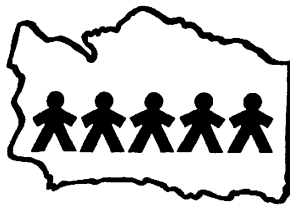


SBCSELPA PROCEDURAL HANDBOOK



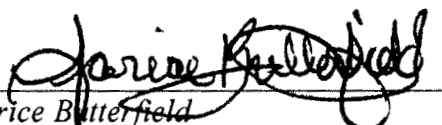
**SANTA BARBARA COUNTY
SPECIAL EDUCATION
LOCAL PLAN AREA
A JOINT POWERS AGENCY**

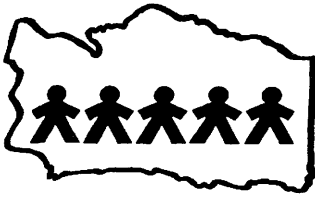
Available on SBCSELPA website
www.sbcselpa.org

2020-2021 v

TO THE READER

This revision of the Santa Barbara County Special Education Local Plan Area Procedural Handbook has been prepared in conjunction with 2004 reauthorization of the Individuals with Disabilities Education Act. The format is the same, and although much of the content has not changed, recent state and federal changes in laws relating to special education have been incorporated. The SELPA forms are included in the Handbook. Also included are the complete Surrogate Parent procedures, and procedures for implementing Positive Behavioral Interventions, and procedures for provision of special education services to Parentally Enrolled Private School Students with Disabilities. Please use this document as a guide to, and resource book for, the process and procedures for providing special education services to students with disabilities within our SELPA.


Jarice Butterfield
SELPA Director



Santa Barbara County Special Education Local Plan Area

Date: June 1, 2020

**From: Ray Avila, SBCSELPA Executive Director
Jennifer Connolly, SBCSELPA Coordinator**

Re: SBCSELPA Procedural Handbook Revision - 2020

- Jennifer Connolly, SBCSELPA Coordinator, reviewed and updated the Procedural Handbook in the beginning of 2020. Jennifer worked with individuals in the county with specific knowledge of each section in the Procedural Handbook and vetted the Procedural Handbook revisions through SEAM.
- LEA/District Special Education Administrators and Business Officials supported the proposed revisions to the Procedural Handbook.
- Lastly, the revisions were presented to the JPA Board for final review on June 1, 2020.

RA:lm

PROCEDURAL HANDBOOK

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SECTION

1

Identification and Referral

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Updated June 1, 2020

THE LAW AND IDENTIFICATION AND REFERRAL

EC 56300. Each district, special education local plan area, or county office, shall actively and systematically seek out all individuals with exceptional needs, ages 0 through 21 years, including children not enrolled in public school programs, who reside in the district or are under the jurisdiction of a special education local plan area or a county office.

HANDLING REFERRALS

WHO CAN MAKE REFERRALS?

Public School Personnel	The Student
Parents or Guardians	Other Community Members
Public and Private Agencies	

WHO CAN RECEIVE REFERRALS?

Counselors	School Psychologists
School Secretaries	Regular Education Teachers
Resource Specialists	DIS Personnel
Special Class Teachers	Site Administrators

WHO HAS PRIMARY RESPONSIBILITY FOR REFERRALS?

Whatever the source of the referral or whomever receives the referral, its final disposition, prior to any action being taken, should be with the district designee for processing referrals.

IMPORTANT

All referrals for special education and related services shall initiate the assessment process and shall be documented. When a verbal referral is made, staff of the school district, SELPA, or county office shall offer assistance to the individual in making a request in writing, and shall assist the individual if the individual requests such assistance.

(b) All school staff referrals shall be written and include:

(1) A brief reason for the referral.

(2) Documentation of the resources of the regular education program that have been considered, modified, and when appropriate, the results of intervention. This documentation shall not delay the time-lines for completing the assessment plan or assessment. (CCR, Title 5, 3021 (a), (b)).

Authority cited: Section 56100, Education Code; Reference: Sections 56300-56303, Education Code; and 34 C.F.R. Sections 300.111 and 300.301. Notice of Receipt of Referral for Special Education Assessment (SIRAS IEP 17)

Prohibition of Mandatory Medication Use

The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving an evaluation under subsection (a) or (c) of section 1414 of this title, or receiving services under this chapter. (20 U.S.C. § 1412 (a) (25)

WHO SHOULD BE REFERRED

Identification procedures must be coordinated with school site referral procedures for those individuals whose needs cannot be met with modification of the regular instructional program.

IN OTHER WORDS

A pupil shall be referred for special education only after the resources of the regular program have been considered and, where appropriate utilized (EC 56303). Regular education options include modifications in the regular program necessary to accommodate differences in students' abilities to learn. Regular program resources include but are not limited to Compensatory Education Programs, Bilingual Programs, Miller-Unruh Programs, Migrant Education Programs, GATE, and Vocational Education Programs. Infant and Preschool referrals should include any modification attempted by parent/doctor and/or regular education infant/preschool programs. Modifications to the student's regular education program and consideration of general education resource options are part of the deliberations that take place through each school's Student Study Team process.

OTHER KINDS OF REFERRALS

In addition to referrals for students who have not previously been in special education, referrals may also be made for the following:

1. Additional assessment (including independent assessments)
2. State Diagnostic School evaluations
3. A requested review of the IEP because part or all of the Individualized Education Program (IEP) is not working.

IMPORTANT

It is not appropriate to refer a student for possible placement in a specific program. Referrals are for assessment only!

WHAT A GOOD REFERRAL SHOULD CONTAIN

Parental procedural safeguards and timelines make it necessary to document when a referral has been made. Referrals are required to be in writing and should contain at least the following:

1. Student's name, address, school, grade, birthdate, and teacher
2. Information on any grade in which the pupil was retained
3. Parents' names and home and work telephone numbers
4. Native language of the student (Primary Language from Home Language Survey)
5. Native language of the parent
6. Language for assessment
7. Date of referral
8. Name of the person making the referral
9. Specific areas of concern
10. A description of interventions utilized in the regular education program and a summary of the student's response to those interventions
11. Specific observed behaviors
12. Current programs and materials being used with the pupil including accommodations to assist the student in accessing the general curriculum
13. Current academic functioning
14. Known significant health problems.

IMPORTANT

The school personnel who initiate a referral are responsible for informing the parent or guardian that a referral will be made using the *Notice of Receipt of Referral for Special Education Assessment (SIRAS IEP 17)*. If a parent submits a written referral for special education or if the parent is present at a Student Study Team meeting where the referral is documented, then no *Notice of Receipt of Referral for Special Education Assessment (SIRAS IEP 17)*, is required.

WHAT FORMS SHOULD BE USED

The following forms are to be used during the identification and referral phase, but only after the resources of the regular program (including recommendations of school Student Study Team) have been considered and, where appropriate, utilized:

- | | |
|--------|---|
| IEP 17 | Notice of Receipt of Referral for Special Education Assessment
This form should be completed by the person(s) making the referral. |
| NC 1: | Notice of Rights and Procedural Safeguards for
Special Education (E & S) |
| NC 2: | Notice of Referral (E&S) |

NOTE

E = <i>ENGLISH</i> and S = <i>SPANISH</i>

Appendix A references the forms highlighted throughout this handbook. SELPA and Supplemental IEP forms can be found on our county's on-line *SIRAS Systems*, www.sirassystems.org.

PROCEDURAL HANDBOOK

SECTION

2

Assessment

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Updated March 1, 2021

THE LAW AND ASSESSMENT

EC 56320. Before any action is taken with respect to the initial placement of an individual with exceptional needs in special education instruction, an individual assessment of the pupil's educational needs shall be conducted by qualified persons in accordance with requirements including, but not limited to, all of the following:

1. Testing and assessment materials and procedures used for the purposes of assessment and placement of individuals with exceptional needs are selected and administered so as not to be racially, culturally, or sexually discriminatory. The materials and procedures shall be provided in the pupil's native language or mode of communication, unless it is clearly not feasible to do so.
 - a. Native language if used with reference to an individual of limited English proficiency means: (a) the language normally used by the individual or, in the case of a child, the language normally used by the parents of the child except as provided in section (b) of this paragraph. (b) In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment. (c) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or oral communication).
2. Tests and other assessment materials meet all the following requirements:
 - a. Are provided and administered in the language and form most likely to yield accurate information on what the pupil knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer.
 - b. Are used for purposes for which the assessments or measures are valid and reliable.
 - c. 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.
3. Tests and other assessment materials include those tailored to assess specific areas of educational needs and not merely those, which are designed to provide a single general intelligence quotient.
4. Tests are selected and administered to best ensure that when a test administered to a pupil with impaired sensory, manual, or speaking skills produces test results that accurately reflect the pupil's aptitude, achievement level, or any other factors the test purports to measure and not the pupil's impaired sensory, manual, or speaking skills unless those skills are the factors the test purports to measure.
5. No single measure or assessment is used as the sole criterion for determining whether a pupil is an individual with exceptional needs or determining an appropriate educational program for the pupil.

6. The pupil 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 intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. A developmental history shall be obtained, when appropriate. For pupils with residual vision, a low vision assessment shall be provided in accordance with guidelines established pursuant to Section 56136.
7. The assessment of a pupil, including the assessment of a pupil with a suspected low incidence disability, shall be conducted by persons knowledgeable of that disability. Special attention shall be given to the unique educational needs, including, but not limited to, skills and the need for specialized services, materials, and equipment consistent with guidelines established pursuant to Section 56136.

IMPORTANT

In conducting the evaluation, the assessors must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent or guardian.

