IEP / 504
Instructions and Information

For more information contact:
Margie Curran at
mcurran@charlesarmstrong.org
Private and Public School Testing Terms

Psycho-educational Evaluation (Private)

- Student’s who experience difficulty in learning benefit from an in-depth analysis of their strengths and weaknesses. To accomplish this, testing is administered in the following areas; intellectual, academic, emotional, memory, improved perceptual motor, learning style, attention and concentration.

- The psycho-educational evaluation assesses the student’s cognitive potential in their achievement.

- The written report outlines the test results and gives recommendations for the student, the family and the school to follow. The trained educational therapist or a psychologist can administer a psycho-educational evaluation.

Individual Education Plan (IEP) Public

- An Individualized Educational Program (IEP) is a written agreement between the parents and the school outlining the student’s needs and what will be done to address those needs.

- As stated in the Individual with Disabilities Education Act (IDEA), formally PL 94–142 this is a document that is written it a team meeting. The professionals who administer the tests (special-education teacher/psychologist) along with the classroom teacher, parents and student (if appropriate) develop the IEP in a team meeting.

- In addition to the test results, goals and objectives are written in the plan. It also includes the date the services will begin, how long they will last, and the way in which students progress will be evaluated.

504 Plan (Public)

- Selection 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990 are major federal legislative acts that are designed to protect the civil rights of individuals with disabilities.

- The main reason these acts become important in the school setting is because they use a different definition of disability and a different approach to eligibility than does that IDEA of 1990, resulting in many more students who are not eligible under the IDEA being protected by section 504 and the ADA.

- The definition of disability under Section 504 is significantly broader than the definition used in the IDEA. Under 504, a person is considered to have a disability if that person has a physical or mental impairment that substantially limits one or more of the persons major life activities, has a record of such impairment or is regarded as having such impairment. For many students their major life activity affected is learning.

- A student who does not meet the eligibility for IEP under the IDEA but needs accommodations in order to “maintain the average performance in the general population” can achieve services through a 504 Plan.

- A 504 Plan is a written plan that must be designed to meet the needs of the individual student including specific accommodations and modifications that are necessary to meet the “free appropriate public education” (FAPE) requirement.
Step #1: **Everyone to Complete**

1. Charles Armstrong Authorization of Release of Confidential Information
   a. Under **Information Released To**, please **add the school district** (i.e. Belmont Redwood Shores School District, your home district or both), the school, evaluators and testers, psychologists, and any other professionals that **you know** may want to observe or test your child as part of the IEP/504.
      i. Note: **if you do not know the names of all of the professionals** who may request to assess your child, **if you list the school district name(s)**, all of the professionals associated with that district will be covered within this release of information.
   b. **Check all of the boxes in the first column** in order to allow on-campus observations and testing, teachers to respond to assessment requests and the release of all associated information required to complete the IEP/504 process.
   c. Add any additional information you authorize to be released in the **other section**.

2. Return signed form to Student Services
Authorization of Release of Confidential Information

Information requested from (please list school districts, assessors and/or other professionals):

---------------- Charles Armstrong School ----------------


Information released to (please list school districts, assessors, and/or other professionals):


At my request, I, __________________________________, hereby authorize the disclosure of the information checked below from the records of:

Name: ________________________________________ Date of Birth: _______________________

☐ School Information
☐ Teacher Reports/Evaluations
☐ IEP/Evaluations
☐ Academic Status or Progress
☐ On-campus Classroom Observations
☐ On-campus Testing
☐ Counselor Reports/Evaluations
☐ Communication between Schools/Agencies
☐ Psychologist’s Status or Progress
☐ Psychiatric Reports/Evaluations
☐ Confidential Health Information
☐ Other (Specify)

Purpose of disclosure is to help determine educational programming, or may be beneficial to help determine appropriate intervention by other agencies/professionals.

I may revoke this consent to release information in writing at any time except to the extent that action has been taken or information disclosed pursuant to signed consent. Once information is disclosed it may no longer be subject to HIPAA protections.

This consent shall remain in effect for a period of one year from signature date. To revoke this authorization, I should contact: Charles Armstrong School, 1405 Solana Drive, Belmont, CA 94002. This form has been revised to comply with HIPAA regulations of 4/14/03.

____________________________________________            __________________________
Signature of Lawful Custodian                          Date

Updated: 3/26/2019
Step #2: If you LIVE IN San Mateo County

Request an IEP/504 from your local district

1. Send a Certified Letter to the Director of Special Education at your Elementary District, even if your child will be transitioning to high school
2. On the letter CC and send a copy to:
   a. Charles Armstrong School and
   b. The Director of Special Education:
      2960 Hallmark Drive
      Belmont CA 94002

SEE SAMPLE LETTER FOLLOWING THIS PAGE

(if you LIVE OUTSIDE of San Mateo County, do not complete this step, go to step #3)
**PUBLIC SCHOOL IEP/504 PROCESS**

**A Step by Step Guide**

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**Step #3: If you LIVE OUTSIDE of San Mateo County**

1. Families must request an IEP/504 for your child at Belmont Redwood Shores School District
2. Use following letter as a guide to write a letter to BRSSD
3. On letter, CC to:
   a. Charles Armstrong School (mail or drop off copy of cover letter to Armstrong) and
   b. the Director of Special Education at your District of residence (send copy of cover letter to them)
      • Remember this is the elementary district even if your child will be transitioning to high school.
4. Fill out Forms: SELPA, Referral for Assessment, Intake (4 pages)
5. Add documentation including previous testing results, report cards (obtained through Whipple Hill), IEP, ISP or 504, etc.
6. **Mail this entire packet (excluding a copy of the letter you send to your district and a copy to Armstrong, along with the Armstrong Release):**
   
   **Mail to:** Lara Goldman  
   Director of Special Education  
   2960 Hallmark Drive,  
   Belmont, CA 94002

**NOTE:** It is recommended you mail the packet with proof of receipt or hand deliver with signature verification.

SEE SAMPLE LETTER FOLLOWING THIS PAGE

Updated: 3/26/2019
SAMPLE LETTER: 
REFERRAL FOR SPECIAL EDUCATION
If you live IN San Mateo County

Date

Director of Special Education
Local Unified School District
Address
City, State, Zip

Dear ________,

I am the parent of ________ who is currently enrolled at the Charles Armstrong School in Belmont, CA. This school delivers specialized instruction to children with a diagnosed Learning Disability. I am planning to transition my child back to Local School in the fall of 2017.

I am writing to make a referral for assessment for special education services for ________ as required by 5 C.C.C. Sec. 3021(a). He/she may be eligible for special education services. I am requesting that ________ be given a comprehensive assessment by the school district and that an IEP meeting be schedule for him/her.

