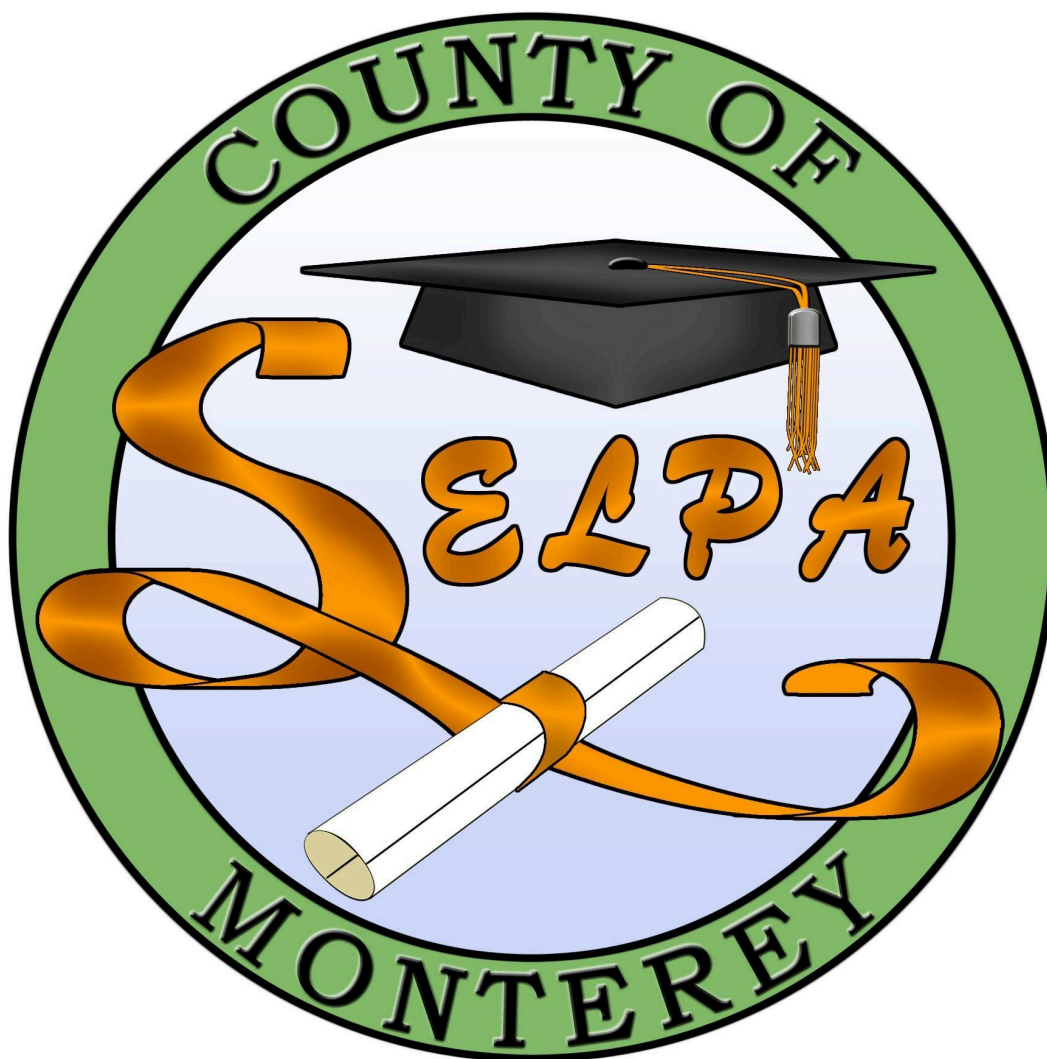


# **Monterey County Special Education Local Plan Area**



# **Procedural Handbook**

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## Introduction

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

This handbook has two parts. The intent of Part I: Program Procedures is to provide a user-friendly resource manual for special educators and administrators that will guide them through the procedures for identification, referral, assessment, IEP development, and program placement of students in special education and related services. Part II: Administrative Policies and Procedures outlines the policies, procedures, and local agreements that have been developed to assist in the provision of equitable and consistent program operation throughout the SELPA.

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

California Code of Regulations (C.C.R.; Title V regulations are cited as 5 C.C.R.)

California Education Code (E.C.)

Code of Federal Regulations (C.F.R.)

Individuals with Disabilities Education Law Report (IDELR)

Office of Civil Rights (OCR)

The handbook is reviewed annually and updated as needed. If questions arise that are not answered in this handbook, please contact your special education administrator for assistance. SELPA program specialists are also available for questions. Contact information for program specialists can be found on the SELPA webpage at [www.montereycoe.org/programs-services/selpa/](http://www.montereycoe.org/programs-services/selpa/).

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

[Back to Table of Contents](#)**Part I – Program Procedures****Chapter 1      The Role of the SELPA****Section 1.0      The Role of the SELPA**

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

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

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## Section 1.1 Agency Responsibilities in Providing Special Education

| Federal/State Governments                                                                                                                                                                                                                                                                                                                                               | SELPAs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | LEAs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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| <ul style="list-style-type: none"> <li>• Enact legislation governing the provision of special education</li> <li>• Determine the level of funding that will be provided</li> <li>• Distribute funding to each SELPA</li> <li>• Develop and implement systems for holding SELPAs and LEAs accountable for provision of appropriate special education programs</li> </ul> | <ul style="list-style-type: none"> <li>• Develop and maintain the local plan that designates the Administrative Unit, the SELPA governance structure, and identifies the systems, policies, and procedures that will be used to support the LEAs in meeting their legal requirements for providing special education programs and services</li> <li>• Develop and maintain policies and interagency agreements necessary for implementing the local plan</li> <li>• Ensure that appropriate programs/services are available for all children with disabilities within the SELPA</li> <li>• Receive funding from federal and state sources and distributes to LEAs</li> <li>• Facilitate completion of program reviews and evaluations</li> <li>• Provide LEAs with consultation and</li> </ul> | <p><i>School Districts</i></p> <ul style="list-style-type: none"> <li>• Engage in child-find activities for eligible students within the district</li> <li>• Develop and operate district special education programs and services</li> <li>• Hire and supervise special education teachers and specialists for district operated programs</li> <li>• Develop and implement an appropriate budget to support district special education programs</li> <li>• Provide special education transportation as needed</li> <li>• Respond to compliance and due process complaints</li> <li>• Participate in program reviews and evaluations</li> <li>• Enter into interagency agreements with the COE or other regional special education programs, as needed</li> </ul> |

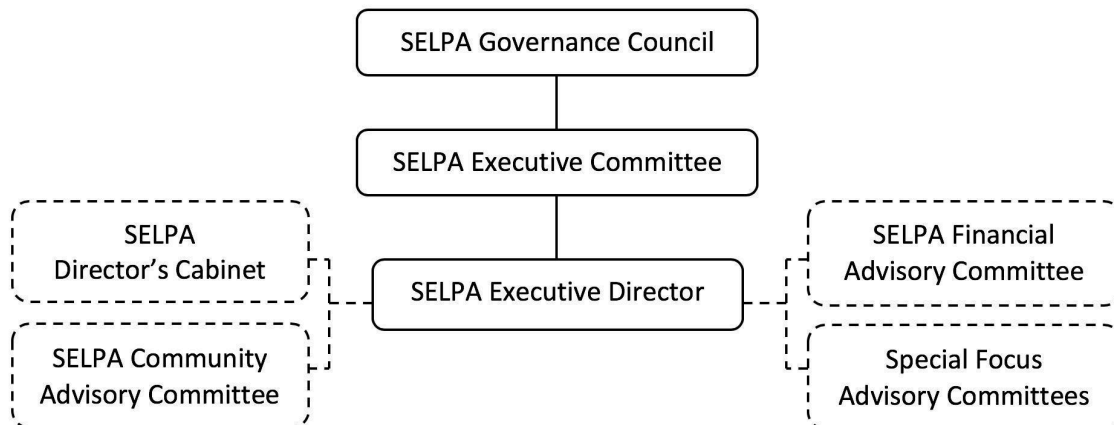
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|  | <p>support, as needed</p> <ul style="list-style-type: none"> <li>• Provide appropriate staff development activities</li> </ul> <p><i>Program Specialists</i><br/>A program specialist may do all of the following:</p> <ul style="list-style-type: none"> <li>• Conduct observations, consult with and assist special and general education staff, administrators, and parents regarding appropriate placement and services for students</li> <li>• Participate in program development, primarily in the area of their expertise</li> <li>• Coordinate curricular resources and take leadership in ensuring the use of appropriate instructional methods, strategies, interventions, and resources</li> <li>• Facilitate the development and implementation of staff development and parent education activities</li> </ul> | <p><i>COE/Regional Programs</i><br/>Conduct all activities described above for programs operated by the COE on behalf of all districts within the county or on behalf of several districts within a specified region of the county</p> |
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|  | <ul style="list-style-type: none"><li>• Assist LEAs in completing program reviews, monitoring compliance, and resolving disputes regarding special education programs and services</li><li>• Assist in ensuring that students have full educational opportunities</li><li>• Provide other services as needed</li></ul> |  |
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| Section 1.2 | SELPA Governance Structure |
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The following organization chart illustrates the SELPA governance structure:



### SELPA Governance Council

The SELPA Governance Council appoints representatives to the SELPA Executive Committee, reviews and approves the local plan and significant changes to the local plan, revisions to the funding allocation model, and any other item determined necessary by the Executive Committee. This council consists of the superintendent of each of the 24 participating districts and the Monterey County Office of Education. The SELPA Executive Director acts as an ex-officio member of the committee.

### SELPA Executive Committee

The Executive Committee makes recommendations to the Governance Council regarding each of the items listed above. Additionally, the Executive Committee reviews and approves SELPA-wide policies, procedures, and local agreements; the annual service and budget plans; requests for program transfer, and evaluates the SELPA Executive Director. The committee is made-up of two superintendents from each of three zones (Bay, Salinas, and Valley). The Superintendent of the Monterey County Office of Education serves as an advisory member. The SELPA Executive Director acts as an ex-officio member of the committee.

### SELPA Director's Cabinet

The SELPA Director's Cabinet is an advisory group convened by the SELPA Executive Director to provide input and recommendations regarding the local plan, the funding allocation model, the development of interagency agreements, policies, forms, and procedures. The cabinet consists of the special education administrator or other

representative from each of the 24 participating districts and the Monterey County Office of Education as well as the SELPA program specialists.

#### SELPA Financial Advisory Committee

The Financial Advisory Committee is an advisory committee convened by the SELPA Executive Director to provide input and recommendations regarding fiscal issues. The committee is comprised of chief business officials and special education administrators representing districts from each zone and the Monterey County Office of Education.

#### SELPA Community Advisory Committee (CAC)

The CAC reviews and provides input into the development of the local plan, recommends annual priorities to be addressed by the SELPA, and assists in parent education and awareness. The CAC includes parents, students, special education and general education staff members, and community members appointed by LEA governing boards. The majority of members are parents of children with disabilities.

#### Public Addressing the Governing Body

Members of the public, including parents or guardians of students with disabilities, may address questions or concerns to the governing boards of each LEA, the Governance Council, the Executive Committee, and/or the CAC.



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### Section 1.3 Who to Contact About Special Education in Monterey County

| Who                                 | About What                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Classroom Teacher                   | <ul style="list-style-type: none"> <li>• Daily curriculum and instruction</li> <li>• Behavior and discipline issues</li> <li>• Grades and student progress</li> <li>• Learning environment</li> </ul>                                                                                                                                                                                                                                                                           |
| School Psychologist                 | <ul style="list-style-type: none"> <li>• Referrals to special education</li> <li>• Assessment/reassessment of students for special education eligibility</li> <li>• IEP development and implementation</li> <li>• Social/behavioral/emotional needs of students</li> </ul>                                                                                                                                                                                                      |
| Site Principal                      | <ul style="list-style-type: none"> <li>• Supervision and evaluation of teachers and instructional assistants assigned to the school</li> <li>• Policies/procedures related to school-wide curriculum and instruction</li> <li>• Facilities, textbooks, classroom supplies and materials</li> <li>• Issues previously addressed to classroom teacher or school psychologist that have not been resolved</li> </ul>                                                               |
| LEA Special Education Administrator | <ul style="list-style-type: none"> <li>• Development and operation of district special education programs</li> <li>• Supervision and evaluation of special education itinerant staff</li> <li>• Special education facilities issues</li> <li>• Compliance, due process, legislation</li> <li>• Issues previously addressed by site principal that have not been resolved</li> </ul>                                                                                             |
| SELPA Program Specialist            | <ul style="list-style-type: none"> <li>• Appropriate special education placement and services for students</li> <li>• Complex special education student issues that have not been resolved at the local LEA level</li> <li>• Special education curriculum development</li> <li>• Appropriate instructional strategies and curriculum accommodations and modifications</li> <li>• Compliance, due process, legislation</li> <li>• Special education staff development</li> </ul> |

|                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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| LEA<br>Superintendent       | <ul style="list-style-type: none"> <li>• District-wide policies and procedures</li> <li>• District funding and budget</li> <li>• Supervision and evaluation of administrative staff</li> <li>• Issues previously addressed by site principal and/or LEA special education administrator that have not been resolved</li> </ul>                                                                                                                      |
| SELPA Executive<br>Director | <ul style="list-style-type: none"> <li>• SELPA Local Plan</li> <li>• Special Education policies, procedures, and interagency agreements</li> <li>• Supervision and evaluation of SELPA program specialists</li> <li>• Special education funding</li> <li>• Compliance, due process, legislation</li> <li>• Issues previously addressed to district special education administrator and/or program specialist that have not been resolved</li> </ul> |

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| Section 1.4 | Interagency Agreements |
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The SELPA will facilitate agreements for the provision and coordination of services by other public agencies that are funded to serve children with disabilities. Interagency agreements necessary to support the implementation of the local plan, and as required by legal mandates, have been developed with the following agencies:

1. California Children's Services;
2. Monterey County Department of Health, Behavioral Health Bureau;
3. Monterey County Head Start;
4. San Luis Obispo County Migrant and Seasonal Head Start; and
5. San Andreas Regional Center.

Other interagency agreements and/or memorandums of understanding will be developed as needed in support of the local plan. Copies of these documents can be requested through the SELPA office.

[Back to Table of Contents](#)**Part I – Program Procedures****Chapter 2 Identification and Referral****Section 2.1 Child Find**

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

(E.C. § 56300 and 56301(a))

Examples of child-find activities include:

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

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| Section 2.2 | Pre-Referral Activities |
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A student shall be referred for special education and related services only after the resources of the general education program have been considered, and when appropriate, utilized. The Student Success Team (SST) is the usual venue for ensuring that all appropriate general education resources have been attempted prior to referral, including response to intervention. It is not mandatory, however, for a student to go through the SST process before being referred to special education if pre-referral interventions have been attempted and can be documented. The SST, or other appropriate staff, will ensure and document that all appropriate general education resources have been exhausted before referring a student to special education.

(E.C. § 56303)

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

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

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Section 2.3

Sources of Referral

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

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

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| Section 2.4 | Written Referral |
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All referrals for special education and related services must be documented. When a parent makes a verbal referral, appropriate staff shall offer assistance to the parent to put the request in writing. All school staff referrals should also be in writing and should include a brief reason for the referral, documentation of the resources of the general education program that have been considered and/or utilized, and the results of the interventions attempted. This documentation, however, should not delay the timelines for completing the assessment plan or assessment.

(5 C.C.R. § 3021)

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| Section 2.5 | Notice of Procedural Safeguards |
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Parents will be provided with a notice of procedural safeguards upon:

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

(E.C. § 56301(d)(2))



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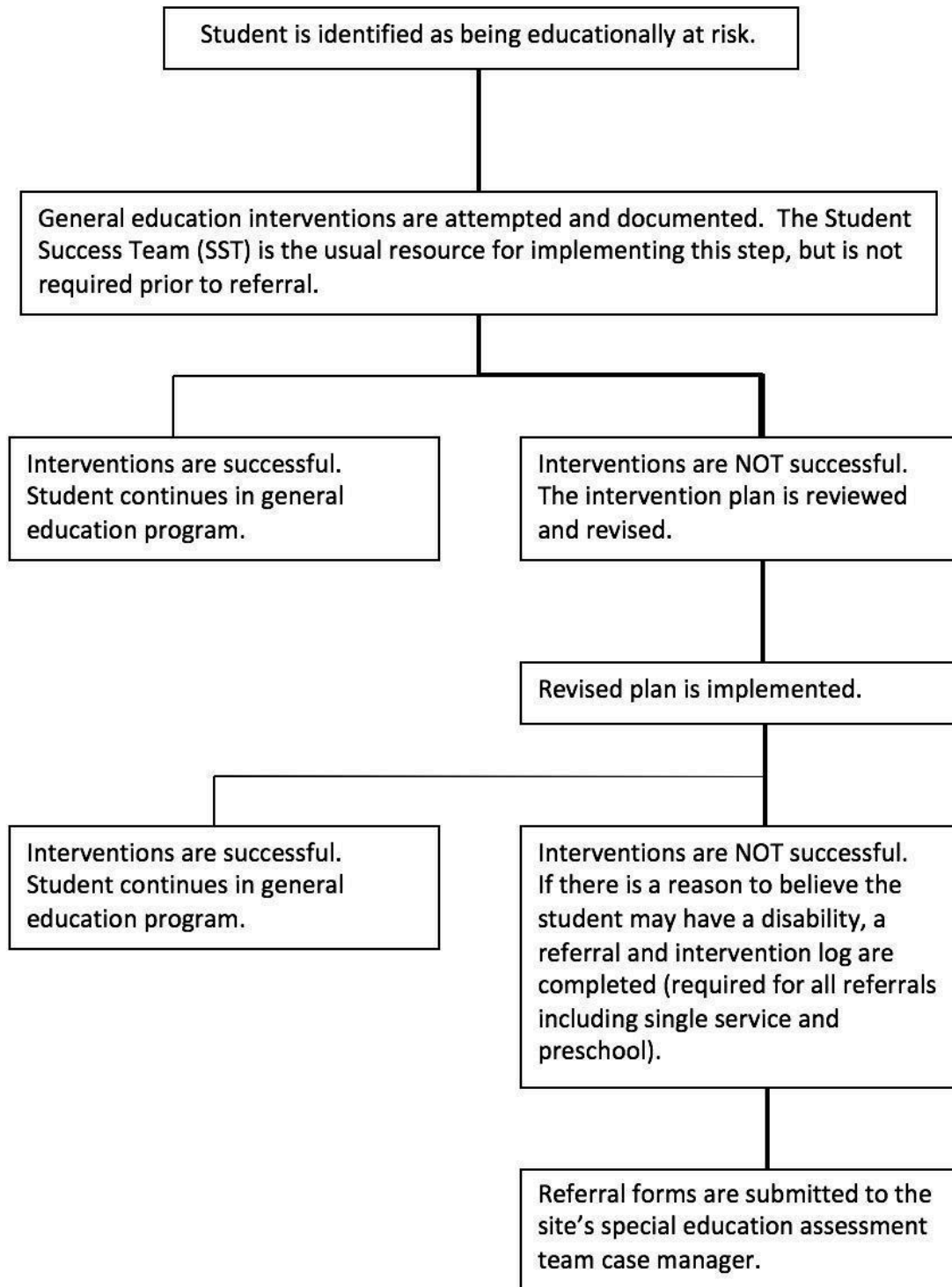
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|-------------|--------------------------------------------|
| Section 2.6 | Over-Identification and Disproportionality |
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Each LEA must develop and implement policies, procedures, and practices that prevent determination of eligibility or ineligibility for special education based upon racial or ethnic factors. Failure to do so may result in a disproportionate percentage of racial or ethnic groups in special education generally or in specific disability categories. Annual evaluations of over-identification and disproportionality are conducted by the California Department of Education (CDE). LEAs that are found to be out of compliance are required to conduct self-reviews and engage in corrective action.

(20 U.S.C. § 1412(a)(24))

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Section 2.7 Flow Chart: Initial Referrals to Special Education



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## Part I – Program Procedures

### Chapter 3 Response to Referral and Obtaining Parent Consent

#### Section 3.0 Response to Referral and Obtaining Parent Consent

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

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| Section 3.1 | Notice of Referral, Proposed Action, and Consent for Assessment |
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After receiving the referral, the assessment team must review it to determine that the resources of the general education program have been considered, and when appropriate, utilized (E.C. § 56303) and to identify any areas of suspected disability. In response to the referral, the assessment team must then complete a written notice of referral including what the proposed or denied action is, how it was reached, and what sources of information were used in developing the proposed or denied action (E.C. § 56500.4(a)). If the proposed action is to conduct an assessment, the team must also complete an assessment plan (E.C. § 56321(a)). These forms, along with a notice of procedural safeguards (E.C. § 56301(d)(2)), must be submitted to the parent for review and possible approval/consent within 15 days of receiving the written referral unless the parent agrees in writing to an extension.

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

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

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| Section 3.2 | Assessment Plan |
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The proposed assessment plan must meet all of the following requirements:

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

(E.C. § 56321(b) and 5 C.F.R. § 3022)

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| Section 3.3 | Definition of “Parent” |
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“Parent” means a natural or adoptive parent having legal custody of a child; an adult student (age 18 years or older) for whom no guardian or conservator has been appointed; a person acting in the place of a natural or adoptive parent, including a grandparent, stepparent, or other relative with whom the child lives; and a foster parent if the authority of a parent to make educational decisions on the child’s behalf has been specifically limited by court order. In certain circumstances, it is necessary for the LEA to appoint a surrogate parent. “Parent” does not include the state or any political subdivision of the government.

(26.5 Gov. Code § 7579.5(a))

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| Section 3.4 | Surrogate Parents |
|-------------|-------------------|

### Appointment

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

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

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

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

### Selection

When appointing a surrogate parent, the LEA shall, as a first preference, select a relative caretaker, foster parent, or court-appointed special advocate, if any of these individuals exist and is willing and able to serve. If none of these individuals is willing or able to act as a surrogate parent, the LEA shall select the surrogate parent of its choice. If the child is moved from the home of the relative caretaker or foster parent who has been appointed as a surrogate parent, the LEA shall appoint another surrogate parent. As far as practical, a surrogate parent should be culturally sensitive to his or her assigned child.

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

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

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

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

#### Roles and Responsibilities

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

(26.5 Gov. Code § 7579.5(c)-(d))

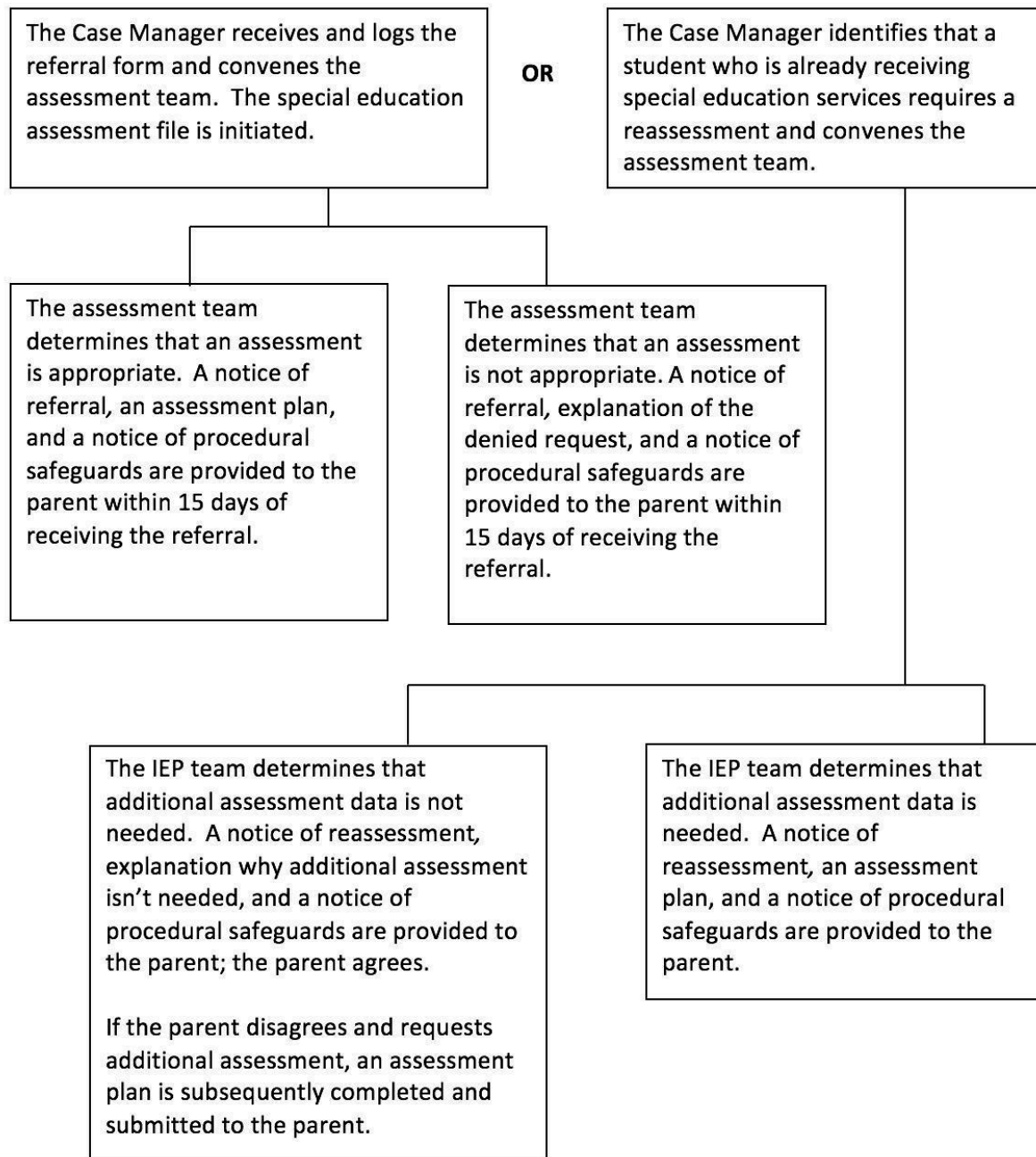
#### Educational Representative

Nothing in this section may be interpreted to prevent a parent or guardian of an individual with exceptional needs from designating another adult individual to represent the interests of the child for educational and related services. (26.5 Gov. Code § 7579.5(n)) Parents can designate an educational representative for their child by completing the SELPA-approved form.



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Section 3.5 Flow Chart: Obtaining Parental Consent for Assessment



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

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## Part I – Program Procedures

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| Chapter 4 | Assessment |
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| Section 4.0 | Assessment |
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An individual assessment of the student's educational needs shall be conducted before any action is taken with respect to the initial placement of an individual with exceptional needs in special education. (E.C. § 56320) Reassessments must be conducted as specified by law.

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| Section 4.1 | Legal Requirements of the Assessment |
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Once parental consent for the assessment has been obtained, the case manager shall distribute a copy of the signed assessment plan to all staff conducting the assessment. Parent consent is not required before reviewing existing data as part of an assessment or reassessment.

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

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

(E.C. § 56320(a)-(d) and (56136))

The student is assessed in all areas related to the suspected disability, including, if appropriate, health and development, vision, including low vision, hearing, motor abilities, language function, general ability, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social, emotional, and behavioral status. For all initial and triennial reviews, students shall have had a hearing and vision screening (C.R. § 305 C.27) unless parent permission was denied. A health and developmental history are obtained, when appropriate.

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

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

(E.C. § 56320(e)-(f))

In addition to the above items, the Monterey County SELPA requires that the following are included in assessments for students who are suspected of having an emotional disturbance:

1. A detailed psych-social history;
2. Behavioral checklists (e.g., BASC-2, Achenbach) that are completed by parents, teachers, and the student (when appropriate);
3. Completion of the Differential Test of Conduct and Emotional Problems (DT/CEP) or another instrument that assists in ruling out conduct disorders;
4. Interviews with parents, teachers, the student, and any independent providers; and
5. Observations of the student in a variety of settings.

Screening or observation by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an assessment for eligibility for special education and related services (E.C. § 56321 (f)). A screening includes basic tests or procedures used for all children in a school, grade, or class. Mass screenings used in connection with child find activities are not considered evaluations and thus do not require prior parental notice and consent.

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| Section 4.2 | Reassessment |
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A reassessment of the student shall be conducted not more frequently than once a year, unless the parent and LEA agree otherwise, and at least once every three years, unless the parent and LEA agree in writing that a reassessment is not necessary (E.C. §56381(a)(1)-(2)). The purpose of the reassessment is to determine if the student continues to be a student with exceptional needs, and if so, whether additions or modifications to the IEP are needed to enable the student to meet his/her annual goals. A triennial reevaluation must be conducted on or before the calendar date that is three years from the initial IEP meeting or previous triennial IEP meeting. Additional data obtained through full standardized testing is often not necessary for reassessment. An assessment report containing all of the required components must be completed to document the data that was reviewed and continuing eligibility.

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

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

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

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

(E.C. § 56381(b)(1))

If, following this review, it is believed that no additional assessment data are needed to determine continuing eligibility, the case manager shall document this determination using SELPA-approved forms and present them to the parents. In these forms, the parents are informed that they have the right to request additional assessment. If the parents agree with the IEP team's findings and do not request additional assessment

data, no additional assessment data needs to be gathered. The relevant notices and forms must be given to the parents early enough to complete a full assessment, if parents request it, before the IEP meeting due date.

(E.C. § 56381(d))

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

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

(34 C.F.R. § 300.300(c)(2))

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| Section 4.3 | Components of the Assessment Report |
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Assessment results must be documented in a written report that contains, but is not limited to, all of the components listed below:

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

(E.C. § 56327(a)-(h))

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

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

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

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| Section 4.4 | Eligibility Criteria |
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To qualify for special education and related services under the IDEA, Part B, a student must be between the ages of three and 21 years and be determined by an IEP team to meet the definition of one or more of the categories of disability specified under the IDEA (described below).

Additionally, the student must require special education and related services as a result of his or her disability or disabilities.

(E.C. § 56026(a)-(c)(3)-(4))

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

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

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

### Autism

A student exhibits a developmental disability that significantly affects verbal and nonverbal communication and social interaction, generally evident before age three (but can be manifested after age 3), and adversely affects educational performance. Other characteristics often associated with autism include:

1. Engagement in repetitive activities;
2. Stereotyped movements;
3. Resistance to environmental change or change in daily routines; and
4. Unusual responses to sensory experiences.

Autism does not apply if a student’s educational performance is adversely affected primarily because the student has an emotional disturbance.



(5 C.C.R. § 3030(b)(1))

### Deaf-Blindness

A student has concomitant hearing and visual impairments, the combination of which causes severe communication, developmental, and education problems and cannot be accommodated in special education programs solely for students with deafness or blindness. A state licensed ophthalmologist and a state licensed or credentialed audiologist must verify the presence of both deficits.

*(5 C.C.R. § 3030(b)(2)); Programs for Deaf and Hard of Hearing Students: Guidelines for Quality Standards, CDE, 2000)*

### Deafness

A student has a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, which adversely affects educational performance. The hearing impairment must be substantiated by an audiological assessment conducted by a licensed or credentialed audiologist.

*(5 C.C.R. § 3030(b)(3)); Programs for Deaf and Hard of Hearing Students: Guidelines for Quality Standards, CDE, 2000)*

### Emotional Disturbance

A student has a condition\* exhibiting one or more of the following characteristics:

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

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

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

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

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

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

4. A general pervasive mood of unhappiness or depression.

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

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

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

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

The term does not apply to students who are socially maladjusted, unless it is determined that they have an emotional disturbance in addition to exhibiting a social maladjustment.

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

(5 C.C.R. § 3030(b)(4)); *Identification and Assessment of the Seriously Emotionally Disturbed Child*, CDE, 1986)

#### Established Medical Disability

Established medical disability is used exclusively for students between the ages of three years, zero months and five years, zero months of age and is defined as a disabling

medical condition or congenital syndrome that the IEP team determines has a high predictability of requiring special education and services.

This area of disability is very limited in application and should only be used when a child has a medical or congenital condition as cited above and does not meet eligibility in any of the other 13 areas.

(E.C. §§ 56441.11(b)(1)(N) and 65441.11(d))

#### Hard of Hearing (Also Known as Hearing Impairment)

A student has an impairment in hearing, whether permanent or fluctuating, that adversely affects educational performance but is not included under the definition of deafness. The hearing impairment must be substantiated by an audiological assessment conducted by a licensed or credentialed audiologist.

*(5 C.C.R. § 3030(b)(5)); Programs for Deaf and Hard of Hearing Students: Guidelines for Quality Standards, CDE, 2000)*

#### Intellectual Disability

A student has significantly below average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects educational performance.

(5 C.C.R. § 3030(b)(6))

#### Multiple Disabilities

The student demonstrates concomitant impairments, such as intellectual disability-blindness or intellectual ability-orthopedic impairment, the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. "Multiple disabilities" does not include deaf-blindness.

(5 C.C.R. § 3030(b)(7))

#### Orthopedic Impairment

A student has a severe orthopedic impairment that adversely affects the student's educational performance. This includes impairments caused by congenital anomaly, disease (e.g., poliomyelitis, bone tuberculosis), and other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

(5 C.C.R. § 3030(b)(8))

### Other Health Impairment

A student has limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems *such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, fetal alcohol spectrum disorder, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome*, and adversely affect a student's educational performance. Such physical disabilities shall not be temporary in nature.

(5 C.C.R. § 3030(b)(9); E.C. § 56026(e))

### Specific Learning Disability

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

In determining whether a student has a specific learning disability, the IEP team considers whether a severe discrepancy exists between intellectual ability and achievement in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning. The decision shall take into account all relevant material that is available, and no single score or product of scores, test, or procedure shall be used as the sole criterion for the decision. The discrepancy shall not be primarily the result of limited school experience or poor school attendance. A qualified professional must observe the student in the student's learning environment or, in the case of a child less than school age or out of school, in an age-appropriate environment.

