 3 (Disposable) records. (5 CCR 16025)

All Class 3 (Disposable) records shall be destroyed during the third school year after the school year in which the records originated. In addition, Class 3 (Disposable) records shall not be destroyed until after the third school year following the completion of any legally required audit or the retention period required by any agency other than the State of California, whichever is later. A continuing record shall not be destroyed until the fourth year after it has been classified as a Class 3 (Disposable) record. (5 CCR 16026, 16027)

Master contracts with nonpublic school or agencies and individual service agreements shall be classified as Class 3 (Disposable) records five (5) years after the operating year of the master contract or individual service agreement.

## T. Civility Policy

Civility procedures promote mutual respect and civility among district employees, parents, and the public to ensure orderly educational and administrative processes and to keep schools and administrative offices free from disruption. District staff will treat parents and other members of the public with courtesy and respect and will expect the same in return. These procedures are not intended to deprive any person of his/her right to freedom of expression, but only to maintain, to the extent possible and reasonable, a safe, harassment-free workplace for students and staff. In the interest of presenting district employees as positive role models to the students of the districts as well as the community, the Tahoe-Alpine SELPA encourages positive communication and discourages volatile, hostile, or aggressive behavior.

Any individual who disrupts or threatens to disrupt school/office operations; threatens the health and safety of students or staff; willfully causes property damage; uses loud and/or offensive language; or who has otherwise established a continued pattern of unauthorized entry on school district property, etc. will be directed to leave school or school district property promptly. Individuals who fail or refuse to leave school grounds or district property after being directed to do so by the school principal, designee, school security officer, or district official should be reported to the police.

In a situation in which an employee is involved with a parent or other individual who becomes verbally or physically abusive, it is the prerogative of that employee to, as politely as possible, terminate the conference or phone call and refer the complainant to the employee's supervisor. In the case of physical threat, the police should be called. If an individual abuses voicemail or email communications, the superintendent or designee may impose limitations and parameters regarding future communications. Abuses are enumerated above, but also include inappropriate use of the "copy to:" feature, excessive size, or frequency of email. The use of any electronic listening or recording device without the prior consent of the teacher, school employee, principal of the school, district or SELPA employee is prohibited, and any person who willfully violates this section shall be reported to the police. This section is not intended to prohibit or limit the use of electronic listening or recording devices to promote an educational purpose, such as Individualized Education Program (IEP) meetings and/or expulsion within identified legal parameters.

When violence is directed against an employee, employees shall promptly report the occurrence to their principal or supervisor. Employees and supervisors should report to law enforcement any attack, assault, or threat made against them on school/district premises or at school/district sponsored activities.

## U. By-Laws of the Community Advisory Committee

### By Laws of the Community Advisory Committee

### For the Tahoe-Alpine Special Education Local Plan Area (SELPA)

#### U1. Name

The name of the organization shall be the Tahoe-Alpine SELPA Community Advisory Committee (CAC).

The area served by the CAC shall include the following LEAs within Alpine and El Dorado Counties which include:

- Alpine County Unified School District (ACUSD) & Alpine County Office of Education (ACOE), and
- Lake Tahoe Unified School District (LTUSD).

In order to promote local involvement of parents of children with disabilities and other community members, establishment of a Local Advisory Committee (LAC) is encouraged in each of the three (3) LEAs participating in the Tahoe-Alpine SELPA CAC. LACs shall be optional, and as such, shall be separate from the CAC in composition and responsibility.

#### U2. Responsibilities

The CAC shall serve in an advisory capacity to the administration and policy-making body of the SELPA regarding development, amendment, and review of the Special Education Local Plan. It shall:

1. Review and consider comments from its membership
2. Make recommendations on annual priorities to be addressed by the plan
3. Assist in parent education and recruiting parents and other volunteers, who may contribute to the implementation of the plan
4. Encourage community involvement in the development and review of the Special Education Local Plan, and
5. Support activities on behalf of individuals with exceptional needs.