I look forward to receiving an assessment plan within 15 days. If you have any questions, please feel free to contact me. Thank you for your cooperation and assistance.

Sincerely,


CC: Belmont Redwood Shores School District
Lara Goldman
Director of Special Education Services
2960 Hallmark Drive
Belmont, CA 94002

CC: Charles Armstrong School
Attention: Margie Curran
1405 Solana Drive
Belmont, CA 94002-3653

Updated: 3/26/2019
Date

Lara Goldman
Director of Special Education
Belmont Redwood Shores School District
2960 Hallmark Drive
Belmont, CA 94002

Dear Sir/Madame,

I am the parent of_______ who is currently enrolled at the Charles Armstrong School in Belmont, CA. This school delivers specialized instruction to children with a diagnosed Learning Disability. I am planning to transition my child back to Local School in the fall of 2017.

I am writing to make a referral for assessment for special education services for_______ as required by 5 C.C.C. Sec. 3021(a). He/she may be eligible for special education services. I am requesting that_______ be given a comprehensive assessment by the school district and that an IEP meeting be schedule for him/her.

I look forward to receiving an assessment plan within 15 days. If you have any questions, please feel free to contact me. Thank you for your cooperation and assistance.

Sincerely,

_________

CC: Local Unified School District
   Director of Special Education
   Their Name Here
   Address
   City, State, Zip

CC: Charles Armstrong School
   Attention: Margie Curran
   1405 Solana Drive
   Belmont, CA 94002-3653

**YOU MUST INCLUDE THE FORMS FOLLOWING THIS PAGE ENTITLED:
1) SELPA, 2) Referral for Assessment to Belmont-Redwood Shores School District, 3) Belmont Redwood Shores INTAKE Form (4 pages) and 4) copies of previous evaluations**
Referral for Assessment to Belmont - Redwood Shores School District

Identifying Information:

Student Name: ____________________________________________

Address: ________________________________________________

Home Phone: _____________________________________________

Parent One Name: _________________________________________

Phone Number: ___________________________________________

Email: ___________________________________________________

Parent One Signature: ___________________________ Date: ______

Parent Two Name: _________________________________________

Phone Number: ___________________________________________

Email: ___________________________________________________

Parent Two Signature: ___________________________ Date: ______

District of Residence: _____________________________________

Did student previously attended school in this district? Yes___ No___

Other Information needed:

☐ Signed letter requesting an assessment
☐ Documentation of SST meeting dates and pre-referral activities
☐ Previous IEPs (if any)
☐ Written summary from current classroom teacher(s) regarding concerns / Teacher input form
☐ Health and Development questionnaire (Intake Form)
☐ Consent to exchange information
☐ Current report cards

Please submit the above information with this form to the Belmont- Redwood Shores School District
Dear Parent(s):

As you know, your child has been referred for a psychoeducational evaluation. In order to better understand your child and your concerns, it would be helpful to have this information ahead of time. Please feel free to omit an item if you so choose.

Please complete this form and return as soon as possible. Your cooperation is greatly appreciated.

Student’s Name ________________________ Birthdate ________________________

School ________________________ Grade ______ Age ______ Sex ______

Home Address ________________________

Home Phone ________________________ Business Phone ________________________

E-mail Address: ________________________ What is your child’s ethnicity? ________________________

Does your family speak any language besides English at home? ________________________

If so, what language? ________________________ What is the predominant language? ________________________

What was the language your child first learned to speak? ________________________

When did your child first speak English? ________________________

Mother or Guardian ________________________ Father or Guardian ________________________

Occupation ________________________ Occupation ________________________

Is student living with both natural parents? Yes ______ No ______ If not, please explain: ________________________

________________________________________________________________________

________________________________________________________________________

Student’s doctor ________________________ (Name) ________________________ (Address) ________________________

Medical plan and number ________________________

Specialist (Eye/Hearing) ________________________ (Name) ________________________ (Address) ________________________

Other ________________________

Does your child wear glasses? ________________________

Date of most recent vision test ________________________ Results ________________________

Date of most recent hearing test ________________________ Results ________________________

Please comment if your child has had: allergy, asthma, convulsions, any restrictions on activity at school? ________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________
Does your child take any medications? Explain:

Brothers and/or sisters:

<table>
<thead>
<tr>
<th>Name</th>
<th>Sex</th>
<th>Age</th>
<th>School or Occupation</th>
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Other persons in the home:

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<th>Name</th>
<th>Relation</th>
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How does your child get along with:

Mother:

Father:

Brother(s):

Sister(s):

Friends:

By whom is your child disciplined? In what way?

General Information

Approximate weight at birth Months carried Approximate hours of labor

Type of delivery: Caesarian Normal Other

Mother's age at delivery Mother's health during pregnancy

Please describe child's health during and after delivery

Please give approximate ages for the following:

Age sat up Age walked Age stopped bottle or breast feeding

Age first word Age talked in sentences Age toilet trained
Serious illnesses or injuries (type and age)

Present health

Please check any area(s) which constitute a problem for your child

Eating________ Sleeping________ Bedwetting or other toilet accidents________ Nail biting________

Thumb sucking________ Nightmares________ Getting along with friends________

Self-help skills (Dressing, Bathing, Etc.)

Unusual fears________ Please describe

Please list child's major interests and hobbies

Do you feel your child is having difficulties in school?________ At home?

If so, what do you consider the problem?

If there is a problem, when and how did it begin?

Are there any past or present circumstances that you think could be related to your child's present difficulties?

Has your child ever had counseling? Yes________ No________

Has your child ever had any psychological or psychiatric evaluations? Yes________ No________

If so, by whom (Agency/Name)

Please submit copies of any previous evaluations with this form.
### Educational History

Age started nursery school ___________________________ Age started kindergarten ___________________________

List schools attended by this student (include nursery school and kindergarten if applicable)

<table>
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<th>Name</th>
<th>Location</th>
<th>Grade</th>
<th>Reason for Leaving</th>
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Has your child ever repeated a grade? _______________ If so, which grade? ___________________________

Has your child ever been in a Special Education program? ___________________________

If so, which program? ___________________________

Child's feelings about school ___________________________

How do you feel about the school program that has been provided for your child? ___________________________

Please put other comments below that will help us understand your child.

Mother's comments ___________________________

_________________________

_________________________

_________________________

_________________________

Father's comments ___________________________

_________________________

_________________________

_________________________

_________________________

Who completed this form? ___________________________
Present Levels Of Performance (PLOP)- Teacher narrative

Please fill out the following sections as best you can. Explain what the student is successful in and what the student struggles in. The questions in each category are merely guides, but please do your best to provide more information than the questions ask. When writing this evaluation, please keep in mind that we are trying to see if the student's development is age appropriate (are they at the same developmental level as peers of the same age/grade).