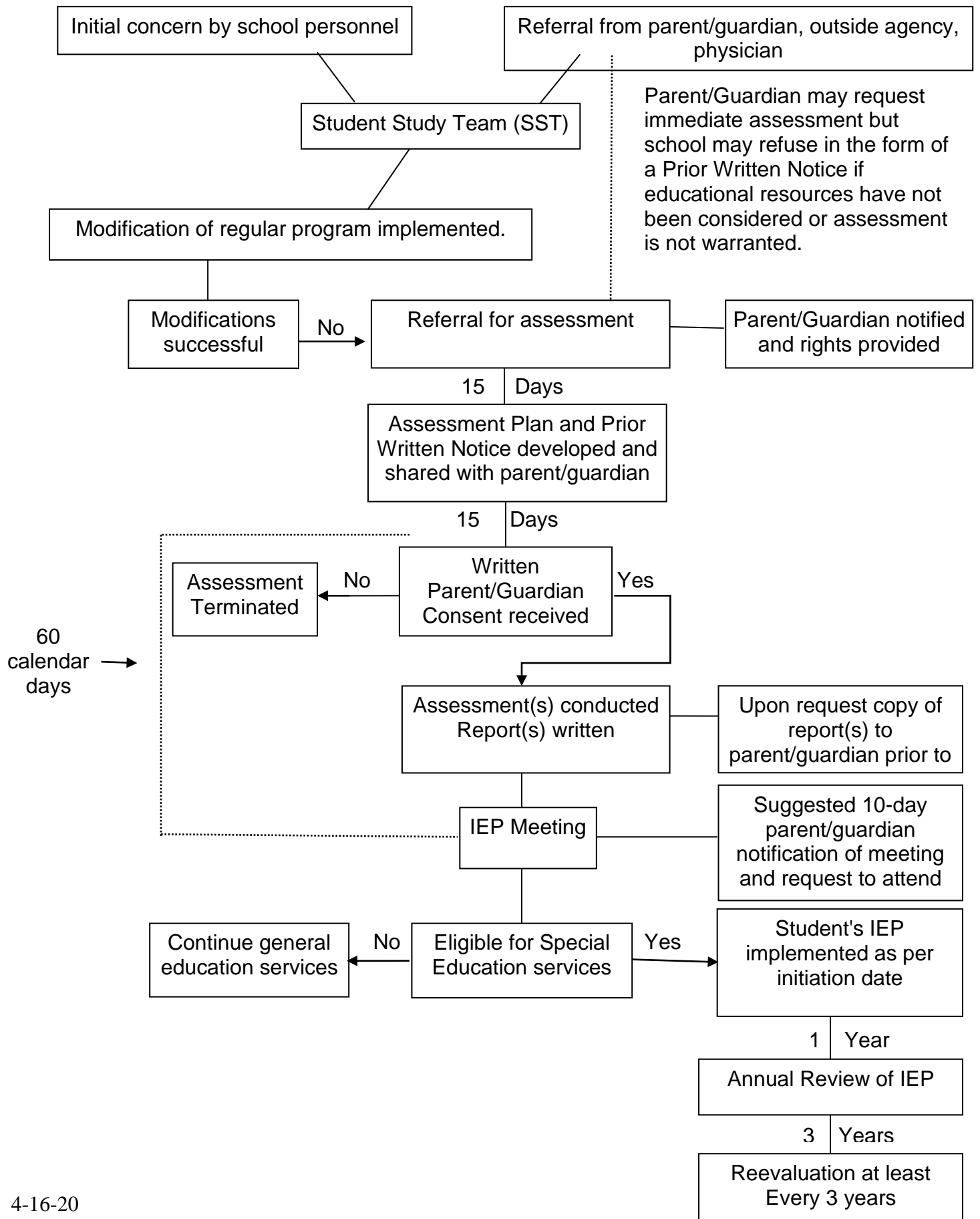
IMPORTANT

School districts are prohibited from using intelligence tests in the assessment of African American pupils who have been referred for special education services. In lieu of I.Q. tests, districts should use alternative means of assessment to determine identification and placement. Such techniques should include, and would not be limited to, assessment of pupil's personal history and health and development, adaptive behavior, classroom performance, academic achievement, and evaluative instruments designed to point out specific information relative to a pupil's abilities and inabilities in specific skill areas.

NOTE

A copy of the form, *Rights and Procedural Safeguards (SIRAS NC 1)*, must be provided to the parent or guardian along with the proposed *Prior Written Notice Assessment Plan (SIRAS NC 3)*.

TIMELINES FOR INITIAL SPECIAL EDUCATION ASSESSMENT



DEVELOPING THE ASSESSMENT PLAN

WHEN SHOULD YOU BEGIN?

Planning the assessment to determine initial eligibility for special education may begin as soon as a written referral has been received. The actual assessment cannot begin until the parents or guardian, or adult student have given consent in writing by signing and returning the assessment plan to the district.

IMPORTANT

From the date of the receipt of the written referral, you have 15 calendar days to either complete the Assessment Plan and the Prior Written Notice agreeing to the assessment or to complete a Prior Written Notice denying the assessment. In either case the Parent Rights must be attached and presented it to the parent/guardian. At the parents/guardian's option, a meeting may be held to discuss the proposed assessment. If the parents do not request such a meeting, assessment can begin as soon as written permission is received.

The 15-day timeline to develop the Assessment Plan does not count days of school vacation when the vacation exceeds five school days. In such cases, the Assessment Plan must be developed within 10 days after the start of a new school year or term when a referral has been made 10 days or less prior to the end of the regular school year or term.

WHAT IS AN ASSESSMENT PLAN?

The Assessment Plan is a document used to communicate to parents the reason for, and the content and scope of, the proposed assessment. The Assessment Plan must:

1. Be written 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.

NOTE

All correspondence with parents must be written in the parent'(s') language, or an interpreter must be provided to interpret for the parents.

3. Explain the type of assessments to be conducted, their purpose, and the test administrator by position(s).
4. Include a description of any recent assessments, including available independent assessments and any assessment information the parent requests to be considered.
5. Indicate the pupil's native language and native language proficiency.
6. Explain why the assessment is necessary.
7. State that no individualized education program will result from the assessment without the consent of the parent.

IMPORTANT

The parents have at least 15 calendar days from receipt of the Assessment Plan to arrive at a decision. If they give permission sooner, assessment can begin immediately.

If the parent/guardian does not consent to an initial evaluation or does not respond to a request to provide the consent, the local education agency may, but is not required to, request a due process hearing regarding the right to conduct an initial assessment.

Parental/Guardian consent is not required before reviewing existing data as part of an assessment or re-assessment, or before administering a test or other assessment that is administered to all children where no prior consent is needed.

IMPORTANT

Screening of a child to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an assessment for eligibility for special education and related services.

IN OTHER WORDS

Screening may be used to determine instructional strategies but not to determine eligibility for special education or services.

CONDUCTING THE ASSESSMENT

INITIAL ASSESSMENT

Initial assessment of any individual being considered for special education must be conducted by qualified personnel. The assessment must include all areas of suspected disability, which might include all or some of the following:

1. Health and development, vision, including low vision, and hearing
2. Motor abilities
3. Language functioning
4. General ability, e.g., self-help and general cognitive skills
5. Academic performance
6. Communicative Status
7. Orientation and mobility skills
8. Career and vocational abilities and interests
9. Social and emotional status

A developmental history shall be obtained, when appropriate.

ASSESSING STUDENTS SUBJECT TO LARRY P. v. RILES

For purposes of evaluating a student for special education eligibility, a local education agency (LEA) must ensure that the student is assessed in all areas of a suspected disability. The evaluation must also be sufficiently comprehensive to identify all of the student's needs.

The *Larry P. v. Riles* (1979, 1986, & 1992) court hearings are the basis for law that disallows the administration of standardized intelligence quotient (IQ) tests to students who are African American or black. This case determined that intelligence tests administered to students who are African American or black are culturally biased within the meaning of *EC § 56320(a)*. Parental consent or waivers will not undo that bias. When a student is identified as multi-racial, and one of those races is black, or the student looks to be black, he or she must be considered African American for testing purposes (CDE, 2014).

Given that standardized intelligence testing (which includes any measures of cognition, mental ability or aptitude) is discriminatory to students identified as African American and federal and state special education law prohibit use of discriminatory tests, standardized intelligence tests should not be given for any special education purpose to this subgroup, even if the tests considered do not appear on either list generated by the courts (CDE, 1992, 1997, 2014).

To ensure compliance with the *Larry P.* mandate, the California Department of Education (CDE) established the following compliance review procedures to evaluate how well LEAs are meeting this mandate.

1. Does the assessment plan include a description of alternative means that will be used to assess the student when standardized tests are considered invalid?
2. Is there evidence that the assessment will be comprehensive? Do tests and other assessment materials meet the following requirements?
 - a. Are materials selected and administered not racially or culturally discriminatory?
 - b. Do assessment procedures ensure that IQ tests are not administered to students who are black or African American for the purposes of identifying a disability?
 - c. Does the evaluation result in a written report which includes the findings of each assessment and contain required information?
3. To what extent is the assessment varied from standard conditions?
4. What effects do environment, cultural or economic conditions have on the student's performance?

The CDE Special Education Division determined that, according to the *Larry P. v. Riles* ruling, the special education review compliance guidelines shall:

1. Prohibit the use of standardized intelligence tests for the identification of students who are black or their placement into classes for students with intellectual disabilities;
2. Include a list of any tests prohibited until they have been validated for use in the determination of intellectual disability status or placement into a special education class for students with intellectual disabilities;
3. Prohibit any tests wherein there are noted scores that would provide a direct measure of intelligence of any child reported to be or perceived to be black; and
4. Concluded that any standardized measure of intelligence should not be used with students who are African-American or black until such time that the test is validated as statistically, racially, and culturally unbiased for administration by the State Board of Education and is approved by the court.

NO standardized measure of intelligence (cognition, mental ability or aptitude) can be used with students who are African-American or black-because, to date, none have been validated as statistically, racially, and culturally unbiased or approved by the court.

Accordingly, previously published articles and guidelines regarding assessment practices for students who are African American are, as of now, obsolete and are not to be used. There are no lists of approved tests from CDE, CASP, or any other agency or entity that may be used that measure anything pertaining to any areas of cognition. Therefore, a LEA cannot use a traditional discrepancy model to determine a specific learning disability when assessing a student who is black for that purpose because a discrepancy cannot be discerned between cognition and academic performance.

To meet these requirements, the Santa Barbara County SELPA supports the use of an alternate means of identifying a student's learning strengths and weaknesses. A comprehensive alternative assessment consists of five procedural categories used to gather information in five critical learning domains. The five procedural categories consist of a review of records, observations, interviews, informal assessment, and formal assessment with the five critical learning domains assessed are reasoning, executive functioning, visual-spatial skills, social cognition, and language. The student's profile and assessment report is then shared with the IEP team to determine eligibility for special education services.

IMPORTANT

For initial and three-year assessments, a pupil is required to have a hearing and vision screening, unless parental/guardian permission was denied. These screenings must have been completed within one calendar year of the date of the special education assessment.

Any psychological assessment must be conducted by a credentialed school psychologist who is trained and prepared to assess cultural and ethnic factors appropriate to the student. Any health assessment must be conducted by a credentialed school nurse or physician who is also trained and prepared to assess cultural and ethnic factors appropriate to the student.

Each local education agency shall ensure that assessments of children who transfer from one district to another in the same academic year are coordinated with the child's prior and subsequent schools, as necessary and as expeditiously as possible to ensure prompt completion of the full assessment. When a child enrolls in a new local education agency after the timeline to complete an assessment has begun, the parent/guardian and the local education agency may agree to extend the original timeline to complete the assessment. In such cases, the new local education agency must be making sufficient progress to ensure the assessment is completed promptly and the parent and the LEA must agree to a specific date by which the assessment will be completed.

NOTE: For the initial assessment of a student with Traumatic Brain Injury (TBI), Other Health Impairment (OHI), Orthopedic Impairment or other medically related disability who the LEA believes, through a review of medical records, that the severity of impairment will require

special supports and services (motor/speech/cognitive disabilities) to benefit from education; the LEA, in an effort to expedite special education services, may use the review of existing data as the initial assessment (34 CFR 300.305(a)).

This could apply to any student currently enrolled or who may enroll in the LEA.

When developing the assessment plan, indicate that it is based on observation and review of existing records as the method of assessment.

Certainly, once services begin, the IEP team may decide to do more in depth assessments to determine more accurate present levels, supports and services.

ASSESSMENT DURING INTERIM PLACEMENTS

When a special education student transfers into the Special Education Local Plan Area from a program located outside the Local Plan Area within the same academic year, the local program administrator shall ensure that the pupil is provided an interim placement that constitutes a free appropriate public education, including services comparable to those described in the previously approved individualized education program, in consultation with the parents, for a period not to exceed 30 days. Before the expiration of 30 calendar days, the IEP Team must meet and either adopt the previously approved IEP or develop a new IEP that meets the requirements of state and federal law. In reviewing the needs of the student, the Team may use information, records, and reports from the previous program. However, if these are not available, are incomplete, or are inadequate, assessment must be conducted in those areas which are needed to develop an IEP.

When a special education student transfers from one district to another within the SBCSELPA within the same academic year, the new district shall continue, without delay, to provide services comparable to those in the existing IEP unless the parent/guardian and LEA representatives agree to develop and implement a new IEP. In such cases, a reassessment is to be conducted within the 60-day timeline to complete the assessment process (as outlined on page 3-8 of this handbook) to determine any necessary revisions to the student's current IEP.