### U3. Membership

Composition of the Community Advisory Committee:

1. The CAC shall be composed of parents of individuals with exceptional needs enrolled in public or private schools; other parents of pupils enrolled in school; individuals with exceptional needs enrolled in special education programs; general education teachers; special education teachers and other school personnel; representatives of other public and private agencies; and persons concerned with the needs of individuals with exceptional needs. Term of membership shall be two years, with no expressed term limits.
2. The majority of the CAC shall be composed of parents of pupils enrolled in schools participating in the local plan, and at least a majority of those parents shall be parents of individuals with exceptional needs. The CAC as a whole shall be made up of at least 2 (two) members from Alpine County/USD and five members from LTUSD representing different school sites from each region. There shall be two additional standing members, which include the Immediate Past Chair and a special education director from the member districts serving as an administrative liaison. Agency representatives must attend three CAC meetings, and then apply to the Executive Leadership Council and Governance Council (GC) for membership using the Application for CAC Membership form.
3. Each LEA shall ensure the local governing board appoints two parent representatives to the CAC. LEAs, at their discretion, are encouraged to consider appointees from the LAC in districts where they exist. At their discretion, local governing board's may also appoint an additional representative for a total of three LEA representatives. Each local district member of the CAC shall be responsible to the governing board of their district.
4. The SELPA Director shall select an administrator/designee of a member district to serve as an administrative liaison to the CAC. The administrative liaison serves as a voting member. The administrative liaison to the CAC may rotate among members throughout the year based on availability.
5. CAC Voting

Voting members of the committee shall be limited to no more than thirteen (13) as follows:

- a. Each district's Board appointed representatives to the CAC (up to 7);
- b. A Special Education Director serving as an administrative designee (1);
- c. The Immediate Past Chair (1 - this person may also serve as his/her district's appointed representative or designated alternate); and
- d. Agency representative(s) as appointed by the Executive Leadership Council and Governance Council (3),

Members must be present to vote and shall support the activities of the CAC on behalf of special education.

## U4. Officers of the Community Advisory Committee

Officers shall be: Chairperson, Vice-Chairperson, and Immediate Past Chairperson, who shall be elected and shall serve for a term of two (2) years with the terms being staggered to the extent practicable. Chairpersons, who serve in the second year of his/her term, shall continue as Past Chairperson for the following two years.

Officers' terms shall be from November to November with nominations in September and elections in November.

Elections will be held in open session as follows: nominations will be taken from members of the CAC for each vacant position, nominees may decline to be considered for a position, a slate of candidates for each position will be developed and the membership shall vote to determine the officers.

### Duties of Officers:

1. Chair: The Chair shall preside at all meetings of the CAC and shall sign all letters, reports, and other communications. Prior to the quarterly meeting, the Chair shall collaborate with SELPA Director to develop an agenda for the CAC scheduled meetings. The Chair shall appoint all Committee chairpersons and members subject to the consent of the members.
2. Vice-Chair: The Vice-Chair shall preside in the absence of the Chair. The Vice-Chair shall perform all duties described for the Chair. In the event that the office of Chair becomes vacant, the Vice-Chair shall succeed as Chair.

At their sole and mutual agreement, the Chair and Vice-Chair may elect to Co-Chair the CAC meetings for their entire term of office. In such a case, the individual nominated to the position of Chair will assume the role of past chair when their term has ended. If the nominated Chair is unavailable after their term has ended, the Vice-Chair shall serve as the Immediate Past Chair.

3. Immediate Past Chair: The Immediate Past Chair will serve in an advisory capacity to the Chair and shall serve as a voting member.

The Tahoe-Alpine SELPA CAC shall include the following non-voting positions.

1. SELPA Administrative Liaison. The Tahoe-Alpine SELPA Administrative Liaison shall assist the chair in organizing the meetings of the CAC and carrying out the activities of the CAC.
2. SELPA Secretary: A SELPA Secretary shall be responsible for the minutes of monthly CAC meetings and shall send a copy to each of the members. The duties shall also

include keeping a register of the members.

Upon a member's missing three consecutive meetings, the CAC membership shall vote to:

1. Call the non-attending member to inquire about their intent to continue to represent the district and resume attending CAC meetings; or
2. Direct the CAC chair to notify the district director of the representative's non-attendance and request that a replacement be named.