IMPORTANT: Please provide examples for your observations. Ex: “John has difficulty organizing the body paragraphs of his essays. For example, in a recent essay on Of Mice and Men, John wrote a paragraph in which his topic sentence was pertaining to the relationship between Lenny and the rancher's wife, but the first quote and corresponding commentary was focused on Lenny's relationship with George”

**Oral Expression:** Does the student express him or herself clearly? Does the student share often in class? Does the student speak in full sentences? Does he or she use academic language?

**Listening Comprehension:** Is the student able to understand multi-step directions? Can the student write appropriate notes from a lecture?

**Written Communication:** Grammar, punctuation, spelling, use of academic vocabulary, written organization, etc.
**Reading Fluency:** Does the student complete reading assignments on time? When asked to read aloud in class, does he or she hesitate on certain words? Appropriate pausing at punctuation? Proper emphasis? Cadence?

**Reading Comprehension:** Is the student able to demonstrate understanding of a text either verbally or through writing? Is the student able to convey more than the basic points of a story he or she has read? How does the student fair with new academic language?

**Math Calculation:** Can the student perform arithmetic? Can they perform an operation when instructed?
**Math Reasoning:** How is the student's critical thinking in math? Can they identify important and unimportant information in a word problem? When given a problem, can they use reasoning to determine the appropriate formula or steps to solve it?

**Gross/Fine Motor Skills:** Does the student write legibly? Is the student able to line up numbers properly for a math problem? Can the student cut a straight line with scissors? Does the student appear to have good balance?

**Social/Emotional Development:** Does the student get along well with peers? Adults? Is the student unusually shy? Can the student resolve/avoid conflicts? Is the student self-aware?

**Executive Functioning:**
On a scale of Always, Often, Sometimes, Rarely, or Never, does the student:

- Turn in homework on time
- Ask for help when needed
- Stay on task in class
- Take notes when needed
- Maintain a daily planner
CONSENT TO RELEASE OR EXCHANGE INFORMATION

NAME OF STUDENT ___________________________ BIRTHDATE ___________________________

DISTRICT/SCHOOL: Belmont-Redwood Shores School District

Written parental consent shall be obtained before personally identifiable information is disclosed in writing or orally to anyone other than authorized employees specified by the school district. You need to know that:

- You choose which agencies shall exchange information.
- You may refuse to sign this exchange form.
- Information about your child and family is strictly confidential. Your child's school maintains records specifying the source of the information, the date and purpose of any disclosure, and with whom information was shared.
- These records will help in evaluation assessment and IEP development of your child.
- You have the right to review records.
- Your rights are preserved under: Title 34 Code of Federal Regulations; Family Education Rights Privacy Act of 1974, Title 20 of the United States Code, Section 1232 (g), Title 34 Code of Federal Regulations, Section 99.
- This consent is good for one year unless you withdraw your consent before that time.

I give permission for Belmont-Redwood Shores School District to exchange information relevant to my child's educational needs with the following agency/agencies. Please initial the box(es) below to permit the exchange of information about your child with the specific agency/agencies.

(Space after agency name may be used for phone and/or fax information)

☐ School District: ___________________________ ☐ Occupational Therapist: ___________________________

☐ Audiolist: ___________________________ ☐ Other Medical Specialist: ___________________________

☐ California Children's Services: ___________________________ ☐ Primary Care Physician/Clinic: ___________________________

☐ County Offices of Education: ___________________________ ☐ Psychologist/Psychiatrist: ___________________________

☐ Dept. of Mental Health: ___________________________ ☐ Public Health Nursing: ___________________________

☐ Dept. of Rehabilitation: ___________________________ ☐ Regional Center: ___________________________

☐ Family Resource Centers: ___________________________ ☐ Speech Therapist: ___________________________

☐ Human/Social Services Dept: ___________________________ ☐ Other: ___________________________

☐ Infant Development Program: ___________________________ ☐ Other: ___________________________

A photocopy of this form shall be as valid as the original. I understand that I am to receive a copy of this authorization.

Parent/Guardian: ___________________________ Date: ___________________________

Parent/Guardian: ___________________________ Date: ___________________________

Please return information to:

District Name: Belmont-Redwood Shores School District

Address: 2960 Hallmark Dr. Belmont, CA 94002

Attention: ___________________________

Phone: 650-637-4800 Fax: 650-637-4811

Rev: 9/08
POLICY

PARENTALLY-PLACED PRIVATE SCHOOL STUDENTS WITH DISABILITIES

Definitions

District of Location ("DOL"): As used in this policy, "District of Location (DOL)" refers to the school district where the private school or facility is located. "DOL" is referred to as, "Local Educational Agency (LEA)" in federal and state laws regarding parentally-placed private school students.

District of Residence ("DOR"): As used in this policy, "District of Residence (DOR)" refers to the school district within which boundaries the child with a disability resides.

Private School or Facility: As used in this policy, "private school or facility" means: (1) private full-time day school pursuant to California Education Code Section 48222 (including religious schools); (2) private tutor pursuant to California Education Code Section 48224; and/or (3) any other educational institution, program, arrangement, or facility not sponsored, maintained, or managed by the school district and for which the school district does not collect average daily attendance funds.

Private School Children with Disabilities: As used in this policy, "private school children with disabilities" means children with disabilities enrolled by a parent in a private elementary or secondary school or facility, other than students with disabilities placed by the school district in a nonpublic, nonsectarian school pursuant to EC 56365. (EC 56170)

Representatives of Private School Students: As used in this policy, "representatives of private school students" may include private school administrators, teachers, students and parents.
Districts within the San Mateo County Special Education Local Plan Area ("SELPA") shall:

Locate, identify, and evaluate all students ages three (3) to twenty-two (22) with disabilities voluntarily enrolled by their parents in private schools, including religious schools, who may be eligible for special education services;

and

Offer a free appropriate public education ("FAPE") to all students ages three (3) to twenty-two (22) with disabilities voluntarily enrolled by their parents in private schools, including religious schools, who are determined to be eligible for special education services. Districts shall provide FAPE to all students ages three (3) to twenty-two (22) with disabilities who are determined to be eligible for special education who are enrolled in public schools.

I. Consultation with Private School Representatives

A. To ensure timely and meaningful consultation, the District of Location ("DOL") shall consult with representatives of private schools and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for children. Such consultation shall include pursuant to PL 108-446 Section 612 (10)(A)(ii)(V)(iii)(I-V) and Education Code Section 56172(b) & (c):

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, including the determination of how the amount was calculated;

3. The consultation process among the DOL, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the 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 services delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all children, and how and when those decisions will be made; and

5. How, if the DOL disagrees with the views of the private school officials on the provision of services or the types of services, the DOL will provide to the private school officials a written explanation of the reasons why the DOL chose not to provide services directly or through a contract. (20 U.S.C. 1412(a)(10)(A)(iii))

B. When timely and meaningful consultation as described above has occurred, the DOL 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 DOL shall forward the documentation of the consultation process to the California Department of Education (“CDE”).