When a special education student transfers to a district within California from an educational agency located outside the state within the same academic year, the new LEA shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved IEP, in consultation with the parents/guardian, until the LEA conducts an assessment, if determined to be necessary, and if appropriate develops a new IEP. In such cases any reassessment is to be conducted within the 60-day timeline (as outlined on page 3-8 of this handbook).

THE REPORT OF ASSESSMENT

The individuals who conduct the assessment shall prepare a written report or reports, as appropriate, of assessment findings. The report shall include at least the following:

1. Ensure tests are administered in the pupil's primary language unless such administration was clearly not feasible.
2. Ensure tests administered are not racially, culturally, or sexually discriminatory.

3. Make a statement regarding the validity of the assessment, if an interpreter was used.
4. Note whether test results are valid.
5. Make a determination concerning the effects of environmental, cultural or economic disadvantage, when appropriate.
6. Note relevant behavior during observation of the pupil in an appropriate setting.
7. The relationship of that behavior to the pupil's academic and social functioning.
8. Document the educationally relevant health, developmental and medical findings, if any.
9. Whether the student's needs can be met in the regular classroom or whether the student may need special education and related services and the basis for making the determination.
10. The need for specialized services, materials, and equipment for students with low incidence disabilities.
11. Consideration of independent assessments if submitted.
12. Information related to enabling the child to be involved in and progress in the general education curriculum or for preschool children to participate in appropriate activities.
13. In addition, for pupils with learning disabilities, the report must include a statement of:
 - a. Whether the child has a specific learning disability.
 - b. Whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services.

(EDUCATION CODE 20 USC 14.14(b) (2) (A) (ii))

The parent, adult student, or guardian shall be given a copy of the assessment report.

THE INDEPENDENT ASSESSMENT

A parent, guardian, or adult student has the right to obtain an independent educational evaluation (IEE) if he/she disagrees with an evaluation completed by the LEA. If a parent obtains an independent assessment due to disagreement with a district assessment, the evaluation is at public expense, unless it can be shown in a due process hearing requested by the district that the district's evaluation is appropriate.

IN OTHER WORDS

If funding for an independent educational evaluation is requested, the district is not required to provide reimbursement for the evaluation if the hearing officer rules that the district's assessment was appropriate.

HOWEVER

No matter who ultimately pays for an independent assessment, the results must be considered by the IEP Team with respect to the provision of free and appropriate public education of the pupil (EC 56329).

If a parent, guardian, or adult student submits a written request for an IEE to school personnel at the school site, the request is to be forwarded immediately to the district's director/coordinator of special education.

If a parent, guardian, or adult student makes a verbal request for an IEE, school staff should offer to assist the parent, guardian, or adult student in putting the request in writing. If the parent, guardian, or adult student accepts assistance, the written request for an IEE should be immediately forwarded to the district director/coordinator of special education. If the parent, guardian, or adult student declines assistance, the parent, guardian or adult student should be reminded that a request for an IEE is to be submitted in writing to the district's director/coordinator of special education. (*Reference: Policy 6208, Independent Educational Evaluations, of Local Plan Section 5, Special Education Instruction: Assessment*)

MANDATORY REVIEW/REASSESSMENT

Annual Reviews

A review of each student's progress in a special education program must be held at least annually. The IEP Team must review the student's progress on his/her annual goals and, as appropriate, short-term objectives, appropriateness of the placement and services, and recommend revisions, if necessary.

Requested Review or Reassessment

Parents, guardians, or adult student shall be notified annually of their right to request a review of the IEP.

If the parent, guardian, or adult student is requesting additional assessments, parent, guardian, or adult student consent shall be obtained.

If the LEA is requesting additional assessments, parent or guardian, or adult student consent shall be obtained, unless the LEA can demonstrate that it has made a reasonable effort to obtain such consent and the student's parent, guardian, or adult student has failed to respond (34 CFR 300.300(c)(2)).

Three-Year Review

All special education students must be considered for a re-evaluation at least every three years. Procedures for conducting three-year re-evaluations are described below.

THREE-YEAR REEVALUATIONS

The California Education Code and the Federal Code of Regulations require that special education students receive a reassessment at least once every three years unless the parent and the local education agency agree, in writing, that a reassessment is unnecessary. Three-year re-evaluations must be completed within three calendar years of the date of the last re-evaluation. If the reassessment so indicates, a new Individualized Education Program shall be developed.

Notice of Referral for Reassessment and Proposed Action (SIRAS NC2B), is to be filled out prior to all three-year reevaluations and for other parent/guardian or teacher requested reassessments. The completed form documents the steps listed below.

1. As part of any reassessment, the IEP Team and other qualified professionals, as appropriate, shall do the following:
 - a) Review existing assessment data.
 - b) Review current classroom-based assessments and observations.
 - c) Review teacher and related services provider(s) observations.
 - d) Receive input from the student's parents or guardian.
 - e) Receive input from the student's general education teacher(s).
2. On the basis of the information obtained from the above-listed sources, the Team members shall identify what additional data, if any, are needed to determine:
 - a) Whether the student has a particular category of disability and/or continues to have a disability as described.
 - b) The present levels of performance and the educational needs of the student.
 - c) Whether the student continues to need special education and related services.
 - d) Whether any additions or modifications to the special education and related services are needed to enable the student to meet the annual goals included in the student's IEP and to participate, as appropriate, in the general curriculum.

If it is determined additional data are needed related to any of the areas listed above, then appropriate tests and other assessment materials shall be administered.

3. If it is determined that no additional data are needed to determine whether the student continues to meet the eligibility criteria as a child with a disability, and to determine the student's educational needs then the student's parent, guardian, adult student shall be notified regarding this decision and the reasons for it. The parent, guardian, adult student shall also be notified of the right to request an assessment to confirm that the student continues to have a disability and to determine the student's educational needs. If it is determined that no additional data are needed to determine whether the student continues to meet the eligibility criteria as a child with a disability, the local education agency is not required to reassess the student unless requested by the student's parents, guardian, or adult student.

IMPORTANT

The IEP Team, must involve the parent, guardian, or adult student regarding decisions relating to the need to administer tests as part of the re-evaluation process.

It is highly recommended that Assessment Teams administer new standardized assessments prior to recommending a student's dismissal from special education. In all cases, standardized assessment information utilized to recommend a student's dismissal from special education needs to have been obtained within the preceding six months if a determination is made that no further assessments are necessary.

4. All students who receive a three-year re-evaluation, including those for whom no additional standardized assessments are conducted, shall have had a hearing and vision screening, unless parental/guardian/adult student permission was denied.
5. Parental/guardian/Adult Student consent is not required for a review of existing data; however, parental guardian consent is required before additional assessments are conducted unless the local education agency is the prevailing party in a due process hearing regarding the right to conduct such a reassessment.

Note: Informed parent/guardian/adult student consent is not required for a reassessment if the LEA can demonstrate that it has made a reasonable effort to obtain such consent and the student's parent guardian has failed to respond (34 CFR 300.300(c)(2)).

6. It is recommended that the review of existing assessment and observation information concerning the student and the determination of what additional assessments, if any, are necessary to complete the reassessment process take place as part of the last regularly scheduled annual review IEP meeting held prior to the date the three year re-evaluation must be completed.
7. If the timing of a three-year reassessment requires the completion of this form at some time other than the annual review meeting held the year prior to the three-year reevaluation, an additional IEP meeting is not required in order to review the information necessary to complete the *Notice of Referral for Reassessment and Proposed Action (SIRAS NC2B)*. However, if a meeting is not held for this purpose, all Team members, including the parent/guardian, must sign the Reassessment form indicating that they have reviewed the necessary data (current assessment information on file and teacher and related service provider observations) as part of the process to determine the areas where new assessment information needs to be obtained. If no meeting is held to complete the *Notice of Referral for Reassessment and Proposed Action (SIRAS NC2B)*, assessment personnel will be responsible to assure that the parent/ guardian has had an opportunity to review the current assessment data and staff observations.

A reassessment shall be conducted if the LEA determines that the educational or related services needs, including improved academic achievement and functional performance of the pupil, warrant a reassessment, or if the parent/guardian or the student's teacher requests a reassessment. A reassessment shall occur not more frequently than once a year, unless the parent/guardian and the local education agency agree otherwise. Prior to development of the assessment plan, the parent/guardian and members of the IEP Team must review current information available regarding the student and complete the *Notice of Referral for Reassessment and Proposed Action (SIRAS NC2B)*,

NOTE

When a student is reassessed as part of a three-year reevaluations or other requested reassessment, the results of the evaluation must be documented in a written report even in instances where the IEP Team determines that no additional testing of the student is necessary. In cases where no additional testing has been conducted, the three-year reassessment report should make reference to the assessment information contained in previous psychoeducational and other evaluations and include a description of the student's current school functioning and recommendations for consideration by the IEP Team for future program planning.

HOW TO PURGE INFORMATION FROM A PUPIL RECORD

In Judge Peckham's 1986 *Larry P.* decision regarding prohibition of IQ testing of African-American students, he also declared IQ scores from any other source cannot become part of the pupil's school record. The CDE issued a directive (Campbell, 1987) on how to dispose of *Larry P.* records generated prior to September, 1986. It reads as follows:

Before a black special education student is re-evaluated for special education or transfers to a new district all prior records of IQ scores, or references to information from IQ tests, should be permanently sealed. The records are to be opened only for litigation purposes, official state or federal audits, or upon parent request. The parent shall be given copies of the sealed records upon request. The sealed records shall be maintained for a period of five years.

Prior to sealing the records of these students, the parents shall be notified that the records will be sealed because of a court decision, which prohibits the use of intelligence tests for black students for any purpose related to special education. Additionally, prior to sealing the records, a qualified professional should identify appropriate data to be copied and purged of all IQ scores or references to information from IQ tests. The remaining data should then be transferred to the student's current record. In no case shall the IQ test information be made available to the IEP team for any purpose.

As California school districts are the only agencies prohibited from using IQ tests with African-American students, it is often the case that African-American pupil records received from out-of-state and/or another agency contain cognitive, mental ability or aptitude test information. Therefore, the following steps are recommended when it becomes necessary to purge information from a pupil record.

1. A qualified professional should review the case file to determine if prohibited information is contained therein.
2. Remove any prohibited protocols and all assessment reports which contain cognitive, mental ability or aptitude information.
3. Duplicate the original report. *See Step 8 for sealing of original report.*
4. "Purge all IQ scores or references to information from IQ tests" This has been interpreted as a means of "redacting" by use a black tip marker or "white-out" to remove the following information on the duplicated copy.
 - a. Any reference to a test instrument which yields a cognitive, mental ability or aptitude score or standard score that is an indication of cognitive functioning.
 - b. Any test data summary scores from the test instruments(s).

- c. Commentary in the report, which discusses the pupil's performance on the test instrument(s).
5. Make a copy of the purged report. File this copy in the pupil record.
6. Destroy the copy with the black tip marker or "white-out."
7. Notify the parent/guardian that the pupil's records are being sealed.
8. Seal the *original* report, any relevant protocols, and a copy of the letter sent to the parent/guardian in a manila envelope. Indicate the Pupil's name and destruction date of five years hence on the outside of the envelope. Also attach a label indicating the envelope is only to be opened for purpose of litigation, official state or federal audits, or upon parent request.
9. Add the pupil's name to a district level master list of pupils whose files have been purged and reports sealed due to the *Larry P.* ruling.

A sample letter to send to parents/guardians regarding this process is enclosed herein.