In determining the existence of a severe discrepancy, the IEP team shall use one of the following procedures:

1. Standardized test scores indicating that the student exhibits a severe discrepancy of at least 1.5 standard deviations between intellectual ability and the identified areas of delay.
2. An alternative means of assessment, as specified in the assessment plan and utilized when standardized test scores are considered to be invalid, indicating that the student exhibits a severe discrepancy between intellectual ability and the identified areas of delay.
3. Other forms of data collection, utilized when standardized test scores do not indicate that the student exhibits a severe discrepancy of at least 1.5 standard deviations between intellectual ability and achievement. This method requires that the assessment report contains documentation that a severe discrepancy exists as a result of a disorder in one or more of the psychological processes and the area, degree, basis, and method used in determining the discrepancy.
4. Evidence that the student has not achieved adequately to meet age or State-approved grade-level standards in the identified areas of achievement when provided with learning experiences and instruction appropriate for the student's age or State-approved grade-level standards.
5. Evidence that the student has not made sufficient progress to meet age or State-approved grade-level standards in one or more of the areas of achievement, based on the student's response to scientific, research-based, intervention.
6. Evidence that the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development that is relevant to the determination of a specific learning disability, based on appropriate assessments.

(5 C.C.R. § 3030(b)(10)); E.C. § 56337; 34 C.F.R. § 300.8(c)(10); and 34 C.F.R. § 300.309(a)(1-3))

#### Speech or Language Impairment (Also Known as Language or Speech Disorder)

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

##### *Articulation Disorder*

The student displays reduced intelligibility or an inability to use the speech mechanism that significantly interferes with communication and attracts adverse attention.

Significant interference in communication occurs when the student's production of single or multiple speech sounds on a developmental scale of articulation competency is below that expected for his or her chronological age or developmental level and which

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

#### *Abnormal Voice*

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

#### *Fluency Disorders*

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

#### *Language Disorder*

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

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

(5 C.C.R. § 3030(b)(11) and E.C. § 56333)

#### Traumatic Brain Injury

Traumatic brain injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory, perceptual, and motor abilities, psychosocial behavior,

physical functions, information processing, and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

(5 C.C.R. § 3030(b)(12))

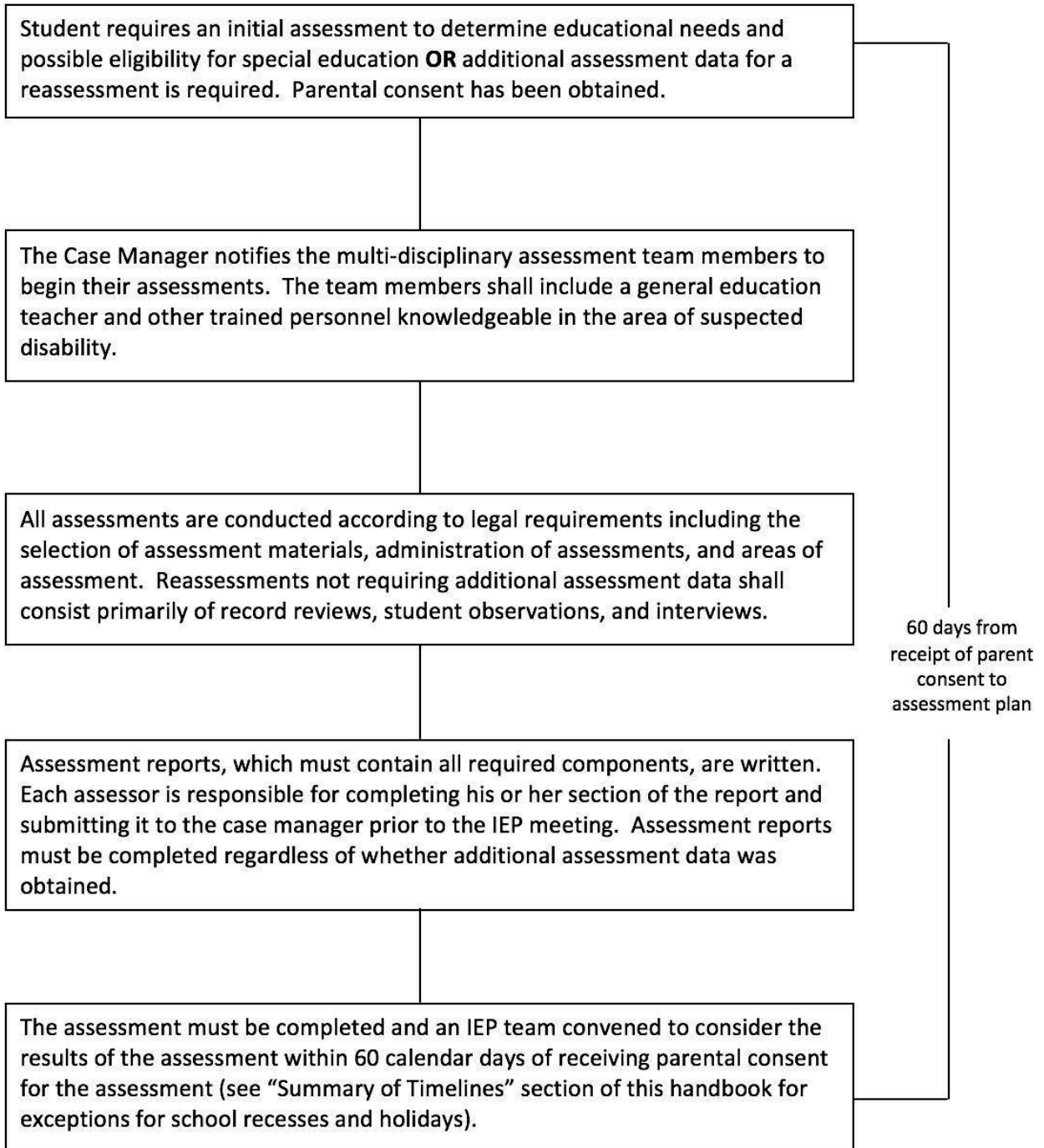
Visual Impairment

A student has a visual impairment that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness. A "visually impaired student" does not include a student who is eligible for special education and related services based on a specific learning disability.

(5 C.C.R. § 3030(b)(13); E.C. § 56350)

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Section 4.5 Flow Chart: Assessments and Reassessments





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## Part I – Program Procedures

### Chapter 5 The IEP Team Meeting

#### Section 5.1 Circumstances Requiring an IEP Team Meeting

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

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

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|-------------|----------------------------------|
| Section 5.2 | Required Members of the IEP Team |
|-------------|----------------------------------|

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

1. One or both of the student's parents, a representative selected by the parent, or both.
2. Not less than one general education teacher if the student is, or may be, participating in the regular education environment. If more than one general education teacher is providing instructional services to the student, one general education teacher may be designated by the LEA to represent the others. It is recommended that if only one general education teacher will be attending the meeting that the selected teacher is one that serves the student in a key area of the student's program.
3. Not less than one special education teacher of the student, or if appropriate, not less than one special education provider of the student.
4. A representative of the local educational agency who meets all of the following:
  - a. Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of individuals with exceptional needs;
  - b. Is knowledgeable about the general education curriculum; and
  - c. Is knowledgeable about the availability of resources of the LEA.
5. An individual who can interpret the instructional implications of the assessment results. This individual may already be a member of the team as described above in items 1 through 4.
6. For students with suspected learning disabilities, at least one member of the IEP team shall be qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher. At least one team member shall observe the student's academic performance and behavior in the areas of difficulty in the student's learning environment, including the regular classroom setting. In the case of a child who is less than school aged or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

(E.C. § 56341(b)(1)-(5) and (c))

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|             |                                    |
|-------------|------------------------------------|
| Section 5.3 | Additional Members of the IEP Team |
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When appropriate, the team shall also include the following persons:

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

(E.C. § 56341(b)(6)-(7); (d)(3); and (i))

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|-------------|---------------------------|
| Section 5.4 | Excusing IEP Team Members |
|-------------|---------------------------|

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

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

(E.C. § 56341(f) and (g)(1)-(2))

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

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|-------------|----------------------------------|
| Section 5.5 | Responsibilities of the IEP Team |
|-------------|----------------------------------|

The IEP team shall:

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

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

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|-------------|--------------------------------|
| Section 5.6 | Notice of the IEP Team Meeting |
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The Case Manager convening a meeting of the IEP team is responsible for completing a notice of the IEP team meeting and providing it to the parent. The IEP team meeting shall be scheduled at a mutually agreed upon time and place. Parents shall receive notice of the IEP meeting early enough to ensure an opportunity to attend. It is recommended that the written notice be sent approximately two weeks prior to the meeting date. The notice of the meeting shall indicate the purpose, time, and location of the meeting and who shall be in attendance. The notice must also include a reminder to the parents of their right to bring other people to the meeting who have knowledge or special expertise regarding the individual with exceptional needs. For students transferring from an infant/toddler program to a preschool program, the notice must indicate the right to have the Early Start service coordinator attend. Beginning not later than the first IEP in effect when a student turns 16, the notice also must indicate that a purpose of the meeting will include consideration of the postsecondary goals and transition services for the student and that the LEA will invite the student and a representative of any agency that may be involved in providing transition services. If an IEP team meeting must be scheduled within a shorter time period, it is recommended that the parents be contacted by phone to set a mutually agreeable date, time, and location for the meeting. This phone contact should be logged and must be followed by sending the parents the written notice of meeting.

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

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|-------------|--------------------------------------|
| Section 5.7 | Preparation for the IEP Team Meeting |
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The IEP meeting, while allowing time for presentation of assessment data, should concentrate on development of the educational plan. Organization, advance planning, and effective meeting management can assist the team to stay focused on this goal and keep the time required to complete the meeting to the minimum.

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

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

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|             |                                              |
|-------------|----------------------------------------------|
| Section 5.8 | Parent Participation in the IEP Team Meeting |
|-------------|----------------------------------------------|

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

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

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



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|             |                                                       |
|-------------|-------------------------------------------------------|
| Section 5.9 | Holding an IEP Team Meeting Without Parent Attendance |
|-------------|-------------------------------------------------------|

A meeting can be conducted without a parent in attendance if the case manager, or other district representative, is unable to convince the parent that he or she should attend in person or through a conference call (E.C. § 56341.5(h)). Prior to holding a meeting without the parent in attendance, there should be at least three attempts to convince the parent to attend using at least two different means of contact. The case manager shall maintain a record of his or her attempts to arrange a mutually agreed upon time and place, including:

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

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|              |                                 |
|--------------|---------------------------------|
| Section 5.10 | Conducting the IEP Team Meeting |
|--------------|---------------------------------|

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

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

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

### Location

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

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

### Seating

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

### Introductions/Overview

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

### Organization

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

### Sharing Information

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

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

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

### Conclusion

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

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

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

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## Section 5.11 Flow Chart: The IEP Team Process

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

The case manager identifies all of the required members of the team; notifies the members of the need for a meeting; schedules the meeting with the parent at a mutually agreed upon date and time; and obtains parent signature on the notice of the IEP team meeting.

The IEP team meeting is convened within appropriate timelines (e.g., within 60 days of receiving consent for an assessment unless the parent agrees in writing to an extension, within three years of initial assessment or last triennial reevaluation, and within one year of last IEP).

At the IEP team meeting, eligibility (initial and reassessment meetings only), areas of identified need, and present levels of academic achievement and functional performance are reviewed. Previous goals and objectives/benchmarks are reviewed (except for initial meetings) and new or revised goals and objectives/benchmarks are developed. Appropriate placement, services, and program supports are determined. The IEP document is completed and must include all required components. All IEP team signatures and parental consent are obtained. A copy of the IEP and assessment reports, if any, are provided to the parent and all service providers.

The case manager collects all required paperwork and submits it according to the established practice for the LEA.

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## Section 5.12 Sample IEP Team Meeting Agenda

|                          | <b>Activity</b>                                         | <b>Who</b>    |
|--------------------------|---------------------------------------------------------|---------------|
|                          | <u>Opening</u>                                          |               |
| <input type="checkbox"/> | Welcome and introduce everyone                          | CM or LEA Rep |
| <input type="checkbox"/> | Explain purpose and procedure                           | CM or LEA Rep |
| <input type="checkbox"/> | Provide & explain the notice of procedural safeguards   | CM or LEA Rep |
| <input type="checkbox"/> | Set agenda/time limits                                  | CM or LEA Rep |
| <input type="checkbox"/> | Review demographic information for accuracy             | CM or LEA Rep |
| <input type="checkbox"/> | Discuss student's strengths                             | IEP Team      |
| <input type="checkbox"/> | Elicit parent concerns                                  | CM or LEA Rep |
|                          |                                                         |               |
|                          | <u>Assessment Results and Eligibility*</u>              |               |
| <input type="checkbox"/> | Review assessment results                               | Assessors     |
| <input type="checkbox"/> | Address and record eligibility                          | IEP Team      |
| <input type="checkbox"/> | Identify areas of need related to disability            | IEP Team      |
|                          |                                                         |               |
|                          | <u>Present Levels/Goals &amp; Objectives</u>            |               |
| <input type="checkbox"/> | Review and present levels of achievement/performance    | IEP Team      |
| <input type="checkbox"/> | Review and update previous goals and objectives         | IEP Team      |
| <input type="checkbox"/> | Revise previous and/or develop new goals and objectives | IEP Team      |
|                          |                                                         |               |
|                          |                                                         |               |

|                          |                                                                                                                                     |          |
|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------|----------|
|                          | <u>Participation in District &amp; Statewide Assessments</u>                                                                        |          |
| <input type="checkbox"/> | Identify appropriate test and method of administration                                                                              | IEP Team |
| <input type="checkbox"/> | Identify method of administration for language proficiency assessment (for English Learners only)                                   | IEP Team |
| <input type="checkbox"/> | Specify any other district/statewide assessments & method of administration                                                         | IEP Team |
|                          |                                                                                                                                     |          |
|                          | <u>Instructional Settings and Supports</u>                                                                                          |          |
| <input type="checkbox"/> | Discuss and identify percentage of participation in general education                                                               | IEP Team |
| <input type="checkbox"/> | Identify any needed assistive technology and/or low incidence equipment                                                             | IEP Team |
| <input type="checkbox"/> | Identify any support needed for students who are deaf/HOH or VI                                                                     | IEP Team |
| <input type="checkbox"/> | Specify promotion/retention standard and (8 <sup>th</sup> grade and up) graduation plan                                             | IEP Team |
|                          |                                                                                                                                     |          |
|                          | <u>Special Considerations</u>                                                                                                       |          |
| <input type="checkbox"/> | Discuss and complete any special consideration forms, as needed:                                                                    |          |
| <input type="checkbox"/> | Instructional accommodations/modifications                                                                                          | IEP Team |
| <input type="checkbox"/> | Assessment and support for English learners                                                                                         | IEP Team |
| <input type="checkbox"/> | Postsecondary Transition Plan                                                                                                       | IEP Team |
| <input type="checkbox"/> | Other Transition Plans (PS to Elementary, NPS to Public School, Behavior Plans, Manifestation Determination, Grade Retention, etc.) | IEP Team |
|                          |                                                                                                                                     |          |
|                          |                                                                                                                                     |          |
|                          | <u>Special Education and Related Services</u>                                                                                       |          |

|                          |                                                                   |               |
|--------------------------|-------------------------------------------------------------------|---------------|
| <input type="checkbox"/> | Explain special education and related service options             | CM or LEA Rep |
| <input type="checkbox"/> | Consider special education and related service options            | IEP Team      |
| <input type="checkbox"/> | Offer appropriate special education and related service options   | CM or LEA Rep |
|                          |                                                                   |               |
|                          | <u>Supplementary Aids, Services, ESY</u>                          |               |
| <input type="checkbox"/> | Identify any needed supports for school personnel                 | IEP Team      |
| <input type="checkbox"/> | Offer any needed supports for school personnel                    | IEP Team      |
| <input type="checkbox"/> | Identify any special education transportation to be provided      | IEP Team      |
| <input type="checkbox"/> | Discuss options for how physical education will be provided       | IEP Team      |
| <input type="checkbox"/> | Specify how physical education will be provided                   | CM or LEA Rep |
| <input type="checkbox"/> | Discuss whether ESY is needed                                     | IEP Team      |
| <input type="checkbox"/> | Specify ESY services that are being offered, if needed            | CM or LEA Rep |
|                          |                                                                   |               |
|                          | <u>IEP Notes/Additional Information</u>                           |               |
| <input type="checkbox"/> | Record any important notes or additional information              | CM or LEA Rep |
| <input type="checkbox"/> | Review contents of notes with parent                              | CM or LEA Rep |
|                          |                                                                   |               |
|                          | <u>Signatures</u>                                                 |               |
| <input type="checkbox"/> | Ask parent to check all appropriate acknowledgements and requests | CM or LEA Rep |
| <input type="checkbox"/> | Obtain parental consents                                          | CM or LEA Rep |
| <input type="checkbox"/> | Obtain signatures of all IEP team members                         | CM or LEA Rep |
|                          | <u>Closure</u>                                                    |               |



|                                                                                                                                                               |                                                                                                                                               |                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| <input type="checkbox"/>                                                                                                                                      | Answer any parent/student questions                                                                                                           | IEP Team          |
| <input type="checkbox"/>                                                                                                                                      | Provide contact names and numbers                                                                                                             | CM or LEA Rep     |
| <input type="checkbox"/>                                                                                                                                      | Explain any future procedures                                                                                                                 | CM or LEA Rep     |
| <input type="checkbox"/>                                                                                                                                      | Enter any revisions/corrections into web-based IEP system                                                                                     | Case Manager      |
| <input type="checkbox"/>                                                                                                                                      | Print and distribute completed forms to parents and all service providers                                                                     | CM or LEA Rep     |
| <input type="checkbox"/>                                                                                                                                      | Adjourn meeting                                                                                                                               |                   |
|                                                                                                                                                               |                                                                                                                                               |                   |
|                                                                                                                                                               | <u>Follow-Up</u>                                                                                                                              |                   |
| <input type="checkbox"/>                                                                                                                                      | Finalize in web-based IEP system, submit electronic and hard copies of all related events and forms to LEA office according to LEA procedures | CM and/or LEA Rep |
|                                                                                                                                                               |                                                                                                                                               |                   |
| <p>* When initial, triennial, or other assessment has been conducted. Eligibility should be addressed at initials, triennials, interim placement reviews.</p> |                                                                                                                                               |                   |

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## Part I – Program Procedures

### Chapter 6 Required Components of the IEP

#### Section 6.0 Required Components of the IEP

The IEP is a written statement developed in a meeting of the individualized education program team. SELPA approved forms are required in order to ensure that all required components of the IEP are included in the document. See the following SELPA Forms Manuals for further information:

[IEP Basic Forms: Training and Assistance Guide](#)

[Pre IEP Forms: Training and Assistance Guide](#)

[IEP Assessment Forms: Training and Assistance Guide](#)

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| Section 6.1 | Required Components |
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1. The present levels of the student's academic achievement and functional performance includes the following:
  - a. For a school-age child, how the student's disability affects the student's involvement and progress in the general education curriculum; and
  - b. For a preschool-age child, as appropriate, how the disability affects the child's participation in appropriate activities.
2. Measurable annual goals that show a direct relationship to the results of any evaluations, the present levels of academic achievement and functional performance, and the educational services to be provided. These goals should be designed to:
  - a. Enable the student to be involved in and progress in the general education curriculum; and
  - b. Meet each of the student's other educational needs that result from the student's disability.
3. A description of the manner in which progress of the student toward meeting the annual goals will be measured and when periodic reports on the student's progress will be provided (such as through quarterly or other periodic reports, concurrent with the issuance of report cards).
4. The specific special educational instruction, related services, and supplementary aids and services, based upon peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided for the student to:
  - a. Advance appropriately toward attaining the annual goals;
  - b. Be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities; and
  - c. Be educated and participate with other students with disabilities and non-disabled students.
5. An explanation of the extent, if any, to which the student will not participate with non-disabled students in the general education class and extracurricular and nonacademic activities.
6. The individual modifications in the administration of state or district-wide assessments of student achievement that are needed for the student to participate in the assessment.
7. If the IEP team determines that the student will not participate in a particular state or district-wide assessment of student achievement (or part of an assessment), a statement of the following:

- a. Why that assessment is not appropriate for the student; and
  - b. How the student will be assessed and the reason that the alternative assessment is appropriate.
- 8. The projected date to begin the services and modifications described in the IEP, and the anticipated frequency, location, and duration of those services and modifications.

(E.C. § 56345 (a)(1)-(7))

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| Section 6.2 | Goals and Objectives/Benchmarks |
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Goals set the general direction for instruction and assist in determining specific strategies, experiences, and skills a student will need to increase his or her abilities. Goals must be directly related to the areas of identified need and the present levels of academic achievement and functional performance. Goals are also descriptions of what a student can reasonably be expected to accomplish within a 12-month period with the provision of special education services. Goals are NOT a guarantee of what will be achieved. When a goal is written, it must be stated so that it is meaningful; in other words, it reflects a skill that is necessary for success in current and future environments. Goals are also useful in making decisions regarding a student's education. Monitoring the goal results in data that can be used to determine the effectiveness of the individual's education program and make appropriate changes to the IEP to help the student achieve optimum success.

#### Factors to Consider in Selecting Goals

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

Goals should all pass the "So what?" test. If the IEP team can answer "Yes" to the question, "Is this skill important to the success of this student in current and future environments?" it passes the test. If the answer is "No" then the goal is probably not critical for that student. The IEP team must also consider the importance of the goal in light of social relevance. Social relevance provides another question, "Is this skill/behavior one that the student's peers engage in?" If the answer is "Yes" then this goal is probably a valid one.

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

*Who*

The student

*Does What (Behavior)*

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

*When Given What (Conditions)*

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

*At What Level (Mastery and Criteria)*

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

*As Measured By (Method of Evaluation)*

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

*By When (Timeframe)*

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

A statement of the student's current or baseline ability to perform the element of the goal that will be used to measure progress must also be provided; for example, 1 out of 5 times (goal is 4 out of 5 times), 60% accuracy (goal is 95% accuracy), or 75 words per minute (goal is 100 words per minute).

Benchmarks and Short-Term Objectives

In addition to goals, benchmarks or short-term objectives must be established for students taking the California Alternative Assessment (CAA) to monitor progress towards each goal. Benchmarks are major milestones representing a task analysis of the goal. Short-term objectives are specific statements that include conditions, behavior, and criterion. They are intermediate steps between a student's present level of educational performance and the annual goal and are based on a logical breakdown of the major components of the annual goal. Both benchmarks and short-term objectives must be measurable and represent progress toward the goal. They assist in

setting the general direction to be taken by those who will implement the IEP and are the basis for developing a detailed instructional plan for the student. Annual goals and benchmarks or short-term objectives allow the IEP Team to monitor a student's progress, review and revise the instructional plan, and evaluate the appropriateness of his or her educational program. They are typically written to correspond to the school's regular reporting periods. All service providers should use the same reporting periods. Sample goals are provided below:

*Sample Goal Without Short-Term Objectives or Benchmarks*

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

*Sample Goal Without Short-Term Objectives or Benchmarks*

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

*Sample Goal with Benchmarks*

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

Benchmarks:

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

*Sample Goal with Short-Term Objectives*

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

Short-Term Objectives:

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

E.C. 56345 (a)(1)(C)



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| Section 6.3 | Supplementary Aids and Services |
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Supplementary aids and services must be provided when required to enable individuals with exceptional needs to progress towards their goals, be involved in and progress in general education, participate in extracurricular and nonacademic activities, and be educated to the maximum extent appropriate with non-disabled children.

Supplementary aids and services include assistive technology devices, interventions, accommodations, program modifications, and supports for school personnel. The IEP must include frequency, location, and duration of each.

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

#### Assistive Technology

The IEP team addresses whether the student requires these supports in accessing and progressing in the curriculum.

The LEA will provide, on a case-by-case basis, school-purchased assistive technology devices in a student's home (or other settings) if the student's IEP team determines that the student needs access to those devices in order to receive a FAPE.

The LEA is responsible for providing the student with continued access to the assistive technology device, or to a comparable device, when that student, due to enrollment in another LEA, is no longer enrolled in that LEA.

The LEA will continue to be responsible for providing the student with continuous access to the assistive technology device, or to a comparable device, until alternative arrangements can be made or until two months have elapsed from the date that the student was no longer enrolled in that LEA (whichever occurs first).

(E.C. § 56040.3)

Examples of assistive technology include, but are not limited to:

|                                                                                                                                                                                                                                          |                                                                                                                                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><u>Listening</u></p> <p>Assistive listening device<br/>Variable speech control tape<br/>Recorder/player<br/>Conventional tape recorder/player<br/>Call switches<br/>Communication boards/notebooks<br/>Word prediction programs</p>   | <p><u>Reading</u></p> <p>Optical character recognition<br/>Adapted or audio-taped books<br/>Speech synthesis<br/>Variable speech control tape recorder<br/>Braille/Braille printers</p> |
| <p><u>Writing</u></p> <p>Word processor, spell checker<br/>Proofreading programs<br/>Outlining/"brainstorming" programs<br/>Adapted pencil/pen<br/>Speech synthesis/screen reading programs</p>                                          | <p><u>Mathematics</u></p> <p>Talking calculator<br/>Conventional calculator<br/>Computer-based calculator</p>                                                                           |
| <p><u>Organization/Memory</u></p> <p>Personal data manager<br/>Personal data organization software<br/>Calendar programs<br/>Tape recorder/player</p>                                                                                    | <p><u>Mobility</u></p> <p>Walker, grab rails<br/>Powered mobility toys<br/>Powered lift/transfer system<br/>Manual or powered wheelchair</p>                                            |
| <p><u>Daily Living</u></p> <p>Adapted eating/drinking devices<br/>Adapted dressing equipment<br/>Switch activated toys<br/>Switch activated environmental control<br/>Raised labels on clothes, toys, etc.<br/>Enlarged clock, watch</p> |                                                                                                                                                                                         |

Program Modifications and Instructional Accommodations

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

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

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

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

### Supports for School Personnel

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

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

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| Section 6.4 | Statewide Testing |
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Students with IEPs must be included in statewide and district-wide assessment programs (20 U.S.C. § 1412(a)(16) and E.C. § 56385). Parents of all students have the right to exempt their child from participating in statewide assessments. The IEP team, however, must develop the IEP with the expectation that the student will participate in the assessment since the parent exemption is not part of the IEP process. The IEP must specify the assessments that are appropriate for the student and any needed accommodations and modifications, even if the parent has completed a request for exemption. If the parent of a student receiving special education and related services does complete a request for exemption, however, the assessments identified in the IEP may not be administered. There are several statewide assessment programs for which this requirement applies. IEP teams decide, on an individual basis, which tests or test versions each student will be administered.

Certain universal tools, designated supports, and accommodations are allowed for state and district-wide standardized assessments. If a student is to be tested using universal tools, designated supports, and/or accommodations, it must be stated in the IEP (20 U.S.C. § 1412(a)(16) and E.C. § 56385(a)(6)). A copy of the CAASPP Matrix One: Universal Tools, Designated Supports, and Accommodations for the California Assessment of Student Performance and Progress, the Smarter Balanced Consortium: Usability, Accessibility, and Accommodations Guidelines, and the California Code of Regulations can be obtained on the California Department of Education website or by contacting the site testing coordinator. These documents identify the specific universal tools, designated supports, and accommodations that are allowed for each test. Accommodations and designated supports can only be used for statewide testing if those same accommodations and designated supports have been identified in the IEP as required by the student as a regular part of his or her instruction.

See the section in this chapter on “Supplementary Aids and Services” for more information about instructional accommodations and modifications.

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

### California Assessment of Student Performance and Progress (CAASPP)

On January 1, 2014, California Education Code Section 60640 established the CAASPP System of assessments. The California Assessment of Student Performance and Progress (CAASPP) System consists of the following assessments: Smarter Balanced English Language Arts (ELA), Mathematics; California Alternate Assessments for English Language Arts, Mathematics, and Science; and California Science Test.

The CAASPP website is a source for information on test administration systems, training resources and materials, the latest CAASPP news, and important dates regarding administering the CAASPP tests.

### Smarter Balanced Assessment Consortium (SBAC)

The Smarter Balanced Summative Assessments, which are delivered by computer, consists of two sections: a computer-adaptive test and Performance Tasks. The computer adaptive section includes a range of items types, such as selected response, which prompts students to choose one or more answer; constructed response, which prompts students to write a short written or numerical response; technology-enhanced items, which might prompt students to edit text or draw an object; and Performance Tasks, in which students engage in a complex set of tasks to demonstrate their understanding. The Performance Tasks are extended activities that measure a student's ability to integrate knowledge and skills across many areas and standards—a key component of college and career readiness. The Smart Balanced Assessments are based on the Common Core State Standards (CCSS) for English language arts (ELA) and Mathematics.

All students in grades three through eight and grade eleven are required to participate unless the student participates in the alternate assessments. If an English Learner is in their first twelve months of attending a school in the United States, they may be exempted from the English language arts portion of the Smarter Balanced Summative Assessment.

### California Science Test (CAST)

The California Science Test, which is delivered by computer, consists of computer adaptive test items and Performance Tasks based on the Next Generation Science Standards (NGSS). The California Science Test will be administered to all eligible students in grades five, eight, and twelve, and students in grades ten and/or eleven who are enrolled in their last high school science course.

### California Alternative Assessments

The California Alternative Assessments are for students with the most significant cognitive disabilities and whose IEP team has designated the use of an alternate assessment on statewide summative assessments. IEP teams “shall determine when a child with a significant cognitive disability shall participate in an alternate assessment aligned with the alternate academic achievement standards” (Title 1, Part A, Subpart 1, Sec. 1111(b)(2)(D)(ii)(I)—Every Student Succeeds Act, 2015).

The California Department of Education recommends IEP teams base their determination using the following criteria:

1. The student has a significant cognitive disability.
2. The student is learning content based on the Common Core State Standards.
3. The student requires extensive direct individualized instruction and substantial supports to achieve measurable gains in the curriculum.

All students who are eligible to take the CAA and CAAS are required to participate.

#### California Alternative Assessment (CAA) and California Alternative Assessment for Science (CAAS)

The California Alternative Assessment (CAA) is administered to eligible students in grades three through grade eight and grade eleven in the areas of English language arts and mathematics. The CAA for ELA and mathematics is delivered one-on-one by a trained CAA test examiner familiar with the student and his or her needs. The CAAs for ELA and mathematics will consist of computer adaptive test items and Performance Tasks. The CAAs for ELA and mathematics are aligned with alternative achievement standards, called the Core Content Connectors, and are linked to the Common Core State Standards.

The California Alternative Assessment for Science (CAAS) is administered to eligible students in grades five, eight, and twelve, and students in grades ten and/or eleven who are enrolled in their last high school science course. The California Alternative Assessment for Science will be administered one-on-one by a trained CAAS test examiner familiar with the student and his or her needs. The CAAS consists of computer adaptive test items and three embedded Performance Tasks. The CAAS is aligned with alternative achievement standards, called the Core Content Connectors, and are linked to the Next Generation Science Standards (NGSS).

#### English Language Proficiency Assessments for California (ELPAC) and Alternative Assessment for Language Proficiency

State and federal law require that local educational agencies administer a state test of English language proficiency (ELP) to eligible students in kindergarten through grade

twelve (ages 3-21). The ELPAC is aligned with the 2012 California English Language Development Standards and has three proficiency levels (emerging, expanding, and bridging). The ELPAC is comprised of two separate ELP assessments: one for the initial identification of students as English learners (ELs) and a second for the annual summative assessment to measure a student's progress in learning English and to identify the student's level of ELP. The assessment will gather student English language proficiency in the domains of listening, speaking, reading, and writing. The writing domain consists of all constructed responses. The ELPAC is administered through paper-pencil format across seven grade spans: kindergarten, one, two, three through five, six through eight, nine through ten, and eleven through twelve. One-to-one administration is required in all domains for students in kindergarten and grade one and in the speaking domain for all students.

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

Certain universal tools, designated supports, and accommodations are allowed for the ELPAC assessment. If a student is to be tested using universal tools, designated supports, and/or accommodations, it must be stated in the IEP (20 U.S.C. § 1412(a)(16) and E.C. § 56385(a)(6)). A copy of the CAASPP Matrix Four: Universal Tools, Designated Supports, and Accommodations for the English Language Proficiency Assessment for California can be obtained on the California Department of Education website or by contacting the site testing coordinator. These documents identify the specific universal tools, designated supports, and accommodations that are allowed for each test, and designated supports can only be used for statewide testing if those same accommodations and designated supports have been identified in the IEP as required by the student as a regular part of his or her instruction.

#### Language Proficiency Alternative Assessments

IEP teams may determine that a student is unable to participate in one or more domains of the ELPAC, even with accommodations, due to short- or long-term disabilities. These students may be tested with an alternate assessment per the student's IEP. The braille

version of the ELPAC is not an alternate assessment. Students who take an alternate assessment will receive the Lowest Obtainable Scale Score (LOSS) for each domain marked as an alternate assessment. If the student takes an alternate assessment for all domains, the Overall Scale Score will also be the LOSS. Additional information is available in the ELPAC Information Guide on the ELPAC Resources section of the CDE ELPAC Web site at [www.cde.ca.gov/ta/tg/ep/](http://www.cde.ca.gov/ta/tg/ep/).