C. A private school official has the right to submit a complaint to the CDE, if:

1. The DOL’s consultation was not meaningful and timely, or

2. The DOL did not give due consideration to the views of the private school official.

D. If a complaint is filed:

1. The private school official must provide the basis of the complaint of noncompliance, and

2. The DOL must forward the appropriate documentation to the CDE.

E. If the private school official is dissatisfied with the decision of the CDE, he/she may appeal the decision to the U.S. Department of Education.

II. Child Find

A. The DOL shall undertake the following child find activities with regard to private school students ages three (3) to twenty-two (22):
1. Consult with representatives of private school children with disabilities regarding the child find process, including but not limited to, criteria for special education eligibility and special education referral procedures under federal and state laws and regulations, and

2. Distribute materials to representatives of private school children with disabilities regarding the child find process, including but not limited to, criteria for special education eligibility and special education referral procedures under federal and state laws and regulations.

B. The proportionate share of federal funds described in Section VI (B), below, shall not be used for child find activities.

C. The DOL shall ensure child find activities undertaken for private school students are comparable to activities undertaken for students with disabilities ages three (3) to twenty-two (22) in public schools.

III. Special Education Referral

A. Students must be referred for special education instruction and services only after the resources of the general education program have been considered and, where appropriate, utilized.

B. If after considering and, where appropriate, utilizing general education resources, representatives of private school students with disabilities, determine that a private school student may be eligible for special education services, a referral shall be directed to the Director of Special Education of the District of Location ("DOL").

C. If the private school conducted a Student Study Team ("SST") meeting, the DOL shall request that the private school provide a copy of the SST documents to the DOL when private school representatives determine that a private school student may be eligible for special education services.

IV. Initial Individualized Education Program (IEP) Team Meeting

A. Upon identifying and locating a student suspected of having a disability, the DOL shall conduct an appropriate and timely initial assessment of the child’s needs, if a current assessment has not been performed by the DOR.
B. The DOL shall make the eligibility decision in accordance with applicable state and federal laws and regulations.

C. If the parents of a private school child with a disability are clearly not interested in enrolling their child in public school, and if the child is eligible for special education and related services as a child with a disability, the DOL shall develop a Service Plan ("SP") in accordance with this policy and federal and state laws and regulations.

D. In order to ensure that the parents' intentions are clear, the DOL shall request that the parents sign the following statement on a form entitled, "Certification of Parents' Decision Not to Enroll in Public School:"

Parents of ________________ hereby certify that we are not interested in enrolling our child, ________________, in the District. We are not interested in the development of an IEP for our child and the District's offer of a free appropriate public education. We are only interested in a Service Plan from the DOL, the school district where the private school in which we are unilaterally placing our child is located. We have received the San Mateo County SELPA Notice of Procedural Safeguards and Parents' Rights, and we understand the notice.

E. If the parents of a private school child with a disability are interested in enrolling their child in public school, or are unsure of their intentions, the DOR IEP team shall develop an IEP for the child.

1. If the parents of a private school child with a disability agree with and consent to the IEP developed by the IEP team, the IEP shall be implemented by the DOR without undue delay following the IEP team meeting.

2. If the parents of a private school child with a disability agree with, but decline the IEP developed by the IEP team, the IEP team shall ask the parents to indicate their agreement with the following statement on the student's IEP form:

"I agree that the District of Residence has offered my child a free appropriate public education, including an appropriate placement and services. However, I am voluntarily placing my child in a private school."
3. The district shall not be required to pay for the cost of education, including special education and related services, of a student with a disability at a private school or facility if the district made a free appropriate public education available to the student and the parent of the child elected to place the child in the private school or facility. (EC 56174)

4. A private school student with disabilities may receive a different amount of services than a student with disabilities enrolled in a public school receives pursuant to paragraph (2) of subsection (a) of Section 300.455 of Title 34 of the Code of Federal Regulations. No private school student with disabilities is entitled to any amount of service the student would receive if enrolled in a public school pursuant to paragraph (3) of subsection (a) of Section 300.455 of Title 34 of the Code of Federal Regulations.

5. If the parents voluntarily place their child in a private school, the DOR shall request that the DOL develop a Service Plan (“SP”) on the SELPA/DOL SP form in accordance with this policy and federal and state laws and regulations.

V. Student Count of Parentally-Placed Private School Students with Disabilities

A. The DOL shall determine the manner in which to conduct the annual count of the number of private school students with disabilities.

1. The student count shall be conducted for attendance on December 1 of the prior year. The student count shall be conducted by mail and follow-up phone call or e-mail, or via in-person contact as needed.

2. The student count shall be used to determine the proportionate amount of federal funds that the DOL must spend on providing special education and related services to private school students with disabilities in the fiscal year following the date on which the student count is conducted.

VI. The Service Plan

A. No parentally-placed private school child with a disability has an individual right to receive some or all of the special education services that the child would receive if enrolled in public school.

B. Pursuant to federal and state law and regulations, the DOL shall spend a proportionate share of federal funds made available under the Part B grant
program for local assistance to provide special education and related services to private school students with disabilities ages three (3) to twenty-two (22) eligible for special education services. Decisions about the services that shall be provided to private school children with disabilities are made after consulting, in a timely and meaningful way, with representatives of private school children with disabilities, as described in Section I(A) (1-4) of this policy.

C. Following timely and meaningful consultation, the DOL will issue the following report to the private schools located within the DOL’s attendance boundaries:

After consulting with representatives of private school students with disabilities as required by law, the _________ School District determined that the following services shall be provided to private school students with disabilities ages three (3) to twenty-two (22) who are determined to be eligible for special education services:

1. __________________________

2. __________________________

D. Transportation

1. If the SP team determines that transportation is necessary for the student to benefit from or participate in the services provided in the student’s SP, a private school student with a disability shall be provided transportation depending upon the scheduling of the services. Such transportation may be provided:

   a. From the student’s school or the student’s home to a service site other than the private school; and/or

   b. From the service site to the private school or to the student’s home, depending on the timing of the services.

2. The DOL shall not provide transportation from the student’s home to the private school.

3. The cost of transportation described in this section shall be included in calculating whether the DOL has spent a proportionate amount of federal funds on private school children with disabilities.
E. Each private school student with a disability who has been designated to receive services under this policy shall have a SP that describes specific special education and related services that the DOL shall provide to the student as determined by the DOL pursuant to this policy. The DOL shall ensure that a representative of the private school attends each meeting involving an individual student’s SP. If the private school representative cannot attend, the DOL shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

F. The services offered pursuant to this policy shall be reviewed by the DOL at least annually by means of a DOL-wide survey and/or consultation with representatives of private school students with disabilities ages three (3) to twenty-two (22).