## U5. CAC Meetings

### 1. Frequency:

The CAC shall meet quarterly during the school year unless otherwise stipulated by a majority vote of the membership or called by the Chair or the SELPA Director to conduct required business. There shall be no fewer than 4 (four) meetings per school year with the exact dates and times established by the Chair and SELPA Director prior to the start of the new Fiscal Year.

### 2. Meeting Notices:

A calendar shall be established annually with the CAC meeting dates and times. Notice of all regular and special meetings shall be in writing. Notices will state the date, time, and location, and shall be posted at least 72 hours before said meeting.

Items to be included on the agenda must be submitted to the Chair and SELPA Director one week prior to the upcoming business meeting.

### 3. Quorum:

A quorum of the CAC shall be a simple majority of those members present for a vote to pass.

### 4. Conduct of Meetings:

All regular and special meetings of the CAC shall operate under Education Code 35147.

### 5. Meeting Records:

A copy of the minutes of the CAC meeting shall be sent to the Directors of Special Education and the District Superintendents.

### 6. Special Meetings:

Special meetings may be called by the SELPA Director, the CAC Chair, or by majority vote of the CAC membership with notification to the SELPA Director.

7. Open Meetings:

Meetings of the committee and of standing or special committees shall be open to the public.

8. Committees:

The Chair can form and appoint members to ad-hoc committees.

9. Concerns:

The CAC is a committee that serves in an advisory capacity only in the areas of programs and services and the corresponding procedural safeguards for students with disabilities. Therefore, no statements of charges against individuals will be heard by the CAC nor will the CAC hear parent requests for specific services or issues related to individual students.

10. Political Activities:

The CAC serves solely as an advisory committee to the SELPA. In that capacity, its advocacy for students with disabilities is general in nature. The areas of focus are specific programs and services for procedural safeguards of these students. Therefore, the CAC as an organization does not endorse any private agencies, organizations, or causes. However, the CAC does advocate relative to initiatives impacting students with disabilities.

## U6. Amendments

Recommended amendments to these by-laws shall be presented at any regularly scheduled CAC meeting by a simple majority vote of those present. Final approval of any by-law amendment is at the discretion of the Governance Council.

AGENCY Application for CAC Membership

**COMMUNITY ADVISORY COMMITTEE FOR SPECIAL EDUCATION**

**Names:**

**Address:**

**Present Occupation:**

**Agency:**

**Name & Contact of Supervisor:**

**Home Phone:**

**Work Phone:**

**Area(s) of Interest:**

**Civic activities or organizations you belong to, if any:**

**In what ways do you plan to contribute to the CAC?**

**How did you hear about the CAC?**

**Have you attended any CAC business meetings in the past?      YES      NO**

**When?**

**Signature:**

**Date:**

*For CAC Use*

Sent to Director: \_\_\_\_\_

Name

Date

## V. Transportation

### V1. LEA Responsibility and Funding

When transportation is required as a service on a student's IEP, each district is responsible for coordinating and providing that transportation service (the responsibility for transportation is assigned to the District of Special Education Accountability or DSEA).

### V2. Criteria for Providing Transportation

Transportation, as a related service to special education, is necessary when it is required for the student to benefit from their special education.

IEP teams shall consider the following when determining the need for transportation as a related service:

1. the severity of the student's disability having a direct effect on the provision of transportation services (e.g., mobility and ability)
2. ability of the student to function independently and responsibly
3. the student's education goals for transition from special education or into the community
4. least-restrictive environment and the promotion of independent living to the maximum extent possible.

An alternative method of transportation will be arranged by the District of Special Education Accountability to a special education program if a student is suspended from the bus. This is necessary in order to continue providing free, appropriate public education services as identified on the IEP. Alternative methods of transportation could include transportation by the parent, a taxi, or another public vehicle.