#### Ventura County Comprehensive Alternate Language Proficiency Survey for Students with Moderate-Severe Disabilities (VCCALPS)

The VCCALPS is a survey instrument that may be used to assess language proficiency of students with disabilities characterized as moderate or severe. It is for students who, because of their disability, cannot access all or part of the ELPAC, and is designed for students who participate in the California Alternate Assessment (CAA). It assesses in all areas required by the California Department of Education, including listening, speaking, reading, and writing. It establishes levels in both the primary language as well as English. If unsure about which English Language Development assessment a student will best respond to, the IEP team may utilize the English Language Proficiency Assessment Participation Consideration worksheet on the California Department of Education website.

The information from the VCCALPS can be used to determine whether the student is considered to be an English Learner (EL) or a student with disabilities in language and cognition, across languages. The VCCALPS can also be used to assist in reclassifying a student to Fully English Proficient (RFEP) who has formerly been considered an EL. Although the IEP team may make the recommendation, the final decision about reclassification lies with the ELD Department, with input from parent(s). For four years following reclassification, students will continue to receive support and monitoring of their English language development.

The VCCALPS assessment and supporting documents are available for download at the following website:

<http://www.vcselpa.org/LinkClick.aspx?fileticket=MQRUpBSPyMs%3D&portalid=0>

(Ventura County Office of Education, 2017)  
(Orange County Department of Education, 2003)

#### California Spanish Assessment (CSA)

The California Spanish Assessment (CSA) is an optional language test in Spanish for students who are seeking a measure to recognize their Spanish-specific reading, writing mechanics, and listening skills, regardless of their current enrollment in Spanish



instruction. This assessment may be administered to students whose primary language is Spanish and who are receiving instruction in Spanish or to students who are recently arrived English Learners whose primary language is Spanish in grades three, eight, and high school. Students may take the CSA in addition to, not in place of, Smarter Balanced English Language Arts/Literacy (ELA) assessments. The CSA is aligned with the Common Core State Standards en Español. The CSA is a computer-based assessment that has accessibility resources for students and includes technology-enhanced items.

### Physical Fitness Testing (PFT)

Public school students in grades five, seven, and nine are required to take the Physical Fitness Test annually during the months of February through May, whether or not they are enrolled in a physical education class or participate in a block schedule. These students include those enrolled in local educational agencies (LEAs) such as elementary, high, and unified school districts, county offices of education, and charter schools. LEAs must also test all students in alternate programs, including, but not limited to, continuation schools, independent study, community day schools, county community schools, and nonpublic schools. Students who are physically unable to take the entire test battery are to be given as much of the test as his or her condition will permit (Education Code (EC) Section 60800 and the California Code of Regulations, Title 5, Section 1041). The assessment is composed of six fitness areas: aerobic capacity, abdominal strength and endurance, upper body strength and endurance, body composition, trunk extensor strength and flexibility, and flexibility.

Certain variations, designated supports, accommodations, and modifications are allowed for the PFT assessment. If a student is to be tested using variations, designated supports, accommodations, and/or modifications, it must be stated in the IEP (20 U.S.C. § 1412(a)(16) and E.C. § 56385(a)(6)). A copy of the CAASPP Matrix Two: Variations, Accommodations, and Modifications, Matrix Three: English Learner Test variations and Designated Supports, and Accommodations Guidelines, and the California Code of Regulations can be obtained on the California Department of Education website or by contacting the site testing coordinator. These documents identify the specific variations, designated supports, accommodations, and modifications that are allowed for each test. Variations, designated supports, accommodations, and modifications can only be used for statewide testing if those same accommodations and designated supports have been identified in the IEP as required by the student as a regular part of his or her instruction.

### Assessment of Children (Birth-Five) Who Are Deaf or Hard of Hearing

Pursuant to Education Code 56326.5, all children (birth through five) who are deaf or hard of hearing must be assessed every six months for language growth, and the results of the assessment are to be reported to the California Department of Education. The California Department of Education (CDE) adopted the SKI-HI Language Development Scale to be used as the language assessment tool to be used in California. One copy of the CDE SKI-HI Child Reporting Form shall be copied for each child and faxed to the CDE each time the child completes the SKI-HI Language Development Scale. If a deaf or hard-of-hearing child does not demonstrate progress in expressive and receptive language skills as measured by the SKI-HI Language Development Scale, the child's IFSP or IEP team, as applicable, shall explain in detail the reasons why the child is not meeting the language developmental milestones or progressing towards them and shall recommend specific strategies, services, and programs that shall be provided to assist the child's success toward English literacy.

(56326.5. c. 20)

#### Desired Results Developmental Profile (DRDP)

The DRDP assessment system is a statewide accountability and progress assessment system for children from birth through preschool. All children in this age group with IEPs must be assessed two times per academic year (Fall and Spring). This includes children who are receiving speech and language services only. The **entire** DRDP must be administered to all eligible students.

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| Section 6.5 | Transportation |
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Definition of Special Education Transportation

Special education transportation is defined in federal regulations (34 C.F.R. § 300.24) as a related service. As a related service, transportation must be provided if it is necessary for the student to benefit from special education instruction and to receive a FAPE. There are two types of special education transportation defined in California Education Code.

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

Eligibility for Special Education Transportation

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

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

Length of School Day, Related Services, Extracurricular Events

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

### Special Education Transportation Options

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

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

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

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

### Participation of Transportation Staff in IEP Team Meetings

The case manager should invite transportation staff to participate in IEP team meetings when the student needs the use of adaptive or assistive equipment, when school bus

equipment is required to be modified, when the student exhibits severe behavioral difficulties and a behavior intervention plan is to be implemented on the bus, when the student is medically fragile and requires special assistance, or when the student has other unique needs.

### Initiating, Changing, or Canceling Transportation Services

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

### Significant Health Issues

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

### Discipline

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

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

(Portions of this section are based upon information provided in the *Special Education Transportation Guidelines* published by the California Department of Education.)

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| Section 6.6 | Extended School Year |
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ESY means the period of time between the close of one academic year and the beginning of the next academic year. ESY services must be provided for each individual with exceptional needs who requires special education and related services in excess of the regular academic year, as determined by the IEP team. These students are typically those who have disabilities that will continue indefinitely, or for a prolonged period, and for whom interruption of the educational program may cause regression with limited recoupment capacity. Generally, such students are placed in special classes but other students may also require ESY.

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

What ESY Is:

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

What ESY Is Not:

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

- Designed for making up for poor attendance during regular school year or as the primary means for credit recovery for classes failed during the regular school year

### When to Consider ESY

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

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

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

### Data Collection

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

The following chart adapted from the Arizona Department of Education is included to assist IEP team members with the process of collecting data to determine the need for ESY:

|                                                                                                                                                                                                                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>At or before the first progress report of school year:</i>                                                                                                                                                                                                                                                                                                                                     |
| <ul style="list-style-type: none"> <li>• Collect data regarding progress toward IEP goals and other critical needs</li> </ul>                                                                                                                                                                                                                                                                     |
| <ul style="list-style-type: none"> <li>• Compare to previous data to determine if the student recouped skills from previous year</li> </ul>                                                                                                                                                                                                                                                       |
| <ul style="list-style-type: none"> <li>• Use data collected as the basis for ESY eligibility discussion at the next annual review, reassessment review, or amendment IEP</li> </ul>                                                                                                                                                                                                               |
| <ul style="list-style-type: none"> <li>• Continue instruction and document progress</li> </ul>                                                                                                                                                                                                                                                                                                    |
| <i>At or before subsequent progress reports:</i>                                                                                                                                                                                                                                                                                                                                                  |
| <ul style="list-style-type: none"> <li>• Collect data as described for first progress report</li> </ul>                                                                                                                                                                                                                                                                                           |
| <ul style="list-style-type: none"> <li>• Review data before and after any break from school (e.g. Thanksgiving, Winter, or Spring break) to determine if student may have experienced a significant regression/recoupment problem that cannot be corrected through re-teaching (Re-teaching time should equal the length of the break, for example, 1 week break = 1 week re-teaching)</li> </ul> |
| <ul style="list-style-type: none"> <li>• Use data collected as the basis for ESY eligibility discussion at the next annual review, reassessment review, or amendment IEP</li> </ul>                                                                                                                                                                                                               |
| <ul style="list-style-type: none"> <li>• Continue instruction and document progress</li> </ul>                                                                                                                                                                                                                                                                                                    |
| <i>Two to three months prior to the end of the school year:</i>                                                                                                                                                                                                                                                                                                                                   |
| <ul style="list-style-type: none"> <li>• Gather data collected over the course of the school year</li> </ul>                                                                                                                                                                                                                                                                                      |
| <ul style="list-style-type: none"> <li>• If the data indicates the student has a need for ESY and this has not yet been addressed, convene an amendment IEP meeting and document the need as requested on the appropriate IEP form</li> </ul>                                                                                                                                                     |
| <ul style="list-style-type: none"> <li>• If the team determines services are warranted, follow the LEA process for notifying the special education administrator</li> </ul>                                                                                                                                                                                                                       |
| <i>Recommended timelines for data collection:</i>                                                                                                                                                                                                                                                                                                                                                 |
| <ul style="list-style-type: none"> <li>• At the end of regular school year</li> </ul>                                                                                                                                                                                                                                                                                                             |
| <ul style="list-style-type: none"> <li>• At the end of any summer program</li> </ul>                                                                                                                                                                                                                                                                                                              |



|                                                                                                   |
|---------------------------------------------------------------------------------------------------|
| • At the beginning of subsequent school year                                                      |
| • In preparation for each progress report                                                         |
| • Before and after school vacations and when the student has been out of school for other reasons |

[www.kyrene.org/cms/lib2/AZ01001083/Centricity/Domain/311/ESYAzTAS.pdf](http://www.kyrene.org/cms/lib2/AZ01001083/Centricity/Domain/311/ESYAzTAS.pdf)

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

Summer school classes are not required in order for a child to receive a FAPE in contrast with those services provided in ESY. In addition, a school district can choose not to provide summer school. Summer school usually focuses on opportunities for secondary students to recover credits or summer intervention programs that assist in the development of skills for students at risk of retention. Summer intervention classes, when available, may be appropriate for students with disabilities who are working toward grade level standards.

#### Legal Requirements for Operation of ESY

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

(34 C.C.R. § 3043(d-h))

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| Section 6.7 | Prior Written Notice |
|-------------|----------------------|

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

#### Elements of the Written Notice

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

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

(E.C. §56500.4(b)(1)-(7))

#### Written Offer of Educational Placement

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

1. Type of placement or service (e.g. specialized academic instruction, occupational therapy);
2. The school site where the placement or service is located;
3. Provider/Agency (e.g., special education teacher/LEA, physical therapist/CCS);
4. Names and qualifications of personnel, if relevant;
5. The daily schedule, if relevant;
6. Special equipment to be provided; and

7. Any other features of special relevance to the student such as class size, peer tutoring, socialization groups, etc.

### Providing the Notice

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

### Multiple Offers

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

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

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

### Bottom Line

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

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Section 6.8

Consent for Implementation of the IEP

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

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## Section 6.9 Checklist: IEP Components

Student: \_\_\_\_\_ Date of Birth: \_\_\_\_\_ Date: \_\_\_\_\_

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

| Y                        | NA                       | Component                                                                                                                                                                                                                                                                                    | Required For |
|--------------------------|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| <input type="checkbox"/> | <input type="checkbox"/> | <u>Eligibility and Identified Area(s) of Need</u><br>Statement of the primary and secondary areas of eligibility and effect on the student's ability to participate/progress in the general curriculum or (for preschoolers) participate in appropriate activities                           | All students |
| <input type="checkbox"/> | <input type="checkbox"/> | <u>Present Levels of Academic Achievement and Functional Performance</u><br>Statement of the primary and secondary areas of eligibility and effect on the student's ability to participate/progress in the general curriculum or (for preschoolers) participate in appropriate activities    | All students |
| <input type="checkbox"/> | <input type="checkbox"/> | <u>Goals (and Benchmarks/Short-Term Objectives for Students taking CAA)</u><br>Statement of the primary and secondary areas of eligibility and effect on the student's ability to participate/progress in the general curriculum or (for preschoolers) participate in appropriate activities | All students |
|                          |                          | <u>Special Considerations</u><br>A statement of the following needs and how they will be addressed:                                                                                                                                                                                          |              |
| <input type="checkbox"/> | <input type="checkbox"/> | Participation in general education                                                                                                                                                                                                                                                           | All students |
| <input type="checkbox"/> | <input type="checkbox"/> | Instructional accommodations/assistive technology                                                                                                                                                                                                                                            | All students |

|                          |                          |                                                                                                                                                                                                                                 |                               |
|--------------------------|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Low Incidence books, materials, and equipment                                                                                                                                                                                   | HI/VI/OI students             |
| <input type="checkbox"/> | <input type="checkbox"/> | English language development                                                                                                                                                                                                    | English learners              |
| <input type="checkbox"/> | <input type="checkbox"/> | Behavior problem that may be serious                                                                                                                                                                                            | As applicable                 |
| <input type="checkbox"/> | <input type="checkbox"/> | Participation in district and statewide assessment                                                                                                                                                                              | All students                  |
| <input type="checkbox"/> | <input type="checkbox"/> | Transition planning (postsecondary, PS to K, & Part C to Part B)                                                                                                                                                                | Students 16+                  |
| <input type="checkbox"/> | <input type="checkbox"/> | Possible disciplinary action requiring a manifestation determination                                                                                                                                                            | As applicable                 |
| <input type="checkbox"/> | <input type="checkbox"/> | Possible grade retention                                                                                                                                                                                                        | As applicable                 |
| <input type="checkbox"/> | <input type="checkbox"/> | <u>Special Education and Related Services</u><br>Statement of the special education instruction and related services that will be provided including provider, responsible staff, location, frequency, duration, and start date | All students                  |
|                          |                          | <u>Supplementary Aids and Services</u><br>Description of the supplementary aids and services to be provided including:                                                                                                          | As needed                     |
| <input type="checkbox"/> | <input type="checkbox"/> | Supports for school personnel/program modifications                                                                                                                                                                             |                               |
| <input type="checkbox"/> | <input type="checkbox"/> | Transportation                                                                                                                                                                                                                  | As needed                     |
| <input type="checkbox"/> | <input type="checkbox"/> | Adapted or modified P.E.                                                                                                                                                                                                        | As needed                     |
|                          |                          | <u>Extended School Year</u>                                                                                                                                                                                                     | All students<br>As applicable |
| <input type="checkbox"/> | <input type="checkbox"/> | Determination of need<br>If determined necessary, description of services to be provided                                                                                                                                        |                               |
|                          |                          | <u>Member Attendance and Parent Consent</u>                                                                                                                                                                                     | All students<br>All students  |
| <input type="checkbox"/> | <input type="checkbox"/> | Signatures documenting which IEP members were in attendance                                                                                                                                                                     |                               |

|                          |                          |                                                                                                                                   |           |
|--------------------------|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-----------|
|                          |                          | Check boxes and signatures documenting parent consent or denial of consent                                                        |           |
| <input type="checkbox"/> | <input type="checkbox"/> | <u>IEP Notes</u><br>Documentation of any part of the proposed or refused offer that is not included in any other part of the IEP. | As needed |

[Back to Table of Contents](#)**Part I – Program Procedures****Chapter 7** Special Considerations in Developing the IEP**Section 7.1** Amending the IEP

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

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

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



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| Section 7.2 | Behavior Intervention |
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The Monterey County SELPA believes that all students are individuals with unique needs who are capable of growth and change. This includes students whose behaviors are problematic and may need the assistance of specific interventions in order to be successful. The vast majority of behavioral difficulties can be prevented with implementation of appropriate classroom management techniques. For individual students who do not respond to typical classroom management strategies, individualized behavioral interventions, supports, and strategies must be developed and included in the IEP.

### Creating a Positive Classroom Environment

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

### Behavioral Interventions, Supports, and Strategies

Creating a positive classroom environment promotes and encourages appropriate behavior for most students. Individual students, however, may develop problematic behaviors that have an adverse impact on their learning and/or the learning of others. In this case, the IEP team must consider the use of behavioral interventions, supports, and strategies to address that behavior (E.C. § 56520(b)(1); 20 U.S.C. § 1414(d)(3)(B)(i); and 20 U.S.C. § 1414(d)(4)). The student's case manager consults with the school psychologist to determine if these behaviors are serious. If they are not serious but could become serious, behavioral goals may be written to assist the student in learning more appropriate behaviors.

If it is determined that the behaviors are serious, a functional behavioral assessment (FBA) should be conducted and a behavior intervention plan (BIP) needs to be developed. Alternatively, a student may exhibit sudden, unpredictable behavior that poses a clear and present danger of serious property damage or physical harm to the student or others. An interim BIP must be developed while further assessment is conducted to determine whether a systematic BIP is necessary.

Prior to disciplinary action of a student who has an IEP that may constitute a change in placement, an IEP team must be convened to determine if the behavior is a manifestation of the student's disability (34 C.F.R. § 300.530(f)). If the LEA, the parent, and relevant members of the IEP team make the determination that the conduct was a manifestation of the student's disability, the IEP team must conduct a functional behavioral assessment, unless the LEA had conducted an FBA before the behavior that resulted in the change of placement occurred, and implement a BIP for the student (34 C.F.R. § 300.530(f)(1)(i)). Or if a BIP already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior (34 C.F.R. § 300.530(f)(1)(ii)).

Any type of behavioral intervention, support, or strategy that is used should consider the student's physical freedom and social interaction, be administered in a manner that respects human dignity and personal privacy, and ensures a student's right to placement in the least restrictive environment (E.C. § 56520(b)(3)).

### Behavioral Goals

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

### Developing the Behavior Intervention Plan

When an IEP team is developing a BIP, the following procedures should be followed:

1. The school psychologist or behavior specialist, in collaboration with the IEP team, assesses the student's behavioral needs through reviewing student records, conducting interviews, and conducting observations;
2. Using this information, the team completes a draft of each section of the SELPA-approved BIP form in preparation for development of the final plan;
3. An IEP team meeting is held and the plan is finalized;
4. The plan is attached to the initial, annual, triennial, or amendment IEP as appropriate;

5. The plan is implemented and reviewed as agreed upon; and
6. The plan is revised as necessary.

### Prohibited Interventions

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

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

(E.C. § 56521.2(a)(1-8))

### Emergency Interventions

Emergency interventions shall be used only when necessary to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the student or others, and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior. Emergency interventions shall not be used as a substitute for systematic BIPs. No emergency intervention shall be used for longer than is necessary to contain the behavior. Upon prolonged use of an emergency intervention, staff shall seek assistance of the principal or law enforcement agency, as applicable to the situation. Only emergency interventions approved by the SELPA may be used. At this time, Safety Care (QBS), Handle with Care, Crisis Prevention Institute (CPI), Professional Crisis Management (PCM), and Professional Assault Crisis Training (Pro-Act) are SELPA-approved.

(E.C. § 56521.1(a-c))

The following emergency interventions may not be used:

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

(E.C. § 56521.1(d)(1-3))

Parents/guardians shall be notified within one school day whenever an emergency intervention is used or serious property damage occurs. A behavior emergency report shall immediately be completed, kept in the student's file, and forwarded to the LEAs superintendent or designee for review. This report shall include:

1. The name and age of the student;
2. The setting and location of the incident;
3. The name of the staff or other persons involved;
4. A description of the incident and the emergency intervention used and whether the student currently has a systemic behavior intervention plan; and
5. Details of any injuries sustained by students or others, including staff, as a result of the incident.

(E.C. § 56521.1(e)(1-5))

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

If the behavior emergency report is for a student who does not have a BIP, the designated responsible administrator shall, within two days, schedule an IEP team meeting to review the emergency report, determine the necessity for a functional behavioral assessment and for an interim BIP. If the IEP team determines that a functional behavioral assessment and/or an interim BIP are not required, the team shall document the reasons for that determination.

(E.C. § 56521.1(g))

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

(E.C. § 56521.1(h))

Copies of all behavioral emergency reports must be sent to the SELPA. The SELPA will retain copies of the reports for four years for review by the California Department of Education.

**SELPA Procedure for Behavioral Emergency Reports (BERs)**

1. Districts submit BERs electronically to SELPA ([selpa@montereycoe.org](mailto:selpa@montereycoe.org))
2. Name the documents with SSID # and date of incident (no additional information)
  - a. i.e. 123456789 04/12/2024
3. If multiple incidents occur on the same day for the same student please name each document with SSID #, date of incident, and number of each incident
  - a. i.e. 123456789 04/12/2024 (1)
  - b. i.e. 123456789 04/12/2024 (2) etc.
4. If the document name is not in the requested format, SELPA will return the BERs to the sender with a copy of this procedure requesting that they rename the document with the student SSID number and date of the incident (i.e. 123456789 04/12/2024) and resubmit.

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| Section 7.3 | Blind or Visually Impaired Students |
|-------------|-------------------------------------|

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

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

(E.C. § 56341.1(b)(3))

LEAs shall consider the elements of the expanded core curriculum (ECC) when developing IEPs for a student who is blind, has low vision, or is visually impaired.

The ECC is a set of knowledge and skills in which instruction or services, or both, may be beneficial to a student who is blind, has low vision, or is visually impaired.

The expanded core curriculum is defined as:

1. Compensatory skills
2. Orientation and mobility
3. Social interaction skills
4. Career technical education
5. Assistive technology, including optical devices
6. Independent living skills
7. Recreation and leisure
8. Self-determination
9. Sensory efficiency

When appropriate to ensure that a student will receive adequate services in the ECC, those services may be provided before or after school hours.

If an orientation and mobility evaluation is determined to be needed for a student who is blind, has low vision, or is visually impaired, it will be conducted by a person who is appropriately certified as an orientation and mobility specialist. This evaluation shall occur in familiar and unfamiliar environments, in varying lighting conditions, and in the home, school, and community as appropriate.

LEAs may require written parent consent to provide orientation and mobility instruction when those services are provided before or after regular school hours and when those services are provided away from the school site.

If a LEA prohibits an orientation and mobility specialist from using their vehicles for the transportation of students to and from orientation and mobility instruction, the LEA shall provide an equally effective transportation alternative for that purpose (at no cost to the orientation and mobility specialist).

(E.C. § 56353 and 56354)

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| Section 7.4 | Deaf and Hard-of-Hearing Students |
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In making a determination of what constitutes an appropriate education to meet the unique needs of a deaf or hard-of-hearing student in the least restrictive environment, the IEP team shall consider the related services and program options that provide the student with an equal opportunity for communication access. The IEP team shall specifically discuss the communication needs of the student as discussed below:

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

(E.C. § 56345(d)(1)-(4))



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| Section 7.5 | Determining the Need for an Additional Instructional Assistant |
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The purpose of this section is to provide LEA personnel with information and guidance in determining a student with a disability's need for an additional instructional assistant, referred to in this process as a Special Circumstance Instructional Assistant (SCIA).

Whenever an IEP team is considering the need for an additional instructional assistant for a student, the major factor to be considered is personal independence. First and foremost, the goal for any student with special needs is to encourage, promote, and maximize independence. If not carefully monitored, additional assistance can easily and unintentionally foster dependence. A student's total educational program must be carefully evaluated to determine where support is indicated. Natural support and existing staff support should be used whenever possible to promote the least restrictive environment. A systematic, written plan must be included in the IEP to address how the additional instructional assistance will be monitored and what interventions will be implemented in order to reduce the need for the additional assistance.

#### Categories of Additional Instructional Assistance

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

1. Health/Personal Care Issues

When the need for additional support is due to a health care need, a specialized health care plan will need to be developed. Contact your district's special education administrator/designee to discuss the development of this plan.

2. Behavior Support

When determining the need for additional support as a result of a student's behavioral difficulties, the student's IEP needs to include appropriate goals, objectives (as applicable to the student), and a Behavior Intervention Plan. In addition, a Behavior Intervention Plan, or if appropriate, an Escalation Cycle Management Plan, should be reviewed (see the Behavior Intervention section of this chapter for more information about developing behavior plans).

3. Instructional Support

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

#### 4. Inclusion/Mainstreaming Support

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

#### Process for Determining Need

A packet of data collection and guidance tools have been developed that will assist IEP teams in collecting and reviewing student and classroom data that is needed to determine whether a student requires additional instructional assistance. These documents are available within SIRAS under Added Forms. The process for using these documents is detailed below.

##### Step 1: Request for a SCIA

The appropriate district staff or IEP team member will submit the *Request for a Special Circumstance Instructional Assistant* form, *Review of IEP Goals*, and *Review of Behavioral Intervention Plan (BIP)* as appropriate, with additional supplemental documentation, as applicable, such as a nurse's assessment, health report, discipline records, independent assessments, etc. to the director of special education or designee.

#### District or LEA Request

If the site administrator and special education team at the school believe extra support may be necessary for a student to meet their goals, a team member must complete the *Request for a Special Circumstance Instructional Assistant* form to assist in determining if an evaluation for a SCIA will proceed.

#### Parent Request

If the parent requests the additional support, the school principal, designee, or special education director shall confer with the parent to clarify their concerns, discuss options,

and as appropriate, complete the *Request for a Special Circumstance Instructional Assistant* form. The parent's name should be indicated as the "Individual Requesting Referral".

#### IEP Team Request - During an IEP Meeting

If a SCIA is discussed during an IEP meeting without a prior request, the current IEP meeting should be completed with the request for a SCIA documented in the IEP notes. The designated IEP team member would then submit all request paperwork to the director of special education or designee.

#### Step 2: Assessment Plan and Parent Permission

The director of special education or designee will then review the request and assign appropriate special education staff who will be responsible for securing written parent permission/consent on an *Assessment Plan* or *Explanation of Denied Request for Assessment* within 15 days of completion of the request (with *Notice of Procedural Safeguards* and *Notice of Reassessment*).

If the request for a SCIA is determined for an initial evaluation, appropriate staff can add a SCIA assessment to the initial evaluation *Assessment Plan* with permission from the director of special education or designee.

#### Step 3: Parent/Teacher/Student Interviews

Best practice would be for the interviews to be completed at the beginning of the evaluation process. The special education staff should complete the *SCIA Parent Interview* and the *SCIA Teacher Interview* to identify specific areas of concern. It may be appropriate to also complete the *SCIA Student Interview* dependent upon the student's ability to participate.

#### Step 4: Complete the Evaluation, including Observational Evaluation and Rubric

It is the responsibility of the special education staff to ensure that the observation(s) is completed, using the *Observational Evaluation for a SCIA*. The special education staff will review strategies, materials, modifications, and/or accommodations currently in place to assist the student toward achieving their goals (and objectives, as applicable). The special education staff will use data collected, including observation(s), to complete the *Student Need for Additional Support Rubric*.

#### Step 5: Develop the SCIA Evaluation Report

When an IEP team is considering a SCIA for a student, all aspects of the student's

program must be considered with the intent of maximizing student independence. The *Report of Assessment for Special Education* should address the areas of concern identified in the referral, assessments, interviews, and observations. The special education staff will ensure the *Report of Assessment for Special Education* is developed (including RPT 1A, 1C, and 1D in SIRAS Assessment Reports).

#### Step 6: Review Evaluation Results at IEP Meeting

Within 60 days following the receipt of parent consent to evaluate for a SCIA, the IEP team shall review the results of the evaluation and recommendations at an IEP meeting.

If the IEP team determines the need for a SCIA, it is written on the IEP with specific goals, monitoring strategies, and review dates. The level of support required for the student to advance appropriately toward annual goals needs to be defined. A systematic, written plan should specify how additional support should be utilized and monitored. The service should be documented on IEP 7A *Special Education and Related Services* as “Intensive Individualized Services” (and coded as 340); the title of the staff member who will be supervising the assistant is listed as the “Responsible Staff”. Discussion at this meeting should be concluded with a written plan outlining the team’s criteria and possible timeline for phasing out the necessity for a SCIA.

#### Step 7: Assign a SCIA

When an IEP team has determined that a SCIA is required, the special education director or designee will assign appropriate staff.

#### Step 8: Observational Review

Periodic observations and review of data are required to assess the effectiveness of this additional support and to monitor the duration of services. The *Observational Review to Determine Continued Need for a SCIA* is used for direct observation of the student. The IEP team should determine and document review dates in the IEP notes.

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| Section 7.6 | English Learners |
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When developing the IEP for a student who is an English learner (EL), special care must be taken to ensure the development of an IEP with linguistically appropriate goals, objectives, programs, and services.

(EC 56345(b)(2); 34 CFR 300.24(a)(2)(ii))

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

#### Determination of English Proficiency

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

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

#### Linguistically Appropriate Goals and Objectives

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

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

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

### English Language Development

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

### Instructional Strategies

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

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

### Reclassification

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

1. Assessment of language proficiency using an objective assessment instrument;

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

(E.C. § 313(d)(1)-(4))

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

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| Section 7.7 | Grades and Transcripts |
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Neither IDEA nor Section 504 of the Rehabilitation Act specifically addresses grades and transcripts. IDEA does, however, require accommodations and modifications as determined necessary by the IEP team for individual students (see Section 6.3: Supplementary Aids and Services this handbook in Chapter 6: Required Components of the IEP for further information regarding the difference between accommodations and modifications). Additionally, the IDEA requires that LEAs provide progress reports to the parents of students receiving special education and related services.

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

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

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



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| Section 7.8 | IEP Notes |
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Monterey County SELPA IEP forms are intended to provide for all of the required elements and, in most cases, detailed IEP notes are not necessary. IEP notes are helpful, though, in certain circumstances. When used to document any part of the proposed or refused offer that is not included in any other part of the IEP, the notes provide evidence that the LEA provided prior written notice and was compliant in developing the IEP. Too much information recorded in the notes, however, can complicate and compromise the intent of the IEP team. The IEP notes should summarize the elements of the team discussion and agreements rather than provide a detailed written transcript of every conversation that is held as part of the meeting. Listed below are some examples of items that may not be included elsewhere in the IEP and should be documented in the notes:

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

11. Any placement or service that is being offered for a limited time only and is not intended to be part of any future “stay put” requirements; and
12. Reasons for parent refusal to consent to the IEP, if provided, and attempts made to address the parents’ concerns.

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

1. A particular methodology (unless the team believes the methodology is necessary in order for the student to receive FAPE);
2. Qualifications of providers unless necessary to demonstrate that the IEP meets the unique needs of the student (in this case, providing the information via a separate letter is usually recommended);
3. Repetition of information that is included in another portion of the IEP, unless further detail is needed to fully explain the offer or agreement; and
4. Statements such as, “the program being requested is too expensive”, “all students at the student’s school get one hour of speech support per week”, and “the student’s behavior was so extreme that he will never be welcomed back into the classroom”.

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

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

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

A long discussion ensued. The parent stated several times that it was clear the district didn't seem to know what they were doing and she started shouting at the school psychologist. The school psychologist left the room at this point but returned later. Finally, the administrator indicated that instead of providing a 1:1 aide, Jiminey's schedule should be developed so that he had the help of the classroom aides whenever

he could. She asked the speech therapist and occupational therapist if they could rearrange their schedules so that they provided Jiminey's therapies on alternating days at the same time of day. The speech therapist thought she might be able to but the occupational therapist didn't know. She said she would have to spend some time reviewing her current schedule to see if there were any options for making a change. The administrator told them to work it out.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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| Section 7.9 | Interim Placements |
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Transfer of Student from a District Outside the SELPA

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

The interim placement must conform to the student's IEP, unless the parent or guardian agrees otherwise. The IEP implemented during the interim placement may be either the student's existing IEP, implemented to the extent possible within existing resources, or a new IEP developed in accordance with all required procedures for the development of an IEP.

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

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

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

(E.C. § 56325(1))

### Transfer of Student from a District Inside the SELPA

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

(E.C. § 56325(2))

### Transfer of Student from a District Outside the State

Whenever a student with an active IEP transfers into a school district from an educational agency located outside the state, the new LEA shall provide the student with a FAPE, including services comparable to those described in the previously approved IEP, until the LEA conducts an assessment, if determined necessary by the LEA, and develops a new IEP, if appropriate. The interim placement, in this case, may exceed 30 days.

(E.C. § 56325(3))

### Transfer Student Receiving Educationally Related Mental Health Services

Whenever a student who has been receiving educationally-related mental health services pursuant to an IEP transfers into a school district from a district in another county, the responsible LEA administrator or IEP team shall refer the student to the Monterey County Health Department, Behavioral Health Division (MCBH).

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

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

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| Section 7.10 | Low Incidence Books, Materials, and Equipment Funds |
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### Funding Background

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

\$250,000 of the funds received through the AB 602 allocation to support special education and related services as required in each IEP for students with low incidence disabilities shall be retained annually by the SELPA for the current fiscal year and used to purchase approved items for these students.

Funds allocated in excess of the \$250,000 SELPA equipment budget will be distributed to districts (including funds generated by schools hosted by that district), MCOE charter schools, and MCOE alternative education programs based on the current year’s LI count of LEA students on CALPADS Census Day. Prior to the release of funds, each LEA receiving funds must submit a report to the SELPA by June 1st, of the allocation year, identifying how the funds are used. The SELPA will review the plan to verify that the funds are being utilized appropriately. Any concerns regarding the reports will be discussed with the LEA in order to resolve the concerns. All reports must ensure that the funds will be used only to provide services or equipment as identified on IEPs for students who are determined to have a low incidence disability.

Low incidence funds spent on equipment by the district will require equipment tracking similar to that utilized at the SELPA level to ensure that equipment and device inventory is monitored for the appropriate utilization and transfer of items to the students requiring them.