G. The services provided pursuant to this policy may be provided at a private school, including a religious school, to the extent consistent with law. The location of the services shall be set out in the student’s SP. Service providers shall be hired and supervised by the DOL.

H. The DOL shall keep title to and control all property, equipment, and supplies acquired for the benefit of private school students with disabilities.

I. The DOL shall not use its proportionate share of federal funding to finance the existing level of instruction in a private school or to otherwise benefit the private school.

VII. IEP Meetings/Assessments After the Initial IEP Team Meeting

A. All students with disabilities eligible for special education who reside in the DOR are entitled to receive FAPE from the DOR if they are enrolled in public school. One year after an eligible private school student’s initial IEP team meeting and annually thereafter, the DOR shall notify the child’s parents in writing that the DOR:

1. Continues to offer FAPE in accordance with federal and state laws and regulations;

2. Is ready, willing, and able to schedule an IEP team meeting for the child in order to offer the child FAPE, subject to assessment, if appropriate, if the parents express an interest in enrolling their child in public school.
B. Unless Paragraph VII (C), below, applies, the parents shall be requested to send the document back to the DOR and indicate their agreement with one of the following statements:

☐ I understand that the DOR continues to offer my child a free appropriate public education (including appropriate special education and related services) if he/she is enrolled in public school, and I would like my child to continue to receive services pursuant to his/her SP. I am not interested in enrolling my child in public school. (In this case, the DOR will forward within three (3) business days a copy of this document to the DOL.)


or

☐ I understand that the DOR continues to offer my child a free appropriate public education (including appropriate special education and related services) if he/she is enrolled in public school, and I would like to schedule an IEP meeting for my child.

C. Notwithstanding Paragraph VII (A) and (B), above, the DOL shall conduct an assessment at least every three (3) years in order to determine the student’s continuing eligibility for special education. If the parent of the student does not consent to reassessment, the student is no longer considered eligible for special education, and is not included in the count of private school students.

VIII. Private Preschool Students with Disabilities

A. If the IEP team determines that a preschool child with a disability is eligible for special education services and develops an IEP offering only related services, (i.e., placement is not a component of FAPE), the eligible preschool child shall be considered a public school student. The DOR shall provide the eligible preschool child with a disability with FAPE in accordance with federal and state laws and regulations.

B. If:

1. An IEP team determines that a preschool child with a disability is eligible for special education services and develops an IEP offering placement and related services; and
2. The parent agrees with the IEP developed by the IEP team, but declines public preschool placement in order to unilaterally enroll his/her child in a private school; then,

3. The eligible preschool child with a disability shall be considered a unilaterally placed private school student. In such case, the DOL shall offer a SP for the child in accordance with this policy and federal and state laws and regulations.

IX. Dispute Resolution

A. When FAPE is not at issue, special education due process procedures are not available to parents for resolving disagreements about the services provided to private school children unilaterally placed by their parents.

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

C. Disputes regarding whether the DOR made FAPE available to the student, (as well as the initial location, identification, and assessment of the parentally-placed private school student with disabilities by the DOL and/or the DOR, as appropriate), may be resolved pursuant to local policies and procedures and/or by filing a request for a due process hearing with the Office of Administrative Hearings.

D. Disputes regarding the SELPA/DOL’s policy regarding Parentally-Placed Private School Students with Disabilities may be resolved pursuant to local policies and procedures, and/or by filing a complaint with the California Department of Education pursuant to Title V of the California Code of Regulations, section 4600 et seq.
California Department of Education
Special Education Division
Procedural Safeguards Referral Service
1430 N Street Suite 2401
Sacramento, California 95814
Attn: PSRS Intake

Legal Citations: Title 20 United States Code Section 1412(a)(10)(A)
California Education Code Sections 56170-56177

Approved by Administrators Council: 11/16/06
Approved by SELPA Governing Board: 1/09/07
Special Education Rights of Parents and Children
Under the Individuals with Disabilities Education Act, Part B, and the
California Education Code
Notice of Procedural Safeguards
Revised October 2016

Note: The term school district is used throughout this document to describe any public education agency responsible for providing your child’s special education program. The term assessment is used to mean evaluation or testing. Federal and state laws are cited throughout this notice using English abbreviations, which are explained in a glossary on the last page of this notification.

What is the Notice of Procedural Safeguards?

This information provides you as parents, legal guardians, and surrogate parents of children with disabilities from three (3) years of age through age twenty-one (21) and students who have reached age eighteen (18), the age of majority, with an overview of your educational rights or procedural safeguards.

The Notice of Procedural Safeguards is required under the Individuals with Disabilities Education Act (in English, referred to as IDEA) and must be provided to you:
- When you ask for a copy
- The first time your child is referred for a special education assessment
- Each time you are given an assessment plan to evaluate your child
- Upon receipt of the first state or due process complaint in a school year, and
- When the decision is made to make a removal that constitutes a change of placement

(20 USC 1415[d]; 34 CFR 300.504; EC 56301[d] [2], EC 56321, and 56341.1[g] [1])

What is the Individuals with Disabilities Education Act (IDEA)?

IDEA is a federal law that requires school districts to provide a “free appropriate public education” (in English, referred to as FAPE) to eligible children with disabilities. A free appropriate public education means that special education and related services are to be provided as described in an Individualized education program (in English, known as IEP) and under public supervision to your child at no cost to you.

May I participate in decisions about my child’s education?

You must be given opportunities to participate in any decision-making meeting regarding your child’s special education program. You have the right to participate in IEP team meetings about the identification (eligibility), assessment, or educational placement of your child and other matters relating to your child’s FAPE. (20 USC 1414[d] [1]B–[d][1][D]; 34 CFR 300.321; EC 56341[b], 56343[c])

The parent or guardian, or the local educational agency (LEA), has the right to participate in the development of the IEP and to initiate their intent to electronically audiotape the proceedings of
the IEP team meetings. At least 24 hours prior to the meeting, the parent or guardian shall notify the members of the IEP team of their intent to record a meeting. If the parent or guardian does not consent to the LEA audiotape recording an IEP meeting, the meeting shall not be recorded on an audiotape recorder.

Your rights include information about the availability of FAPE, including all program options, and all available alternative programs, both public and nonpublic. (20 USC 1401[3], 1412[a][3]; 34 CFR 300.111; EC 56301, 56341.1[g][1], and 56506)

Where can I get more help?

When you have a concern about your child’s education, it is important that you contact your child’s teacher or administrator to talk about your child and any problems you see. Staff in your school district or special education local plan area (SELPA) may answer questions about your child’s education, your rights, and procedural safeguards. Also, when you have a concern, this informal conversation often solves the problem and helps to maintain open communication.