Adapted from the Riverside County SELPA *Guidelines for Assessing Students who are African-American* for special education are available at www.rcselpa.org

(District Letterhead)

Sample Larry P. Letter to Parent/Guardian

Date: _____

Name: _____

Address: _____

RE: _____(pupils name)_____ DOB: _____

Dear Parent/Guardian:

This letter is to inform you that the _____ District has sealed and purged the assessment report for the above named child due to a ruling by Judge Robert F. Peckham of the United States District Court; San Francisco, in 1986 that school districts may not use Intelligence Quotient (IQ) tests in the assessment of African-American pupils who have been referred for special education. This has been upheld by the U.S. Court of Appeals for the Ninth District and is enforced by the California State Department of Education.

California school districts are required to remove from the pupil record any IQ scores, or references to information from tests that provide a cognitive, mental ability or aptitude score or standard score, for African-American students who were tested prior to this ruling or by another state/agency. The district is also required to notify the parent/guardian of such pupils who previously received IQ testing, that we are now permanently sealing these records. The sealed record may only be opened for purposes of litigation, official state or federal audits, or upon parent/guardian request. A copy of the revised report is enclosed for your information. It will or has replaced the previous report in your child's file.

If you have any questions or concerns, please call me at (____) _____.

Sincerely,

(Special Education Administrator)

CALIFORNIA STATE ELIGIBILITY CRITERIA

California Code of Regulations - Title 5

Section 3030. ELIGIBILITY CRITERIA

- (a) A child shall qualify as an individual with exceptional needs, pursuant to Education Code section 56026, if the results of the assessment as required by Education Code section 56320 demonstrate that the degree of the child's impairment as described in subdivisions (b)(1) through (b)(13) requires special education in one or more of the program options authorized by Education Code section 56361. The decision as to whether or not the assessment results demonstrate that the degree of the child's impairment requires special education shall be made by the IEP team, including personnel in accordance with Education Code section 56341(b). The IEP team shall take into account all the relevant material which is available on the child. No single score or product of scores shall be used as the sole criterion for the decision of the IEP team as to the child's eligibility for special education.
- (b) The disability terms used in defining an individual with exceptional needs are as follows:
 - (1) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, and adversely affecting a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.
 - (A) Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in subdivision (b)(4) of this section.
 - (B) A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in subdivision (b)(1) of this section are satisfied.
 - (2) Deaf-blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.
 - (3) Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a child's educational performance.

- (4) Emotional disturbance means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:
- (A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.
 - (B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
 - (C) Inappropriate types of behavior or feelings under normal circumstances.
 - (D) A general pervasive mood of unhappiness or depression.
 - (E) A tendency to develop physical symptoms or fears associated with personal or school problems.
 - (F) Emotional disturbance includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance under subdivision (b)(4) of this section.
- (5) Hearing impairment means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section.
- (6) Intellectual disability means significantly sub average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance.
- (7) Multiple disabilities means concomitant impairments, such as intellectual disability-blindness or intellectual disability-orthopedic impairment, the combination of which causes such severe educational needs that cannot be accommodated in special education programs solely for one of the impairments. "Multiple disabilities" does not include deaf-blindness.
- (8) Orthopedic impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).
- (9) Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment that:
- (A) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes,

epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and

(B) Adversely affects a child's educational performance.

(10) Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may have manifested 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 including association, conceptualization and expression.

(A) Specific learning disabilities do not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(B) In determining whether a pupil has a specific learning disability, the public agency may consider whether a pupil has a severe discrepancy between intellectual ability and achievement in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning. The decision as to whether or not a severe discrepancy exists shall take into account all relevant material which is available on the pupil. No single score or product of scores, test or procedure shall be used as the sole criterion for the decisions of the IEP team as to the pupil's eligibility for special education. In determining the existence of a severe discrepancy, the IEP team shall use the following procedures:

1. When standardized tests are considered to be valid for a specific pupil, a severe discrepancy is demonstrated by: first, converting into common standard scores, using a mean of 100 and standard deviation of 15, the achievement test score and the intellectual ability test score to be compared; second, computing the difference between these common standard scores; and third, comparing this computed difference to the standard criterion which is the product of 1.5 multiplied by the standard deviation of the distribution of computed differences of students taking these achievement and ability tests. A computed difference which equals or exceeds this standard criterion, adjusted by one standard error of measurement, the adjustment not to exceed 4 common standard score points, indicates a severe discrepancy when such discrepancy is corroborated by other assessment data which may include other tests, scales, instruments, observations and work samples, as appropriate.

2. When standardized tests are considered to be invalid for a specific pupil, the discrepancy shall be measured by alternative means as specified on the assessment plan.
3. If the standardized tests do not reveal a severe discrepancy as defined in subdivisions 1. or 2. above, the IEP team may find that a severe discrepancy does exist, provided that the team documents in a written report that the severe discrepancy between ability and achievement exists as a result of a disorder in one or more of the basic psychological processes. The report shall include a statement of the area, the degree, and the basis and method used in determining the discrepancy. The report shall contain information considered by the team which shall include, but not be limited to:
 - (i) Data obtained from standardized assessment instruments;
 - (ii) Information provided by the parent/ guardian;
 - (iii) Information provided by the pupil's present teacher;
 - (iv) Evidence of the pupil's performance in the regular and/or special education classroom obtained from observations, work samples, and group test scores;
 - (v) Consideration of the pupil's age, particularly for young children;
 and
 - (vi) Any additional relevant information.
4. A severe discrepancy shall not be primarily the result of limited school experience or poor school attendance.

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

1. The pupil does not achieve adequately for the pupil's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the pupil's age or State-approved grade-level standards:
 - (i) Oral expression.
 - (ii) Listening comprehension.
 - (iii) Written expression.
 - (iv) Basic reading skill.
 - (v) Reading fluency skills.
 - (vi) Reading comprehension.
 - (vii) Mathematics calculation.
 - (viii) Mathematics problem solving, and
2.
 - (i) The pupil does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in subdivision (b)(10)(C)(1) of this section when

using a process based on the pupil's response to scientific, research-based intervention; or

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

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

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

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

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

5. In determining whether a pupil has a specific learning disability, the public agency must ensure that the pupil is observed in the pupil's learning environment in accordance with 34 C.F.R. section 300.310. In the case of a child of less than school age or out of school, a qualified professional must observe the child in an environment appropriate for a child of that age. The eligibility determination must be documented in accordance with 34 C.F.R. section 300.311.

(11) A pupil has a language or speech disorder as defined in Education Code section 56333, and it is determined that the pupil's disorder meets one or more of the following criteria:

(A) Articulation disorder.

- 1. The pupil displays reduced intelligibility or an inability to use the speech mechanism which significantly interferes with

communication and attracts adverse attention. Significant interference in communication occurs when the pupil'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.

2. A pupil does not meet the criteria for an articulation disorder if the sole assessed disability is an abnormal swallowing pattern.
- (B) Abnormal Voice. A pupil has an abnormal voice which is characterized by persistent, defective voice quality, pitch, or loudness.
- (C) Fluency Disorders. A pupil has a fluency disorder when the flow of verbal expression including rate and rhythm adversely affects communication between the pupil and listener.
- (D) Language Disorder. The pupil has an expressive or receptive language disorder when he or she meets one of the following criteria:
1. The pupil scores at least 1.5 standard deviations below the mean, or below the 7th percentile, for his or her chronological age or developmental level on two or more standardized tests in one or more of the following areas of language development: morphology, syntax, semantics, or pragmatics. When standardized tests are considered to be invalid for the specific pupil, the expected language performance level shall be determined by alternative means as specified on the assessment plan, or
 2. The pupil scores at least 1.5 standard deviations below the mean or the score is below the 7th percentile for his or her chronological age or developmental level on one or more standardized tests in one of the areas listed in subdivision (A) and displays inappropriate or inadequate usage of expressive, or receptive language as measured by a representative spontaneous or elicited language sample of a minimum of 50 utterances. The language sample must be recorded or transcribed and analyzed, and the results included in the assessment report. If the pupil 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. When standardized tests are considered to be invalid for the specific pupil, the expected language performance level shall be determined by alternative means as specified in the assessment plan.
- (12) 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. Traumatic brain injury 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.

- (A) Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

- (13) Visual impairment including blindness means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

Note: Authority cited: Section 56100, Education Code. Reference: Sections 56026, 56320, 56333 and 56337, Education Code; 20 U.S.C. Sections 1401(3)(A) and 1414(a) and (b); and 34 C.F.R. Sections 300.8, 300.300, 300.301, 300.304, 300.305, 300.306, 300.307, 300.308, 300.309 and 300.311.

Eligibility Requirements for Preschool Children. EC 56441.11

- (a) Notwithstanding any other provision of law or regulation, the special education eligibility criteria in subdivision (b) shall apply to preschool children, between the ages of three and five years.
- (b) A preschool child, between the ages of three and five years, qualifies as a child who needs early childhood special education services if the child meets the following criteria:
 - (1) Is identified as having one of the following disabling conditions, as defined in Section 300.7 of Title 34 of the Code of Federal Regulations, or an established medical disability, as defined in subdivision (d):
 - (A) Autism
 - (B) Deaf-blindness
 - (C) Deafness
 - (D) Hearing impairment
 - (E) Intellectual Disability
 - (F) Multiple disabilities
 - (G) Orthopedic impairment
 - (H) Other health impairment
 - (I) Emotional disturbance
 - (J) Specific learning disability
 - (K) Speech or language impairment in one or more of voice, fluency, language and articulation
 - (L) Traumatic brain injury
 - (M) Visual impairment
 - (N) Established medical disability
 - (2) Needs specially designed instruction or services as defined in Sections 56441.2 and 56441.3.
 - (3) Has needs that cannot be met with modification of a regular environment in the home or school, or both, without ongoing monitoring or support as determined by an individualized education program team pursuant to Section 56431.

- (4) Meets eligibility criteria specified in Section 3030 of Title 5 of the California Code of Regulations.
- (c) A child is not eligible for special education and services if the child does not otherwise meet the eligibility criteria and his or her educational needs are due primarily to:
 - (1) Unfamiliarity with English language
 - (2) Temporary physical disabilities
 - (3) Social maladjustment
 - (4) Environmental, cultural, or economic factors
- (d) For purposes of this section, "established medical disability" is defined as a disabling medical condition or congenital syndrome that the individualized education program team determines has a high predictability of requiring special education and services.
- (e) When standardized tests are considered invalid for children between the ages of three and five years, alternative means, for example, scales, instruments, observations, and interviews shall be used as specified in the assessment plan.

Definition of Eligible Infant or Toddler G.C. 95014

The term "eligible infant or toddler" for the purposes of this title means infants and toddlers from birth through two years of age, for whom a need for early intervention services, as specified in the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1471 et seq.) and applicable regulations, is documented by means of assessment and evaluation as required in Sections 95016 and 95018 and who meet one of the following criteria:

- (1) Infants and toddlers with a developmental delay in one or more of the following five areas: cognitive development; physical and motor development, including vision and hearing; communication development; social or emotional development; or adaptive development. Developmentally delayed infants and toddlers are those who are determined to have a significant difference between the expected level of development for their age and their current level of functioning. This determination shall be made by qualified personnel who are recognized by, or part of, a multidisciplinary team, including the parents.
- (2) Infants and toddlers with established risk conditions, who are infants and toddlers with conditions of known etiology or conditions with established harmful developmental consequences. The conditions shall be diagnosed by a qualified personnel recognized by, or part of, a multidisciplinary team, including the parents. The condition shall be certified as having a high probability of leading to developmental delay if the delay is not evident at the time of diagnosis.
- (3) Infants and toddlers who are at high risk of having substantial developmental disability due to a combination of biomedical risk factors, the presence of which is diagnosed by qualified clinicians recognized by, or part of, a multidisciplinary team, including the parents.