## Use of Funds

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

Low incidence funds may NOT be used to:

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

## Procedure for Requesting Equipment from the SELPA

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

1. The IEP team, including a low incidence specialist (OI Specialist, VI Specialist, Deaf/HOH Specialist, Assistive Technology Specialist), identifies the student as having a low incidence disability, identifies on the IEP the specific items that the student will require as a result of the disability, and develops at least one related goal;
2. The student's case manager completes the request, obtains the signature from the low incidence specialist, and submits the *Low Incidence Books, Materials, and Equipment Fund Request* form (available in SIRAS) to the LEA's special education administrator and attaches a copy of all items specified on the request form;



3. If approved, the LEA special education administrator signs and forwards the request to the SELPA Executive Director for final approval or denial;
4. If approved, the SELPA Executive Director signs, and the SELPA office submits the purchase order;
5. Copies of the request indicating approval or denial and, if approved, copies of the purchase order are distributed to the LEA special education administrator and the case manager who completed the request;
6. If denied, the requesting LEA is responsible for purchasing the equipment using LEA funds; and
7. When received, SELPA distributes the ordered items to the requesting LEA.

If funds are exhausted in any given year and there are remaining requests, the request will be returned to the LEA special education administrator. The LEA will be responsible for purchasing the equipment using LEA funds. The LEA may request assistance from the SELPA Extraordinary Cost Pool, if appropriate.

### Inventory

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

### Home Use of Low Incidence Equipment

In some cases, Low Incidence Equipment may need to be used in the home for the student to receive FAPE. If equipment will be used in the home it is important to complete the Home Use of Low Incidence Equipment form.

NOTE: If home use of the equipment/material is deemed appropriate, the IEP team must document on the IEP meeting notes the rationale of equipment/material use in the home.

Also, the parents must agree in writing to:

1. Secure the equipment and supervise proper use, ensuring that there will be no modifications of or additions to equipment, existing programs or software without consultation with the appropriate district specialist and the approval of a district special education administrator.
2. Provide necessary and safe transportation of the equipment between home and school.

3. Acknowledge that the equipment was purchased for student use with state funds and remains the property of the State of California.
4. Agree that equipment will not be used by other members of the family or by friends.
5. Assume responsibility for the replacement or repair of equipment if lost or damaged while at home.  
(Note: It is recommended that the parents get a rider on their homeowner's insurance for the equipment).
6. Receive training in the use of the equipment before it can be sent home.
7. Acknowledge that the equipment may be required to be returned to school at any time it is determined that the equipment is not being used properly, or when the IEP team determines that use at home and/or use at school is no longer appropriate.
8. Return the equipment to the school district (LEA) should the student move out of the district in order to arrange for transfer of the equipment to the new district of the student or to another student in the same LEA. (Note: If the equipment is an assistive technology device(s) and new enrollment is into another LEA, including a Charter School, the return of the device may be delayed until such time as the new LEA ensures provision of a comparable device (though, no longer than 2 months).

#### Low Incidence Equipment that is also Assistive Technology

Pursuant to E.C. 56040.3, low incidence equipment that is considered assistive technology may need to be provided to a student outside of school environments and after a student disenrolls from a local educational agency (LEA) and enrolls in a new LEA, including a Charter School. Specifically, low incidence equipment that is also an assistive technology device must be provided outside of school when a student's IEP team determines a student needs access to that device(s) in the student's home or other settings in order to receive a free, appropriate public education. Moreover, when a student with such assistive technology LI equipment enrolls in another Local Educational Agency (LEA), including a Charter School, the original LEA is responsible for providing continued access to the device until (1) alternative arrangements for providing the student the device, or comparable device, can be made, or (2) two months from the time the student disenrolled from the original LEA; whichever occurs first.

### When Student Moves to Another District

The California Department of Education low incidence guidance states “it is intent of the legislature that SELPAs share unused equipment, books and materials with neighboring SELPAs...If the book, materials and equipment are still needed by other students with low incidence disabilities in the SELPA there is no requirement to send it with the student who moved away. Providing these resources is the responsibility of the SELPA where the student now resides. If however books, materials and equipment purchased with low incidence funds are unused, SELPAs are encouraged to make arrangements with other SELPAs to share the unused equipment, books and materials.” Special rules apply if the LI equipment is an assistive technology device, as referenced in the section *Low Incidence Equipment that is also Assistive Technology*.

### When a Student Graduates

Pursuant to E.C 56822, books, materials and equipment purchased with low incidence funds remain the property of the State. Since the student has graduated from high school, he/she is no longer eligible to receive special education and related services. Therefore, districts CANNOT give the books, materials and equipment to the student. This would be a gift of public funds. Districts cannot sell the equipment to parents/students.

### Redistribution of Unused Items

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

### Obsolete Equipment

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

(E.C. § 56836.22 and *2006-07 Funding for Specialized Books, Material, and Equipment for Low Incidence Students*, California Department of Education)

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| Section 7.11 | Prohibition of Mandatory Medication |
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LEA personnel are prohibited from requiring an individual with exceptional needs to obtain a prescription for a medication that is a substance covered by the Controlled Substances Act as a condition of attending school, receiving an assessment, or receiving special education and related services.

(E.C. § 56040.5)

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| Section 7.12 | Promotion and Retention |
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Every school district and county office of education is required to develop and implement a policy for retention and promotion of students at various grade levels (E.C. § 48070.5). The purpose of this policy is to establish the standards to be used for determining promotion from one grade to the next.

#### Students Affected by Retention Policy

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

#### Alternatives to Retention

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

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

If the teacher's recommendation to promote is contingent upon the student's participation in a summer program, the student must be reassessed at the end of the summer program and the decision to retain or promote must be reevaluated at that time. (E.C. § 48070.5(d))

#### Parent Notification

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

#### Opportunities for Remediation

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

### Role of the IEP Team

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

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

Prior to the end of the year, the IEP team should convene to make final recommendations about retention. A SELPA-approved IEP form has been developed to assist IEP teams in making recommendations about retention and should be included in the developed IEP (see the *Forms Manual* for further information).

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| Section 7.13 | Social/Emotional/Behavioral Development |
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### School Based Interventions and Related Services

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

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

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

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

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

### Related Services Provided by MCBH

When school-based interventions are determined by the IEP team to be insufficient for meeting the needs of the student, a referral may be made for related services (E.C. § 56302) provided by the Monterey County Health Department, Behavioral Health Bureau (MCBH).

### Referral of Students with Existing IEPs

The need for such a referral shall be documented in the IEP. For students who are being placed in a therapeutic intervention special class and who aren't currently receiving services from MCBH, this documentation shall occur during the IEP team meeting at which the decision to place is made. The referral packet shall include a *Referral for Related Services Provided by MCBH* and copies of the following documents:

1. *Notice of Referral;*
2. *Assessment Plan;*
3. *Notice of IEP Team Meeting;*
4. *Parent Consent to Release/Exchange Information;*
5. Behavior Plans, if existing; and
6. All Assessment Reports.

Items 1, 2, 3, and 4 should be completed at the IEP team meeting where the referral is being discussed. In the referral form, include a statement indicating, "Discussion at IEP team meeting regarding the need to refer student to Monterey County Behavioral Health". When completing the assessment plan, check the box for "Social/Emotional/Behavioral Development", and enter "MCBH Clinician" for title of assessor. The notice of IEP team meeting should identify a date no less than 50 days (unless the MCBH assessment is completed sooner) and no more than 60 days from the date of receiving written parent consent to the assessment (not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five schooldays), unless the parent agrees, in writing, to an extension. In the case of student school vacations, the 60-day time shall recommence on the date that student schooldays reconvene (E.C. § 56344(a)).

The referral packet must be submitted to MCBH within five working days of receipt of parent consent to the MCBH assessment.



### Referral of Students Being Assessed for Initial Special Education Eligibility

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

In this circumstance, the LEA shall follow the procedures identified for referral to MCBH in the previous section. The referral must include all documents specified in that section with the exception of an IEP and current assessments. Preliminary assessments, however, to the extent they are available, must be included.

### Scheduling and Holding the IEP Team Meeting

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

### MCBH Attendance at IEP Team Meeting

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

### Assessment

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

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

#### Including Related Services Provided by MCBH on the IEP

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

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

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

#### Transfers and Interim Placements

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

The referral shall include the following information:

1. A completed interim placement form;
2. Copies of the student's existing IEP, if available;
3. Copies of reports received, if available;
4. Signed consent to release and exchange information;
5. Notice of IEP team meeting; and
6. Signed form indicating consent for MCBH to provide services.

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

### Residential Placement

When an IEP team member recommends a residential placement, an IEP team meeting shall be convened within 30 days to include a representative from MCBH. The IEP team shall consider less restrictive alternatives, such as providing a behavior specialist and behavioral aide and/or placement in a district or regional special education therapeutic intervention class prior to making a residential placement.

When a student is significantly at risk for residential placement but alternatives are still being attempted, this should be documented on the IEP with a statement such as, "Student is at imminent risk of needing out-of-home placement in order to meet his or her educational needs. Intensive therapeutic services are required to minimize this risk". In this circumstance, the IEP team should consider adding a Home Alternative to Residential Treatment (HART) social worker to the IEP. A HART social worker may provide services that include, but are not limited to, working to address those problems in a student's living situation (home, school, and community) that affect the student's adjustment in school and mobilizing school and community resources to enable the student to learn as effectively as possible in his or her educational program.

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

The MCBH case manager shall, in consultation with the IEP team's administrative designee, identify a satisfactory placement that addresses the student's special education and related service needs in a manner that is cost effective subject to the

requirements of federal and state special education laws, including the requirement that the placement be appropriate and in the least restrictive environment. The SELPA, on behalf of its member LEAs, has entered into a memorandum of understanding with MCBH that outlines the process for covering the cost of residential placements. The LEA shall be responsible for providing or arranging for the special education and transportation needed by the student while placed in a residential facility.

Following placement, the LEA shall periodically report on the progress the student is making toward meeting annual goals as indicated in the IEP for the student (E.C. § 56345(a)(3) and shall share progress reports with MCBH. The LEA shall convene and participate in an IEP team meeting within six (6) months of residential placement and every six (6) months thereafter as long as the student remains in residential placement.

#### Dismissal from Psychological Services Provided by MCBH

When MCBH or LEA staff recommend dismissal of IEP specified related services provided by MCBH, the MCBH Clinician, school psychologist, and case manager will meet to consult and discuss student progress. A staffing can be scheduled to discuss the proposed change to the student's IEP and the dismissal process.

See the *Interagency Agreement Between the Monterey County Special Education Local Plan Area and The Monterey County Health Department, Behavioral Health Bureau* for further information about obtaining educationally related services through MCBH. All timelines specific to the referral, assessment, and IEP development for provision of these services shall be tracked and monitored by the student's case manager and the LEA special education administrator.

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| Section 7.14 | Suspension and Expulsion |
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Removals Not Considered a Change in Placement

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

(34 C.F.R. § 300.530(b)(1))

Removals Considered a Change in Placement

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

1. Notify the student's parents on the date the decision is made to take the disciplinary action; and
2. Convene an IEP team meeting within 10 school days of any decision to take disciplinary action that may change the placement of a student with an IEP.

(34 C.F.R. § 300.530(e) and (h))

A pattern should be considered present when:

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

(34 C.F.R. § 300.536(a)(1)(2))

IEP Team Meeting (Manifestation Determination)

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

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

(AB 1909)

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

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

If the IEP team determines that the behavior was a manifestation of the student's disability, the team must also review and revise or develop a behavior plan, as appropriate.

(34 C.F.R. § 300.530(e)(1)-(2) and (f)(1))

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

Moving Forward Following the IEP Team Meeting

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

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

(34 C.F.R. § 300.530(c))

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

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

#### Required Educational Services During Periods of Suspension/Expulsion

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

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

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

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

School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to

be a manifestation of the student's disability if the student has engaged in any of the following behaviors while at school, on school premises, or at a school function under the jurisdiction of an LEA:

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

(34 C.F.R. § 300.530(g)(1)-(3))

#### Appeal of the Manifestation Determination Decision

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

(34 C.F.R. § 300.533)

#### Protections for Students Not Currently Determined Eligible for Special Education

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

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

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



(34 C.F.R. § 300.534(b) (1)-(3))

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

(34 C.F.R. § 300.534(d)(2))

Suspension from Bus Transportation

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

(E.C. 48915.5(c))

Appeals

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

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

When an appeal has been made, the student must remain in the interim alternative educational setting pending the decision of the hearing judge or until the expiration of

the 45-day time period in the case of a student who has engaged in behavior involving weapons, drugs, or serious bodily injury as described above.

(34 C.F.R. § 300.532 and § 300.533)

#### Readmission of an Expelled Student with Disabilities

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

#### Involvement of Law Enforcement Authorities

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

(34 C.F.R. § 300.535)

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| Section 7.15 | Transition Planning |
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Transition Services (for Students 16 and Older)

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

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

(E.C. § 56345.1(a))

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

(E.C. § 56345.1 (b)-(c))

Transition services are documented in the IEP and must include:

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

(E.C. § 56345(a)(8)(A)-(B))

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

#### Other Transition Services

For students ages five to 22, there are two other times when a transition plan is developed. One is for the student who is transitioning into a general class program in a public school from a special class or a nonpublic, nonsectarian school for any part of the school day.

The second instance when a transition plan is developed is for the special education student who is transitioning from preschool to kindergarten or first grade. It is the intent of the legislature that gains made in a preschool special education program are not lost by too rapid a removal of individualized programs and supports for these individuals. As part of the transition process, a means of monitoring continued success of the student shall be identified by the IEP team for those children who are determined to be eligible for less intensive special education programs. As part of the transition process, the present performance levels and learning style of the student should be noted by the IEP team and be made available to the assigned general education teacher upon the student's enrollment in kindergarten or first grade, as the case may be. (E.C. § 56445(a)-(d))

In either of these cases, the individualized education program should include a description of the activities provided to:

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

(E.C. § 56345(b)(4)(A)-(B))

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| Section 7.16 | Timeline of Postsecondary Transition Planning and Services |
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| Grade  | Activity                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Eight  | Identify interests and learning style; practice self-advocacy skills; develop communication skills; develop independent living skills, as needed, within the home, community, and workplace                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Nine   | Continue to identify interests; assess aptitudes; continue with self-advocacy and communication skills; create course of study; continue to develop independent living skills, as needed, within the home, community, and workplace; identify postsecondary goal(s); begin with career or job exploration; determine whether pursuing graduation with a diploma or a certificate                                                                                                                                                                                                                                                                                                                                          |
| Ten    | Review interests, aptitudes, postsecondary goals, and course of study, revise as necessary; continue with career or job exploration; continue with self-advocacy and communication skills; continue to develop independent living skills, as needed, within the home, community, and workplace; identify and establish appropriate agency linkages; explore options for postsecondary education and training; practice applying and interviewing for jobs, as appropriate; evaluate graduation status; review determination regarding whether pursuing graduation with a diploma or a certificate, revise as appropriate                                                                                                  |
| Eleven | Review interests, aptitudes, postsecondary goals, and course of study, revise as necessary; continue with career or job exploration; continue with self-advocacy and communication skills; continue to develop independent living skills, as needed, within the home, community, and workplace; continue to identify and establish appropriate agency linkages; continue to explore options for postsecondary education and training; continue to practice applying and interviewing for jobs, as appropriate; begin work experience or technical training, as appropriate; evaluate graduation status; review determination regarding whether pursuing graduation with a diploma or a certificate, revise as appropriate |
| Twelve | Review interests, aptitudes, postsecondary goals, and course of study, revise as necessary; continue with career or job exploration; continue with self-advocacy and communication skills; continue to develop independent living skills, as needed, within the home, community, and workplace; continue to identify and establish appropriate agency linkages; continue to practice applying and interviewing for jobs, as appropriate; apply to                                                                                                                                                                                                                                                                         |

|                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                   | postsecondary education/training if necessary; continue with work experience or technical training as appropriate; complete graduation requirements; develop and provide student with summary of performance upon graduation                                                                                                                                                                                                                                                                                                                                                                                                             |
| Postsecondary<br>(As appropriate) | Review interests, aptitudes, postsecondary goals, and course of study, revise as necessary; continue with career or job exploration; continue with self-advocacy and communication skills; continue to develop independent living skills, as needed, within the home, community, and workplace; continue to identify and establish appropriate agency linkages; continue to practice applying and interviewing for jobs, as appropriate; continue with work experience or technical training, as appropriate, including off-campus; develop and provide student with summary of performance upon exceeding age of eligibility (22 years) |

[Back to Table of Contents](#)**Part I – Program Procedures****Chapter 8** Placement and Services**Section 8.1** Program Continuum

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

General Education

To the maximum extent appropriate, children with disabilities shall be educated with children who are not disabled, and removal of children with disabilities from the regular educational environment will occur only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(AB 602, Chapter 854, Statutes of 1997, Section 66(a)(5)(A))

Each LEA shall ensure that students with disabilities will have access to:

1. All required core curriculum, including state-adopted core curriculum and supplementary materials; and
2. Instructional materials and support.

The SELPA Executive Director and SELPA program specialists will coordinate curricular resources for students with disabilities, provide technical assistance, and prepare staff development for LEAs, as requested or deemed appropriate.

Specialized Instruction

## Resource Specialist Program (RSP)

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

## Learning Centers

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

## Inclusion

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

## Special Classes

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

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

## State Special Schools



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

### Nonpublic Schools and Residential Placement

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

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

### Related Services

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

1. Language and Speech;
2. Adapted Physical Education;
3. Health and Nursing;
4. Occupational Therapy;
5. Individual Counseling;
6. Counseling and Guidance;
7. Parent Counseling;
8. Psychological Counseling;
9. Behavior Intervention;
10. Deaf and Hard of Hearing Services;
11. Specialized Vision Services;
12. Orientation and Mobility;
13. Specialized Orthopedic Services; and
14. Vocational Assessment, Counseling, Guidance, and Career Assessment

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| Section 8.2 | Instructional Settings |
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Most students, regardless of their placement and services, will be served in a public or private school setting. Some students, however, may require instruction in alternative settings, such as community-based instruction, vocational training, and work experience. Students who are ill for more than 10 school days may need to receive services in a home or hospital setting, as ordered by a physician or psychiatrist. Adjudicated students will require services provided in juvenile hall or other youth authority settings. When appropriate, long-distance learning through telecommunication may also be an option.

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| Section 8.3 | Direct Related Service Versus Consultation |
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When developing the IEP, it is important to understand the difference between direct service, consultation, and collaboration. This is especially true for related services (also known as designated instruction and services or DIS). Direct service and consultation are both delivery models, whereas collaboration is one method often used in providing consultation.

### Direct Related Service

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

1. Individual, small group, or "push in" instruction;
2. Provided through face-to-face interaction with the student;
3. In a regular and on-going manner; and
4. Based upon specific IEP goals and objectives that are monitored and updated through data collection.

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

### Consultation as a Direct Service

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

### Consultation as a Support to School Personnel

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

1. Training in appropriate instructional accommodations, modifications, and instructional strategies;

2. Provision of information necessary to understand the student's disability and abilities;
3. Provision of resource materials specific to meeting the instructional needs of the student; and
4. Regular meetings of the instructional staff.

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

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

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| Section 8.4 | Regional Programs |
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Special education programs that are operated by an LEA within the Monterey County SELPA fall within one of the following categories:

1. Programs operated by and for an individual district;
2. Programs operated by one LEA on behalf of several districts within a region; and
3. Programs operated by the Monterey County Office of Education on behalf of all districts within the SELPA.

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

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| Section 8.5 | MCOE Itinerant Low Incidence Services and Case Management |
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Students who are enrolled in a district general education program may be receiving services from an MCOE itinerant low incidence specialist as their only special education and related service. In such cases, the MCOE low incidence specialist acts as the case manager, and MCOE establishes and maintains the student's special education file and records. All IEP team meetings shall be convened on dates and at times mutually agreed upon by all parties. To facilitate this process, the MCOE specialist shall annually provide each district special education administrator a list of students being served for the district by the specialist, and will provide updates, as needed. The district special education administrator will identify a contact person for each student on the MCOE specialist's caseload and provide that information to the specialist. If the district's identified contact person is known at the time of an IEP team meeting, it is recommended that the person's name and contact information be included in the IEP notes.

When IEP team meetings and other activities need to be scheduled, the MCOE case manager will work collaboratively with the district's contact to schedule and notify all appropriate participants, including the parents. The district shall ensure that all required members of the IEP team are in attendance at the scheduled meeting, unless the parent and the LEA agree in writing, using the SELPA approved IEP Team Member Excusal form, that the attendance of the member is not necessary because the member's area of the curriculum or related service is not being modified or discussed, or that the member's area of curriculum or related service is being addressed, but the member will submit written input to the parent and to the other members of the IEP team prior to the meeting (E.C. § 56341(d) and (g)).

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| Section 8.6 | Inter-District Placements |
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Occasionally, a district may determine that it is in the best interest of an individual student to attend a special education program provided by another district. If the identified program is not a regional program, placement of the student is arranged through a memorandum of understanding (MOU) between the two districts. Typically, this MOU will include a description of each district's obligations and agreements about billing for excess costs.

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| Section 8.7 | Dismissal from One or More Programs or Services |
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Students who are still eligible for and in need of special education and related services are sometimes dismissed from a particular related service but continue to receive support from other special education programs and related services. The IEP team should consider dismissal from a related service if one or more of the following applies:

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

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

### Extensive Absences

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

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



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| Section 8.8 | Exit Criteria |
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A student will be exited from special education and related services due to one of the following reasons:

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

(E.C. § 56001(h) and § 56381(h))

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

#### Exceeding Age Eligibility

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

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

(E.C. § 56026(c)(4)(A)-(C))

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

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

### Revocation of Consent

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

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

(34 CFR § 300.300(b)(4)(i)-(iv))

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

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Section 8.9

Questions and Answers About Parent Revocation of Consent

Question 1

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

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

Question 2

Must a parent give a reason for revoking consent?

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

Question 3

What happens after the parent has revoked consent in writing?

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

Question 4

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

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

#### Question 5

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

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

#### Question 6

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

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

#### Question 7

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

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

#### Question 8

What happens to the student following revocation of consent?

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

#### Question 9

What is the process for notifying the student's district of residence, if the student is being served by one LEA for another LEA as part of a regional program or

memorandum of understanding when parental consent for special education has been revoked?

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

#### Question 10

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

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

#### Question 11

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

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

#### Question 12

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

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

#### Question 13

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

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

#### Question 14

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

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

#### Question 15

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

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

#### Question 16

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

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

#### Question 17

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

No. Students who have previously received special education and related services and whose parents subsequently revoke consent should not be treated any differently in the

referral and assessment process than any other child, including a child who was determined eligible and whose parent refused to provide initial consent for services. A parent who previously revoked consent for special education and related services may continue to refuse services; however, this does not diminish the LEA's responsibility to engage in appropriate child-find activities.

#### Question 18

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

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

#### Question 19

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

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

#### Question 20

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

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

#### Question 21

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

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

to obtain a ruling that the service with which the parent disagrees is not appropriate for their child.

Please remember:

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



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## **Part I – Program Procedures**

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| Chapter 9 | Educational Benefit |
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| Section 9.0 | Educational Benefit |
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The IEP is not required to provide for special education and related services that will maximize the potential of the student, but it must be reasonably calculated to enable the child to receive educational benefit.

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| Section 9.1 | Annual Analysis of Educational Benefit |
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In preparation for an annual IEP meeting, it is recommended that the IEP team review the following points related to the previous IEP:

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

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Section 9.2

Documentation of Educational Benefit

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

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

A worksheet designed to document the educational benefit analysis is available on the SELPA website under Documentation of Educational Benefit.

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| Chapter 10 | Programs for Early Childhood Education from Birth to Five Years of Age |
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| Section 10.0 | Programs for Early Childhood Education from Birth to Five Years of Age |
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Early Start, Part C (Birth to Three Years of Age)

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

Within the Monterey County SELPA, two LEAs provide services to eligible children through the Early Start Program: Monterey County Office of Education and Monterey Peninsula Unified School District. An interagency agreement has been developed between the SELPA, the participating LEAs, and the San Andreas Regional Center. This agreement outlines the process that is used by the involved agencies for identifying, referring, assessing, and serving eligible children. A copy of this agreement can be viewed and downloaded on the SELPA webpage.

Preschool, Part B (Three to Five Years of Age)

IDEA, Part B and California Education Code outline the regulations and requirements necessary to provide services to preschool children with disabilities and their families. There are multiple agencies within Monterey County that are responsible for identifying, referring, assessing, and serving eligible children within this age range.

An interagency agreement has been developed between the Community Action Partnership of San Luis Obispo County (CAPSLO), Monterey County SELPA, and San Andreas Regional Center. The purpose of this agreement is to provide guidelines and working procedures for staff and designees of the aforementioned agencies in coordinating services for children between three and five years of age (inclusive). The other interagency agreement has been developed between the Monterey County SELPA, the San Andreas Regional Center, and the Monterey County Office of

Education Early Learning Program. The purpose of this agreement is to support positive collaboration between these agencies to provide services for children with or at risk of disabilities between the ages of birth and five years. Copies of these agreements can be viewed and downloaded on the SELPA webpage.

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

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

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

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| Section 11.2 | Consultation |
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The participating LEAs within the SELPA shall consult with private school representatives and representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services for these children, regarding:

1. The child-find process and how parentally placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;
2. The determination of the proportionate amount of federal funds available to serve parentally placed private school children with disabilities under this subparagraph, including the determination of how the amount was calculated;
3. The consultation process among the local educational agency, private school officials, and representatives of parents of parentally placed private school children with disabilities, including how such process will operate throughout the school year to ensure that parentally placed private school children with disabilities identified through the child-find process can meaningfully participate in special education and related services;
4. How, where, and by whom special education and related services will be provided for parentally placed private school children with disabilities, including a discussion of types of services, including direct services and alternate service delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made; and
5. How, if the local educational agency disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the local educational agency shall provide to the private school officials a written explanation of the reasons why the local educational agency chose not to provide services directly or through a contract.

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

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

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| Section 11.3 | Identification, Referral, and Assessment |
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LEAs are required to locate, identify, and assess any student who may need special education. Child-find activities for students enrolled in private schools must be comparable to those undertaken for students enrolled in public schools. The procedures outlined previously for identification, referral, and assessment shall be followed when considering parentally placed private school students for special education eligibility. The district within which the private school is located is responsible for these activities. If the district that will be conducting the assessment is other than the student's district of residence, that district will request permission from the parent to exchange information with the district of residence in order to facilitate communication between the two districts regarding the assessment and subsequent activities. The district of location and the district of residence may enter into an agreement that, with written parental consent, allows the district of residence to collaborate with the district of location in the initial evaluation or to conduct the initial evaluation.

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



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| Section 11.4 | Free and Appropriate Public Education |
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The district that conducted the assessment must convene a meeting to determine eligibility for special education and related services (20 U.S.C. § 1412(a)(10)(A)(ii) and E.C. § 56171). Representatives from the student's district of residence shall be invited to participate in this meeting. If the parents express an interest in enrolling their eligible child in a public or publicly funded program, the student's district of residence must provide an offer of FAPE through the development of an IEP (*Questions and Answers on Serving Children with Disabilities Placed by Their Parents at Private Schools*, Office of Special Education and Rehabilitative Services, January 1, 2007, 47 IDELR 197, Questions E-2). An offer of FAPE is not necessary if the parent does not express an interest in public school enrollment. Following parent consent and enrollment of the student in the public school, the district will implement the developed IEP.

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| Section 11.5 | Individual Service Plan |
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If the parents agree that a FAPE was made available to their child if enrolled in a public placement, but decline public placement, the district within which the private school is located will document the parents' agreement that FAPE was made available and develop an *Individual Service Plan* (ISP). To the extent appropriate, the ISP must be developed in accordance with IEP requirements.

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

If a private school child with disabilities remains in a private school placement in subsequent years, the district of service will contact the child's parents annually to schedule an ISP team meeting to review the child's ISP. Additionally, the district within which the private school is located will conduct reevaluations of a private school child with a disability if conditions warrant re-evaluation or if the child's parents or teacher request a re-evaluation, but at least once every three years following the procedures outlined in Chapter 4: Assessment in this handbook.

(20 U.S.C. § 1412(a)(10)(A))

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

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| Section 11.6 | Private Preschool Students with Disabilities |
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Children between the ages of three and five years, inclusive, are considered to be preschoolers. Parentally placed private school children with disabilities in this age range are only eligible to receive services through an ISP if the private school within which the child is enrolled meets the legal definition of an elementary school. In California, an elementary school is defined as a public school offering instruction for any of grades K-8. All other children within this age range who are found eligible for and in need of special education shall be provided with services as defined in an IEP.

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

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| Section 11.7 | Annual Notice of Availability of FAPE |
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One year after an eligible private school child has been determined eligible, and annually thereafter, the district of residence will notify the student's parents in writing of the student's ongoing eligibility and of the continuing availability of FAPE. Included in the notice will be a statement informing the parent that the district will develop an IEP if the parents express an interest in returning their child to a public (or publicly funded) program.

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| Section 11.8 | Calculating Proportionate Share |
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The proportionate share of federal funds that must be expended by each LEA is calculated annually based upon the percentage of all children with disabilities within the district, ages 3 through 21 years, enrolled in elementary and secondary schools. These funds are restricted to services provided to private schools in supporting students who have ISPs. Funds not expended in a fiscal year can be carried over into the next fiscal year.

(20 U.S.C. § 1412(a)(10)(A))

The chart below details how the proportionate share is calculated.

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

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| Section 11.9 | Tracking Expenditures |
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Each LEA is responsible for tracking its expenditures for serving students enrolled in private schools. These expenditure reports are collected at the SELPA level and must be submitted to the state as part of the annual expenditure report for federal IDEA funds. Expenditures should be tracked using SACS goal code 5790.

[Back to Table of Contents](#)**Part I – Program Procedures****Chapter 12**      **Summary of Timelines****Section 12.0**      **Summary of Timelines**

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

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| Section 12.1 | Initial Assessment and Development of the IEP |
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Response to Referral

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

(E.C. § 56321)(a))

Notice of IEP Team Meeting

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

Individual Education Plan (IEP)

An IEP required as a result of an assessment of a student shall be developed within a total time not to exceed 60 days, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five school days, from the date of receipt of the parent's written consent for assessment, unless the parent agrees, in writing, to an extension. In the case of student school vacations, the 60-day time shall recommence on the date that student school days reconvene. However, the IEP shall be developed within 30 days after the commencement of the subsequent regular school year for each student for whom a referral has been made 30 days or less prior to the end of the regular school year. A meeting to develop an initial IEP for the student shall be conducted within 30 days of a determination that the student needs special education and related services.

(E.C. § 56302.1(a) and § 56344(a))

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



1. A student transfers into a new LEA after the relevant time period has commenced in the previous LEA but prior to a determination of whether the child is an individual with exceptional needs; and if the new LEA is making sufficient progress to ensure a prompt completion of the assessment, provided that the parent and new LEA agree to a specific date by which the assessment shall be completed; or
2. The parent of a child repeatedly fails or refuses to produce the child for the assessment.

(E.C. § 56302.1(b))

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| Section 12.2 | Implementation of the IEP |
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A student's IEP shall be implemented as soon as possible following the individualized education program meeting (5 2 C.C.R. § 3040(a)).

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| Section 12.3 | Interim Placements |
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Whenever a student transfers into a school district from a district in another SELPA, an administrator must provide an interim placement not to exceed 30 calendar days. The IEP team must review the placement before the expiration of the 30-day period.

(E.C. § 56325(a)-(c))

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| Section 12.4 | Review of IEP |
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At least annually, the student's IEP shall be reviewed. This first annual review should be held within one year of the date of the initial IEP meeting. The second annual review should be held within one year of the first annual review, etc. If an annual review is late, the second annual review should occur within two years of the date of the initial IEP meeting. An IEP meeting scheduled to amend an IEP should not be considered an annual review. The date originally scheduled for the annual review remains the same.

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

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| Section 12.5 | Reassessment and Development of a New IEP |
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A reassessment of the student shall be conducted not more frequently than once a year, unless the LEA and parent agree otherwise, and at least once every three years, unless the LEA and parent agree in writing that a reassessment is not necessary. A reassessment shall be conducted more frequently if conditions warrant or if the student's parents or teacher request a new assessment.

(E.C. §56381(a)(1)-(2))

Notice of Reassessment and Proposed Action

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

Notice of IEP Meeting

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

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| Section 12.6 | Parent Request for an IEP Team Meeting |
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A meeting of an IEP team requested by a parent to review an IEP shall be held within 30 calendar days, not counting days in July and August, from the date of receipt of the parent's written request (E.C. § 56343.5).

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| Section 12.7 | Request for Records |
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The parent shall have the right and opportunity to examine all school records of the child and to receive copies within five calendar days after a request is made by the parent, either orally or in writing.

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

(E.C. § 49061(b))

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

**Mandatory Interim**

The following documents are classified as mandatory interim:

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



(5 2 C.C.R. § 432(b)(2))

Permitted

The documents below are classified as permitted:

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

(5 2 C.C.R. § 432(b)(3))

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| Section 13.2 | Confidentiality |
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Each LEA must protect the confidentiality of all special education student records.

The following procedures should be followed:

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

(E.C. § 49064)

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| Section 13.3 | Access to Student Records |
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Access means a personal inspection and review of a record, an accurate copy of a record, or an oral description or communication of a record. Those granted access are prohibited from releasing information to another person or agency without written permission from the parent or legal guardian (if the student is 18 or older, the right of consent belongs to the student unless a conservator has been appointed). State and federal laws provide for access to records as outlined below.