You may also want to contact one of the California parent organizations (Family Empowerment Centers and Parent Training Institutes), which were developed to increase collaboration between parents and educators to improve the educational system. Contact information for these organizations is found on the CDE special education California Parent Organizations Web page at http://www.cde.ca.gov/sp/se/qa/capmo.asp.

Additional resources are listed at the end of this document to help you understand the procedural safeguards.

What if my child is deaf, hard of hearing, blind, visually impaired, or deaf-blind?

The State Special Schools provide services to students who are deaf, hard of hearing, blind, visually impaired, or deaf-blind at each of its three facilities: the California Schools for the Deaf in Fremont and Riverside and at the California School for the Blind in Fremont. Residential and day school programs are offered to students from infancy to age 21 at both State Schools for the Deaf. Such programs are offered to students aged five through 21 at the California School for the Blind. The State Special Schools also offer assessment services and technical assistance. For more information about the State Special Schools, please visit the California Department of Education (CDE) Web site at http://www.cde.ca.gov/sp/ssa/ or ask for more information from the members of your child’s IEP team.

Notice, Consent, Assessment, Surrogate Parent Appointment, and Access to Records

Prior Written Notice

When is a notice needed?

This notice must be given when the school district proposes or refuses to initiate a change in the identification, assessment, or educational placement of your child with special needs or the
Notice of Procedural Safeguards
CDE, T07-037, English, Arial font
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provision of a free appropriate public education. (20 USC 1415[b][3] and (4), 1415[c][1], 1414[b][1]; 34 CFR 300.503; EC 56329 and 56506[a])

The school district must inform you about proposed evaluations of your child in a written notice or an assessment plan within fifteen (15) days of your written request for evaluation. The notice must be understandable and in your native language or other mode of communication, unless it is clearly not feasible to do so. (34 CFR 300.304; EC 56321)

What will the notice tell me?

The Prior Written Notice must include the following:

1. A description of the actions proposed or refused by the school district
2. An explanation of why the action was proposed or refused
3. A description of each assessment procedure, record, or report the agency used as a basis for the action proposed or refused
4. A statement that parents of a child with a disability have protection under the procedural safeguards
5. Sources for parents to contact to obtain assistance in understanding the provisions of this part
6. A description of other options that the IEP team considered and the reasons those options were rejected; and
7. A description of any other factors relevant to the action proposed or refused. (20 USC 1415[b][3] and [4], 1415[c][1], 1414[b][1]; 34 CFR 300.503)

Parental Consent

When is my approval required for assessment?

You have the right to refer your child for special education services. You must give informed, written consent before your child's first special education assessment can proceed. The parent has at least fifteen (15) days from the receipt of the proposed assessment plan to arrive at a decision. The assessment may begin immediately upon receipt of the consent and must be completed and an IEP developed within sixty (60) days of your consent.

When is my approval required for services?

You must give informed, written consent before your school district can provide your child with special education and related services.

What are the procedures when a parent does not provide consent?

If you do not provide consent for an initial assessment or fail to respond to a request to provide the consent, the school district may pursue the initial assessment by utilizing due process procedures.
If you refuse to consent to the initiation of services, the school district must not provide special education and related services and shall not seek to provide services through due process procedures.

If you consent in writing to the special education and related services for your child but do not consent to all of the components of the IEP, those components of the program to which you have consented must be implemented without delay.

If the school district determines that the proposed special education program component to which you do not consent is necessary to provide a free appropriate public education to your child, a due process hearing must be initiated. If a due process hearing is held, the hearing decision shall be final and binding.

In the case of reevaluations, the school district must document reasonable measures to obtain your consent. If you fail to respond, the school district may proceed with the reevaluation without your consent. (20 USC 1414[a][1][D] and 1414[c]; 34 CFR 300.300; EC 56506[a], 56321[c] and [d], and 56346).

**When may I revoke 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 public agency:

1. May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with 34 CFR Section 300.503 before ceasing such services
2. May not use the procedures in subpart E of Part 300 34 CFR (including the mediation procedures under 34 CFR Section 300.506 or the due process procedures under 34 CFR Sections 300.507 through 300.516) 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
4. Is not required to convene an IEP team meeting or develop an IEP under 34 CFR Sections 300.320 and 300.324 for the child for further provision of special education and related services

Please note, in accordance with 34 CFR Section 300.9 (c)(3), that if the parents revoke consent in writing for their child’s receipt of special education services after the child is initially provided special education and related services, the public agency is not required to amend the child’s education records to remove any references to the child’s receipt of special education and related services because of the revocation of consent.

**Surrogate Parent Appointment**

**What if a parent cannot be identified or located?**
School districts must ensure that an individual is assigned to act as a surrogate parent for the parents of a child with a disability when a parent cannot be identified and the school district cannot discover the whereabouts of a parent.

A surrogate parent may also be appointed if the child is an unaccompanied homeless youth, an adjudicated dependent or ward of the court under the state Welfare and Institution Code, and is referred to special education or already has an IEP. (20 USC 1415[b][2]; 34 CFR 300.519; EC 56050; GC 7579.5 and 7579.6)

**Nondiscriminatory Assessment**

**How is my child assessed for special education services?**

You have the right to have your child assessed in all areas of suspected disability. Materials and procedures used for assessment and placement must not be racially, culturally, or sexually discriminatory.

Assessment materials must be provided and the test administered in your child’s native language or mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer.

No single procedure can be the sole criterion for determining eligibility and developing FAPE for your child. (20 USC 1414[b][1]–[3], 1412[a][6][B]; 34 CFR 300.304; EC 56001[[j]] and 56320)

**Independent Educational Assessments**

**May my child be tested independently at the district’s expense?**

If you disagree with the results of the assessment conducted by the school district, you have the right to ask for and obtain an independent educational assessment for your child from a person qualified to conduct the assessment at public expense.

The parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.

The school district must respond to your request for an independent educational assessment and provide you information about where to obtain an independent educational assessment.

If the school district believes that the district’s assessment is appropriate and disagrees that an independent assessment is necessary, the school district must request a due process hearing to prove that its assessment was appropriate. If the district prevails, you still have the right to an independent assessment but not at public expense. The IEP team must consider independent assessments.

District assessment procedures allow in-class observation of students. If the school district observes your child in his or her classroom during an assessment, or if the school district would have been allowed to observe your child, an individual conducting an independent educational assessment must also be allowed to observe your child in the classroom.
If the school district proposes a new school setting for your child and an independent educational assessment is being conducted, the independent assessor must be allowed to first observe the proposed new setting. (20 USC 1415[b][1] and [d][2][A]; 34 CFR 300.502; EC 56329[b] and [c])
Access to Educational Records

May I examine my child’s educational records?