ASSISTIVE TECHNOLOGY (AT) AUGMENTATIVE AND ALTERNATIVE COMMUNICATION (AAC) NEEDS ASSESSMENT GUIDELINES

I. AT Regulations

As per IDEA-July 7, 2017, Sec. 300.105 Assistive technology Regulations,

(a) Each public agency must ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in §§300.5 and 300.6, respectively, are made available to a child with a disability if required as a part of the child's

- (1) Special education under §300.39;
- (2) Related services under §300.34; or
- (3) Supplementary aids and services under §§300.42 and 300.114(a)(2)(ii).

(b) On a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the child's IEP Team determines that the child needs access to those devices in order to receive FAPE.

Augmentative and Alternative Communication (AAC)

AAC is used by people who, some or all of the time, cannot rely on their speech. AAC incorporates the individual's full communication abilities and may include any existing speech or vocalizations, gestures, manual signs, and aided communication. AAC is multimodal, permitting individuals to use every mode possible to communicate. Over time, the use of AAC may change, although sometimes very slowly, and the AAC systems chosen today may not be the best systems tomorrow.

AAC users encounter difficulty communicating via speech due to congenital and/or acquired disabilities occurring across the lifespan. These conditions include but are not limited to autism, cerebral palsy, dual sensory impairments, genetic syndromes, intellectual disability, multiple disabilities, hearing impairment, disease, stroke, and head injury.

Unaided Versus Aided Communication

Typically, AAC includes unaided and aided modes of communication. Unaided modes of communication include nonspeech means of natural communication (including gestures and facial expressions) as well as manual signs and American Sign Language (ASL). These modes of communication often require adequate motor control and communication partners who can interpret the intended message. Aided modes of communication include those approaches that require some form of external support, such as a communication boards with symbols (e.g., objects, pictures, photographs, line drawings, visual-graphic symbols, printed words, traditional orthography) or computers, handheld devices, or tablet devices with symbols that generate speech through synthetically produced or recorded natural (digitized) means.

For individuals with severe disabilities, it can be helpful to encourage (and teach) both unaided and aided modes of communication. Individuals may need to be taught when it is appropriate to use different modes of communication. For example, the individual may sign when interacting with parents at home but may use a picture-based system or speech generating device (SGD) with other communication partners. Individuals with very complex needs and a limited communication repertoire can learn to use different systems in different contexts.

IEP teams are required to consider the need for AT or AAC for all students as part of the IEP process. IEP teams are required to consider the need for AT or AAC by determining how and if it can help the student attain their goals and objectives. It is the IEP team's responsibility to determine where a student's deficits are and to write goals to address those deficits. The next step is for the IEP team to consider the need for accommodations, such as AT or AAC, that will best assist the student in meeting those goals.

II. AT Needs Assessment

At an IEP meeting IDEA regulations require that the IEP determine if the student would benefit from the use of AT or AAC, to assist them in meeting their IEP goals. For instance, if the student has a writing goal that requires them to write a three-paragraph report, but the student has very poor fine motor skills, fatigues quickly, and is a very poor speller, the IEP team needs to consider how AT might assist the student in meeting that goal. In addition, if a student has difficulty with communication, the IEP team may consider how AAC might assist the student in meeting a communication goal. If the IEP Team determines AT or AAC would provide the student with additional access to academics and communication, the IEP Team would complete the SBCSELPA Guide for Consideration of Assistive Technology form.

Through discussion of Assistive Technology, the IEP Team will determine if an assessment for Assistive Technology is necessary. At this time, the IEP team would start the referral process for assessment.

III. AT/ AAC Assessment Process

The SBCSELPA Assistive Technology for Access to Curriculum Assessment Referral Form is completed by an IEP Team member and sent to the SBCSELPA AT/AAC Specialist. In addition, the LEA sends an Assessment Plan to the parent, guardian, or adult student seeking consent for AT/ AAC assessment. The LEA communicates the date of consent to assessment with the SBCSELPA AT/AAC Specialist as well as the date for the meeting to review the assessment results. A copy of the consented Assessment Plan, the SBCSELPA Guide for Consideration of Assistive Technology form, and the SBCSELPA Assistive Technology for Access to Curriculum Assessment Referral form are sent to the SBCSELPA AT/AAC Specialist.

The SBCSELPA AT/AAC Specialist reviews the information in the guide, referral, the current IEP and Multidisciplinary Report, and the student cum file to determine if the student has been previously assessed for Assistive Technology. The SBCSELPA AT/AAC Specialist will contact the LEA to schedule a date, time, and place for assessment.

The following are considered during the assessment:

1. The Eligibility for Special Education
 - a. Low incidence disability
2. Present Levels
 - a. Academic Performance
 - b. Communication skills
 - c. Fine and Gross motor abilities
 - d. Cognitive level
 - e. Attitude and motivation of the student

3. Current Accommodations in the IEP
 - a. need for low tech vs. high tech AT or AAC
 - b. time or workload accommodations
 - c. staff support
4. Academic tasks needed to be accomplished in school
 - a. writing tasks including taking notes and homework
 - b. reading tasks including reading at home
 - c. other subjects: Math, History, Science

The following AT resources by Dr. Sherry Purcell and Debbie Grant may be useful in assisting special education staff members in determining AT needs for individual students:

- 1) Assistive Technology Solutions grades K-3
- 2) Using Assistive Technology to Meet Literacy Standards for Grades 4-6
- 3) Using Assistive Technology to Meet Literacy Standards for Grades 7-12

These books contain all of the California curriculum standards for Reading, Writing, Written and Oral English-Language Conventions, and Listening and Speaking, as well as an extensive appendix on all of the assistive technology, ranging from no/low tech to high tech, with descriptions, pricing and vendor information.

Other helpful resources are the Wisconsin Assistive Technology Initiative (WATI) Continuum of AT Considerations, AT Solutions books, WATI Continuum of AT Considerations, and the AT Consideration Wheel.

LEAs could provide Special Education staff with the Assistive Technology Assessment: Developing a Written Productivity Profile by Denise C. DeCoste, published by Don Johnston, Inc. \$99. The website is www.donjohnston.com. This assessment allows the teacher to compare the student's handwriting ability to his/her keyboarding ability. If the evaluation indicates that a computer for word processing is warranted, then this would be an appropriate AT accommodation recommendation by the IEP team.

IV. Evaluation and Recommendation Process

The SBCSELPA AT/AAC Specialist will also evaluate the ability and interest in methods and materials for AT or AAC, documenting the student responses to the possible Assistive Technology. The SBCSELPA AT/AAC Specialist will attend an IEP to review the assessment results and report possible recommendations for Assistive Technology will be discussed from the assessment results in the IEP meeting. An IEP goal, the Special Factors page of the IEP, and additional accommodations will be written into the IEP indicating the need for Assistive Technology. Follow-up procedures for the implementation of the trials with recommended technology will be provided by the SBCSELPA AT/AAC Specialist.

Once the IEP team designates the use of AT in the IEP, it is the responsibility of the district to provide the necessary AT materials required for the student. The SBCSELPA AT/AAC Specialist will work with LEA to locate and loan technology to the student for the trial. The LEA and the SBCSELPA AT/AAC Specialist document the student's performance with the technology to determine effectiveness of the trialed devices or software. Once determined the device or software is deemed necessary for the student's learning, the LEA will purchase the device though Low Incidence funding.

V. Parent/Guardian Request for AT or AAC Assessment

As with other areas of assessment, parents or guardians have the right to request an AT or AAC assessment. District Special Education staff need to be prepared to address a parent or guardian's request for AT. In order to determine what it is the parent or guardian is seeking, they need to discuss the student's goals and objectives and how AT relates to those goals, etc. They also need to ask the parent or guardian which IEP goal it is that the parent feels the student cannot accomplish without the use of AT. During this discussion in the IEP, the SBCSELPA Guide for Consideration of Assistive Technology is completed. If the IEP team believes an assessment is needed for Assistive Technology, the SBCSELPA Assistive Technology for Access to Curriculum Assessment Referral form and an Assessment Plan is created and presented to the parent or guardian.

VI. SBCSELPA AT/AAC Specialist Additional Services

The SBCSELPA AT/AAC Specialist provides the following additional services when indicated or requested:

1. Staff, student, parent/ guardian training
2. Guidance for data collection and analyzing data
3. Additional research to support recommendations
4. Recommendations for alternatives if trial was not successful
5. Vendor information for purchasing or other training
6. On-going support and consultation for implementation of technology
7. Professional development to SBCSELPA countywide staff on Assistive Technology devices and software.

VII. Summary of Considerations

The use of Assistive Technology devices and or software with an individual student is a process of trial and error. Conducting an assistive technology assessment (formal or informal) is a starting point. Using Assistive Technology devices and or software can be a successful accommodation with a student if supported by the teacher, the parent or guardian, and the student's willingness to use the AT, whether it is no tech, low tech, or high tech. Make sure the student is willing to use the AT before it is purchased.

All special educators should be aware of and have access to the basic research-based AT materials available in the field such as: Inspiration, Draft: Builder, Co: Writer, Write :Outloud, Read: Outloud, Simon Spells It Out, pencil grips, raised line paper, slant boards, graphic organizers, color coded organizational tips, NCR notebooks, hand-held spell checkers, Start-to-Finish series, etc.

Decision Making About AAC Systems and Interventions

The currently accepted evidence by American Speech-Language- Hearing Association suggests there are no specific prerequisites (e.g., age, cognitive, linguistic, motor) for getting started with AAC. A number of AAC options are available to begin the intervention process. Ideally, the decision to introduce AAC should be made in consultation with the IEP team. However, no individual should go without communication, and all individuals should have access to AAC systems that promote effective communication.

AAC should also be considered for individuals who have some speech or speech that is unintelligible to unfamiliar listeners. These individuals may use AAC to augment their

communication. Other individuals may use speech in low-demand contexts but choose to use AAC to augment their communication in high-demand contexts. The presence of speech should not preclude the consideration of AAC as a support.

Decisions When Choosing Aided AAC

Choosing an aided AAC system requires careful consideration of an individual's current skills, strengths, and needs, but it is important not to restrict the individual's potential. Assessment strategies can lead to an understanding of:

- Options for different symbols, systems, and access modes
- The contexts where the individual must communicate
- The skills and supports available to partners
- The profile of the individual including: vision, hearing, sensory-motor, motivation, cognitive, linguistic, literacy skills, and current modes of communication

4-27-2020

Occupational Therapy Services Multi-Tiered System of Supports (MTSS) and Assessment Referral Guidelines

It is the goal of the SBCSELPA for these OT guidelines to facilitate LEAs and Occupational Therapists in providing appropriate education/school-based OT “related services” by using a Multi-Tiered System of Supports approach to guide the decision-making process to support students in accessing and benefitting from special education services.