(E.C. § 49061(e))

#### Parent Access

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

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

(E.C. § 49069 § and 49063)

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

### Mandatory Access

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

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

notification to the parent or guardian of the student within 24 hours of the release of the information);

9. A district attorney's office for consideration against a parent or guardian for failure to comply with the Compulsory Education Law;
10. A probation officer, district attorney, or counsel of record for a minor for the purposes of conducting a criminal investigation or an investigation in regards to declaring a person a ward of the court or involving a violation of a condition of probation;
11. A county placing agency when acting as an authorized representative of a state or local educational agency pursuant to item 7 (School districts, county offices of education, and county placing agencies may develop cooperative agreements to facilitate confidential access to and exchange of the student information by email, facsimile, electronic format, or other secure means);
12. A designated peace officer, upon his or her request, when a proper police purpose exists for information specific to a particular student's identity and location that relates to the transfer of that student's records to another school district within this state or any other state or to a private school in this state (the designated peace officer or law enforcement agency shall show the school district that the peace officer or law enforcement agency has obtained prior written consent from one parent, or provide information indicating that there is an emergency in which the information is necessary to protect the health or safety of the student or other individuals, or that the peace officer or law enforcement agency has obtained a lawfully issued subpoena or a court order); and
13. In compliance with a court order or a lawfully issued subpoena. The school district shall make a reasonable effort to notify the parent or legal guardian and the student in advance of compliance with a lawfully issued subpoena; and, in the case of compliance with a court order, if lawfully possible within the requirements of the order.

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

### Permitted Access

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

1. Appropriate persons in connection with an emergency if necessary to protect the health or safety of the student or others;

2. Agencies or organizations in connection with students applying for or receiving financial aid but only as may be necessary to determine the eligibility of the student for financial aid, the amount of the financial aid, and to determine the conditions that will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid;
3. County elections official, for the purpose of identifying students eligible to register to vote, and for conducting programs to offer students an opportunity to register to vote;
4. Accrediting associations in order to carry out their accrediting functions;
5. Organizations conducting studies for or on behalf of educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if the studies are conducted in a manner that will not permit the personal identification of students or their parents by persons other than representatives of the organizations; the information will be destroyed when no longer needed for the purpose for which it is obtained, and the organization enters into a written agreement with the LEA that complies with federal regulations;
6. Officials and employees of private schools or school systems where the student is enrolled or intends to enroll (to mandatory interim and permitted student records only and a copy of the key records should be retained when these transfers occur including, at a minimum, student's last full IEP and related amendments and last full psycho-educational assessment); and
7. A contractor or consultant with a legitimate educational interest who has a formal written agreement or contract with the school district regarding the provision of outsourced institutional services or functions by the contractor or consultant.

(E.C. § 49076(1)(2))

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| Section 13.4 | Challenging Content of Student Records |
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After inspection or review, parents may submit a written request to remove or correct written records that are alleged to be:

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

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

(E.C. § 49070(a)-(c))

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| Section 13.5 | Destruction of Student Records |
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Mandatory interim student records may be classified as disposable after determining that their usefulness has ceased or after the student has left the district. Destruction shall be after the third year in which they are deemed disposable. Permitted student records may be maintained for as long as they have an appropriate educational purpose. They may be destroyed when their usefulness ceases. The method of destruction shall assure that records are not available to possible public inspection in the process of destruction. The typically used method is shredding.

(5 2 C.C.R. § 437)



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

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| Section 14.2 | State Performance Goals and Indicators |
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Each State must have a State Performance Plan (SPP) in place and must review the plan at least once every six years. States are required to establish measurable and rigorous targets for each of 20 goals or indicators established at the federal level. Each state must submit an Annual Performance Report (APR) related to its progress on achieving the established targets. The California Department of Education reports annually regarding whether each LEA has met the established target criteria in each of 14 indicators (the other 6 goals are specific to state-level requirements). The 14 indicators are defined below:

1. Graduation Rate  
Performance on this indicator is measured by the percentage of special education students in 12th grade who graduated with a diploma.
2. Drop-out rate  
Performance on this indicator is measured by the percentage of students in 7<sup>th</sup> grade and higher who exit special education by dropping out of school.
3. Assessment  
Performance on this indicator is measured by whether at least 95% of students in special education participate in statewide assessments and the percentage of students who meet LEA targets in each subject.
4. Suspension/Expulsion  
Performance on this indicator is measured by whether the percentage of special education students who are expelled or suspended for more than ten days is disproportionate to the general population, both overall and by race/ethnicity.
5. Least Restrictive Environment  
Performance on this indicator is measured by the amount of time that students, between the ages 6 and 22 years, receive special education and related services in settings apart from their non-disabled peers.
6. Preschool Least Restrictive Environment  
Performance on this indicator is measured by the percentage of preschool children who receive their special education and related services in regular early childhood programs.
7. Preschool Assessment  
Performance on this indicator is measured based upon a calculation of the progress made by preschool children in special education.
8. Parent Involvement

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

9. Disproportionate Representation Overall

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

10. Disproportionate Representation by Disability

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

11. Eligibility Evaluation

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

12. Transition from Part C to Part B

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

13. Secondary Transition

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

14. Post-school Outcomes

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

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

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

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

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| Section 14.3 | Importance of Accurate Data |
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Each LEA is held accountable for compliance with state and federal laws related to providing special education services. For that reason, it is imperative that the data reported through CALPADS is as accurate as possible. To do so requires that each IEP team and LEA establish and maintain a system of reviewing incoming IEPs to ensure that they are accurate and complete and to ensure correct data entry. Doing so will also allow LEAs to have positive outcomes during state program reviews and to successfully address individual student complaints.

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| Section 14.4 | Electronic Plan Development/Local Student Database |
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All LEAs within the SELPA must use the SELPA approved web-based IEP system (SIRAS) for development of IEPs, Individual Service Plans (ISPs), Individualized Family Service Plans (IFSPs), and maintenance of the special education student database.

Please visit the SELPA web page or contact the SELPA by telephone or email for information about IEP development, including training and other resource materials and guides. In the event that the web-based IEP system is not available, IEPs can be completed using the Portable Document Format (PDF) form templates that are available in the SIRAS “Document Library” and “Added Forms”.

[Back to Table of Contents](#)**Part I – Program Procedures****Chapter 15**      **Dispute Resolution****Section 15.1**      **Local Intervention**

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

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

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| Section 15.2 | Due Process |
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When the parents of a student with disabilities and the educational agency disagree about the child's identification, assessment, educational placement, or provision of FAPE, either side can request a due process proceeding.

There are three levels to the hearing process.

1. Resolution Session

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

2. Mediation Conference

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

3. Formal Administrative Fair Hearing

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

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

(E.C. §§ 56501-56507)

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

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



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| Section 15.3 | Compliance Complaint |
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When it is believed that the LEA may have violated any part of special education law, a parent, individual, public agency, or organization can file a complaint with the California Department of Education (CDE). The party filing the complaint must forward a copy of the complaint to the other party at the same time it is filed with the CDE. Within 5 days of receiving the complaint, the CDE must review it to decide if it is a matter for state or local investigation.

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

(34 C.F.R. § 300.153)

Complaint forms are available online at [www.cde.ca.gov/sp/se/qa/documents/sedcomplaintform.pdf](http://www.cde.ca.gov/sp/se/qa/documents/sedcomplaintform.pdf) and may be filed with the superintendent of the local agency or sent directly to:

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

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| Section 15.4 | Civil Rights Issues |
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It is the responsibility of the Office for Civil Rights in the Department of Education and the Office of Civil Rights in the Department of Health and Human Services to enforce federal laws prohibiting discrimination against persons on the basis of race, color, national origin, sex, age, or mental and physical handicaps and to investigate discrimination complaints.

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

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

Office for Civil Rights, San Francisco Office  
 U.S. Department of Education  
 50 United Nations Plaza  
 San Francisco, CA 94102  
 Telephone: (415) 486-5555  
 Facsimile: (415) 486-5570  
 Email: [OCR.SanFrancisco@ed.gov](mailto:OCR.SanFrancisco@ed.gov)

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| Appendix   | Program Descriptions        |
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| Appendix 1 | Resource Specialist Program |

### Overview

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

### Guidelines for Program Instruction

#### Referral for Placement

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

4. If the program identified by the IEP team, as required by the student, is operated by a district other than the district of residence, SELPA-approved procedures will be followed for referral and placement.

#### Curriculum, Instruction, and Assessment

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

#### Staff Development and Team Collaboration

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

#### Other Agency Involvement

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

#### Facilities/Equipment/Materials

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

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| Appendix 2 | Learning Center |
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### Overview

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

### Guidelines for Program Instruction

#### Referral for Placement

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

#### Curriculum, Instruction, and Assessment

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

#### Staff Development and Team Collaboration

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

#### Other Agency Involvement

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

#### Facilities/Equipment/Materials

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



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| Appendix 3 | Special Class – General Academics |
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### Overview

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

### Guidelines for Program Operation

#### Referral for Placement

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

#### Curriculum, Instruction, and Assessment

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

### Mainstreaming

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

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

#### Staff Development and Team Collaboration

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

#### Other Agency Involvement

Operating these special classes may require collaboration and/or partnership with other community agencies including, but not limited to, the Monterey County Department of Behavioral Health, the Monterey County Department of Social Services, the Monterey County Department of Rehabilitation, and the San Andreas Regional Center.

#### Facilities/Equipment/Materials

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

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

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| Appendix 4 | Special Class – Communication/Social Skills Development |
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### Overview

These classes are designed for students with moderate disabilities due to having Asperger's syndrome, high functioning autism, or other related language-based disorders whose districts have chosen to group them together to provide focused classroom-wide instruction in the development of communication and social skills. This program provides intensive intervention within a self-contained class for the majority of the school day. The primary goal is to return the students to full-time enrollment in the general education program with continuing support in social skills as needed. A teacher possessing the appropriate credential and/or added authorization for this program as well as for the age range and disabilities of the enrolled students is assigned to each class. Two instructional assistants are recommended for each class. Additional instructional assistants are provided as determined necessary to implement developed IEPs and to maintain the safety of students and staff. The recommended caseload is 10-12 students. Related services are available for students as identified on each IEP. Some districts operate these classes for their own students. Some classes may be operated by one district on behalf of several districts within a geographical zone.

### Guidelines for Program Operation

#### Referral for Placement

1. Students are referred for placement when the nature or severity of the disability is such that educational progress in less restrictive settings, even with the use of accommodations, modifications, and supplementary aids and services is not satisfactory, and the IEP team determines that such placement is required in order for the student to receive a free and appropriate public education (FAPE).
2. Prior to referral, students are assessed using developmental and standardized tools in the following systems: social relatedness and interaction; receptive and expressive language and non-verbal communication; fine and gross motor skills; sensory development; cognitive development; adaptive functioning; and academics or functional academics.
3. There is active family involvement in addressing student needs, determining the required placement and services, and designing the IEP.
4. Students who are placed in classes operated by their district of residence are referred to those classes according to the district's established procedures.

5. If the class identified by the IEP team as required by the student is a class operated by a district other than the district of residence, SELPA approved procedures will be followed for referral and placement.

#### Curriculum, Instruction, and Assessment

1. IEP goals are developed in each area of identified need.
2. Students receive instruction in all district-required subject areas using district-approved modified content standards, unless otherwise specified in the IEP.
3. Instruction in core subject areas (reading/language arts, mathematics) is provided for the same number of minutes that are required for same-grade general education classes in each subject.
4. Students receive specific skills instruction in areas of need, as specified in the IEP, using state-approved intervention programs and instructional materials.
5. Students are instructed, as appropriate, about their disability, effective compensatory skills, and how to obtain necessary accommodations and modifications.
6. Focused instruction is provided in development of communication and social skills using evidence-based methods and strategies.
7. Students receive information through use of instructional approaches and techniques that match their learning strengths and are specifically designed for students with communication and social skills needs (structured teaching, ABA, picture communication systems, etc.).
8. Students are provided with a classroom environment that stimulates learning, assists in personal-social development, and fosters increasing independence.
9. Behavior problems are viewed as areas of instructional need, indicating where skills for more appropriate behaviors must be acquired and practiced; behavior goals and behavior plans are developed and utilized when appropriate.
10. Appropriate support is provided for English learners, including instruction in English language development, use of techniques such as SDAIE, and primary language support.
11. Data on student performance (mastery tests, data sheets, graphing, homework, etc.) is collected regularly, and this data is used to inform instruction and to make programmatic changes as needed.
12. Student progress is communicated to parents through informal means as well as in progress reports as specified in the IEP.
13. Students will participate in statewide assessments as specified in the IEP.

#### Mainstreaming

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

#### Parent Education, Staff Development, Team Collaboration

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

#### Other Agency Involvement

Classes for students with autism and developmental disabilities require collaboration and/or partnership with other community agencies including, but not limited to, the Monterey County Department of Behavioral Health, the Monterey County Department of

Social Services, the Monterey County Department of Rehabilitation, the San Andreas Regional Center, and various nonpublic agencies (NPAs).

#### Facilities/Equipment/Materials

1. Classes are operated at age-appropriate sites.
2. The classroom provides adequate space to support the unique learning and safety needs of individuals and/or groups as necessary (group instructional areas, individual work stations, safe movement of wheelchairs, use of adapted equipment, etc.).
3. Appropriate furniture and equipment are provided to implement general classroom instruction as well as individual IEP goals.
4. District-adopted textbooks in each subject and appropriate to grade-levels served in the classroom are provided.
5. Supplemental texts and other instructional materials as determined necessary by the age, grade, and unique needs of the students, are provided.
6. The facility is maintained in good repair and at an appropriate level of cleanliness to assure healthy conditions for all.



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| Appendix 5 | Special Class – Functional Academics |
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### Overview

These classes are designed primarily for students with moderate to severe disabilities whose IEP teams have determined that they require specialized instruction for a majority of the school day using an alternative curriculum that focuses on applied or functional academics. This alternative curriculum teaches basic academics as they apply to daily living. This may involve instruction in community sites off of the school campus. As the student approaches high school, prevocational skills become a key component of the curriculum as well. This curriculum is based upon state-approved, standards-based curriculum guides. The primary goal of these classes is to prepare students to function effectively in their current and future home, school, community, and work environments. Students enrolled in these classes earn a high school certificate and typically go on to participate in a post-secondary transition class. A teacher possessing the appropriate credential and/or added authorization for this program as well as for the age range and disabilities of the enrolled students and two instructional assistants are assigned to each class. Additional instructional assistants are provided as determined necessary to implement developed IEPs and to maintain the safety of students and staff. The recommended caseload is 10-12 students, depending upon age-level and unique make-up of each class. Related services are available for students as identified on each IEP. Many districts operate these classes for their own students. Some classes may be operated by one district on behalf of several districts within a geographical zone.

### Guidelines for Program Operation

#### Referral for Placement

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

4. If the class identified by the IEP team as required by the student is a class operated by a district other than the district of residence, SELPA approved procedures will be followed for referral and placement.

#### Curriculum, Instruction, and Assessment

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

#### Mainstreaming

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

#### Staff Development and Team Collaboration

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

#### Other Agency Involvement

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

## Facilities/Equipment/Materials

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

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| Appendix 6 | Special Class – Life Skills |
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### Overview

These classes are designed primarily for students with moderate to severe disabilities whose IEP teams have determined that they require specialized instruction for a majority of the school day and instruction using an alternative curriculum that focuses on life skills and is functional, chronologically age-appropriate, taught in community-based natural environments, and in integrated settings. This curriculum is based upon state-approved, standards-based curriculum guides. The primary goal of these classes is to prepare students to function effectively in their current and future home, school, community, and work environments. Students enrolled in these classes earn a high school certificate and typically go on to participate in a post-secondary transition class. A teacher possessing the appropriate credential and/or added authorization for this program as well as for the age range and disabilities of the enrolled students and two instructional assistants are assigned to each class. Additional instructional assistants are provided as determined necessary to implement developed IEPs and to maintain the safety of students and staff. The recommended caseload is 8-12 students depending upon age-level and unique make-up of each class. Related services are available for students as identified on each IEP. Some of the larger districts within the SELPA operate these classes for their own students. Most classes, however, are operated by one district on behalf of several districts within a geographical zone or by the Monterey County Office of Education on behalf of all districts within the SELPA.

### Guidelines for Program Operation

#### Referral for Placement

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

4. If the class identified by the IEP team as required by the student is a class operated by a district other than the district of residence, SELPA approved procedures will be followed for referral and placement.

#### Instruction, Curriculum, and Assessment

1. IEP goals are developed in each area of identified need and are standards-based.
2. Curriculum is based upon state-approved alternative curriculum guides and organized around the following domains:
  - a. Functional Academics
  - b. Domestic
  - c. Community
  - d. Pre-Vocational/Vocational
  - e. Recreation and Leisure
3. Students receive direct training in actual situations and environments where skills are to be used.
4. Students receive information through use of instructional approaches and techniques that match their learning strengths.
5. Students are instructed, as appropriate, about their disability, effective compensatory skills, and how to obtain necessary accommodations and modifications.
6. Alternative communication modes and adapted equipment devices are used as needed for instruction of individual students.
7. Community-based instruction is provided on a regular basis, when age-appropriate.
8. Behavior problems are viewed as areas of instructional need, indicating where skills for more appropriate behaviors must be acquired and practiced; behavior goals and behavior plans are developed and utilized when appropriate.
9. Students are provided with a classroom environment that stimulates learning, assists in personal-social development, and fosters increasing independence.
10. Data on student performance (task analyses, data sheets, graphing, etc.) is collected regularly, and this data is used to inform instruction and to make programmatic changes as needed.
11. Student progress is communicated to parents through informal means as well as in progress reports as specified in the IEP.
12. Students typically participate in statewide assessment through administration of alternative assessments.

#### Mainstreaming

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

#### Staff Development and Team Collaboration

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

#### Other Agency Involvement

Operation of life skills classes may require collaboration and/or partnership with other community agencies including, but not limited to, the Monterey County Department of Behavioral Health, the Monterey County Department of Health, the Monterey County Department of Social Services, the Monterey County Department of Rehabilitation, the San Andreas Regional Center, and various nonpublic agencies (NPAs).

#### Facilities/Equipment/Materials

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



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| Appendix 7 | Special Class – Multiple Disabilities |
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### Overview

These classes are designed primarily for students with multiple disabilities (concomitant impairments such as intellectual disability-blindness, intellectual disability-orthopedic impairment, etc.), where the combination of such impairments creates a unique condition that is evidenced through a multiplicity of severe educational needs and that which prevents the child from receiving reasonable educational benefit from general education. This program provides intensive services in a self-contained classroom the majority of the school day. The curriculum focuses on life skills and is functional and chronologically age-appropriate. A teacher possessing the appropriate credential and/or added authorization for this program as well as for the age range and disabilities of the enrolled students and two instructional assistants are assigned to each class. Additional instructional assistants are provided as determined necessary to implement developed IEPs and to maintain the safety of students and staff. The recommended caseload is 6 to 8 students, depending upon age-level and unique make-up of each class. Related services are available for students as identified on each IEP. Some of the larger districts within the SELPA operate these classes for their own students. Most classes, however, are operated by one district on behalf of several districts within a geographical zone or by the Monterey County Office of Education on behalf of all districts within the SELPA.

### Guidelines for Program Operation

#### Referral for Placement

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

## Curriculum, Instruction, and Assessment

1. IEP goals are developed in each area of identified need.
2. Curriculum is based upon state-approved alternative curriculum guides and organized around the following domains:
  - a. Functional Academics
  - b. Domestic
  - c. Community
  - d. Pre-Vocational/Vocational
  - e. Recreation and Leisure
3. Students receive direct training in actual situations and environments where skills are to be used.
4. Students receive information through use of instructional approaches and techniques that match their learning strengths.
5. Students are instructed, as appropriate, about their disability, effective compensatory skills, and how to obtain necessary accommodations and modifications.
6. Alternative communication modes and adapted equipment devices are used as needed for instruction of individual students.
7. Community-based instruction is provided on a regular basis, when age-appropriate.
8. Behavior problems are viewed as areas of instructional need, indicating where skills for more appropriate behaviors must be acquired and practiced; behavior goals and behavior plans are developed and utilized when appropriate.
9. Students are provided with a classroom environment that stimulates learning, assists in personal-social development, and fosters increasing independence.
10. Data on student performance (task analyses, data sheets, graphing, etc.) is collected regularly, and this data is used to inform instruction and to make programmatic changes as needed.
11. Student progress is communicated to parents through informal means as well as in progress reports as specified in the IEP.
12. Students participate in statewide assessments as specified on the IEP.

## Staff Development and Team Collaboration

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

3. Special education staff members attend special education staff meetings as scheduled, attend general education staff meetings when possible and appropriate, and regularly interact with all school staff.
4. Teachers receive ongoing professional development in assessment and data collection, developing compliant and effective IEPs, alternative curriculum guides, state curriculum standards, community-based instruction, alternative communication systems, classroom management and behavior intervention, and practices to promote a healthy and safe classroom environment.
5. Instructional Assistants are provided with relevant and ongoing training.
6. Each staff member participates in professional growth activities.

#### Other Agency Involvement

Operation of Multiple Disability classes may require collaboration and/or partnership with other community agencies including, but not limited to, the Monterey County Department of Behavioral Health, the Monterey County Department of Health, the Monterey County Department of Social Services, the Monterey County Department of Rehabilitation, the San Andreas Regional Center, and various nonpublic agencies (NPAs).

#### Facilities/Equipment/Materials

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

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| Appendix 8 | Special Class – Therapeutic Intervention |
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### Overview

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

### Guidelines for Program Instruction

#### Referral for Placement

1. Students are referred for placement when the nature or severity of the disability is such that educational progress in less restrictive settings, even with the use of accommodations, modifications, and supplementary aids and services is not satisfactory, and the IEP team determines that such placement is required in order for the student to receive a free and appropriate public education (FAPE).
2. Prior to referral to a therapeutic intervention class, the referring LEA must make all reasonable efforts to implement appropriate behavioral interventions, including behavioral goals, behavior plans, and counseling within a less restrictive setting.

3. There is active family involvement in addressing student needs, determining the required placement and services, and designing the IEP.
4. Students who are placed in classes operated by their district of residence are referred to those classes according to the district's established procedures.
5. If the class identified by the IEP team as required by the student is operated by a district other than the district of residence, SELPA approved procedures will be followed for referral and placement.

#### Curriculum, Instruction, and Assessment

1. IEP goals are developed in each area of identified need and are standards-based.
2. Positive social, emotional, and behavioral growth is fostered through facilitation of successful academic experiences, instruction in social skills development, and use of a leveled behavior intervention program.
3. Qualified personnel employed or contracted by the LEA of operation provide school-based individual and group counseling on a regular basis.
4. Individual and family therapy is provided through an interagency agreement by the Monterey County Health Department, Behavioral Health Division (MCBH) as specified on the IEP.
5. Students receive instruction in all district-required subject areas using district-approved content standards, unless otherwise specified in the IEP.
6. Instruction in core subject areas (reading/language arts, mathematics) is provided for the same number of minutes that are required for same-grade general education classes in each subject unless otherwise specified in the IEP.
7. Students receive specific skills instruction in areas of need, as specified in the IEP, using state-approved intervention programs and instructional materials.
8. Students receive information through use of instructional approaches and techniques that match their learning strengths, including appropriate accommodations.
9. Students are instructed, as appropriate, about their disability, effective compensatory skills, and how to obtain necessary accommodations and modifications.
10. Appropriate support is provided for English learners, including instruction in English language development, use of techniques such as SDAIE, and primary language support.
11. Data on student performance (mastery tests, data sheets, graphing, homework, etc.) is collected regularly, and this data is used to inform instruction and to make programmatic changes as needed.
12. Student progress is communicated to parents through informal means as well as in progress reports as specified in the IEP.

13. Students will participate in statewide assessments as specified in the IEP.

#### Mainstreaming

1. Students are integrated with their same-aged peers in the general education program based upon IEP team recommendations and placement in the leveled behavior intervention program.
2. General education teachers participate in the IEP team meeting and assist in identifying appropriate integration opportunities.
3. Goals are developed as part of the IEP that will be implemented within the general education program.
4. Mainstreaming classrooms are chosen for each student to ensure a good instructional match.
5. The student's teacher/case manager consults with the general education teacher(s) regarding appropriate curriculum modifications and instructional strategies and closely monitors the student's progress while participating in the integrated setting.

#### Staff Development and Team Collaboration

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

#### Other Agency Involvement

Classes for students who require therapeutic intervention require collaboration and/or partnership with a variety of community agencies including, but not limited to: the Monterey County Department of Behavioral Health, the Monterey County Department of Social Services, the multi-agency Wrap-Around program, Foster Youth Services, the Department of Rehabilitation, and the Regional Occupational Program.

#### Facilities/Equipment/Materials

1. Classes are operated at age-appropriate integrated sites or in a special school that may be located on an isolated site.
2. The instructional space provides adequate space to support the unique learning and safety needs of individuals and/or groups as necessary (group instructional areas, individual work stations, safe movement of wheelchairs, use of adapted equipment, private therapeutic and one-to-one behavior intervention sessions, etc.).
3. The classroom is in a location that allows easy access to bathrooms and an identified space for removal of students to a safe environment when necessary.
4. Appropriate furniture and equipment are provided to implement general classroom instruction as well as individual IEP goals.
5. Instructional materials appropriate to the adopted alternative curriculum are provided.
6. The facility is maintained in good repair and at an appropriate level of cleanliness to assure healthy conditions for all.

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| Appendix 9 | Special Class – Autism |
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### Overview

These classes are designed for students with autism who also have significant social/communication skill deficits, emotional regulation issues, and/or developmental delays, and whose IEP teams have determined that the student requires instruction specifically designed for children with autism. This program provides intensive intervention within a self-contained class for the majority of the school day. The curriculum is typically based upon state-approved, standards-based alternative curriculum guides. Instructional methodologies are selected for each student based upon evidence-based best practice recommendations. Family involvement is considered an integral component of the program. The primary goal of these classes is to prepare students to function effectively in current and future home, school, community, and work environments. Students enrolled in these classes earn a high school certificate and typically go on to participate in a post-secondary transition class. A teacher possessing the appropriate credential and/or added authorization for this program as well as for the age range and disabilities of the enrolled students and two instructional assistants are typically assigned to each class. Additional instructional assistants are provided as determined necessary to implement developed IEPs and to maintain the safety of students and staff. The recommended caseload is 6-8 students, depending upon age-level and unique make-up of each class. Related services are available for students as identified on each IEP. The Monterey County Office of Education typically operates these classes on behalf of all districts within the SELPA.

### Guidelines for Program Operation

#### Referral for Placement

1. Students are referred for placement when the nature or severity of the disability is such that educational progress in less restrictive settings, even with the use of accommodations, modifications, and supplementary aids and services is not satisfactory, and the IEP team determines that such placement is required in order for the student to receive a free and appropriate public education (FAPE).
2. Prior to referral, students are assessed using developmental and/or standardized tools in the following systems: social relatedness and interaction; receptive and expressive language and non-verbal communication; fine and gross motor skills; sensory development; cognitive development; adaptive functioning; and academics or functional academics.



3. There is active family involvement in assessing student needs, determining the required placement and services, and designing the IEP.
4. Students are referred for placement according to SELPA approved procedures for regional programs.

#### Curriculum, Instruction, and Assessment

1. IEP goals are developed in each area of identified need and are standards-based where appropriate.
2. Curriculum is based upon state approved alternative curriculum guides and organized around the following functional domains (unless otherwise specified in the IEP):
  - a. Functional Academics
  - b. Domestic
  - c. Community
  - d. Prevocational/Vocational
  - e. Recreation and Leisure
3. Embedded within the domains listed above is direct, evidence-based instruction within the areas of play and social interaction, communication, motor and sensory skills, emotional regulation, and appropriate behavior.
4. Students receive information through use of instructional approaches and techniques that match their learning strength, are evidence-based, and are specifically designed for students with autism (e.g., structured teaching, ABA, picture communication systems, etc.).
5. Students are instructed, as appropriate, about their disability, effective compensatory skills, and how to obtain necessary accommodations and modifications.
6. Students receive direct training within the special class and assistance in generalizing learned skills to natural environments.
7. Students are provided with a classroom environment that stimulates learning, assists in personal-social development, and fosters increasing independence.
8. Behavior problems are viewed as areas of instructional need, indicating where skills for more appropriate behaviors must be acquired and practiced; behavior goals and behavior plans are developed and utilized when appropriate.
9. Appropriate support is provided for English learners, including instruction in English language development, use of techniques such as SDAIE, and primary language support.
10. Data on student performance (task analyses, data sheets, graphing, etc.) is collected regularly, and this data is used to inform instruction and to make programmatic changes as needed.

11. Student progress is communicated to parents through informal means as well as in progress reports as specified in the IEP.
12. Students participate in statewide assessments as identified in the IEP.

#### Mainstreaming

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

#### Parent Education, Staff Development, Team Collaboration

1. Parent education and training is provided on a regular basis, and parents are expected to agree to program standards for parent participation.
2. Team collaboration is an integral component of planning and delivery of instruction; teams are encouraged to meet at least bimonthly for the purpose of reviewing data, revising instructional practices, modifying classroom procedures, etc.
3. Informal and ongoing communication between service providers occurs at least weekly.
4. Special education staff members attend special education staff meetings as scheduled, attend general education staff meetings when possible and appropriate, and regularly interact with all school staff.
5. Teachers receive ongoing professional development in the areas of autism spectrum disorders, communication disorders, language development, behavior intervention, sensory integration, curriculum modification, and instructional strategies.
6. Instructional Assistants are provided with relevant and ongoing training.
7. Each staff member participates in professional growth activities.

#### Other Agency Involvement

Classes for students with autism and developmental disabilities require collaboration and/or partnership with other community agencies including, but not limited to:

1. The San Andreas Regional Center
2. Easter Seals
3. Monterey County Department of Behavioral Health
4. Local colleges and universities
5. Community hospitals
6. Parent groups

#### Facilities/Equipment/Materials

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

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| Appendix 10 | Special Class – Deaf/Hard-Of-Hearing |
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### Overview

These classes are for students who are deaf or hard-of-hearing and whose IEP teams have determined that they require specialized instruction for a majority of the school day. The primary goal is to provide learning experiences that will allow students to become effective communicators and to participate meaningfully within their family, school, and community environments. Students graduating high school while enrolled in this type of special class may graduate either with a diploma or a certificate as identified on the student's IEP. A teacher possessing the appropriate credential and/or added authorization for this program as well as for the age range and disabilities of the enrolled students and, typically, two paraprofessionals, such as signing instructional assistants or Certified Educational Interpreters, are assigned to each class. Additional Certified Educational Interpreters are provided as determined necessary to implement developed IEPs and to maintain the safety of students and staff. The recommended caseload is 6-10 students depending upon age and intensity of special needs. Related services are available for students as identified on each IEP. The Monterey County Office of Education typically operates these classes on behalf of all districts within the SELPA.

### Guidelines for Program Operation

#### Referral for Placement

1. Students are referred for placement when the nature or severity of the disability is such that educational progress in less restrictive settings, even with the use of accommodations, modifications, and supplementary aids and services is not satisfactory, and the IEP team determines that such placement is required in order for the student to receive a free and appropriate public education (FAPE).
2. Prior to consideration for placement, a team of specialists including, but not limited to, a credentialed teacher of the deaf and hard-of-hearing, a speech therapist, an educational audiologist, and a psychologist assesses referred students.
3. There is active family involvement in assessing student needs, determining the required placement and services, and designing the IEP.
4. Students are referred for placement according to SELPA approved procedures for regional programs.

#### Curriculum, Instruction, and Assessment

1. IEP goals are developed in each area of identified need and are standards-based when possible.
2. Students receive instruction using state content standards, unless otherwise specified in the IEP.
3. Instruction in core subject areas (reading/language arts, mathematics) is provided for the same number of minutes that are required for same-grade general education classes in each subject unless otherwise specified in the IEP.
4. Students receive specific instruction in communication (usually through total communication techniques), use and care of amplification, FM systems, and other assistive listening devices as well as other areas of need as specified in the IEP.
5. Students receive information through use of instructional approaches and techniques that match their learning strength.
6. Students and their families are instructed about hearing loss, effective compensatory skills, and how to obtain necessary accommodations and modifications.
7. Students are provided with a classroom environment that stimulates learning, assists in personal-social development, and fosters increasing independence.
8. Behavior problems are viewed as areas of instructional need, indicating where skills for more appropriate behaviors must be acquired and practiced; behavior goals and behavior plans are developed and utilized when appropriate.
9. Appropriate support is provided for English learners, including instruction in English language development, use of techniques such as SDAIE, and primary language support.
10. Data on student performance (mastery tests, data sheets, graphing, homework, etc.) is collected regularly, and this data is used to inform instruction and to make programmatic changes as needed.
11. Student progress is communicated to parents through informal means as well as in progress reports as specified in the IEP.
12. Students participate in statewide assessments as specified in the IEP.

### Mainstreaming

1. All students are integrated with their same-aged peers in the general education program, including extra-curricular activities, based upon IEP team recommendations.
2. General education teachers participate in the IEP team meeting and assist in identifying appropriate integration opportunities.
3. Goals are developed as part of the IEP that will be implemented within the general education program.

4. Mainstreaming classrooms are chosen for each student to ensure a good instructional match.
5. The student's teacher/case manager consults with the general education teacher(s) regarding appropriate curriculum modifications and instructional strategies and closely monitors the student's progress while participating in the integrated setting.

#### Staff Development and Team Collaboration

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

#### Other Agency Involvement

Operating these special classes may require collaboration and/or partnership with other community agencies including, but not limited to, the Monterey County Department of Health, the Monterey County Department of Behavioral Health, the Monterey County Department of Rehabilitation, the Monterey County Department of Social Services, and the San Andreas Regional Center. Additionally, there is regular communication with students' physicians and audiologists.