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## W. Specialized Health Care Services<sup>8</sup>

### W1. Definitions

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

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

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

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

### W2. Provision of Services

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

1. Qualified persons who possess an appropriate credential pursuant to Education Code 44267 (service credential with specialization in health), Education Code 44267.5 (service credential with specialization in health for school nurse), or a valid certificate of public health nursing issued by the Board of Registered Nursing
2. Qualified designated school personnel trained in the administration of specialized physical health care if they perform those services under the supervision of a credentialed school nurse, public health nurse, or licensed physician and the services

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<sup>8</sup> See corresponding member LEA board policy and administrative regulation 5141.24

are determined by the credentialed school nurse or licensed physician, in consultation with the physician treating the student, to meet all of the following criteria:

- a. Constitute routine care for the student
- b. Pose little potential harm for the student
- c. Are performed with predictable outcomes, as defined in the student's IEP
- d. Do not require a nursing assessment, interpretation, or decision making by the designated school personnel

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

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

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

1. Coordinate the health care services to the students with disabilities on the school site
2. Consult with appropriate personnel regarding management of health care services for students with disabilities
3. Make appropriate referrals and maintain communication with health agencies providing care to students with disabilities
4. Maintain or review licensed physician and parent/guardian requests and daily documentation records

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

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

## **X. Participation in High School Graduation Ceremonies for Students not Earning a Diploma**

Students with disabilities, including students served in nonpublic schools, who complete high school without earning a diploma shall be permitted to participate in the graduation ceremonies with their typical peers provided the student has been enrolled in a secondary special education program and will have attained an appropriate age for graduation or completed four years of high school.

The high school ceremony in which the student participates may be either the high school attended or the high school of residence in the district of special education accountability.

In accordance with local policy and regulation, the district of service will provide a Certificate of Completion.

Students receiving a Certificate of Completion shall wear the same caps and gowns as students earning a regular high school diploma. Parents are responsible for graduation arrangements, including but not limited to, making a request for graduation participation, paying fees for caps and gowns, etc., in accordance with school policy.

## Y. Case Management

### Y1. Background

The Tahoe-Alpine SELPA and its member LEAs have identified the need for a specific point of contact to facilitate communication between and among members of the IEP team, service providers, and families.

### Y2. Case Manager Assignment

Every student with an IEP shall have a designated case manager from the District of Special Education Accountability (DSEA). Typically, the case manager for any given student is that student's primary special educator in the district of service. The district director of special education is responsible for ensuring every student has an assigned case manager and may delegate assignment duties to appropriate special education staff.

Residential placements are case managed by DSEA assigned personnel, and the SELPA will provide technical assistance when requested by the DSEA.

### Y3. Services Provided by The Case Manager

Case managers, include but are not limited to:

1. serve as a point of contact for providers, both special education and general education, and parents regarding the provision of special education services for a particular student
2. directs communications to the appropriate resource so that issues can be resolved at the earliest opportunity
3. notice appropriate individuals for IEP meetings
4. monitor IEP specified services to ensure those services being provided
5. ensure compliance with special education timelines and district procedures

## Z. Maintenance of Effort (MOE)

The Tahoe-Alpine Special Education Local Plan Area (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 300.203-300.205).

The SELPA Administrative Unit (AU), as the grantee of federal funds from the California Department of Education (CDE), shall distribute all or part of the federal funds received to participating local education agencies (LEA) within the SELPA through an allocation model approved by the Executive Leadership and Governance Council (GC) The LEAs within the SELPA shall compile and submit budget and expenditure information, including LMC-A and LMC-B reports.

The two required comparison tests are as follows:

### Z1. 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:

1. The voluntary departure, by retirement or otherwise or departure for just cause, of special education or related service personnel
2. A decrease in the enrollment of children with disabilities
3. 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

- c. No longer needs the program of special education
4. 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 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.

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.

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 recipients fails the first comparison test, the LEA shall have until the first principal apportionment (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 allocated amounts. The CDE will reduce the SELPA's grant awards by the amount of the LEAs allocated 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.

## Z2. 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:

1. The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related service personnel
2. A decrease in the enrollment of children with disabilities
3. 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
- 4. 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 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.

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 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 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.