I. The Individuals with Disabilities Education Act (IDEA) OT Regulations

The Individuals with Disabilities Education Act (IDEA) 2004 defines OT services as a “related service” which is defined as **“developmental, corrective, or other supportive services as may be required to assist a child with a disability to benefit from special education”** and/or as a “supplementary aid and service” which is defined as **“aids, services, and other supports that are provided in regular education classes or other education related settings to enable children with disabilities to be educated with non-disabled children to the maximum extent appropriate.”**

Under IDEA regulations, Title 34, Code of Federal Regulations, Section 300.34.(c)(6) defines “occupational therapy” as **“services provided by a qualified occupational therapist; and includes (a) improving, developing, or restoring functions impaired or lost through illness, injury, or depravations; (b) improving ability to perform tasks for independent functioning if functions are impaired or lost; and (c) preventing, through early intervention, initial further impairment or loss of function.”**

II. Roles and Functions of School Based Occupational Therapists

In school-based practice, OTs support a child’s ability to gain access to and make progress in their school curriculum. OTs are allied health professionals whose purpose in a public-school setting is to support a child’s engagement and participation in daily occupations, which include activities of daily living, education, prevocational work, play, rest, leisure and social participation. OTs have a unique role in the educational setting in working both on remediation (e.g., improving sensory and motor foundations of learning and behavior) and compensations (e.g., modifying the environment, tools, or task) to help a child succeed at school. (Guidelines for Occupational Therapy and Physical Therapy in California Public Schools, 2nd ed. CA Department of Education, 2012).

School-based Occupational Therapists provide support and function within the following processes:

1. Pre-referral services and MTSS as part of general education process
2. 504 referral and services as part of general education*
3. Special education referral and request for assessment
4. Special education assessment
5. IFSP infant/toddler and PK program planning
6. IEP planning
7. Transition planning and services
8. Intervention planning and implementation of IEP services

9. Documentation/Reporting
10. Liaison/Communication with outside agencies and entities
11. Staff Development/Training
12. OT program management
13. Supervision of therapy staff
14. Education/system development and facilities

(Guidelines for Occupational Therapy and Physical Therapy in California Public Schools, 2nd ed. CA Department of Education, 2012).

***consult contact site 504 coordinator or principal.**

III. Types of Occupational Therapy Referrals

1. **Teacher/IEP Team Generated:** The teacher or specialist providing instruction has made modifications and provided interventions to address the student's motor and/or sensory and/or other classroom-based needs (generally, for a recommended period of 4-8 weeks) by following the SBCSELPA OT Pre-Referral Process Flow Chart and SBCSELPA Occupational Therapy Assessment Pre-Referral Form and determined that minimal progress was made by the student and therefore, the teacher, specialist, or OT recommends to IEP team an occupational therapy assessment.

All school staff referrals shall be in writing using the SBCSELPA OT Assessment Pre-Referral Form and include a brief explanation for the referral and document the OT recommended multi-tiered supports, strategies, interventions, modifications or resources in the general or special education settings that have been considered, trialed, or used, and provide data on results of the efficacy of the interventions and the student's progress.

If data indicates student is making progress, an OT assessment referral may not be appropriate. If data indicates that student is not making sufficient progress with additional supports an OT Assessment referral may be appropriate.

2. **Student Transfer:** A student transfers into a school district from another SELPA with a current IEP which includes school-based OT as a related service. An OT assessment may be a part of the 30-day interim placement review process. (The OT is notified ASAP of the OT services in the IEP by LEA.)
3. **Parent/Guardian Request:** A parent/guardian requests an OT assessment. A parent/guardian request does not automatically result in a formal OT assessment. The LEA must first document the parent's referral before determining how to proceed. When a verbal referral is made, staff of the school district, SELPA, or county office shall offer assistance to the individual in making a request in writing and shall assist the individual if the individual requests such assistance (5 CCR §3021(a)).

If LEA determines that the OT referral is not appropriate, it may deny the assessment request. Within 15 days of the request, a prior written notice must be sent by the LEA to parent detailing why an assessment is being denied.

In order for the LEA and IEP team, including parents/guardians to determine if a school-based OT Assessment referral or request is appropriate the following shall occur:

1. Within 15 days the LEA (case manager or administration) should contact the parent/guardian and provide them with a hard copy of the SBCSELPA OT Flow Chart, the SBCSELPA OT Assessment Pre-Referral Form, discuss with them the request for assessment, and describe the OT MTSS and pre-referral guidelines for OT assessment requests. The IEP team makes decisions on need for assessment for related services such as OT based on all available assessments and data and it is an IEP team-based decision, including parent/guardian and OT, to discern if OT assessment is appropriate at that time.
2. After meeting and/or discussing with parent/guardian about the request for OT assessment, the following can occur:
 - a. IEP team, including parent agrees to OT MTSS interventions and to follow OT pre-referral process. Within 15 days of request LEA responds to parent/guardian with a Prior Written Notice the steps that will be taken during the 60-day OT MTSS timeline and no AP for OT assessment will be generated at that time. At the end of the 60-day OT MTSS timeline, further recommendations will be determined by the IEP team, including parent/guardian.
 - b. Parent does not agree with the OT MTSS interventions and pre-referral process. It is still an IEP team decision, including parent, whether an OT assessment is warranted at that time. Within 15 days of request, LEA responds to parent/guardian with a Prior Written Notice to either follow the 60-day OT MTSS and pre-referral process or to generate AP for OT Assessment. At the end of the 60-day OT MTSS timeline or 60-day OT assessment timeline, further recommendations will be determined by the IEP, including parent.
 - c. The LEA should inform the parent/guardian that the OT MTSS and pre-referral process may or may not result in a formal OT assessment once completed.
 - d. The LEA also must provide parents with a copy of their rights and procedural safeguards. (See CFR 300.301 and 300.303; 34 CFR 300.301(b) and (34 CFR 300.503(b); EC 56301(d)(2)(A) and EC 56043(a))).
4. **Included as part of Assessment Plan:** An OT assessment is included as a part of an initial assessment plan. Each public agency must ensure that the child is assessed in all areas related to the suspected disability, including, if appropriate ...motor abilities... (34 CFR 300.304©).

5. Infant Services (Part C) Transitioning to Preschool (PK) Program: Infant Preschool Transitions should follow the guidelines as listed in 1-4 above.

The Infant Program's (Part C provider) Individualized Family Service Plan (IFSP) Transition team reports development levels and student progress on IFSP goals based on current data and assessment reports.

If student is receiving OT services on an IFSP the IFSP OT should make the recommendation to the PK assessment team as to if student continues to require OT services and for OT to be included on the PK Assessment Plan or that student has made sufficient progress with IFSP OT services and student would benefit instead from entering and transitioning into PK program without related OT services.

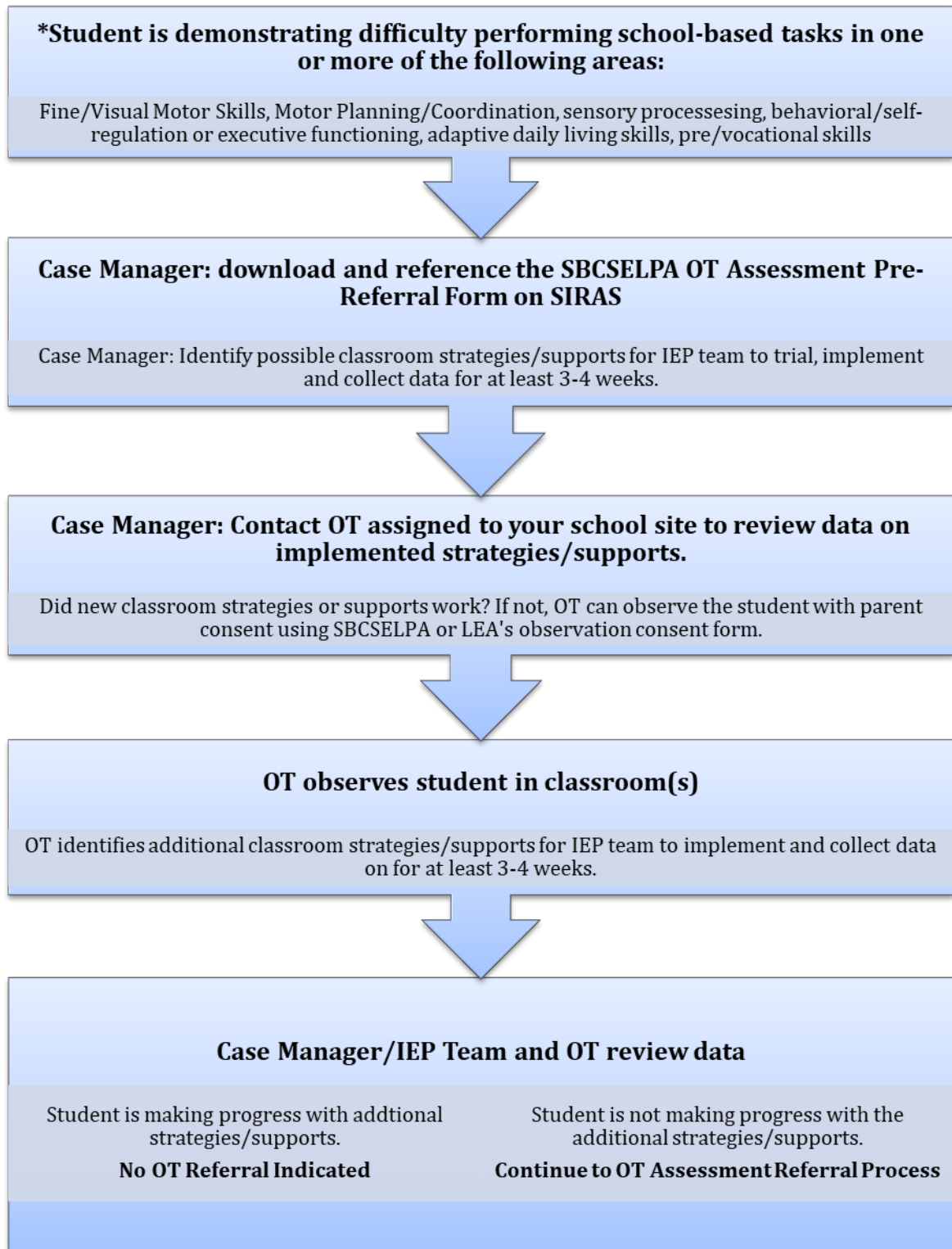
The PK IEP team will follow the SBCSELPA OT Flow Chart and utilize the SBCSELPA OT Assessment Pre-Referral Form once student enters a PK program if areas of concern were to arise after student is given adequate time to transition based on their individual needs.