#### Facilities/Equipment/Materials

1. Classes are operated at age-appropriate sites.
2. The classroom provides adequate space to support the unique learning and safety needs of individuals and/or groups as necessary (group instructional

areas, individual work stations, use of adapted equipment and assistive technology, etc.).

3. Appropriate furniture and equipment are provided to implement general classroom instruction as well as individual IEP goals.
4. Appropriate textbooks are provided in each subject for the grade-levels served in the classroom.
5. Supplemental texts and other instructional materials as determined necessary by the age, grade, and unique needs of the students, are provided.
6. The facility is maintained in good repair and at an appropriate level of cleanliness to assure healthy conditions for all.

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| Appendix 11 | Inclusion |
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### Overview

Inclusion programs within the Monterey County SELPA are designed to provide a supportive learning environment that includes opportunities for students with moderate to severe disabilities to meaningfully participate as full members, with their same-age peers, in general education classrooms and school environments across social and academic domains. Students are typically considered for this program when their IEP team has determined that they can successfully access and participate in the general education core curriculum when provided with curriculum modifications. The level of modification will vary but can be significant. Students who require an alternative curriculum, however, may be more appropriately served in a special class. Students participating in this program are enrolled in age-appropriate general education classes in naturally occurring proportions (1-3 students per classroom). The student attends the general education class for the full school day, on a daily basis, unless otherwise specified in the IEP. The primary goal of an inclusion program is to prepare students to function effectively in current and future home, school, community, and work environments. Students enrolled in these classes earn a high school certificate and typically go on to participate in a post-secondary transition class. A teacher possessing the appropriate credential and/or added authorization for this program as well as for the age range and disabilities of the enrolled students supports students within the general education setting. Instructional assistants are provided as determined necessary to implement developed IEPs and to maintain the safety of students and staff. The recommended caseload for the special education teacher is 8-12 students depending upon age-level and unique make-up of the caseload. Related services are available for students as identified on each IEP. Whenever possible, students are served at their neighborhood school. Some programs may be operated by one LEA on behalf of several districts within a geographical zone.

### Guidelines for Program Operation

#### Referral for Placement

1. Students are enrolled in age-appropriate general education classrooms with special education support when the IEP team determines that the student's goals can be achieved in this type of setting and that it will provide the student with a free and appropriate public education (FAPE).
2. There is active family involvement in addressing student needs, determining the required placement and services, and designing the IEP.



3. Students who are served by their district of residence are enrolled in the inclusion program according to the district's established procedures.
4. If the program identified by the IEP team as required by the student is operated by an LEA other than the district of residence, SELPA approved procedures will be followed for referral and placement.

#### Instruction, Curriculum, and Assessment

1. IEP goals are developed in each area of identified need and are standards-based.
2. Students receive instruction and learn side-by-side with their non-disabled peers.
3. Appropriate supports, instructional accommodations, and curricular modifications are provided within the general education setting to enable the student to achieve their IEP goals and to benefit from participation with general education peers.
4. Students are instructed, as appropriate, about their disability, effective compensatory skills, and how to obtain necessary accommodations and modifications.
5. Alternative communication modes and adapted equipment devices are used as needed for instruction of individual students.
6. Behavior problems are viewed as areas of instructional need, indicating where skills for more appropriate behaviors must be acquired and practiced; behavior goals and behavior plans are developed and utilized when appropriate.
7. Students are provided with instructional strategies and supports that focus on increasing independence.
8. Data on student performance (task analyses, data sheets, graphing, etc.) is collected regularly, and this data is used to inform instruction and to make programmatic changes as needed.
9. Student progress is communicated to parents through informal means as well as in progress reports as specified in the IEP.
10. Students typically participate in statewide assessments through administration of alternative assessments.

#### Integrated School Community

1. Students have the same access as their typically developing peers to academic and non-academic opportunities, including extra-curricular activities.
2. Teachers and other staff members are expected to maintain a positive attitude about inclusive practices and model that point of view for students and colleagues.
3. All students are taught to accept, respect, and value individual differences and talents.

4. General education classrooms are chosen for each student to ensure a good instructional match.
5. The student's special education teacher consults/collaborates with the general education teacher regarding appropriate curricular modifications and instructional strategies and closely monitors the student's progress while participating in the integrated setting.

#### Staff Development and Team Collaboration

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

#### Other Agency Involvement

Operation of inclusion programs may require collaboration and/or partnership with other community agencies including, but not limited to, the Monterey County Department of Behavioral Health, the Monterey County Department of Health, the Monterey County Department of Social Services, the Monterey County Department of Rehabilitation, the San Andreas Regional Center, and various nonpublic agencies (NPAs).

#### Facilities/Equipment/Materials

1. Students are served in age-appropriate classes at their neighborhood school, whenever possible.
2. An identified space is available to allow for individual and small group instruction, meetings, and testing when needed.

3. Appropriate furniture and equipment are provided to implement general classroom instruction as well as individual IEP goals.
4. All textbooks and other instructional materials are made available to the student in the same manner as they are to all general education students.
5. Supplemental texts and other instructional materials, as determined necessary by the age, grade, and unique needs of the students, are provided.
6. When necessary, bathroom and kitchen facilities are adapted and either in or near the classroom.
7. The facility is maintained in good repair and at an appropriate level of cleanliness to assure healthy conditions for all.

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| Appendix 12 | Related and Support Services |
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A wide variety of related and support services are available to students who are eligible for special education. The IEP team determines the specific services that each student requires. Described below are the most frequently needed services.

### Speech, Language, and Communication Therapy

For students with speech, language, or hearing disabilities, specialized support and/or instruction is sometimes a necessary component of their regular or special education curriculum. This may be provided through consultation with the student, parent, and school staff; direct instructional services to the student within the regular or special class; and/or direct instruction to the student using a “pull-out” approach. The primary goal is to maximize the student's ability to be a successful communicator within their current and future school, home, and work environments. Each specialist has a credential authorizing provision of therapeutic intervention for students with speech, language, and communication needs.

### Adapted Physical Education

For students with medical conditions, gross motor delays, or emotional disabilities, this type of specialized support and/or instruction is sometimes necessary as part of their special education program. This may be provided through consultation with the student, parent, and school staff; direct instructional services to the student within the regular or special class; and/or direct instruction to the student using a "pull-out" approach. The primary goal is to maximize the student's ability to develop and maintain physical fitness and recreation/leisure skills that can be applied within the student's current and future environments. Each APE specialist has a credential authorizing instruction in the areas of adapted physical education.

### Behavioral Intervention

Students who are enrolled in special education sometimes have significant behavioral needs. When an IEP team determines that a student may require a behavior plan, a specialist in the area of behavior intervention may be provided to assist in developing the plan and to train and consult with teachers and classified support staff in implementing the plan. Classified support may include instructional assistants specifically trained to provide behavioral support under the supervision of a behavior specialist or other qualified personnel.

### Low Incidence Itinerant Support (OI, VI, Deaf and HH)

Students who have orthopedic or visual disabilities or who are deaf or hard-of-hearing (OI, VI, Deaf/HH) are provided with support services from appropriate specialists as determined by their IEPs. These services are generally provided using a combination of direct service and consultation with the student's family and school personnel. The primary goal is to maximize the student's ability to access and benefit from their educational program. Each low incidence specialist has a credential authorizing instruction in their area of specialty.

### Psychological Services

Students who require support in the area of social, emotional, and behavioral development may require psychological services which may be provided by employees or contracted vendors of the student's LEA of service or through the Monterey County Health Department, Behavioral Health Division (MCBH), via an interagency agreement (IA). The IA provides counseling to special education students whose IEP teams have determined that district-level interventions are not effective in addressing emotional and behavioral needs.

### Occupational Therapy (Educationally Necessary)

Students with varying disabilities leading to difficulty in the areas of fine and gross motor skills, visual-motor integration and organization, sensory integration, and visual perception may require specialized support and/or instruction in order to benefit from their educational program. This may be provided through consultation with the teacher and parent; monitoring of the student's progress; or direct service to the student. Each student may receive each type of service over time, depending on his or her current level of need. The primary goal is to maximize the student's ability to access and benefit from their educational program. Each occupational therapist is licensed.

### Occupational and Physical Therapy (Medically Required)

California Children's Services (CCS) provides occupational and physical therapy to special education students who are medically eligible. Qualification is determined through a referral and assessment process. These services should not be listed on the service section of the IEP, but the team may elect to indicate that the student is receiving the services on the notes page of the IEP.

### School Nursing Services

School nurses are available to assist students, parents, and staff when a student is in need of specialized health care. They also conduct follow-up with physicians, perform

health screenings, and monitor immunization schedules. School nurses provide information, consultation, training, and liaison services with outside agencies.

### School Psychology Services

School Psychologists are often the first contact for parents, teachers, and others when there is a concern about a student's progress. They are involved in a variety of activities related to supporting students. Examples of the many duties they are responsible for include: coordination of the assessment team; conducting psycho-educational assessments; participating in IEP meetings; providing individual and group counseling; facilitation of referrals to outside agencies for significant emotional/social/behavioral problems; and consultation with students, parents, and staff in the areas of cognitive development, learning style, emotional/social/behavioral development, and instructional strategies.

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## Part II – Administrative Policies and Procedures

### Monterey County Special Education Local Plan Area Local Education Agency Assurances

1. **FREE APPROPRIATE PUBLIC EDUCATION 20 UNITED STATES CODE (USC) SECTION (§) 1412 (A)(1)**  
It shall be the policy of this local educational agency (LEA) that a free appropriate public education is available to all children residing in the LEA between the ages of three through 21 inclusive, including students with disabilities who have been suspended or expelled from school.
2. **FULL EDUCATIONAL OPPORTUNITY 20 USC § 1412 (A)(2)**  
It shall be the policy of this LEA that all pupils with disabilities have access to educational programs, nonacademic programs, and services available to non-disabled pupils.
3. **CHILD FIND 20 USC § 1412 (A)(3)**  
It shall be the policy of this LEA that all children with disabilities residing in the State, including children with disabilities who are homeless or are wards of the State and children attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services are identified, located, and evaluated. A practical method is developed and implemented to determine which students with disabilities are currently receiving needed special education and related services.
4. **INDIVIDUALIZED EDUCATION PROGRAM (IEP) AND INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP) 20 USC § 1412 (A)(4)**  
It shall be the policy of this LEA that an Individualized Education Program (IEP) or an Individualized Family Service Plan (IFSP) is developed, reviewed, and revised for each child with a disability who requires special education and related services in order to benefit from his/her individualized education program. It shall be the policy of this LEA that a review of an IEP will be conducted on at least an annual basis to review a student's progress and make appropriate revisions.
5. **LEAST RESTRICTIVE ENVIRONMENT 20 USC § 1412 (A)(5)**  
It shall be the policy of this LEA that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled. Special class, separate schooling, or other removal of a student with disabilities from the general educational environment, occurs only when the nature or severity of the disability of the student is such that education in general classes with the use of supplemental aids and services cannot be achieved satisfactorily.

6. **PROCEDURAL SAFEGUARDS 20 USC § 1412 (A)(6)**  
It shall be the policy of this LEA that children with disabilities and their parents shall be afforded all procedural safeguards throughout the provision of a free appropriate public education including the identification, evaluation, and placement process.
7. **EVALUATION 20 USC § 1412 (A)(7)**  
It shall be the policy of this LEA that a reassessment of a student with a disability shall be conducted at least once every three years or more frequently, if appropriate.
8. **CONFIDENTIALITY 20 USC § 1412 (A)(8)**  
It shall be the policy of this LEA that the confidentiality of personally identifiable data information and records maintained by the LEA relating to children with disabilities and their parents and families shall be protected pursuant to the Family Educational Rights and Privacy Act (FERPA).
9. **PART C, TRANSITION 20 USC § 1412 (A)(9)**  
It shall be the policy of this LEA that a transition process for a child who is participating in Early Intervention Programs (IDEA, Part C) with an IFSP is begun prior to a toddler's third birthday. The transition process shall be smooth, timely, and effective for the child and family.
10. **PRIVATE SCHOOLS 20 USC § 1412 (A)(10)**  
It shall be the policy of this LEA to assure that children with disabilities voluntarily enrolled by their parents in private schools shall receive appropriate special education and related services pursuant to LEA coordinated procedures. The proportionate amount of federal funds will be allocated for the purpose of providing special education services to children with disabilities voluntarily enrolled in private school by their parents.
11. **LOCAL COMPLIANCE ASSURANCES 20 USC § 1412 (A)(11)**  
It shall be the policy of this LEA that the local plan shall be adopted by the appropriate local board(s) (district/county) and is the basis for the operation and administration of special education programs; and that the agency(ies) herein represented will meet all applicable requirements of state and federal laws and regulations, including compliance with the Individuals with Disabilities Education Act (IDEA), the Federal Rehabilitation Act of 1973, Section 504 of Public Law, and the provisions of the California Education Code, Part 30.
12. **INTERAGENCY 20 USC § 1412 (A)(12)**  
It shall be the policy of this LEA that interagency agreements or other mechanisms for interagency coordination are in effect to ensure services required for FAPE are provided, including the continuation of services during an interagency dispute resolution process.
13. **GOVERNANCE 20 USC § 1412 (A)(13)**



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

**14. PERSONNEL QUALIFICATIONS 20 USC § 1412 (A)(14)**

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

**15. PERFORMANCE GOALS AND INDICATORS 20 USC § 1412 (A)(15)**

It shall be the policy of this LEA to comply with the requirements of the performance goals and indicators developed by the CDE and provide data as required by the CDE.

**16. PARTICIPATION IN ASSESSMENTS 20 USC § 1412 (A)(16)**

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

**17. SUPPLEMENTATION OF STATE/FEDERAL FUNDS 20 USC § 1412 (A)(17)**

It shall be the policy of this LEA to provide assurances that funds received from Part B of the IDEA will be expended in accordance with the applicable provisions of the IDEA; will be used to supplement and not to supplant state, local, and other Federal funds.

**18. MAINTENANCE OF EFFORT 20 USC § 1412 (A)(18)**

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

**19. PUBLIC PARTICIPATION 20 USC § 1412 (A)(19)**

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

20. **SUSPENSION/EXPULSION 20 USC § 1412 (a)(22)**  
The LEA assures that data on suspension and expulsion rates will be provided in a manner prescribed by the CDE. When indicated by data analysis, the LEA further assures that policies, procedures and practices related to the development and implementation of the IEPs will be revised.
21. **ACCESS TO INSTRUCTIONAL MATERIALS 20 USC § 1412 (A)(23)**  
It shall be the policy of this LEA to provide instructional materials to blind students or other students with print disabilities in a timely manner according to the state adopted National Instructional Materials Accessibility Standard.
22. **OVERIDENTIFICATION AND DISPROPORTIONALITY 20 USC § 1412 (A)(24)**  
It shall be the policy of this LEA to prevent the inappropriate disproportionate representation by race and ethnicity of students with disabilities.
23. **PROHIBITION ON MANDATORY MEDICINE 20 USC § 1412 (A)(25)**  
It shall be the policy of this LEA to prohibit school personnel from requiring a student to obtain a prescription for a substance covered by the Controlled Substances Act as a condition of attending school or receiving a special education assessment and/or services.

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| Chapter 1 | Charter Schools |
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| Section 1.0 | Charter Schools |
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This policy applies to all charter schools that are chartered by an LEA in the Monterey County SELPA or granted a charter on appeal by the Monterey County Board of Education or the State Board of Education in which oversight responsibilities have been assigned to a SELPA-member LEA. This policy only extends to a charter school that was chartered by, or assigned to, an entity that is a member of the SELPA.

As students enrolled in charter schools are entitled to special education services provided in a similar manner to students enrolled in other public schools, charter schools within the SELPA shall comply with all requirements of all applicable state and federal law regarding provision of special education services (Education Code 56000 et seq., Individuals with Disabilities Education Act 20 U.S.C. Chapter 33). A charter school shall not discriminate against any student in its admission criteria on the basis of disability. Students enrolled in charter schools shall receive services in a manner similar to students enrolled in other public schools within the SELPA. The charter school shall be treated as all other SELPA-member LEAs by the administrative unit, the SELPA governance bodies, and the SELPA executive director.

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| Section 1.1 | Charter Petition and Review by SELPA |
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Prior to approval or renewal of a charter, the superintendent or designee of the chartering entity should consult with the SELPA executive director regarding the sufficiency of items related to the provision of special education services contained within the petition. The petition should include assurances that:

1. All eligible students enrolled in the charter school will receive appropriate special education services in accordance with applicable state and federal laws and regulations, as well as the local plan;
2. The district where the student resides, if different than the chartering entity, is not responsible for providing special education services to students that are enrolled in the charter school;
3. No student otherwise eligible to enroll in the charter school will be denied enrollment due to a disability or to the charter school's inability to provide necessary services;
4. Staff members providing special education services are appropriately credentialed;
5. The facility used by the charter school does not present physical barriers that would limit an eligible student's full participation in the educational and extracurricular program; and
6. Disenrollment, suspension, and expulsion policies and procedures shall ensure that the protections of federal and state law are afforded to special education students.

Each charter petition must contain a reasonably comprehensive description of the charter school's educational program. This description should include information about the specialized instruction and services available at the charter school and the procedures for ensuring that students are referred, assessed, and served in a timely manner. The petition or a memorandum of understanding (MOU) must also identify the entity that will be responsible for providing special education instruction and related services, reference any anticipated transfer of special education funds between the granting entity and the charter school for the purposes of providing special education and related services, and include provisions for sharing deficits in funding.

In the event of any disputes arising between educational entities, including the SELPA and its member LEAs, regarding the provision of special education services in the charter school, the petition should outline the resolution procedures that will be used.

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| Section 1.2 | Categories of Charter Schools |
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For the purpose of provision of special education services, charter schools shall be deemed either a public school within the chartering LEA or an LEA that receives funds and provides services independent of the chartering entity. All approved charter schools will be deemed public schools within the chartering entity until the charter school has been deemed an LEA following this policy and the local plan.

#### Public School Within a School District or County Office

Charter schools that are deemed to be public schools within the chartering entity will participate in state and federal funding in the same manner as other schools or programs within the chartering entity. The chartering entity may not grant a charter on the condition that the charter school must become an LEA. The chartering entity will determine the policies and procedures necessary to ensure that the protections of special education law extend to students in the charter school in the same manner as students enrolled in other schools or programs administered by the chartering entity.

The chartering entity will:

1. Receive all applicable special education funds as specified in the SELPA Income Distribution Agreement and ensure that the allocated funding is distributed to the charter to provide or procure special education and related services and/or used by the LEA to provide or procure special education and related services to the charter;
2. Represent the needs of the charter school in the SELPA governance structure;
3. Be responsible for ensuring that all eligible students enrolled in the charter school are appropriately referred, assessed, and served consistent with all applicable provisions of state and federal law, in a timely manner, and in the same manner as a student with disabilities who attends another public school of that LEA, no matter where the child may live; and
4. Ensure that the charter contributes an equitable share of its charter school block grant funding to support LEA-wide excess costs for special education instruction and services, including, but not limited to, special education instruction and services for students with disabilities who are enrolled in the charter school.

#### Charter School as an LEA within the SELPA

A charter school that includes in its petition for establishment or renewal, or that otherwise provides verifiable written assurances that the charter school will participate as an LEA for the purposes of providing special education, may apply to become a member of the Monterey County SELPA or another SELPA. A request from a charter school to participate in the SELPA will be treated in the same manner as such a request from a school district. The charter petition or other written assurances should state that prior to final approval of a request to be deemed an LEA, the charter school will be deemed a public school within the chartering entity.

Charter schools that wish to become member LEAs in the Monterey County SELPA must submit their application on or before June 30 of the year prior to implementation (i.e., one year and one day) of the school year preceding the school year in which the charter school anticipates operating as a member LEA within the SELPA. An application form is available on the SELPA web page and must be used by all applicants. The SELPA executive director, appropriate advisory committees, and the SELPA Executive Committee will review the application and develop an action recommendation for the SELPA Governance Council. The SELPA Governance Council will take action to approve or disapprove the charter school as a member LEA.

The SELPA Governance Council decision will be based on whether the charter school has met all requirements to be included as a member LEA of the SELPA.

These requirements include:

1. Assurance that all enrolled individuals with exceptional needs (ages birth to 22 years) have access to appropriate special education programs and services;
2. Assurance that the LEA, through employment or contract, can provide the appropriately credentialed staff necessary to meet federal and state special education mandates;
3. Assurance that the LEA will follow all applicable SELPA policies and procedures;
4. Utilization of SELPA approved forms;
5. Attendance at SELPA sponsored meetings and trainings; and
6. Agreement to indemnify and hold harmless the SELPA and each of the member entities.

If approved, LEA status will become effective on July 1 of the next school year. Prior to final approval and full acceptance as a member LEA, the charter school will continue to be deemed a public school of the chartering district. If disapproved, the SELPA administrator will provide the applicant with a written finding that delineates the reason(s) for disapproval.

Once deemed a member LEA, the charter school, like other member LEAs, shall:

1. Fully participate in governance of the SELPA in the manner outlined in the local plan and shall choose a representative to the SELPA Governance Council and to the SELPA Director's Cabinet;
2. Accept all responsibilities of an LEA in the implementation of the local plan;
3. Fully comply with policies and procedures outlined in the local plan and procedural handbooks;
4. Contribute to, participate in, and receive the benefits of regionalized services;
5. Receive state and federal funding for special education in accordance with the SELPA Income Distribution Agreement;
6. Be responsible for all costs incurred in the provision of special education and related services, including, but not limited to: instruction, services, transportation, nonpublic school/agency placements, inter/intra SELPA placements, due process proceedings, complaints and attorney fees, without regard for the location in which the student may reside;
7. Document that all state and federal special education funds apportioned to the charter school are used for the sole purpose of providing special education instruction and/or related services to identified students with disabilities; and
8. Return any special education apportionment not used solely for the purpose of providing special education instruction and/or related services to identified students with disabilities, if recaptured by the SELPA for reallocation to other LEAs.

Following approval by the Governance Council, the SELPA local plan must be amended, the governing boards of all participating LEAs must approve the amendment, and the amended local plan must be submitted to CDE for final approval. If the approval of a charter school as an LEA requires a change in the SELPA Income Distribution Agreement, such change shall be adopted pursuant to the policy making process outlined in the local plan.

(EC §§ 47640-47647)

[Back to Table of Contents](#)**Part II – Administrative Policies and Procedures****Chapter 2      Disputes Between Participating Entities****Section 2.0      Disputes Between Participating Entities**

In the event of a disagreement between local education agencies, local education agencies and the Administrative Unit, local education agencies and/or the Administrative Unit and the SELPA regarding the distribution of funding, responsibility for service provision, and any other governance activities specified in the local plan, it is the intent of the SELPA Governance Council that issues be resolved at the lowest level possible in the governance structure outlined in the local plan.

If an LEA disagrees with a decision or practice of another LEA or the SELPA office, that LEA has the responsibility to discuss and attempt resolution of the disagreement with the party or parties directly involved. The parties involved will present the issues to their respective superintendents, or designees, who will attempt to resolve the matter. Either party may request the direct assistance of the SELPA executive director or his/her designee. In the event the issue has not been resolved, either party may request review by the SELPA's Executive Committee. If either party disagrees with the recommendation of the SELPA Executive Committee, either party may request that the issue be placed on the SELPA Governance Council agenda for a decision.

In the event the initiating or other affected agencies disagree with a decision of the SELPA's Governance Council, the dispute will be resolved through the following alternative dispute resolution procedure.

1. The dissatisfied party shall issue a written request for formal dispute resolution as described herein. The written request shall include a description of the concerns to be addressed, with sufficient specificity to permit the receiving party to clearly comprehend the disagreement and to formulate a response to the disagreement. The written request shall be submitted to the SELPA executive director.
2. Within 5 days of receipt of the request, the SELPA executive director will request that a mediator be appointed. Mediation shall be offered through a neutral individual or agency as determined appropriate by the Monterey County SELPA Executive Director and acceptable to all parties. The SELPA shall be considered a participating party. Costs for mediation shall be assessed equally between all participating parties.



3. If the parties are unable to resolve their disagreement through mediation, the parties may request binding arbitration. Requests for appointment of an arbitrator shall be made within 15 days following the conclusion of the mediation process.

Arbitration shall be provided through neutral staff from the American Arbitration Association (AAA) or another neutral agency, as determined appropriate by the SELPA executive director and acceptable to all parties. The SELPA shall be considered a participating party. The decision of the arbitrator shall be final and binding upon all parties. The arbitration costs shall be assessed equally between all participating parties.

This policy is intended to resolve disagreements within a period of 45 days, but is not intended to undermine local authority.

(E.C. 56205(b)(5))

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## Part II – Administrative Policies and Procedures

### Chapter 3 Income Distribution Agreement

#### Section 3.1 Income Distribution Agreement Funding Allocation Principles

1. Fairness and equity shall be the basis of the development of this Income Distribution Agreement.
2. Federal and state revenues will flow directly from the state to the SELPA Administrative Unit, which is currently the Monterey County Office of Education (COE). In turn, the SELPA Administrative Unit will allocate the funds to SELPA members according to this Income Distribution Agreement.
3. SELPA member districts will retain their own decision making on how to use their funds in serving special education students based on needs outlined in their Individualized Education Programs (IEPs).
4. This Income Distribution Agreement will be kept as simple as possible and yet be flexible and useful in serving special education students.
5. The distribution of funding will be understandable, predictable, and timely.
6. SELPA members will commit to timely reporting and analysis of all relevant data necessary for the allocation and distribution of funds.
7. Disputes regarding this Income Distribution Agreement will be resolved at the lowest level possible with final appeal to the SELPA Governance Council.
8. The Income Distribution Agreement will provide support for the development of cost-effective programs for all students, while not providing an incentive for districts to over-identify students for special education services.
9. The Income Distribution Agreement will recognize that districts have been, and will need to continue, contributing LCFF revenue and general fund contributions to cover special education costs.

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| Section 3.2 | Term of Agreement |
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This agreement is for a one year period beginning with July 1st of the 2025 – 2026 school year and ending on June 30th of the 2025 – 2026 school year. The SELPA Executive Committee or the SELPA Governance Council may initiate a review, and if necessary, a revision to the terms of this agreement.

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| Section 3.3 | AB 602 Funding |
|-------------|----------------|

**Base Entitlement**

All funds from this entitlement will be distributed to districts (including funds generated by charter schools hosted by that district), MCOE charter schools, and MCOE alternative education programs based on the prior year's K-12 average daily attendance (ADA) at P-2.

Funding amounts for each SELPA are calculated by CDE through the Principal Apportionment. Principal Apportionment calculations are made three times for each fiscal year – the First Principal Apportionment (P-1) is certified by February 20th, the Second Principal Apportionment (P-2) is certified by June 25th, and the Annual calculation is certified by February 20th of the following year (at the same time as the following year's P-1 certification). The SELPA's Administrative Unit then distributes the funds to school districts upon receipt.

The funds are distributed to each SELPA based on the following Principal Apportionment schedule:

| <b>July</b>                                    | <b>August</b>                                  | <b>September</b>                               | <b>October</b>                                 |
|------------------------------------------------|------------------------------------------------|------------------------------------------------|------------------------------------------------|
| 5.00% of the advance apportionment             | 5.00% of the advance apportionment             | 9.00% of the advance apportionment             | 9.00% of the advance apportionment             |
| <b>November</b>                                | <b>December</b>                                | <b>January</b>                                 | <b>February</b>                                |
| 9.00% of the advance apportionment             | 9.00% of the advance apportionment             | 9.00% of the advance apportionment             | 20% of the apportionment or 1/5 of balance due |
| <b>March</b>                                   | <b>April</b>                                   | <b>May</b>                                     | <b>June</b>                                    |
| 20% of the apportionment or 1/5 of balance due | 20% of the apportionment or 1/5 of balance due | 20% of the apportionment or 1/5 of balance due | Balance Due                                    |

### SELPA-Wide Growth

Income received as the result of SELPA-wide increase in ADA will be distributed to districts, MCOE charter schools, and MCOE alternative education programs proportionate to their increase in ADA. Districts in declining enrollment will not be eligible to receive any portion of SELPA-wide growth funding.

### SELPA-Wide Decline

Reduction in funding as the result of a SELPA-wide decline in enrollment will be applied to the SELPA-wide base entitlement. The reduced base entitlement will then be distributed as outlined in the Base Entitlement section of this agreement.

### Deferrals

The SELPA Administrative Unit, using the same allocation formula established for each funding source, will distribute any deferred revenue, upon receipt.

### Regionalized Services and Program Specialists

Funds for regionalized operations and services and the direct instructional support of program specialists are apportioned to the special education local plan areas through the AB 602 funding allocation. As a condition of receiving these funds, the SELPA shall ensure that all functions are performed in accordance with the description set forth in the local plan and Education Code 56836.23.

### Funds to Support Students with Low Incidence Disabilities

\$250,000 of the funds received through the AB 602 allocation to support special education and related services as required in each IEP for students with low incidence disabilities shall be retained annually by the SELPA for the current fiscal year and used to purchase approved items for these students (see the “Low Incidence Books, Materials, and Equipment Funds” section of Chapter 7 of Part I, Program Procedures in this handbook for further information).

Funds allocated in excess of the \$250,000 SELPA equipment budget will be distributed to districts (including funds generated by schools hosted by that district), MCOE charter schools, and MCOE alternative education programs based on the current year’s LI count of LEA students on CALPADS Census Day. LEAs will use Resource 6593 to effectively track the expenditure of low incidence funds. The SELPA will review these expenditures to ensure that the funds are being used appropriately. Funds will be allocated solely for services or equipment specified in the IEPs of students identified

with low incidence disabilities. Any concerns regarding expenditures will be addressed with the LEA to confirm proper utilization of the funds.

Low incidence funds spent on equipment by the district will require equipment tracking similar to that utilized at the SELPA level to ensure that equipment and device inventory is monitored for the appropriate utilization and transfer of items to the students requiring them.

### Out-of-Home Care

Out-of-Home Care funds will be retained at the SELPA level to assist in covering costs that are incurred as a result of student placement in group homes or licensed children's institutions (LCIs) and other special circumstances. Funding will be provided to LEAs via an application process and is contingent upon the availability of sufficient funds. Funds will be allocated as follows:

Reimbursement to LEAs of 100% of the fee for enrollment in a nonpublic school (NPS), as required by an IEP, for a student placed in a group home or LCI within Monterey County by a public agency other than education (e.g., Social Services, Probation, Regional Center) and when required to continue payment for residential nonpublic, nonsectarian school, following a student transfer to another SELPA as indicated in California Education Code 56325 (c).

Reimbursement of 25% of excess cost for enrollment in MCOE special education programs, as required by an IEP, for a student placed in a group home or LCI within Monterey County by a public agency other than education (e.g., Social Services, Probation, Regional Center).

Following payment for the placements of students in group homes, residential placements, and licensed children's institutions (LCIs) as indicated above, the remaining Out-of-Home Care funds will be utilized to supplement the funding of the Special Purpose Funding Pools, if necessary. Funds not expended from the pool at the end of each year will be carried over to the next year.

### Remote Necessary Small School Districts (Big Sur Alternate Funding Calculation)

The Monterey County SELPA recognizes that school districts qualifying as necessary small school districts that are unable to benefit from participation in regional programs due to being at least 50 miles from any neighboring school district within the SELPA are faced with unique challenges. These districts must be prepared to provide appropriate special education and related services to a small number of students, with a wide range of needs, all within the neighborhood school, and with limited staff. In order to ensure that all students with special education needs have access to an appropriate level of

support, the qualifying school district shall receive its special education funding allocation based upon an alternative calculation, as described in the next paragraph, unless the district would receive a higher level of funding using the same formula that is used for all other school districts and defined throughout this document. An analysis of which calculation will yield the higher allocation will be conducted prior to the beginning of each fiscal year.

To determine the alternate calculation for qualifying districts, as described in the paragraph above, the LEA's portion of the Federal IDEA Local Assistance Entitlement Grant and any one-time special education funding will be subtracted from the total cost of the regular salary and benefits of a qualified teacher assigned to special education, for 60% of the school year, based upon 180 workdays per year. The resulting difference will yield the dollar amount of the district's AB 602 allocation plus its augmentation and will be provided from AB 602 funds prior to distribution of those dollars to other member LEAs. The district will be responsible for covering any additional costs for special education and related services required by its students as part of its general fund contribution.

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| Section 3.4 | Special Education Property Taxes |
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As calculated by CDE revenue exhibits, Monterey County Special Education Local Plan Area receives 0.277128 of the secured and unsecured property taxes allocated to the Monterey County Office of Education. This property tax revenue will be allocated as indicated below:

Allocation to Shared Costs and Special Purpose Funding Pools as indicated below:

- a. Contract for IEP Documentation (SIRAS) – \$138,138
- b. SELPA-Wide Personnel Development – \$30,000
- c. Small School District Reserve – \$200,000
- d. Non-Public School Pool – \$250,000
- e. Extraordinary Cost Pool – \$175,000

The MCOE Alternative Education Department will receive its share of the special education property tax income based upon its percentage of the prior year's county-wide P2 ADA.

Allocation to MCOE Regional Programs – Remaining special education property tax income allocated to MCOE to offset the programs below:

- a. Multiple Disabilities Programs at ABI, Ruth Andresen, and Gabilan Schools
- b. MCOE Deaf/Hard of Hearing Program Classes and Educational Interpreters
- c. Remaining programs in the SDC cost center



#### Contract for IEP Documentation

To fund the costs of the annual contract for IEP Documentation, a SELPA account will be funded at the cost of the annual contract each year from the Special Education Property Tax allocation. If the costs of maintenance and development exceed the funded amount, additional funding from the apportionment for these purposes will require the approval of the SELPA Governance Council.