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## AA. Special Education Staff<sup>9</sup>

### Qualifications/Assignment of Special Education Teachers

Any teacher assigned to serve students with disabilities shall possess an appropriate credential or other authorization issued by the Commission on Teacher Credentialing (CTC) that specifically authorizes him/her to teach students with the primary disability within the program placement recommended in the students' individualized education program (IEP). (5 CCR 80046.1- 80048.9.4) In addition to the appropriate authorization to serve students with disabilities, any teacher assigned to provide instruction to English learners with disabilities shall also possess a supplemental authorization to provide English language and development and primary language support (e.g., CLAD, BCLAD or equivalent).

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

The member District/LEA Superintendent or designee may request that the CTC issue a special education limited assignment teaching permit which authorizes a qualified special education teacher, with his/her written consent, to serve outside the specialty area of his/her credential. If the teacher has not yet obtained permanent status, the member District/LEA Superintendent or designee shall assign one or more experienced educators in the special education subject area(s) of the permit, who have at least three years of full-time teaching experience in each of the subject area(s) of the permit, to provide guidance and assistance to the permit holder. (5 CCR 80026, 80027.1)

As needed, the member District/LEA may apply to the CTC for an emergency permit for resource specialist services pursuant to 5 CCR 80023.2 and 80024.3.1.

When requesting either a limited assignment teaching permit or an emergency resource specialist permit, the member District/LEA Superintendent or designee shall submit a Declaration of Need for Fully Qualified Educators that satisfies the requirements of 5 CCR 80026 and has been approved by the Board at a regularly scheduled Board meeting, as appropriate. (5 CCR 80026)

If there is a need to immediately fill a classroom vacancy or a suitable credentialed teacher cannot be found after a diligent search, the member District/LEA Superintendent or designee may, as appropriate, apply to the CTC for a short-term staff permit pursuant to 5 CCR 80021, a provisional internship permit pursuant to 5 CCR 80021.1, or, as a last resort, a credential waiver.

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<sup>9</sup> See corresponding member LEA administrative regulation 4112.23

Individuals providing related services to students with disabilities, including developmental, corrective, and other supportive and related services, shall meet the applicable qualifications specified in 5 CCR 3051-3051.24. (5 CCR 3051; 34 CFR 300.34, 300.156)

The member District/LEA Superintendent or designee shall provide ongoing professional development as needed to assist special education staff in updating and improving their knowledge and skills.

Whenever a candidate for a clear education specialist credential is employed by the district, the member District/LEA Superintendent or designee shall, within 60 days of employment, collaborate with the candidate and, as applicable, with the college or university to develop an individualized induction plan including supported induction and job-related course of advanced preparation. (5 CCR 80048.8.1)

### **Resource Specialists**

The duties of resource specialists shall include, but are not limited to: (Education Code 56362; 5 CCR 80070.5)

1. Providing instruction and services for students with disabilities whose needs have been identified in an IEP
2. Conducting educational assessments
3. Providing information and assistance for students with disabilities and their parents/guardians
4. Providing consultation, resource information, and material regarding students with disabilities to staff members in the regular education program and the students' parents/guardians
5. Coordinating special education services with the regular school program for each student with disabilities enrolled in the resource specialist program
6. Monitoring student progress on a regular basis, participating in the review and revision of IEPs as appropriate, and referring students who do not demonstrate appropriate progress to the IEP team
7. Providing services for secondary students that emphasize academic achievement, career and vocational development, and preparation for adult life.

Any student who receives resource specialist services shall be assigned to regular classroom teacher(s) for a majority of the school day, unless his/her IEP team approves enrollment in the resource specialist program for a majority of the school day. (Education Code 56362; 5 CCR 80070.5)

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

The member District/LEA's resource specialist program shall be under the direction of a resource specialist who possesses the qualifications specified in Education Code 56362.

### **Caseloads**

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

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

(cf. 1431 - Waivers)

The average caseload for language, speech, and hearing specialists shall not exceed 55 cases, unless the SELPA plan specifies a higher average caseload and states the reasons for the higher average caseload. The maximum caseload for speech and language specialists exclusively serving children with disabilities age 3-5 years shall not exceed 40. (Education Code 56363.3, 56441.7)