The IEP team makes decisions on eligibility based on all available assessments and data:

- a. The IEP Team may determine that OT services are required to assist the child with disabilities to benefit from special education. (34 CFR 300.34(a)). The IEP team may then develop developmentally appropriate goals and offer appropriate OT services.
- b. IEP team may determine that at this time OT services are not required to assist the student with a disability to benefit from special education (34 CFR 300.34)

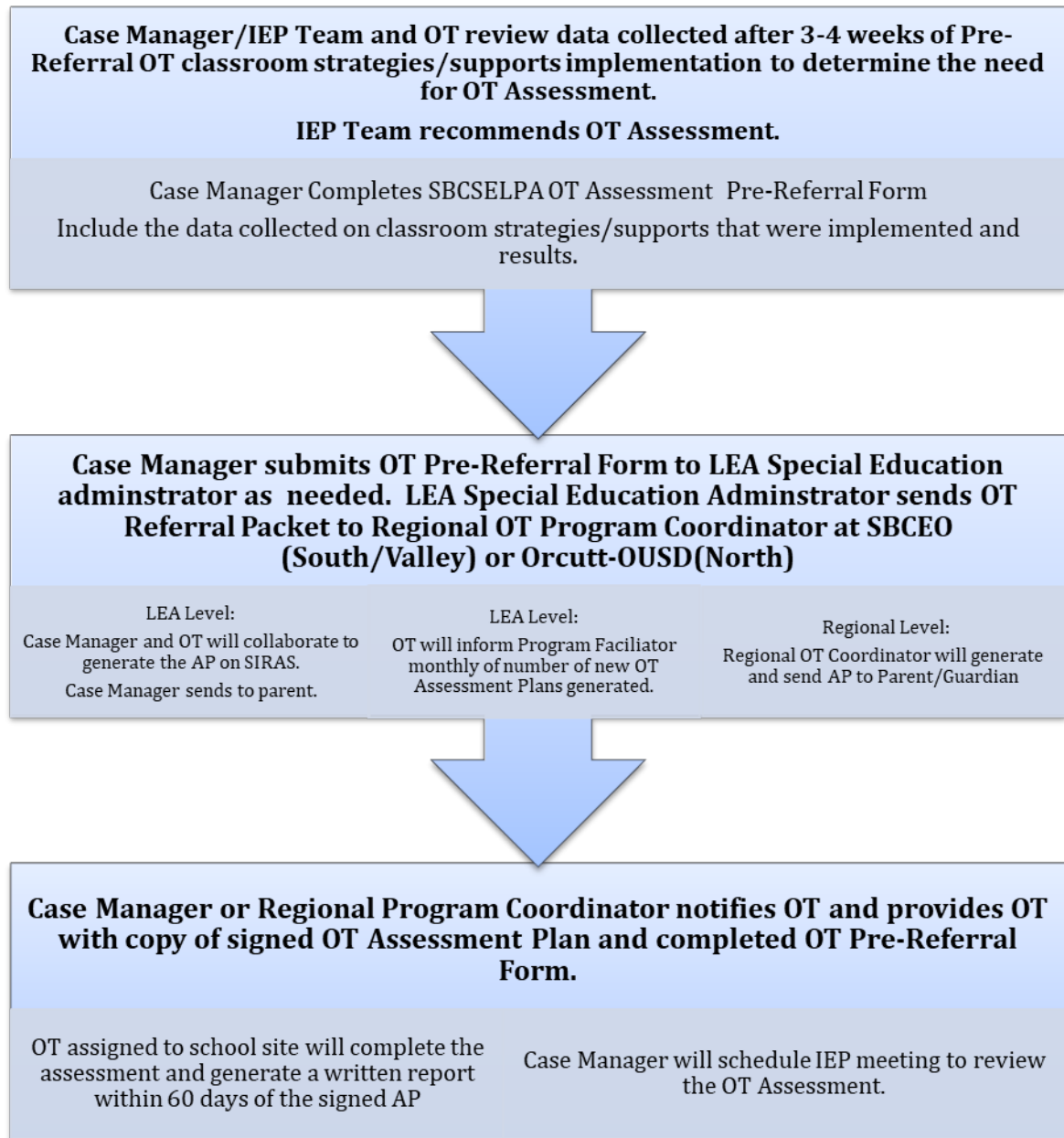
When a referral is made a proposed assessment plan, or Prior Written Notice describing OT MTSS and pre-referral process for OT assessment shall be developed within 15 calendar days of referral for assessment, not counting calendar days between the pupil's regular school sessions or terms or calendar days of school vacation in excess of five school days, from the date of receipt of the referral, unless the parent or guardian agrees in writing to an extension, pursuant to subdivision (a) of Section 56321.

IV. OT Assessment Pre-Referral Process Flow Chart



***For Parent/Guardian request for OT assessment, please refer to the OT Services MTSS and Assessment Referral Guidelines in the Santa Barbara County SELPA's Procedural Handbook, Section 2. All requests for OT Assessments are recommended to follow the MTSS 60-day pre-referral process for the OT to determine the necessity for assessment.**

V. Occupational Therapy (OT) Assessment Referral Process



VI. OT Assessment Referral Procedures and Documents

A. LEA Level:

For a New Referral the Following Procedures and Documents Shall Be Used:

1. The referring LEA Special Education Case Manager or designee shall complete the SBCSELPA OT Assessment Pre-Referral Form (SELPA56) (Available in SIRAS Added Forms SELPA Documents)
2. Case manager reviews Pre-Referral Form with LEA OT assigned to school site and collaborates to generate the AP for OT Assessment. Case manager sends copy of signed AP when it is returned by parent/guardian and 60-day timeline begins.

3. Case Manager and OT will inform Special Education Administration of new OT Referrals for caseload/workload census.
4. OT completes file review to determine if the child has a California Children Services (CCS) diagnosis and, if so, then file a CCS referral.
5. If student has a CCS diagnosis and is currently receiving CCS MTU services have parent sign LEA's Parent Consent to Release of Information form to contact the local CCS MTU to request copy of the student's most recent assessment report and any medical information or contraindications for school-based services.
6. Some examples of CCS eligible diagnoses include, but are not limited to:

Cerebral Palsy	Chronic Musculo-skeletal Disease, Deformity or Injury
Neuromuscular Disease	Osteogenesis Imperfecta
Muscular Dystrophy	Amputation
Spina Bifida	Contractures resulting from burns
Traumatic Brain Injury	Polio

7. If the student has a disabling condition that may qualify for CCS services, use the forms for referral contained in the CCS/SELPA Interagency Agreement available through your district special education office or at www.sbcselfa.org under publications.

NOTE: The referral to CCS cannot delay the educationally related OT referral. Medically necessary OT has no bearing on the LEA's obligation to meet the 15-day timeline to offer an assessment plan to the parent for an educationally related OT assessment.

NOTE: If student is client of CCS MTU, the permission to contact CCS MTU is optional on the part of the parent and it may not hold up the process. All timelines are still in effect. If parent denies permission for LEA to contact the CCS MTU or the Authorization to Release Information form is not returned by parent, the OT Assessment will not be affected.

8. LEA Case Manager and OT will collaborate to schedule a mutually agreed upon time with parent to schedule the IEP meeting to review OT Assessment Results within 60-day timeline. At the IEP meeting, the Occupational Therapist will: provide the team members with a written assessment report, report the assessment results and make recommendations for needed modifications or related services based on the assessment results. The IEP Team will make the final determinations based on the OT's data and recommendations of whether the student qualifies for OT related services. The IEP Team will also specify who will provide the service as well as the frequency and duration of the service which are then written into the IEP.

B. OT Regional Program Level (SBCEO, Orcutt Union School District Pupil Services)

1. The referring LEA Special Education Administrator, Case Manager or other designee shall complete the SBCSELPA OT Assessment Referral Packet (SELPA57) (Available in SIRAS Added Forms SELPA Documents)
2. The OT referral packet should only be completed for students in districts that continue to use Regional Program OTs. The packet should be reviewed and signed by the referring LEA's Special Education Administrator or designee. The packet is sent to the OT Regional Program Service Operator's Special Education Administrator as follows:

Orcutt's Director of Pupil Services: Lompoc and North LEAs

SBCEO's Occupational Therapy Coordinator: Valley and South LEAs

NOTE: If the referral packet is not complete, Regional Program Service Operator will contact the referring LEA Special Education Administrator and request they submit missing documentation within 5 business days or sooner if timeline issues are a concern.

3. Referral Packet Includes:
 - a. SELPA55: OT Referral Steps Checklist Form
 - b. SELPA56: SBCSELPA OT Assessment Pre-Referral Form
 - c. SUPP21A: *Referral for Special Education and Related Services* form:
 - The "General Education Intervention Attempts" section of on the *Receipt of Referral to Special Education (SIRAS IEP 17)* form should address the skill or skills for which the teacher has made modifications that have not been successful. These must be skills that are necessary for the student to benefit from the instructional program. For example: Student cannot hold a pencil and apply enough pressure to write a sentence.
 - If assessment is at parent request, be specific describing parent area of concern and what you have done in the classroom that addresses this concern. If teacher does not have a concern in this area state how child functions in the classroom in this parent area of concern.
 - d. SELPA3: *Parent Consent for Release of Information* form
4. Special Education Administrator or designee completes file review to determine if the child has a California Children Services (CCS) diagnosis and, if so, then file a CCS referral.
5. If student has a CCS diagnosis and is already receiving CCS MTU services have parent sign Parent Consent to Release of Information form to contact the local CCS MTU to request copy of the student's most recent assessment report and any medical information or contraindications for school based services.

6. Some examples of CCS eligible diagnoses include, but are not limited to:

Cerebral Palsy	Chronic Musculo-skeletal Disease, Deformity or Injury
Neuromuscular Disease	Osteogenesis Imperfecta
Muscular Dystrophy	Amputation
Spina Bifida	Contractures resulting from burns
Traumatic Brain Injury	Polio

7. If the student has a disabling condition that may qualify for CCS services, use the forms for referral contained in the CCS/SELPA Interagency Agreement available through your district special education office or at www.sbcseelpa.org under publications.

NOTE: The referral to CCS cannot delay the educationally related OT referral. Medically necessary OT has no bearing on the LEA's obligation to meet the 15-day timeline to offer an assessment plan to the parent for an educationally-related OT assessment.

NOTE: If student is client of CCS MTU, the permission to contact CCS MTU is optional on the part of the parent and it may not hold up the process. All timelines are still in effect. If parent denies permission for LEA to contact the CCS MTU or the Parent Consent Release Information form is not returned by parent the OT Assessment will not be affected.

8. After reviewing the OT referral packet the LEA immediately sends the OT referral packet to appropriate OT Regional Program Coordinator.
9. Regional Service Operator will:
- Within 15 days of the date of referral, which is not necessarily the date on which the Occupational Therapy Assessment Referral Packet (SELPA57) is received, send the parent, the assigned OT service provider, and the Special Education Administrator of the referring LEA a letter explaining the assessment process and timeline as well as the assessment plan documents to be signed.
 - The LEA has the obligation to process paperwork and provide the referral to the Regional Service Operator in a timely fashion so the Regional Service Operator can send the assessment plan within 15 days of the date of referral. When calculating the 15-day time limit, do not count days between the student's regular school sessions or terms or days of school vacation in excess of five school days.
 - Assessment plan is to be returned to the OT Regional Program Coordinator. After signed assessment plan is received, the OT Regional Program Coordinator sends the Occupational Therapist and the referring district a letter stating the specific timeline for the assessment; keeping in mind the timeline to hold an IEP meeting within 60 days of the signed assessment plan in order to review assessment results. This letter will be sent out only after receiving the signed Assessment Plan from the parent.

10. The Referring LEA will:

- a. Schedule the IEP meeting at a mutually agreed upon time with parent and assigned OT service provider. At the IEP meeting, the Occupational Therapist will: provide the team members with a written assessment report, report the assessment results and make recommendations for needed modifications or related services based on the assessment results.
- b. The IEP Team will make the final determinations based on the OT's data and recommendations of whether the student qualifies for OT related services. The IEP Team will also specify who will provide the service as well as the frequency and duration of the service which are then written into the IEP.

VII. Students Transferring into SBCSELPA From Out of the SELPA

The following procedures shall be followed:

1. LEA Level:

- a. Within 5 school days, the LEA case manager will forward the IEP of the transfer-in student who has occupational therapy services listed on previous district IEP to the LEA's occupational therapist assigned to the school site.
- b. The IEP should also be entered into the SIRAS IEP website so that services may be initiated immediately.
- c. The OT will use the 30-day transfer-in timeline to determine the appropriateness of OT services.
- d. If the OT decides that an assessment is necessary to determine the student's needs and/or appropriateness of OT, then an assessment plan must be sent home for parent/guardian/adult student consent prior to any type of formal assessment

NOTE: The OT needs notification of meeting 10 days prior to the meeting to ensure that they will have an opportunity to attend, report the findings and give recommendations at the 30-day IEP meeting.