#### SELPA-Wide Personnel Development

These funds, previously allocated by the state directly to SELPAs, were included in the AB 602 base funding beginning in 2013-14. Beginning in 2024-2025, \$30,000 will be retained annually by the SELPA from the Special Education Property Tax allocation for provision of a personnel development program that meets the highly qualified teacher requirements and ensures that all personnel necessary to carry out this part are appropriately and adequately prepared.

#### Small School District Reserve

Funds placed into the small school district reserve will be available for use by small school districts with an ADA of less than 350 to assist in paying for excess costs that pose an unusually severe hardship upon the district. This reserve will be funded at \$200,000 each year. Funds not expended from the pool at the end of each year will be carried over to the next year.

#### Non-Public School Pool

Reimbursement to LEAs for 50% of the fee for regular tuition in a NPS, as required by an IEP, for any Monterey County student. Reimbursement to LEAs for 100% of the fee for regular tuition in a NPS, as required by an IEP, if the placement is at a residential treatment center. If requests exceed available funding, reimbursements will be prorated to equalize funding across applicants. Funds not expended from the pool at the end of each year will be carried over to the next year.

#### Extraordinary Cost Pool

It is the intent of the SELPA to self-insure member LEAs in order to assist in covering extraordinary costs that are incurred as a result of factors deemed outside the control of an LEA. To this end, an extraordinary cost pool will be funded at \$175,000 from the special education property tax allocation each year (see Special Education Property Taxes section for funding calculation methodology). Funds not expended from the pool at the end of each year will be carried over to the next year.

Reimbursement will be provided to LEAs, upon their request, for qualifying circumstances. Examples of qualifying criteria include: reimbursement of up to 25% for MCOE regional program placements; reimbursement in addition to the other funds reimbursed for nonpublic school placements; extraordinary budget circumstances; and

funding for new program development. Districts with approved requests will be reimbursed for up to 50% of the total cost of the qualifying circumstance, provided funds are available (up to 25% reimbursement for MCOE regional program placements).

Application Process for the Non-Public School Pool, Extraordinary Cost Pool, Small School District Reserve, and Out-of-Home Care funds

To be considered for funding from the Special Purpose Funding Pools, a district must complete and submit an application to the SELPA. The applications for the Non-Public School Pool and Out-of-Home Care funds must be received by the SELPA no later than September 15th of the subsequent fiscal year in order to be eligible to receive funds. The applications for the Extraordinary Cost Pool and Small School District Reserve must be received by the SELPA no later than November 15th of the subsequent fiscal year in order to be eligible to receive funds. Invoices for actual expenditures must be submitted by the district to receive reimbursements. Funding determinations will be made once all invoices have been received for the accurate calculation of reimbursements within the funding pool.

Applications will be reviewed by the SELPA Executive Director to verify that the request for additional funding appears valid based upon criteria specified in the application. The SELPA Executive Director may seek input from appropriate advisory committees as determined necessary. Following review of the application, the SELPA Executive Director will recommend approval or denial to the SELPA Executive Committee. If the district disagrees with the decision of the SELPA Executive Committee, the decision may be appealed to the SELPA Governance Council.

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| Section 3.5 | Infant Entitlement |
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The SELPA receives two Infant Entitlement Grants that support programs for children aged birth through 3 years and are generated through J-50 reporting. These grants are distributed to the two LEAs that offer Part C, Early Start Programs: MCOE Special Education and Monterey Peninsula Unified School District.

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| Section 3.6 | Local Assistance Entitlement |
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The Local Assistance Entitlement Grant is for students between the ages of five and 22 years. This grant is distributed to districts, MCOE special education department, MCOE charter schools, and MCOE alternative education based upon the previous year's final certified CALPADS special education student count. The SELPA AU distributes funds to districts upon receipt of apportionments.

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| Section 3.7 | Other Grants |
|-------------|--------------|

Federal Preschool Grant

The federal Preschool Grant provides funding for special education and services to children with disabilities ages three through five. Preschool grant funds (Resource Code 3315) shall be allocated based on each LEAs proportionate share of eligible and enrolled children using the previous year's final certified CALPADS special education preschool student count for students ages three through five.

Preschool Staff Development

Preschool Staff Development funds provide for preschool staff development opportunities for personnel working in preschool programs that serve children with disabilities, ages three through five. Preschool staff development funds (Resource Code 3345) shall be allocated based on each LEAs proportionate share of eligible and enrolled children using the previous year's final certified CALPADS special education preschool student count for students ages three through five. If an LEA elects not to receive these funds, their funds will be redistributed to the remaining LEAs to offset the program expenditures made for this purpose. Notification to decline funds should be provided to the SELPA by May 1st, prior to the fiscal year that funds will be distributed.

Part C, Early Start

These funds are allocated to SELPAs for the purpose of planning and implementing a comprehensive, community-based interagency system of early intervention services for infants and toddlers with disabilities and their families. These grants are distributed to the two LEAs that offer Part C, Early Start Programs based on each LEAs proportionate share of eligible and enrolled children: MCOE Special Education and Monterey Peninsula Unified School District.

Infant Discretionary

These funds are for direct early education services for infants who have disabilities and are specifically intended to address unanticipated direct service impacts of transitioning to the Part C program from earlier delivery models. These grants are distributed to the two LEAs that offer Part C, Early Start Programs based on each LEAs proportionate share of eligible and enrolled children: MCOE Special Education and Monterey Peninsula Unified School District.

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| Section 3.8 | Maintenance of Effort Policy |
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The Monterey County 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 a sub-granting process and shall annually conduct and report to the CDE the required MOE information. For the purposes of maintenance of effort, the SELPA AU is the recipient of the federal funds from CDE and is, in turn, a grantor of all or part of those funds as sub-grants to participating LEAs. The LEAs within the Monterey County SELPA shall compile and submit budget and expenditure information, including LMC-A and LMC-B reports.

The two required comparison tests are as follows:

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

- Each LEA will submit to the SELPA the required MOE documentation each year.
- Budgeted local or state and local expenditures must equal or exceed prior year expenditures for each LEA and for the SELPA, as a whole, subject to the federal Subsequent Years rule.
- The SELPA must ensure the 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; 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 subgrant allocation received for the current fiscal year compared to the prior fiscal year and reducing the LEA’s state and local MOE requirement by that amount.

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

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

### Section 3 – Four MOE Test Methods to Maintain Effort

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

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

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

### **Consequences for Failure to Maintain Effort**

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

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

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

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

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

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

These items will reduce the amount required to meet MOE:

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 subgrant allocation received for the



current fiscal year compared to the prior fiscal year and reducing the LEA's state and local MOE requirement by that amount.

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

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

### Section 3 – Four MOE Test Methods to Maintain Effort

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

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

### **Consequences for Failure to Maintain Effort**

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

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

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

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

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| Section 3.9 | Inter-District Placements |
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Any costs associated with inter-district student transfers as required by Individualized Education Programs (IEPs) will be funded through agreements negotiated between the participating districts independent of this agreement.

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## **Part II – Administrative Policies and Procedures**

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| Chapter 4 | Independent Educational Evaluations |
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| Section 4.0 | Independent Educational Evaluations |
|-------------|-------------------------------------|

This policy sets forth the procedures under which students with disabilities are entitled to an independent educational evaluation at public expense in any member local education agency (LEA) of the Monterey County SELPA.

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| Section 4.1 | Definitions |
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Independent educational evaluation (IEE) means an evaluation conducted by a qualified examiner who is not employed by the LEA. Public expense means that the LEA pays for the cost of the evaluation up to the limits established by the LEA or ensures that the evaluation is otherwise provided at no cost to the parents.

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| Section 4.2 | Procedures for Requesting an IEE |
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Parents have the right to an IEE at public expense only if they disagree with an evaluation completed by the LEA. Parents may only request one publicly funded IEE for each evaluation completed by the LEA. Parents must notify the LEA in writing or at an IEP meeting that they:

1. Disagree with the LEA's evaluation; and
2. Are requesting an IEE at public expense.

The LEA may ask for the parents' reason(s) for disagreeing with the LEA's evaluation, but the parents are not required to provide those reasons. The LEA may not unreasonably delay either providing the IEE at public expense or initiating a due process hearing to defend its evaluation.

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Section 4.3

Procedures for Determining Whether an IEE will be Provided

Once the parents communicate their disagreement with the LEA's evaluation and request an IEE at public expense, the following procedures will be followed:

1. The LEA will provide a copy of the SELPA policy to the parents;
2. The LEA evaluation will be reviewed with the parents to identify the areas of disagreement, if the parents choose to provide them;
3. The LEA will determine whether it will initiate due process to establish the appropriateness of its evaluation or proceed with obtaining an IEE; and
4. If the LEA initiates a hearing and the final decision is that the LEA's evaluation is appropriate, the parents still have the right to an IEE, but not at public expense.

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| Section 4.4 | Options for Providing an IEE |
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If the LEA agrees to provide an IEE at public expense, the assessment will be provided, with the parents' agreement, through one of the options listed below:

1. The Diagnostic Center;
2. A staff member from another LEA; or
3. A private sector provider.



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Section 4.5

Assessment Plan

An assessment plan that specifies those areas to be evaluated and who will assess each identified area will be presented to the parents for their review and consent. The parents will be provided an opportunity to participate in developing the assessment plan.

Upon receipt of the signed written consent to assess, the LEA will initiate a contract with the examiner. Parents will be required to sign a release and exchange of information between the IEE evaluator(s) and the LEA.

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| Section 4.6 | IEE at Private Expense |
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If the parents obtain an IEE at private expense, the results of the evaluation:

1. Must be considered by the LEA, if it meets its criteria, in any decision made with respect to the provision of FAPE to the student; and
2. May be presented as evidence at a due process hearing regarding the student.

When parents request payment for an IEE that has already been completed, the parents will be provided with a copy of the SELPA policy for IEEs. A determination will then be made as to whether the LEA will proceed with payment of the IEE.

If the LEA proceeds with payment of the IEE, the LEA criteria for the location limitation of the evaluator(s), the minimum qualifications of the evaluator(s), the use of appropriate assessment instruments, and the acceptable cost of the evaluation, as set forth in this policy, must be met.

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| Section 4.7 | Independent Evaluator Criteria |
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IEEs obtained at public expense must be conducted using all of the same criteria, including the location limitations for the evaluation, minimum qualifications of the examiner, cost limits, and use of approved instruments as those used by the LEA when it conducts an evaluation.

If the LEA observed the student while conducting the evaluation with which the parents disagree, or if its assessment procedures allow in-class observations, the independent examiner will be provided with an equivalent opportunity to observe the student in the current educational setting and to observe the LEA's proposed setting, if any. This opportunity shall also be provided if the parents obtain an evaluation at private expense.

The LEA shall define the nature and scope of an independent examiner's in-class observations consistent with the right to an equivalent opportunity to observe, but also consistent with its obligations to prevent unnecessary disruption in the class and to protect the privacy interests of other students. This may include, but is not limited to, identifying the time constraints of such observation, LEA personnel who will participate in the observation, and restrictions on student/teacher interactions.

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Section 4.8

Location Limitations for Evaluators

Independent evaluators must be located within Santa Cruz, San Benito, Monterey, or Santa Clara Counties. Evaluators outside of this area will be approved only on an exceptional basis, provided parents can demonstrate the necessity of using evaluators outside the specified area. Any expenses beyond the evaluation (i.e., food, lodging, transportation, etc.) are not included in the cost of the IEE.

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| Section 4.9 | Minimum Qualifications for Evaluators |
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Evaluators with credentials other than those listed below will not be approved to conduct an IEE unless the parents can demonstrate the appropriateness of using an evaluator meeting other qualifications (E.C. § 56320 (b)(3)).

| Type of Assessment                                | Qualifications                                                                                                                                             |
|---------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Academic Achievement                              | Credentialed Special Education Teacher<br>School Psychologist<br>Licensed Educational Psychologist                                                         |
| Adaptive Behavior                                 | Credentialed Special Education Teacher<br>School Psychologist<br>Licensed Psychologist                                                                     |
| Assistive Technology                              | Credentialed or Licensed Speech/Language Pathologist<br>Credentialed Assistive Technology Specialist<br>Credentialed Special Education Teacher             |
| Auditory Acuity                                   | Licensed Educational Audiologist<br>Credentialed or Licensed Speech/Language Pathologist                                                                   |
| Auditory Perception (Central Auditory Processing) | Credentialed or Licensed Speech/Language Pathologist                                                                                                       |
| Behavioral                                        | Credentialed Special Education Teacher<br>School Psychologist<br>Licensed Psychiatrist<br>Licensed Psychologist                                            |
| Cognitive                                         | Licensed Psychologist<br>School Psychologist                                                                                                               |
| Health (including neurological)                   | Licensed Physician<br>Nurse                                                                                                                                |
| Motor                                             | Licensed Physical Therapist<br>Registered Occupational Therapist<br>Credentialed Teacher of the Physically Impaired<br>Adaptive Physical Education Teacher |
| Occupational Therapy                              | Licensed Occupational Therapist                                                                                                                            |
| Speech and Language                               | Credentialed or Licensed Speech/Language Pathologist                                                                                                       |

|                                    |                                                                                                    |
|------------------------------------|----------------------------------------------------------------------------------------------------|
| Social/Emotional                   | School Psychologist<br>Licensed Psychiatrist<br>Licensed Psychologist                              |
| Visual Acuity/Developmental Vision | Licensed Ophthalmologist<br>Licensed Optometrist                                                   |
| Functional Vision                  | Credentialed Teacher of the Visually Impaired                                                      |
| Vision Perception                  | Credentialed Special Education Teacher<br>School Psychologist<br>Registered Occupational Therapist |
| Transition                         | Credentialed Special Education Teacher                                                             |

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| Section 4.10 | Cost Limitations for an IEE |
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The cost of an IEE shall be comparable to those costs that the LEA incurs when it uses its own employees or contractors to perform a similar assessment. Costs include: observations, administration and scoring of tests, report writing, and attendance in person or by phone at an IEP team meeting. Reimbursement will not be in an amount greater than the actual cost to the parents and will be subject to proof of payment.

When insurance will cover all or partial costs of an IEE, the LEA may request that the parents 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 parents are willing to have the District reimburse them for the amount of the deductible.

As part of a contracted evaluation, independent evaluators must:

1. Attend relevant IEP team meetings by phone or in person to discuss their findings;
2. Provide protocols of all the assessments; and
3. Provide a written report prior to the IEP team meeting.

The written report must meet and include all required components as specified in state law (E.C. § 56327).

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| Section 4.11 | Release and Utilization of IEE Results |
|--------------|----------------------------------------|

Independent evaluators must agree to release their assessment information and results to the LEA 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.

(20 U.S.C. § 1415(b)(1); 34 C.F.R. § 300.502; E. C. §§ 56329 and 56506)



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## Part II – Administrative Policies and Procedures

### Chapter 5 Personnel Development

#### Section 5.0 Personnel Development

The SELPA shall take steps to assist member LEAs in ensuring that personnel providing special education and related services meet the highly qualified requirements as defined under federal law, including that those personnel have the content knowledge and skills to serve children with disabilities. Such steps shall include collaboration with local colleges and universities pertaining to teacher education program design and supervision of student teachers and interns, as well as provision of ongoing staff development activities for school personnel.

The SELPA shall coordinate the ongoing program of personnel development based upon needs assessments that are completed by special educators in the spring of each school year. The SELPA staff develops the needs assessment with input provided by the SELPA Director's Cabinet. The SELPA Executive Committee approves the resulting annual personnel development plan.

The personnel development plan shall include opportunities for all school personnel to participate in ongoing development activities. Planned activities will be provided in collaboration and coordination with staff development activities offered by LEAs within the SELPA and community agencies.

A reasonable budget to cover necessary expenses for personnel development activities will be developed annually. Efforts will be made to operate the personnel development program within the funding received by the SELPA specifically for staff development.

Evaluation and modification of the personnel development program will occur on a continuing basis.

(E.C. § 56195.7)(b)(2))

#### Use of Media and Recordings for Personnel Development

The SELPA recognizes the importance of utilizing multiple training modalities and media for effective personnel development, and notes that multi-media techniques, such as video modeling, have been found effective for training staff that work with students with disabilities.

The SELPA shall seek permission from parents prior to taking or reproducing photographs, audio, and/or video clips ("Recordings") of students for personnel development purposes. Recordings may only be used by SELPA to the extent that parents have provided written permission on the SELPA Media Authorization and Release Form ("Release"). Any Recordings maintained by SELPA shall be filed with a copy of the Release for each student who is recognizable within the Recordings. The SELPA shall not identify students appearing within Recordings by name in any written materials that may accompany the Recordings.

(E.C. § 56195.7)(c)(2); §56240)

(Cross-reference: SELPA Media Authorization and Release Form)

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| Chapter 6 | Program Review |
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| Section 6.0 | Program Review |
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The SELPA will assist each LEA in conducting ongoing reviews of special education programs including, but not limited to, the following:

1. Review and evaluation of CALPADS data regarding compliance items in all areas, including the 14 State Performance Plan Indicators;
2. Establishing a process for regular evaluations of educational benefit;
3. Participation in the state's Quality Assurance Process (e.g., self-reviews, verification reviews) and follow-up activities; and
4. Other reviews as appropriate.

The SELPA will provide training, consultation, and technical assistance to LEAs in addressing any problems that are identified through one or more of these processes.

In cases where identified problems persist following implementation of all of the above procedures, the SELPA executive director shall notify the LEA superintendent and provide recommendations for further corrective action (E.C. § 56195.7)(j)(2)).

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## Part II – Administrative Policies and Procedures

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| Chapter 7 | Program Transfers |
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| Section 7.0 | Program Transfers |
|-------------|-------------------|

Policy and procedures set forth in this chapter refer to those program transfers for which Education Code § 56207 apply. Program transfers under this section of the code are those that occur when the SELPA membership remains intact, there is no reorganization of the SELPA, and there is no requirement to revise the SELPA local plan.

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| Section 7.1 | Legal Reference |
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No educational programs and services already in operation in school districts or a county office of education pursuant to Part 30 (commencing with Section 56000) shall be transferred to another school district or a county office of education or from a county office of education to a school district unless the special education local plan area has developed a plan for the transfer that addresses, at a minimum, all of the following:

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

The date on which the transfer will take effect may be no earlier than the first day of the second fiscal year beginning after the date on which the sending or receiving agency has informed the other agency and the governing body or individual identified in subparagraph (A) of paragraph (12) of subdivision (a) of Section 56205, unless the governing body or individual identified in subparagraph (A) of paragraph (12) of subdivision (a) of Section 56205 unanimously approves the transfer taking effect on the first day of the first fiscal year following that date.

If either the sending or receiving agency disagree with the proposed transfer, the matter shall be resolved by the alternative resolution process established pursuant to paragraph (5) of subdivision (b) of Section 56205.

(E.C. § 56207)

*Note: The SELPA highly discourages program transfers requiring less than a day and a year notice due to the need for a full year of planning to ensure the best interests of students, families, and staff, except in very rare situations such as those that occur when circumstances prohibit an LEA from continuing to operate a program or when it would be detrimental for the current program operator to continue for another year.*

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| Section 7.2 | Preliminary Notice of Intent to Transfer Program |
|-------------|--------------------------------------------------|

A written notice of intent to transfer program(s) from one LEA to another must be given by June 30 of the year prior to implementation (i.e., one year and one day).

|          |                     |               |
|----------|---------------------|---------------|
| Example: | Notification Date   | June 30, 2008 |
|          | Preparation Year    | 2008-09       |
|          | Implementation Date | July 1, 2009  |

The Superintendent of the initiating LEA must send the notification to the Superintendent and special education administrator of the sending or receiving LEA with copies to the SELPA executive director and all other LEAs within the SELPA. The notification must include statements indicating:

1. The specific programs that the initiating LEA is proposing to operate or cease operating;
2. When proposing to assume operation of a program, whether the proposal is for a regional or non-regional program;
3. When proposing to cease operation of a program, whether the program is currently a regional or non-regional program; and
4. The date that the initiating LEA proposes to begin or cease operating the involved programs.

A template for providing this notice is available on the SELPA webpage.

#### Transfer of Regional Program

A regional program is a program that provides instructional services to students who are residents of multiple LEAs within the SELPA. If a class proposed for transfer is a regional program, the receiving provider is not necessarily obligated to assume the role of a regional service provider.

If the initiating LEA will be the receiving LEA and intends to continue to provide regional services, the final notice of intent must identify all LEAs that would be enrolling students in that program. If a program transfer is approved that involves converting a regional class to a non-regional class, the process described in the section of this chapter entitled, "Placement of Non-District Students Enrolled in Previously Regional Programs", must be followed.

#### Transfer of Non-Regional Program

A non-regional program transfer involves the return of one or more programs back to an LEA that will serve only students who reside within that LEA.

In all program transfers, the proposed program operator and the current program operator shall collaborate in conducting all activities necessary to accomplish the transfer, such as scheduling IEP meetings, transfer of files, hiring of highly qualified special education staff, coordination of related services, notification to parents, and any other activities associated with the program transfer.

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| Section 7.3 | Related Service Transfers |
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An LEA within the SELPA may wish to arrange with another LEA within the SELPA to provide one or more related services due to temporary personnel shortages. Such arrangements will be established through a Memorandum of Understanding (MOU) between the two LEAs.

If an LEA wishes to permanently transfer operation of one or more related services (with the exception of transportation) to another LEA, the Governance Council shall consider the request following the same procedures as for any other program transfer.

An LEA may purchase special education transportation for its students from another LEA outside of the program transfer procedure. Such arrangements will be established through a Memorandum of Understanding (MOU) between the two LEAs.

When a program transfer is being proposed for an instructional program and transportation of students will be affected, the initiating LEA must include how transportation will be addressed in its analysis reports.



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| Section 7.4 | Preliminary Staff Meetings |
|-------------|----------------------------|

From September through November, the sending and receiving LEAs must conduct preliminary meetings with all affected staff members regarding the proposed program transfer. The purpose of these meetings is to begin discussing employment options should the proposed transfer be approved. It is permissible to hold these preliminary meetings in groups.

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| Section 7.5 | Parent and Staff Input |
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The involvement and representation of staff and the parents of all affected students in the planning process is vital. A central part of the LEA's program and fiscal reports involves a description of what specific steps and activities were taken to obtain parent and staff input into the proposed program transfers, including any written parent comments. These activities need to be conducted from September through November of the planning year.

After these steps and activities are completed, the initiating LEA is required to present its proposed plan for program transfer to the SELPA Community Advisory Committee (CAC) for review by December 10<sup>th</sup> of the preparation year. The CAC may make a recommendation to the SELPA Governance Council regarding its level of support for the proposed plan.

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| Section 7.6 | Employee, Student, Classroom Data Report |
|-------------|------------------------------------------|

By November 1 of the preparation year (year prior to implementation), the LEA currently operating a program shall submit written information pertinent to the employees, students, and classrooms affected by the proposed transfer to the SELPA and the LEA proposed for program operation. This report shall contain the following:

1. Employee data, including employment applications, placement on salary schedule, longevity status, benefits, stipends, credentials and other authorizations for certificated staff, work days and hours for classified staff members;
2. Student data, including names, addresses, dates of birth, registration forms, immunization records, home language surveys, copies of IEPs and any behavioral plans, health histories, any specialized personal care or health needs, transportation needs, specialized equipment (lifts, etc.); and
3. Classroom data, including status of current facilities (owned, rented, lease payments, etc.), whether instruction is provided in other environments such as community-based instruction or other special activities (frequency, funding source, etc.), required equipment (computers, internet connection, phones, fax, copier, van, etc.), and any site specific arrangements or issues.

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| Section 7.7 | Program and Fiscal Reports |
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By November 15 of the preparation year, an initiating LEA shall submit a completed *Request for Program Transfer - Program Report* and *Request for Program Transfer - Fiscal Report* to the other LEA and the SELPA. Templates for these reports are available on the SELPA webpage. The SELPA executive director shall review these reports with the assistance of appropriate advisory groups. Following this review, the initiating LEA may be asked to revise the reports to include additional data prior to submitting the *Final Notice of Intent to Transfer Program*.

If the receiving LEA does not have a job description appropriate to one or more positions required to operate the program, the receiving LEA must develop appropriate job description(s) during the planning year. Proposed job descriptions must be attached to the *Request for Program Transfer - Program Report*.

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| Section 7.8 | Final Notice of Intent to Transfer Program |
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By December 15 of the preparation year, the initiating LEA must submit written notification to the other LEA and the SELPA as to whether the LEA will be moving forward with the proposed program transfer. A template for providing this notice is available on the SELPA webpage. A final copy of the completed *Request for Program Transfer - Program Report* and *Request for Program Transfer - Fiscal Report* must accompany this notice.

The SELPA executive director will place the program transfer request on the agenda of the SELPA Executive Committee and the SELPA Governance Council for review and discussion by January 30 of the preparation year. It shall be returned for final action by February 28 of the preparation year.

Initiating LEAs that do not meet the submission deadline for the *Final Notice of Intent to Transfer Program* will not be eligible to move forward with the program transfer until the next cycle.

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| Section 7.9 | SELPA Executive Committee Review and Action |
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The SELPA Executive Committee shall take final action on the proposed program transfer. In taking action to approve or deny a request, the following factors will be considered:

1. Individual needs of all students currently enrolled in the program have been considered and appropriately planned for;
2. A full continuum of special education services continues to be available for all affected students;
3. The IEPs of all affected students will continue to be implemented within the least restrictive environment within which those students can receive educational benefit;
4. The district has the resources to provide for specialized needs, such as health care, behavioral support, contracted services, etc.;
5. Sufficient levels of qualified administrative, certificated, and classified staff will be provided to meet the identified needs of the students;
6. District is aware of and has plans to accept transfers of staff from the current program provider according to legal mandates and union agreements;
7. There are plans in place to orient transferring staff to the district's policies and procedures;
8. There are plans in place to train current classified, certificated, and administrative staff regarding curriculum, specialized needs of students, etc.;
9. Adequate facilities will be available to support the program;
10. The program will have adequate equipment, materials, and supplies needed to implement each IEP;
11. Students will be provided with appropriate transportation options, as identified on their IEPs;
12. Affected staff members and parents of affected students have been included in the planning process; and
13. A reasonable plan is in place for communicating the change to parents and amending IEPs as needed.

The SELPA executive director will notify all sending and receiving LEAs of the action taken by the SELPA Executive Committee by March 15 of the preparation year.

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| Section 7.10 | Employee Rights Related to Program Transfer |
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Specified below are the minimum rights provided to personnel whose positions are eliminated as a result of a program transfer that occurs when the SELPA membership remains intact, there is no reorganization of the SELPA, and there is no requirement to revise the SELPA local plan.

#### Transfers or Reassignments within the Sending LEA

An employee of the sending LEA whose position has been eliminated as the result of a program transfer may have the right to transfer or be reassigned to other positions within the sending LEA for which the employee is qualified. Such transfers or reassignments will be made in accordance with legal mandates and the bargaining unit agreements of the sending LEA.

#### New Employment with the Receiving LEA

The receiving LEA may fill positions required to operate classes involved in the program transfer through reassignment or transfer of qualified employees of the receiving LEA.

If the receiving LEA has vacant positions in classes involved in the program transfer after any reassignment or transfer as described above, it will open the remaining vacant positions to interested and qualified candidates. Employees of the sending LEA who are currently assigned to classes involved in the program transfer may apply for these open positions. Such applicants will be granted interviews with the receiving LEA. Offers of employment will be made to all successful applicants following the interview process.

If a current employee of the sending LEA accepts new employment with the receiving LEA, all employee rights will be determined based upon the established hiring practices of the receiving LEA.

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| Section 7.11 | Final Staff Meetings |
|--------------|----------------------|

The sending and receiving LEAs for programs approved for transfer must hold final meetings with all affected staff members no later than March 7<sup>th</sup> of the preparation year. The purpose of these meetings is to meet with each staff member individually to identify employment status and discuss employment options.



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| Section 7.12 | Parent Notification/IEP Meetings |
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Between April 1 and June 1 of the preparation year, all parents of affected students will be notified and IEP meetings will be held to amend IEPs as needed. These meetings should be held in collaboration between the sending and receiving LEAs.

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| Section 7.13 | Placement of Non-District Students Enrolled in Previous Regional Program |
|--------------|--------------------------------------------------------------------------|

When a receiving LEA will assume operation of a program that was previously a regional program but will operate it as a district-only program, the IEP team meeting discussed in the previous section must address where students who do not live in the new LEA of operation will be placed. The IEP team must include representatives from the sending LEA, the receiving LEA, and the LEA of residence. All appropriate special education and related service options must be considered. The IEP must include a new offer of FAPE from the LEA of residence. The FAPE options may include, but are not limited to:

1. Continuing placement in the current program through an individual agreement between the LEA of residence and the receiving LEA;
2. Placement in an alternative regional program operated by one of the LEAs within the SELPA; or
3. Placement in an appropriate program operated by the LEA of residence.

All involved LEAs are encouraged to work collaboratively to ensure that all students are provided with FAPE and to minimize the disruption of each affected student's education. Whenever possible and appropriate, continuing placement in the current program through an individual agreement between the LEA of residence and the receiving LEA is preferred.

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| Section 7.14 | Division of Assets |
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Equipment (including vehicles purchased for instructional purposes), materials, and supplies purchased with special education funding by the sending LEA for classrooms involved in a program transfer will be transferred to the receiving LEA. This will include items purchased for related service providers (e.g., occupational therapists, and speech therapists) to use with students enrolled in the affected classrooms. Equipment, materials, and supplies used for multiple classes/programs, including some that are not part of the program transfer, will be divided proportionately or traded for items of equal value. Special education funding includes:

1. AB 602 funds;
2. Federal IDEA grant;
3. Other federal special education grants;
4. Special education property taxes;
5. Low incidence funds; and
6. Billback income.

The sending and receiving LEAs shall meet at least once and as often as needed during the time period from the date of approval of the program transfer and the end of that fiscal year to identify the items that will be included in the division of assets.

In preparation for this activity, the sending LEA must identify the items specified above on inventory lists, including the item name or description, the tag number, the location, the funding source, the purchase year and price, and the condition. Following agreement regarding the items that will be transferred, the appropriate special education administrator from each LEA shall sign and date the inventory lists, verifying their approval.

If one or more classes included in the program transfer will be relocated, it is the responsibility of the sending LEA to pack items that will be transferred in preparation for such relocation.

The appropriate special education administrators from both LEAs will schedule a date and location for the delivery of the assets to be transferred. Together, the administrators will verify, in writing, that all agreed-upon items are accounted for and have been transferred. This activity shall occur between July 1 and August 1 of the implementation year, unless a date outside of this time period is mutually agreed upon in writing.

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| Section 7.15 | Effective Date of Program Transfer |
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Unless otherwise approved, the receiving LEA shall assume responsibility for program operation on July 1 of the implementation year. The sending district will maintain responsibility through the completion of the extended school year (ESY) of the preparation year.

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| Section 7.16 | Dispute Resolution |
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In the event that the LEA initiating a program transfer or any other affected LEA disagrees with the decision of the Governance Council, the dispute resolution procedures outlined in the “Dispute Resolution” chapter of the “Administrative Procedures” section of this handbook will be followed.

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## Section 7.17 Timelines for the Program Transfer Process

| Date               | Action                                                                                                                                                                                                                                        |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| June 30            | Due date for initiating LEA to submit <i>Preliminary Notice of Intent to Transfer Special Education Program and Services</i> on July 1 of the next school year to the other LEA and SELPA (one year and one day in advance of implementation) |
| September-November | Preliminary meetings with affected staff members regarding the proposed program transfer and begin discussion of employment option should proposal be approved                                                                                |
| September-November | LEA meets with parents of all affected students and programs to review proposal and obtain input                                                                                                                                              |
| November 1         | Due date for Employee, Student, and Classroom Data reports to be submitted by operating LEA to SELPA and other LEA                                                                                                                            |
| November 15        | Due date for initiating LEA to submit <i>Request for Program Transfer – Program Report</i> and <i>Request for Program Transfer - Fiscal Report</i> to other LEAs and SELPA Executive Director                                                 |
| December 10        | Initiating LEA to present proposed program transfer to Community Advisory Committee (CAC) no later than this date                                                                                                                             |
| December 15        | Due date for initiating LEA to submit <i>Final Notice of Intent to Transfer Special Education Program and Services</i> (with completed <i>Program and Fiscal Data Analysis</i> reports) to SELPA and other LEA                                |
| January 31         | SELPA Executive Committee takes action on the proposal (presented by the initiating LEA) no later than this date                                                                                                                              |
| March 7            | Final meetings with affected staff members and bargaining units must be held by this date                                                                                                                                                     |
| March 15           | SELPA provides written notification to all sending and receiving districts of the Executive Committee action                                                                                                                                  |
| April-June 1       | Parents of students enrolled in programs being transferred are notified and IEPs are amended as needed                                                                                                                                        |
| July 1             | Receiving LEAs assume responsibility of all programs approved for transfer                                                                                                                                                                    |
| July 1-August 1    | The sending and receiving LEA will verify, in writing, that all agreed-upon items are accounted for and have been transferred                                                                                                                 |

[Back to Table of Contents](#)**Part II – Administrative Policies and Procedures****Chapter 8      Regional Programs****Section 8.0      Regional Programs**

As part of the Monterey County SELPA's efforts to coordinate the provision of a full continuum of special education and related services, and as a means of ensuring that students with disabilities receive a free and appropriate public education (FAPE) in the least restrictive environment, LEAs may enter into agreements whereby one LEA operates a program, class, or service on behalf of all LEAs within the SELPA or on behalf of several LEAs within an identified geographical zone. These programs, classes, or services will collectively be referred to as regional programs.