You have a right to inspect and review all of your child’s education records without unnecessary delay, including prior to a meeting about your child’s IEP or before a due process hearing. The school district must provide you access to records and copies, if requested, within five (5) business days after the request has been made orally or in writing. (EC 49060, 56043[n], 56501[b][3], and 56504)

How Disputes Are Resolved

Due Process Hearing

When is a due process hearing available?

You have the right to request an impartial due process hearing regarding the identification, assessment, and educational placement of your child or the provision of FAPE. The request for a due process hearing must be filed within two years from the date you knew or should have known about the alleged action that forms the basis of the due process complaint. (20 USC 1415[b][6]; 34 CFR 300.507; EC 56501 and 56505[l])

Mediation and Alternative Dispute Resolution

May I request mediation or an alternative way to resolve the dispute?

A request for mediation may be made either before or after a request for a due process hearing is made.

You may ask the school district to resolve disputes through mediation or alternative dispute resolution (ADR), which is less adversarial than a due process hearing. The ADR and mediation are voluntary methods of resolving a dispute and may not be used to delay your right to a due process hearing.

What is a pre-hearing mediation conference?

You may seek resolution through mediation prior to filing a request for a due process hearing. The conference is an informal proceeding conducted in a nonadversarial manner to resolve issues relating to the identification, assessment, or educational placement of a child or to a FAPE.

At the prehearing mediation conference, the parent or the school district may be accompanied and advised by nonattorney representatives and may consult with an attorney prior to or
following the conference. However, requesting or participating in a prehearing mediation conference is not a prerequisite to requesting a due process hearing.

All requests for a prehearing mediation conference shall be filed with the Superintendent. The party initiating a prehearing mediation conference by filing a written request with the Superintendent shall provide the other party to the mediation with a copy of the request at the same time the request is filed.

The prehearing mediation conference shall be scheduled within fifteen (15) days of receipt by the Superintendent of the request for mediation and shall be completed within thirty (30) days after receipt of the request for mediation unless both parties agree to extend the time. If a resolution is reached, the parties shall execute a legally binding written agreement that sets forth the resolution. All discussions during the mediation process shall be confidential. All prehearing mediation conferences shall be scheduled in a timely manner and held at a time and place reasonably convenient to the parties. If the issues fail to be resolved to the satisfaction of all parties, the party who requested the mediation conference has the option of filing for a due process hearing. (EC 56500.3 and 56503)

Due Process Rights

What are my due process rights?

You have a right to:
1. Have a fair and impartial administrative hearing at the state level before a person who is knowledgeable of the laws governing special education and administrative hearings (20 USC 1415[f][1][A], 1415[f][3][A]-[D]; 34 CFR 300.511; EC 56501[b][4])
2. Be accompanied and advised by an attorney and/or individuals who have knowledge about children with disabilities (EC 56505 [e][1])
3. Present evidence, written arguments, and oral arguments (EC 56505[e][2])
4. Confront, cross-examine, and require witnesses to be present (EC 56505[e][3])
5. Receive a written or, at the option of the parent, an electronic verbatim record of the hearing, including findings of fact and decisions (EC 56505[e][4])
6. Have your child present at the hearing (EC 56501[c][1])
7. Have the hearing be open or closed to the public (EC 56501[c][2])
8. Receive a copy of all documents, including assessments completed by that date and recommendations, and a list of witnesses and their general area of testimony within five (5) business days before a hearing (EC 56505[e][7] and 56043[v])
9. Be informed by the other parties of the issues and their proposed resolution of the issues at least ten (10) calendar days prior to the hearing (EC 56505[e][6])
10. Have an interpreter provided (CCR 3082[d])
11. Request an extension of the hearing timeline (EC 56505[f][3])
12. Have a mediation conference at any point during the due process hearing (EC 56501[b][2]), and
13. Receive notice from the other party at least ten days prior to the hearing that the other party intends to be represented by an attorney (EC 56507[a]). (20 USC 1415[e]; 34 CFR 300.506, 300.508, 300.512 and 300.515)
Filing a Written Due Process Complaint

How do I request a due process hearing?

You need to file a written request for a due process hearing. You or your representative needs to submit the following information in your request:

1. Name of the child
2. Address of the residence of the child
3. Name of the school the child is attending
4. In the case of a homeless child, available contact information for the child and the name of the school the child is attending, and
5. A description of the nature of the problem, including facts relating to the problem(s) and a proposed resolution of the problem(s)

Federal and state laws require that either party filing for a due process hearing must provide a copy of the written request to the other party. (20 USC 1415[b][7], 1415[c][2]; 34 CFR 300.508; EC 56502[c][1])

Prior to filing for a due process hearing, the school district shall be provided the opportunity to resolve the matter by convening a resolution session, which is a meeting between the parents and the relevant members of the IEP team who have specific knowledge of the facts identified in the due process hearing request. (20 USC 1415[f][1][B]; 34 CFR 300.510)

What does a resolution session include?

Resolution sessions shall be convened within fifteen (15) days of receiving notice of the parents' due process hearing request. The sessions shall include a representative of the school district who has decision-making authority and not include an attorney of the school district unless the parent is accompanied by an attorney. The parent of the child may discuss the due process hearing issue and the facts that form the basis of the due process hearing request.

The resolution session is not required if the parent and the school district agree in writing to waive the meeting. If the school district has not resolved the due process hearing issue within thirty (30) days, the due process hearing may occur. If a resolution is reached, the parties shall execute a legally binding agreement. (20 USC 1415[f][1][B]; 34 CFR 300.510)

Does my child's placement change during the proceedings?

The child involved in any administrative or judicial proceeding must remain in the current educational placement unless you and the school district agree on another arrangement. If you are applying for initial admission of your child to a public school, your child will be placed in a public school program with your consent until all proceedings are completed. (20 USC 1415[j]; 34 CFR 300.518; EC 56505[d])
May the decision be appealed?

The hearing decision is final and binding on both parties. Either party may appeal the hearing decision by filing a civil action in state or federal court within 90 days of the final decision. (20 USC 1415[i][2] and [3][A], 1415[i]; 34 CFR 300.516; EC 56505[h] and [k], EC 56043[w])

Who pays for my attorneys' fees?

In any action or proceeding regarding the due process hearing, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to you as parent of a child with a disability if you are the prevailing party in the hearing. Reasonable attorneys' fees may also be made following the conclusion of the administrative hearing, with the agreement of the parties. (20 USC 1415[i][3][B]-[G]; 34 CFR 300.517; EC 56507[b])

Fees may be reduced if any of the following conditions prevail:

1. The court finds that you unreasonably delayed the final resolution of the controversy
2. The attorneys' hourly fees exceed the prevailing rate in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience
3. The time spent and legal services provided were excessive, or
4. Your attorney did not provide to the school district the appropriate information in the due process request notice.