For purposes of this procedure, all IEP team referrals from an LEA participating in a regional program that is operated by another will be considered as IEP team referrals, not inter-district transfers. Placements made into another district as part of an IEP team referral do not require the parent to apply for an inter-district transfer.

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| Section 8.1 | Forming a Regional Program |
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Any LEA or group of LEAs may propose the formation or transfer of a regional program. The proposal must be submitted in writing to the SELPA office. The SELPA Executive Director, who may seek input from appropriate advisory committees, as determined necessary, will review the proposal. If the proposal involves a program transfer from one LEA to another, the SELPA approved program transfer process must be followed.

Following review of the proposal and in accordance with the program transfer process when applicable, the SELPA Executive Director will place the item on the agenda for review by the SELPA Executive Committee and will seek action from the committee regarding a recommendation to the SELPA Governance Council for approval or denial.

An LEA that is proposing to operate a regional program must commit to operating the program for a period of at least four school years following the first day of the first fiscal year beginning after the date on which the Governance Council approved the proposed regional program. If the LEA of operation wishes to cease operation of the regional program at the end of that four years, a written notice of preliminary intent to transfer program(s) from one LEA to another must be given by June 30 of the third year of operation. This will allow the LEA of operation to follow the program transfer procedures outlined in Chapter 7 of this handbook during the fourth year of operation.



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| Section 8.2 | Written Agreement |
|-------------|-------------------|

The LEA of operation and LEAs of residence shall enter into a written agreement specifying the student population to be served by the regional program, the responsibilities of each LEA, the method of payment, etc. A template for this agreement has been developed and all LEAs operating regional programs must use the template. The template is available on the SELPA webpage.

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| Section 8.3 | Regional Program Referral Process |
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**General Principles**

- The District of Residence retains responsibility for the student until the referral process is fully completed.
- The District of Residence must provide all services in the student's IEP/IFSP during this time.
- The Regional Program will not request or take ownership of records until placement is finalized.
- A referral is not a guarantee of placement.
- If the student transfers districts during the referral process, the Regional Program and both districts will collaborate to determine appropriate program needs.

**Step 1: Complete a Referral Packet**

The LEA of Residence must compile a complete packet, including:

- RE-6 SELPA Regional Program Referral Form
- Notice to Parent of Referral (see RE-6)
- Current psycho-educational assessment (within 2 years, including all components)
- Current IEP/IFSP, including any addendums or additional assessments
- Additional supporting documents as applicable (e.g., MCBH reports, vision reports, audiograms, medical diagnoses, etc.)

**Step 2: Submit Referral Packet**

- The Regional Program reviews the packet for completeness.
- Within 5 days, incomplete packets will be returned to the LEA of Residence. The District may resubmit after corrections, but this resets all processing timelines.
- If complete:
  - Within 7 days, a Regional Program administrator will contact the LEA to schedule staffings and observations.
  - Within 30 days, all observations and staffing meetings must be completed.
- If program is at capacity:
  - The process continues, and if the student is found appropriate, they will be placed on a waitlist.
  - Capacity is determined by current enrollment and the educational environment needed for new placements.

### **Step 3: Schedule & Complete Staffings and Observations**

- Regional Program collaborates with the District of Residence to arrange student observations in their current school setting.
- During this process:
  - If the student is determined not appropriate for available programs, the District of Residence is responsible for securing an alternative placement.

### **Step 4: IEP Meeting**

- The District of Residence, with Regional Program participation, will:
  - Schedule the meeting in SIRAS and invite participants.
  - Offer Free Appropriate Public Education (FAPE).
- If parents consent to the placement:
  - The IEP service page will be updated to reflect Regional Program services (provider, location, etc.).
  - A start date for Regional Program placement will be set.
  - District gathers signatures, finalizes the meeting, and transfers all records to the Regional Program.

### **Step 5: Complete Student Registration**

- Parents register the student with the Regional Program.
- All required documentation must be submitted before the start date established in the IEP.

## Regional Program Referral Process

### Quick Reference

| Step                    | Key Actions                                                      |
|-------------------------|------------------------------------------------------------------|
| Step 1: Referral Packet | RE-6 Form, Parent Notice, Assessments, IEP/IFSP, Supporting Docs |
|                         |                                                                  |
|                         |                                                                  |
|                         |                                                                  |
|                         |                                                                  |
|                         |                                                                  |

#### Step 2: Submit Packet

Regional Program reviews.

Incomplete = returned.

Complete = contact within 15 days; staffings done in 30 days. Waitlist if full.

#### Step 3: Observations

Collaborate with District, observe student, determine program appropriateness.

#### Step 4: IEP Meeting

Schedule in SIRAS, offer FAPE, update IEP, set start date, transfer records.

#### Step 5: Registration

Parents register student and submit docs before start date.

Reminder: District of Residence retains responsibility for student and services until placement is finalized. A referral is not a guarantee of placement.

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| Section 8.4 | Interim Placement |
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When a student moves into the district and requires placement in a regional program, the LEA of residence shall:

1. Notify the designated contact person of the LEA of operation by phone/fax/e-mail within two school days of becoming aware of the student transfer;
2. Forward all available documentation, including IEP and parent contact information to the LEA of operation;
3. Request complete records from previous school district and forward to the LEA of operation upon receipt; and
4. Complete and submit a referral packet to MCBH, including a MCBH consent form, if the student's IEP includes services to be provided by that agency.

The LEA of operation shall:

1. Review student data and contact the parents immediately;
2. Arrange for interim placement to begin no later than five school days from date of referral from the LEA of residence and notify district of residence as to school site/class placement;
3. Complete SELPA interim placement form and enrollment forms;
4. Conduct additional assessment as needed; and
5. Adopt the previously approved IEP and transcribe it to Monterey County forms within the SELPA-approved web-based IEP system or develop and implement a new IEP within 30 days of the student's transfer.

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Section 8.5

All IEP Meetings Following the Initial or Interim Placement

The LEA of Operation shall:

1. Schedule, in collaboration with the designated contact person for the LEA of residence, an IEP team meeting to include all current and proposed service providers (including those from other agencies);
2. Provide a copy of the notice of IEP team meeting to parents and all team members; and
3. Attend the scheduled IEP team meeting.

The LEA of Residence shall:

1. Attend the IEP team meeting scheduled by the LEA of operation; and
2. Continue to provide any needed transportation.

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| Section 8.6 | Move to NPS/More Restrictive Placement |
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The LEA of Operation shall:

1. Notify the LEA of residence that a more restrictive placement is being considered;
2. Review all records to ensure that assessments, behavioral reports, behavior support plans, counseling, etc. are documented;
3. Notify the Department of Behavioral Health, the Regional Center and/or other pertinent agencies;
4. Perform necessary formal and informal assessments if not current (current = academic, speech, OT performance levels within the past 12 months; psycho-educational assessment within past 2 years);
5. Complete referrals to other agencies (e.g. Behavioral Health); and
6. Convene an IEP team meeting, including LEA of residence, to discuss possible referral to NPS or more restrictive level of service.

The LEA of Residence shall:

1. Review all records with LEA of operation;
2. Search for available placements if needed;
3. Attend the IEP team meeting and make arrangements for new placement, if indicated;
4. Coordinate with other agencies and/or NPS throughout the placement process;
5. Coordinate parent visitations; and
6. Ensure that contracts are in place.

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| Section 8.7 | Return to District of Residence |
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The LEA of operation or the LEA of residence may recommend the possible return of a student to district of residence. When this occurs, the LEA making the recommendation shall notify the other LEA prior to discussing the recommendation with the parents. Following notification, the LEA of operation shall:

1. Prepare a packet of student records (containing a current copy of the student's IEP, the most current full psycho-educational assessment, and any other pertinent documents) and submit it to the designated contact person for the LEA of residence;
2. In collaboration with the LEA of residence, convene and attend a staffing within 15 school days;
3. Convene, in collaboration with the designated contact person for the LEA of residence, an IEP team meeting, to be held within 10 school days of the staffing;
4. Send out the notice of IEP team meeting to parents and all team members;
5. Attend the IEP team meeting (for students moving into a less restrictive environment, the IEP must include a transition plan); and
6. For students who are returned to their district of residence by the IEP team, forward all official records to the LEA of residence following the IEP team meeting.

The LEA of residence shall:

1. Schedule parent visitations as needed;
2. Review records of student, conduct observations and/or interviews;
3. In collaboration with the LEA of operation, attend a staffing within 10 school days;
4. In collaboration with designated contact person for the LEA of operation, convene and attend an IEP team meeting (for students moving into a less restrictive environment, the IEP must include a transition plan);
5. For students who are returned to their district of residence by the IEP team, provide enrollment packets to parents at or following the IEP team meeting; and
6. For students who are returned to their district of residence by the IEP team, make any changes to transportation arrangements that are needed.



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| Section 8.8 | IEP Reviews and Reassessments |
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The LEA of operation is responsible for conducting all IEP reviews and reassessments of the student while the student is enrolled in the regional program. The LEA of residence shall be invited to all IEP team meetings.

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| Section 8.9 | Disputes |
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Disputes between the district of operation and the district of residence regarding placement into a regional program or return of student from a regional program to the district of residence shall be resolved using the dispute resolution process outlined in Chapter 2 of the administrative procedures section of this handbook.

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## Part II – Administrative Policies and Procedures

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| Chapter 9 | Services in Alternative Educational Settings |
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| Section 9.0 | Services in Alternative Educational Settings |
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It shall be the policy of this SELPA that children with disabilities residing in hospitals, licensed children's institutions (LCI), foster homes, juvenile court schools, and county community schools shall be provided with special education and related services as appropriate to their IEPs. Any student residing within the SELPA, including within any of these settings, may be referred for special education services.

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Section 9.1

Hospitalized Students

Each district shall be responsible for the provision of special education and related services to individuals with exceptional needs residing in hospitals and other residential facilities located within the geographical area of the district. Each district shall first consider services operated by the district and by the other districts within the SELPA and/or by the County Office of Education. If the special education services available within these entities are not appropriate, the district shall contract with an appropriate service provider for implementation of the student's IEP.

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| Section 9.2 | State Hospital Programs |
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No state hospital programs are located within the Monterey County SELPA. The district is to receive prior notice regarding the return of a student to the district within the SELPA from any state hospital program. If the district of residence does not receive prior notification, the district will attempt to obtain the current educational records, and SELPA agrees to provide appropriate technical assistance to the district of residence in order to facilitate a timely and appropriate placement into an educational setting.

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Section 9.3

Licensed Children's Institutions (LCI) And Foster Homes

Each district shall be responsible for the provision of special education and related services to individuals with exceptional needs residing in LCIs and foster homes located within the geographical area of the district. Each district shall first consider services operated by the district, other districts within the SELPA, and/or by the County Office of Education. If the special education services available within these entities are not appropriate, the district shall contract with an appropriate service provider for implementation of the student's IEP.

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Section 9.4

Juvenile Court and Community Schools

Students with exceptional needs who have been placed in a juvenile court or community school will be provided services as appropriate to their IEP. As identified in the Education Code, procedures for identification, referral, program planning, and review shall be followed. The policy for providing services in the least restrictive environment may be interpreted in relation to the amount of segregation being utilized in the institution.

(E.C. § 56195.7(g))

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| Section 9.5 | Identification of and Provision of Service to Eligible Students in Adult County Jails |
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### Free Appropriate Public Education

Every individual with exceptional needs who is eligible to receive special education instruction and related services under the Individuals with Disabilities Education Act (IDEA) and state special education laws, shall receive that instruction and those services at no cost to his or her parents or, as appropriate, to him or her. A Free Appropriate Public Education (FAPE) shall be available to individuals with exceptional needs in accordance with Section 1412(a)(1) of Title 20 of the United States Code and Section 300.101 of Title 34 of the Code of Federal Regulations.

### Eligible Adults

Adults who are aged 18 through 22 years, who have not graduated with a high school diploma, who at the time they turned 18 years were identified as an individual with exceptional needs and had an individualized education program (IEP) under the IDEA, are also entitled to a FAPE (hereinafter, “eligible adults”). (See 20 U.S.C. § 1400 (d) (1) (A), (B), (C); U.S.C. § 1412(a) (1) (A); Education Code, § 56000,56040 (b).) This applies to adults incarcerated in California adult jails and prisons.

However, an individual aged 18 through 22 years, who, in the educational placement prior to his or her incarceration in an adult correctional facility was not identified as an individual with exceptional needs or did not have an IEP under the IDEA, is not entitled to a FAPE. (20 U.S.C. § 1412 (a) (1) (B); Education Code, § 56040(b).)

### Child Find

For eligible adults who prior to reaching the age of majority resided within the Monterey County SELPA geographic boundaries, the applicable local educational agency (LEA) within the SELPA shall ensure they have available to them a FAPE. Generally, the district of residence (DOR) responsible for providing special education and related services to pupils between the ages of 18 to 22 years, inclusive, shall be assigned, as follows:

- a. For non-conserved pupils, the last district of residence in effect prior to the pupil’s attaining the age of majority shall become and remain as the responsible local educational agency, as long as and until the parent or parents relocate to a new district of residence. At that time, the new district of residence shall become the responsible local educational agency.
- b. For conserved pupils, the district of residence of the conservator shall attach and remain the responsible local educational agency, as long as and until the



conservator relocates or a new one is appointed. At that time, the new district of residence shall attach and become the responsible local educational agency. (Education Code §56041)

#### Provision of Service

Once SELPA or the responsible LEA is informed that an eligible adult is incarcerated in an adult correctional facility, the responsible LEA will determine whether the eligible adult requests to receive FAPE. Once the request has been made, the responsible LEA shall review and revise the IEP as necessary, subject to the cooperation of the correctional facility where the eligible adult is located. The eligible adult must consent to the receipt of such services in order to receive said services while incarcerated.

The responsible local educational agency (LEA) will determine, within 30 days of eligibility notification, whether the qualified individual requires a FAPE. And if so, the LEA will ensure that the qualified individual is provided a Free Appropriate Education (FAPE) pursuant to the IDEA and corresponding California special education law. To receive special education services while incarcerated, the student must consent to the receipt of such services, such as, but not limited to, transition services, specialized academic instruction, and other services as determined by the IEP team. The student may revoke their consent for special education services at any time.

#### Limitations

The following special education requirements do not apply to eligible individuals who are convicted as adults under State law and incarcerated in adult prisons:

The requirements set out in 20 U.S.C. § 1412(a) (16) and 20 U.S.C. § 1414(d) (1) (A) (i) (VI) (relating to participation in general assessment) do not apply. Eligible individuals convicted as adults under State law and incarcerated in adult prisons are exempted from participation in State and district-wide assessment programs under the IDEA.

1. The requirements of items (aa) and (bb) of 20 U.S.C. § 1414(d) (1) (A) (i) (VIII) (relating to transition planning and transition services) do not apply with respect to such individuals whose eligibility under the IDEA will end, because of their age, before such individuals will be released from county jail.
2. If an individual with a disability is convicted as an adult under State law and incarcerated in an adult county jail, the individual's IEP team may modify the individual's IEP or placement notwithstanding the least restrictive environment (LRE) requirements of 20 U.S.C. § 1412(a)(5)(A) and the IEP contents requirements of 20 U.S.C. § 1414(d)(1)(A) if there is a bona fide security or compelling penological interest that cannot otherwise be accommodated.

An individual who was not identified as a student with exceptional needs or did not have an IEP under IDEA in the educational placement prior to his or her incarceration in an

adult correctional facility is not entitled to a FAPE.

Adults (aged 18-22 years) incarcerated in California adult jails and prisons are entitled to a Free Appropriate Education (FAPE) if they meet the following criteria:

1. The inmate is not a graduate with a high school diploma; and
2. At the time they turned 18, the inmate was identified as an individual with exceptional needs and had an individualized educational program (IEP) under IDEA. Students who reach age 22 are no longer eligible.

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## **Part II – Administrative Policies and Procedures**

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| Chapter 10 | Transfer of Financial Responsibility to a High School District |
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| Section 10.0 | Transfer of Financial Responsibility to a High School District |
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All financial responsibility for students receiving special education and related services will transfer from an elementary district to a high school district based upon the criteria set forth below.

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| Section 10.1 | Kindergarten to Sixth Grade Districts |
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Graded: When the student is promoted to 7<sup>th</sup> grade.

Ungraded: When the student turns 12 years of age by the state designated date for grade eligibility.

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| Section 10.2 | Kindergarten to Eighth Grade Districts |
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Graded: When the student is promoted to 9<sup>th</sup> grade.

Ungraded: When the student turns 14 years of age by the state designated date for grade eligibility.

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| Section 10.3 | Charter Schools |
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Notwithstanding any provisions under the operating agreement between the charter school and chartering district, a charter school serving students who are receiving special education and related services is fiscally responsible for all students who are enrolled in the charter school.

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| Section 10.4 | Extended School Year (ESY) |
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The elementary district is responsible for all costs associated with ESY for a student transferring to the high school district for the next regular academic year unless otherwise agreed to by the elementary and high school districts. If it is agreed that the high school district will assume financial responsibility for ESY because the high school district will provide ESY, the IEP must identify the high school district as the ESY provider.

[Back to Table of Contents](#)**Part II – Administrative Policies and Procedures****Chapter 11      Contracting for Services from a Nonpublic School/Agency****Section 11.0      Contracting for Services from a Nonpublic School/Agency**

Occasionally, an IEP team determines the need to contract with a nonpublic school (NPS) or nonpublic agency (NPA) to provide services for a student. Prior to providing services through an NPS or NPA, the responsible educational agency must enter into a master contract. The master contract specifies the general administrative, financial, and statutory agreements between the NPS or NPA and the responsible educational agency. See the current master contract template for more detailed information.

The Monterey County SELPA Executive Director has been authorized to enter into master contracts with NPSs and NPAs that are used by multiple LEAs within the SELPA. Each LEA retains responsibility for entering into master contracts with NPSs and NPAs if that LEA is the only LEA contracting with that NPS or NPA.

Following execution of a master contract, an individual services agreement (ISA) must be developed, executed, and implemented by the responsible LEA that outlines the specific special education and related services that will be provided to the individual student. This is true regardless of whether the master contract was developed by the SELPA or by the LEA.



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## Part II – Administrative Policies and Procedures

### Chapter 12      Alternative Education Programs Operated by MCOE

#### Section 12.0      Alternative Education Programs Operated by MCOE

The Monterey County Office of Education Alternative Education Program (hereinafter referred to as “MCOE”) operates two types of schools. The information provided in this section identifies the types of schools operated and the obligations of the MCOE and local education agencies (LEAs) related to referral, assessment, attendance at IEP meetings, and exit of a student back to the district or to a more restrictive placement.

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| Section 12.1 | Types of Alternative Education |
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Juvenile Court Schools (Wellington Smith School)

Juvenile court schools are public schools or classes in any juvenile hall, home, ranch, camp, or regional youth educational facility. They provide an educational placement for students who are under the protection or authority of the juvenile court system. Monterey county has two juvenile detention facilities. The school at the detention facilities is named Wellington Smith School and is operated by the Alternative Education Department under the MCOE, acting as LEA. The county juvenile court school is WASC accredited, utilizes core curriculum aligned to California Content Standards, and creates Individualized Learning Plans for each student. Only County Offices of Education may operate and provide for the administration of juvenile court schools.

Students enrolled in Alternative Education Programs operated by the MCOE maintain their LEA of residence. In the event that a student is enrolled in Wellington Smith School and there is no known home address and/or parent/guardian, the LEA of residence is then identified as Salinas Union High School District due to the school's location within its boundaries.

(E.C. § 48200 48400 56041)

County Community School Programs (Grades 7-12) (Salinas Community School)

County community school programs provide a permissive educational option for students who are expelled from their regular school or who are referred by juvenile court, probation, parent(s)/guardian(s), or the Monterey County Truancy Abatement Program.

County community school programs provide customized education solutions for students who learn better in non-traditional settings. Flexible programming addresses each student's individualized needs and goals while supporting them in overcoming barriers to their education. The county community school is WASC accredited, utilizes core curriculum aligned to California Content Standards, and offers a variety of blended learning programs, school-based programs, and Career Tech Ed Pathways. Community school programs operated by the MCOE offer independent study, school-based programs, and robust distance learning options. Program sites include: Rancho Cielo, Silver Star Resource Center, Innovative Technology Arts Pathway (iTAP), and Sea Air Fire Earth (SAFE), a partnership with the Bob Hoover Flight Academy. Only County Offices of Education may operate and provide for the administration of

county community school programs.

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Section 12.2 Referral/Intake Process for Juvenile Court Schools

When a student who receives special education services is referred to an MCOE juvenile court school through the juvenile court system, the following procedures shall be followed:

| MCOE Shall                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | LEA of Residence Shall                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| Process enrollment of the student into the appropriate juvenile court school facility.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <p>Request transcripts and statewide assessment results (e.g., CAASPP) from the student's previous school within 2 working days of receiving the referral.</p> <p>Within SELPA Transfers:</p> <p>Request the special education records be transferred in SIRAS from the student's LEA of residence within 2 working days of receiving the referral.</p> <p>Out of SELPA Transfers:</p> <p>The MCOE will request special education records and develop an interim placement not to exceed 30 days. (E.C. § 56325(a)-(c))</p> <p><i>Out of SELPA Transfers include charter schools within Monterey county who are not part of the Monterey County SELPA.</i></p> | <p>Electronically forward the transcripts, most recent statewide assessment results, and transfer the SIRAS record to the MCOE within 2 working days of receiving the request.</p> <p>Forward all additional requested school records to the MCOE within 5 working days of receiving the request unless an alternate timeline is otherwise agreed upon by both parties.</p> <p>Case manager will review incoming messages in SIRAS for notification of removal from caseload.</p> |
| <p>Allow provider access to student record, if required to complete IEP documentation.</p> <p>The MCOE will collaborate with the student's LEA of residence to ensure timely continuation of the IEP process</p>                                                                                                                                                                                                                                                                                                                                                                                                                                               | <p>If IEP meeting(s) need to be held or if a manifestation determination meeting is required, the LEA will request provider access from the MCOE to the student record.</p>                                                                                                                                                                                                                                                                                                       |

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| and continuity of IEP services.                                                                                                                                                                                                                                               |                                                                                                                                                                                                          |
| <p>If needed, schedule, in collaboration with the designated contact person for the LEA of residence, an IEP team meeting to include all current and proposed service providers.</p> <p>Provide a copy of the notice of IEP team meeting to parents and all team members.</p> | <p>If needed, request an IEP team meeting to include an MCOE administrator and all current and proposed service providers.</p>                                                                           |
| If scheduled, attend the scheduled IEP team meeting.                                                                                                                                                                                                                          | If scheduled, attend the scheduled IEP team meeting.                                                                                                                                                     |
| <p>The MCOE will continue to contact the LEA of residence regarding child find issues and/or significant changes in the IEP.</p> <p>MCOE will coordinate with the LEA of residence regarding triennial and other assessments.</p>                                             | <p>The LEA of residence will recognize that at times it is appropriate and necessary to use district staff for assessments and will coordinate and support the MCOE in completion of the assessment.</p> |

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Section 12.3 Referral/Intake Process for County Community School Programs

When a student who receives special education services is referred to an MCOE county community school program, the following procedures shall be followed:

| MCOE Shall                                                                                                                            | LEA of Residence Shall                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| Receive and process referrals.                                                                                                        | <p>Submit a written referral requesting enrollment consideration.</p> <p><i>Note: For parent referrals, this will include a copy of an inter-district transfer request approved by the LEA of residence.</i></p> <p>If referred by the LEA, the LEA shall attach a copy of the student's current IEP and the most current full psycho-educational assessment to the designated contact person for the MCOE.</p> <p><i>Note: Prior to referral by an LEA, a reassessment must be conducted if the last full assessment is over two years old, and all service providers must update SIRAS data regarding progress towards goals. In the case of an emergency placement or expulsion, a student may be enrolled prior to completion of a needed reassessment, provided that both LEAs agree. In such case, the LEA of residence must complete the assessment following enrollment.</i></p> |
| Within 2 working days of receiving a referral from another agency or a parent, notify the LEA of residence via a request for records. | Electronically submit a copy of the student's current IEP and the most current full psycho-educational assessment within 2 working days of receiving notification from the MCOE of a referral.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

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| Request school records and request access in SIRAS to the student's special education file.                                                                                | Grant access to student record in SIRAS.                                                                                                            |
| Review records of student and conduct interviews as needed.                                                                                                                |                                                                                                                                                     |
| Schedule, as needed, an IEP meeting for the purpose of enrollment.<br><br>Provide a copy of the notice of IEP team meeting, if scheduled, to parents and all team members. |                                                                                                                                                     |
| If scheduled, attend the scheduled IEP team meeting.                                                                                                                       | If scheduled, attend the scheduled IEP team meeting.                                                                                                |
| Conduct orientation and enrollment activities for students enrolled in the Alternative Education Program.                                                                  | Forward all additional requested school records for students who are enrolled in an MCOE community school within 5 working days of the IEP meeting. |
|                                                                                                                                                                            | Arrange and fund transportation of the student to the Alternative Education Program, if determined necessary and appropriate.                       |

[Back to Table of Contents](#)**Section 12.4     Interim Placement**

When a student moves into a district and requires placement in an Alternative Education Program operated by the MCOE, the following procedures shall apply:

| MCOE Shall                                                                                                                                                                                                                                           | LEA of Residence Shall                                                                                                               |
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|                                                                                                                                                                                                                                                      | Notify the designated contact person of the MCOE by phone/fax/e-mail within 2 school days of becoming aware of the student transfer. |
| Review student data and contact the parents immediately.                                                                                                                                                                                             | Forward all available documentation, including IEP and parent contact information to the MCOE.                                       |
| Arrange for interim placement to begin no later than five school days from date of referral from the LEA of residence; notify LEA of residence as to school site/class placement and complete the SELPA interim placement form and enrollment forms. | Request complete educational records from prior school and forward to the MCOE when received.                                        |
| Conduct additional assessments as needed, unless it has been agreed by the MCOE and the student's LEA of residence that the LEA of residence shall conduct these assessments.                                                                        | Complete any assessments as agreed upon between the MCOE and the LEA.                                                                |
| Schedule, in collaboration with the designated contact person for the LEA of residence, an IEP team meeting to include all current and proposed service providers, to be held within 30 days of the student's transfer and adopt the                 |                                                                                                                                      |



|                                                                                                                                                              |                                                                                                                                      |
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| <p>previously consented IEP or develop and implement a new IEP.</p> <p>Provide a copy of the notice of IEP team meeting to parents and all team members.</p> |                                                                                                                                      |
| Attend the scheduled IEP team meeting.                                                                                                                       | Attend the scheduled IEP team meeting.                                                                                               |
|                                                                                                                                                              | <p>Arrange and fund transportation of the student to the Alternative Education Program, if determined necessary and appropriate.</p> |

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| Section 12.5 | Independent Study |
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Students in independent study need to have the ability to work independently, and schools typically assess an applicant's likelihood of success in independent study.

EC Section 51746(b)(1); 5 CCR 11700(d)(1)(B)

The option to take courses via independent study must be continuously voluntary.

EC Section 51747(c)(7); 5 CCR 11700(d)(2)(A)

Special education students may not participate in independent study unless it is specified as an instructional method in their individualized education program (IEP).

EC Section 51745(c)

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| Section 12.6 | 45-Day Alternative Placement |
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Students may be considered for a 45-day alternative placement in either a county community school or a community day school. To have a student considered for such placement, the LEA of residence must follow the referral/intake process specified earlier in this procedure.

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| Section 12.7 | Move to NPS/More Restrictive Placement |
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Occasionally, the MCOE may determine that a student who is enrolled in an Alternative Education Program may require a more restrictive placement. In that case, the following procedures shall apply:

| MCOE Shall                                                                                                                                                                                                                                                                                                                     | LEA of Residence Shall                                                                                |
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| Notify the LEA of residence that a more restrictive placement may be needed.                                                                                                                                                                                                                                                   |                                                                                                       |
| Review all records to ensure that assessments, behavioral reports, behavior support plans, counseling, etc. are documented.                                                                                                                                                                                                    | Review all records with the MCOE.                                                                     |
| Coordinate a reassessment if the last full assessment is over two years old and collect data regarding progress towards goals if previous data is older than the last grade report period, unless it has been agreed by the MCOE and the student's LEA of residence that the LEA of residence shall conduct these assessments. | Complete any assessments as agreed upon between the MCOE and the LEA.                                 |
| Complete referrals to other agencies (e.g. Behavioral Health) as needed.                                                                                                                                                                                                                                                       | Collaborate with the MCOE to complete referrals to other agencies (e.g. Behavioral Health) as needed. |
| Convene an IEP team meeting, including the LEA of residence, to discuss                                                                                                                                                                                                                                                        | Attend the scheduled IEP team meeting.                                                                |

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| possible referral to NPS or more restrictive level of service.                                                                          |                                                                                                                                                                                                                    |
| If the student is determined to require a more restrictive placement, transfer responsibility for the student back to LEA of residence. | If the student is determined to require a more restrictive placement, assume responsibility for making arrangements for and funding that placement.                                                                |
| Grant access to the student record in SIRAS.                                                                                            | <p>Search for available placements, coordinate with other agencies and/or NPS throughout the placement process, and coordinate parent visitations as needed.</p> <p>Request access in SIRAS to student record.</p> |
|                                                                                                                                         | Convene any necessary follow-up IEP team meetings to finalize the offer of FAPE.                                                                                                                                   |
|                                                                                                                                         | Develop necessary contracts.                                                                                                                                                                                       |

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| Section 12.8 | Return to LEA of Residence |
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When a student is being returned to their LEA of residence after enrollment in a permissive community school program or court school, the MCOE Alternative Education Department will notify their LEA of residence.

When this occurs, each agency is responsible for the following:

| MCOE Shall                                                                                                                     | LEA of Residence Shall                                                                                                                                                                                                                                                                                                                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Grant access to student record in SIRAS.                                                                                       | Request transfer of the student record in SIRAS.                                                                                                                                                                                                                                                                                                                                                   |
| Within 72 hours of the student's exit, transfer the student record in SIRAS.                                                   |                                                                                                                                                                                                                                                                                                                                                                                                    |
| Attend a staffing if requested by LEA of residence.                                                                            | Coordinate and attend a staffing as needed.                                                                                                                                                                                                                                                                                                                                                        |
|                                                                                                                                | As needed, schedule an IEP team meeting.<br><br>Send out the notice of IEP team meeting to parents and all team members as needed.                                                                                                                                                                                                                                                                 |
| Attend the IEP team meeting if requested by the LEA of residence.                                                              | Attend the IEP team meeting as needed.                                                                                                                                                                                                                                                                                                                                                             |
| For students who are returned to their LEA of residence by the IEP team, forward all official records to the LEA of residence. | For students who are returned to their LEA of residence by the IEP team, conduct orientation and enrollment activities.<br><br>Immediately enroll the student in an appropriate public school in his or her community; accept course credits (including partial credits) for coursework completed; and immediately place the student in appropriate courses based on coursework already completed. |

|  |                                                                                                                                           |
|--|-------------------------------------------------------------------------------------------------------------------------------------------|
|  | (AB 1354)                                                                                                                                 |
|  | For students who are returned to their LEA of residence by the IEP team, make any changes to transportation arrangements that are needed. |

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| Section 12.9 | IEP Reviews, Additional Assessments, and Reassessments |
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The MCOE is responsible for coordinating all IEP reviews and reassessments of the student while the student is enrolled in an MCOE Alternative Education Program. If a particular type of assessor is required but the MCOE does not have such an assessor available, the MCOE shall contact the student's LEA of residence to identify options for completing the assessment. If possible, the LEA of residence will provide the assessor. The MCOE shall convene the IEP team meeting and the LEA of residence shall be invited and make every attempt to attend or send a representative.



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| Section 12.10 | Provision of Related Services not Available Through the Alternative Education Program |
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The MCOE provides special education teachers with mild/moderate credentials, paraprofessional support, and school psychologist services at all of its alternative education schools. Additionally, the MCOE is responsible for provision of all related services to students who are enrolled in a juvenile court school. For students enrolled in county community schools, the MCOE provides some related services through contracts with outside agencies when required by one or more students. Each student's LEA of residence must provide any related service required by a student's IEP that the MCOE Alternative Education Program does not employ or have a contract for.

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| Section 12.11 | Initial Referrals to Special Education |
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When a student who is enrolled in an MCOE Alternative Education Program is referred for an initial assessment to determine eligibility for special education, the LEA of residence will be notified. The MCOE is responsible for coordinating the assessment. If a particular type of assessor is required, but the MCOE does not have such an assessor available, the MCOE shall contact the student's LEA of residence to identify options for completing the assessment. If additional student records are needed as part of the assessment that have not been transferred from the LEA of residence to the MCOE, those records will be requested. If possible, the LEA of residence will provide the assessor. The MCOE shall convene the IEP meeting, and the LEA of residence shall be invited and make every attempt to attend or send a representative.

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| Section 12.12 | Compliance Complaints and Due Process |
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MCOE is responsible for investigating and responding to all compliance complaints and requests for due process related to issues that occur or occurred during the student's enrollment in an MCOE Alternative Education Program. MCOE shall notify the LEA of residence when a compliance complaint or due process hearing request is made. The MCOE is responsible for all corrective actions resulting from either procedure that are associated with issues that occurred while the student was in attendance in an MCOE Alternative Education Program. If the outcome requires additional assessment and/or related services, see the "IEP Review", "Additional Assessments", and "Reassessment" and/or the "Provision Of Related Services Not Available Through The Alternative Education Program" sections of this procedure.

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| Section 12.13 | Disputes |
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Disputes between the MCOE and the LEA of residence shall be resolved using the dispute resolution process outlined in Chapter 2 of the administrative procedures section of this handbook.