Attorneys' fees will not be reduced, however, if the court finds that the State or the school district unreasonably delayed the final resolution of the action or proceeding or that there was a violation of this section of law. (20 USC 1415[i][3][B]-[G]; 34 CFR 300.517)

Attorneys' fees relating to any meeting of the IEP team may not be awarded unless an IEP team meeting is convened as a result of a due process hearing proceeding or judicial action. Attorneys' fees may also be denied if you reject a reasonable settlement offer made by the district/public agency ten (10) days before the hearing begins and the hearing decision is not more favorable than the offer of settlement. (20 USC 1415[i][3][B]-[G]; 34 CFR 300.517)

To obtain more information or to file for mediation or a due process hearing, contact:

Office of Administrative Hearings
Attention: Special Education Division
2349 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833-4231
(916) 263-0880
FAX (916) 263-0890
School Discipline and Placement Procedures for Students with Disabilities

School Discipline and Alternative Interim Educational Settings

May my child be suspended or expelled?

School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement is appropriate for a child with a disability who violates a code of student conduct from his or her setting to:

- An appropriate interim alternative education setting, another setting, or suspension for not more than ten (10) consecutive school days, and
- Additional removals of not more than ten (10) consecutive school days in the same school year for separate incidents of misconduct

What occurs after a removal of more than ten (10) days?

After a child with a disability has been removed from his or her current placement for ten (10) school days in the same school year, during any subsequent days of removal the public agency must provide services to enable the child to continue to participate in the general education curriculum and progress toward meeting the goals set out in the child’s IEP. Also, a child will receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications, which are designed to address the behavior violation so that it does not recur.

If a child exceeds ten (10) days in such a placement, an IEP team meeting must be held to determine whether the child’s misconduct is caused by the disability. This IEP team meeting must take place immediately, if possible, or within ten (10) days of the school district’s decision to take this type of disciplinary action.

As a parent you will be invited to participate as a member of this IEP team. The school district may be required to develop an assessment plan to address the misconduct or, if your child has a behavior intervention plan, review and modify the plan as necessary.

What happens if the IEP team determines that the misconduct is not caused by the disability?

If the IEP team concludes that the misconduct was not a manifestation of the child’s disability, the school district may take disciplinary action, such as expulsion, in the same manner as it would for a child without a disability. (20 USC 1415[k][1] and [7]; 34 CFR 300.530)

If you disagree with the IEP team’s decision, you may request an expedited due process hearing, which must occur within twenty (20) school days of the date on which you requested the hearing. (20 USC 1415[k][2]; 34 CFR 300.531[c])

Regardless of the setting the school district must continue to provide FAPE for your child. Alternative educational settings must allow the child to continue to participate in the general
Children Attending Private School

May students who are parentally placed in private schools participate in publicly funded special education programs?

Children who are enrolled by their parents in private schools may participate in publicly funded special education programs. The school district must consult with private schools and with parents to determine the services that will be offered to private school students. Although school districts have a clear responsibility to offer FAPE to students with disabilities, those children, when placed by their parent in private schools, do not have the right to receive some or all of the special education and related services necessary to provide FAPE. (20 USC 1415[a][10][A]; 34 CFR 300.137 and 300.138; EC 56173)

If a parent of an individual with exceptional needs who previously received special education and related services under the authority of the school district enrolls the child in a private elementary school or secondary school without the consent of or referral by the local educational agency, the school district is not required to provide special education if the district has made FAPE available. A court or a due process hearing officer may require the school district to reimburse the parent or guardian for the cost of special education and the private school only if the court or due process hearing officer finds that the school district had not made FAPE available to the child in a timely manner prior to that enrollment in the private elementary school or secondary school and that the private placement is appropriate. (20 USC 1412[a][10][C]; 34 CFR 300.148; EC 56175)

When may reimbursement be reduced or denied?

The court or hearing officer may reduce or deny reimbursement if you did not make your child available for an assessment upon notice from the school district before removing your child from public school. You may also be denied reimbursement if you did not inform the school district that you were rejecting the special education placement proposed by the school district, including stating your concerns and intent to enroll your child in a private school at public expense.

Your notice to the school district must be given either:

- At the most recent IEP team meeting you attended before removing your child from the public school, or
- In writing to the school district at least ten (10) business days (including holidays) before removing your child from the public school. (20 USC 1412[a][10][C]; 34 CFR 300.148; EC 56176)

When may reimbursement not be reduced or denied?
A court or hearing officer must not reduce or deny reimbursement to you if you failed to provide written notice to the school district for any of the following reasons:

- The school prevented you from providing notice
- You had not received a copy of this Notice of Procedural Safeguards or otherwise been informed of the requirement to notify the district
- Providing notice would likely have resulted in physical harm to your child
- Illiteracy and inability to write in English prevented you from providing notice, or
- Providing notice would likely have resulted in serious emotional harm to your child

(20 USC 1412[a] [10] [C]; 34 CFR 300.148; EC 56177)

State Complaint Procedures

When may I file a state compliance complaint?

You may file a state compliance complaint when you believe that a school district has violated federal or state special education laws or regulations. Your written complaint must specify at least one alleged violation of federal and state special education laws. The violation must have occurred not more than one year prior to the date the complaint is received by the California Department of Education (CDE). When filing a complaint, you must forward a copy of the complaint to the school district at the same time you file a state compliance complaint with the CDE. (34 CFR 300.151–153; 5 CCR 4600)

Complaints alleging violations of federal and state special education laws or regulations may be mailed to:

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

For complaints involving issues not covered by federal or state special education laws or regulations, consult your district's uniform complaint procedures.

To obtain more information about dispute resolution, including how to file a complaint, contact the CDE, Special Education Division, Procedural Safeguards Referral Service, by telephone at (800) 926-0648; by fax at 916-327-3704; or by visiting the CDE Web site at http://www.cde.ca.gov/sp/se.
### Glossary of Abbreviations Used in This Notification

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>ADR</td>
<td>Alternative Dispute Resolution</td>
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<tr>
<td>CFR:</td>
<td>Code of Federal Regulations</td>
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<tr>
<td>EC</td>
<td>California Education Code</td>
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<tr>
<td>FAPE</td>
<td>Free Appropriate Public Education</td>
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<td>IDEA</td>
<td>Individuals with Disabilities Education Act</td>
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<td>IEP</td>
<td>Individualized Education Program</td>
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<tr>
<td>OAH:</td>
<td>Office of Administrative Hearings</td>
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<tr>
<td>SELPA:</td>
<td>Special Education Local Plan Area</td>
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<tr>
<td>USC:</td>
<td>United States Code</td>
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