2. OT Regional Program Level:

- a. Within 5 school days, the LEA will forward the IEP of the transfer-in student who has occupational therapy services listed on previous district IEP to the SBCEO office for Valley and South County students and to Orcutt Pupil Services Office for Lompoc and North County students.
- b. The IEP will be forwarded to the regional program occupational therapist assigned to the school site.
- c. The IEP should also be entered into the SIRAS IEP website so that services may be initiated immediately.
- d. The OT will use the 30-day transfer-in timeline to determine the appropriateness of OT services.
- e. If the OT decides that an assessment is necessary to determine the student's needs and/or appropriateness of OT, then an assessment plan must be sent home for parent/guardian/adult student consent prior to any type of formal assessment.

DATE APPROVED	<u>2/01/2010</u>
DATE REVISED:	<u>4/15/2014</u>
DATE REVISED:	<u>9/18/2015</u>
DATE REVISED:	<u>3/01/2021</u>

WHAT FORMS SHOULD BE USED

The following forms should be used during the assessment phase, as appropriate:

NC 3:	PWN-Assessment Plan
SELPA 3:	Parent Consent for Release of Information (E & S) This form is to be used to obtain parent permission to receive information from other agencies or individuals relevant to the evaluation and educational planning.
NC 2B:	Notice of Reassessment (E & S)
SELPA 4:	Parental and Adult Student's Rights and Procedural Safeguards for Special Education (E & S)
SELPA 56:	A Tool for Teachers to Investigate a Student's Possible Motor and /or Sensory Delays (E)
IEP 17:	Receipt of Referral to Special Education (E & S)
SELPA 16:	Physician's Information for Related Services
SELPA 55:	OT Referral Steps Checklist
SELPA 8:	California Modified Assessment Survey (E & S)
SELPA 44:	Assistive Technology Consideration of Needs

NOTE

E = <i>ENGLISH</i> and S = <i>SPANISH</i>
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Appendix A references the forms highlighted throughout this handbook. SELPA and Supplemental IEP forms can be found on our county's on-line **SIRAS Systems**, www.sirassystems.org.

PROCEDURAL HANDBOOK

SECTION

3

The Individualized Education Program (IEP)

This section contains information you should know about...

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Updated June 1, 2020

THE LAW AND THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

56340. Each district, special education local plan area, or county office shall initiate and conduct meetings for the purposes of developing, reviewing, and revising the individualized education program of each individual with exceptional needs.

THE IEP TEAM

IEP TEAM MEMBERS

The IEP Team shall be composed of at least all of the following:

1. One or both of the pupil's parents, a representative *of* a parent, or both, *a guardian*, or surrogate parent, when appropriate. The parent or guardian shall have the right to present information to the IEP Team in person or through a representative and the right to participate in meetings, relating to eligibility for special education and related services, recommendations, and program planning.
2. Not less than one regular education teacher of the pupil, if the pupil is, or may be participating in the regular education environment. If more than one regular education teacher is providing instructional services to the individual with exceptional needs, one regular education teacher may be designated to represent the others.

The regular education teacher of an individual with exceptional needs shall, to the extent appropriate, participate in the development, review, and revision of the pupil's Individualized Education Plan (IEP), including assisting in determining appropriate positive behavioral interventions and supports and other strategies for the pupil, and the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the pupil.

3. Not less than one special education teacher of the pupil, or if appropriate, not less than one special education provider of the pupil.
4. An administrator or designee representing the district, special education local plan area, or county office 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 curriculum.
 - c. Is knowledgeable about the availability of resources of the local education agency.

IMPORTANT

Whomever the designee is, he or she must have the authority to commit school level resources or district resources.

The local education agency may designate another LEA IEP Team member to also serve as the administrative designee if that individual meets the qualification required of the administrative representative as described in item 4 on page 3-3.

5. An individual who can interpret the instructional implications of the assessment results. This individual may be a Team member described in items 2 to 6 of this section.
6. At the discretion of the parent, guardian or the district, SBCSELPA, or county office, other individuals who have knowledge or special expertise regarding the pupil. The determination of whether the individual has knowledge or special expertise regarding the pupil shall be made by the party who invites the individual to be a member of the IEP Team.
7. Whenever appropriate, the individual with exceptional needs.

Beginning with the IEP meeting to be in effect when a student reaches the age of 16, or younger if determined appropriate by the IEP Team, the student shall be invited to attend the IEP meeting.

As part of the participation of an individual with exceptional needs in the development of an IEP, the individual with exceptional needs shall be allowed to provide confidential input to any representative of his or her IEP Team.

ADDITIONAL IEP TEAM MEMBERS

When appropriate, an IEP Team may also include:

1. For a pupil suspected of having a specific learning disability, 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 other than the pupil's regular teacher shall observe the pupil's academic performance in the regular classroom setting. In the case of a child who is less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.
2. If necessary, interpreters for parents whose primary language is other than English or who are deaf, in order to ensure that parents understand the proceedings of the IEP meeting.
3. In the case of transition services, the district, SBCSELPA, or county office shall invite an individual with exceptional needs to attend his or her individualized education program meeting if a purpose of the meeting will be the consideration of needed transition service for the individual.

If the individual with exceptional needs does not attend the IEP Team meeting, the district, SBCSELPA, or county office shall take steps to ensure that the individual's preferences and interests are considered.

4. The district, SBCSELPA or county office also shall invite any agency representative(s) that is/are likely to be responsible for providing or paying for transition services. If an agency invited to send a representative to a meeting does not do so, the local education agency shall take other steps to obtain participation of the other agency in the planning of any transition services.

5. For children who were served through the Early Intervention Infant Toddler Program operated by the County Education Office, an invitation to the initial IEP meeting for school age services shall, at the parent's request, be sent to the coordinator or other representative of the child's early intervention services program to assist with the smooth transition of services.
6. In the case of a pupil with exceptional needs who has been placed in a group home, the district, SBCSELPA or county education office shall also invite a representative of the group home to participate in the IEP meeting.

EXCUSAL OF MEMBERS FROM IEP MEETINGS

An IEP Team member is not required to attend an IEP meeting, in whole or in part, if the parent and the LEA administrator representative agree that the member's attendance is not necessary because the member's area of curriculum or related services is not being modified or discussed at the meeting.

An IEP Team member may be excused from an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if both of the following occur:

- 1) the parent and the LEA administrative representative consent to the excusal after conferring with the member; and
- 2) prior to the meeting, the member submits written input into the development of the IEP to the parent and the IEP Team.

Procedures

The parent must give written consent to excuse an IEP Team member from a meeting under both of the options described above.

The *IEP Team Member Excusal (NC7)*, is to be used in cases where a Team member may be excused from an IEP meeting. The responsible administrator or designee must approve the proposed excusal. In addition, the Team member who may be excused must be consulted.

The parent should be contacted prior to the form being sent home to obtain the parent's verbal agreement to excuse a Team member(s) from the IEP meeting. If the parent gives verbal consent to the excusal of the Team member(s), the form is to be sent to the parent for signature along with the *Notice of Meeting (NC6A)*. If the parent does not give consent to the excusal, the Team members must attend. If there is a conflict in schedules, then another date/time must be selected for the meeting to take place.

Instances where it may be appropriate for an IEP Team member to be excused from a meeting would include those where an additional IEP meeting will be held during the year following the annual review and where only a specific portion of the student's program or IEP will be discussed.

IMPORTANT

It is highly recommended that the IEP Team members not be excused from annual review meetings, even with parents consent. If the Team member's area of curriculum or related services will be discussed at the meeting and there is a need for the member to be excused, the Team member must submit written input prior to the meeting for use in the development of the IEP.

The responsible administrator or designee must sign and date the Excusal form prior to its being sent home for the parent's signature. If the parent does not return the signed form prior to the IEP meeting, the parent's signature approving the IEP Team member excusal should be obtained at the meeting.

PARENT NOTIFICATION OF IEP MEETING

1. The parents should be given their written notice of the meeting early enough to ensure an opportunity to attend (10 days notice is good practice, but not mandated).
2. The IEP meeting shall be scheduled at a mutually agreed-upon time and place. Staff should consult with the parents to confirm an agreeable date and time for the meeting
3. If no parent or guardian can attend the meeting, the LEA shall use other methods to ensure parent or guardian participation, including individual or conference telephone calls.

NOTE

An IEP meeting may be held without the parent in attendance if the LEA is unable to convince the parent or guardian that he or she should attend or if LEA staff have been unsuccessful in reaching the parent/guardian. In such cases the LEA is required to maintain a record of its attempts to arrange a mutually agreed-upon time and place as follows:

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

PROVISION OF PARENTS' RIGHTS

State and federal law now require that a copy of the procedural safeguards notice, the SELPA form, *Notice of Rights and Safeguards (NC 1)* be given to the parents of a child with a disability only one time a year, with certain exceptions as described below. For purposes of compliance with this requirement, the Parental and Adult Students' Rights should be sent to the parent annually at the same time that the IEP meeting notice is sent home for the annual review IEP meeting.

In addition to the once annual receipt of the Parents' Rights at the time of the annual review IEP, parents of children with disabilities must be given a copy of the Parents' Rights under the following circumstances:

1. Upon initial referral for special education
2. Upon parental request for assessment
3. Upon any reevaluation of the child (i.e. any time an assessment plan is developed and provided to the parent)
4. Upon the first occurrence of the filing for a due process hearing
5. Upon request by a parent.

Parents also should be given a copy of the SELPA form, *Notice of Rights and Safeguards (NC 1)*, any time the LEA provides prior written notice of a proposal or refusal to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education. (See Parents' Rights document, items 32 and 33)

REQUIRED IEP MEETINGS

A meeting must occur whenever:

1. A pupil has received an initial assessment. The team may meet when a pupil receives any subsequent assessment.
2. The pupil's placement or instruction, services, or both, as specified in the IEP, are to be initiated, changed, or terminated.
3. The pupil demonstrates a lack of anticipated progress.
4. The parent or teacher requests a meeting to develop, review or revise the IEP.
5. At least annually, to review the pupil's progress, the IEP, including whether the pupil's annual goals are being achieved, and the appropriateness of placement, and to make any necessary revisions.

IMPORTANT

An IEP required as a result of an assessment shall be developed within a total time not to exceed 60 calendar days not counting days between the pupil'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. If a referral has been made 30 days or less prior to the end of the regular school year, the IEP shall be developed within 30 days after the start of the subsequent regular school year. In the case of pupil school vacations, the 60-day time shall recommence on the date that pupil school days reconvene. (EC 56344)

NOTE

A meeting of the IEP Team, requested by the parent to review an individualized education program, shall be held within 30 days, not counting days in July and August, from the date of receipt of parents' written request. If the parent makes an oral request, the district shall notify the parent of the need for a written request and the procedure for filing a written request. EC 56343.5

BASIC FUNCTIONS OF IEP TEAMS

IEP Teams are responsible for:

1. Reviewing assessment results.
2. Determining eligibility.
3. Determining the content of the IEP.
4. Making program placement recommendations.
5. Considering transportation needs.

TYPES OF IEP TEAMS

The composition of the IEP Team will vary depending on whether it is a site, district, or regional team.

1. **School Site IEP Teams:** Are responsible for developing, reviewing, and revising IEP's for students receiving services at their school site only.
2. **District Level IEP Teams:** Are responsible for developing, reviewing, and revising IEP's for students who may be recommended for a district program at a location other than the student's neighborhood school.
3. **Regional IEP Teams:** Are responsible for developing, reviewing and revising IEPs for students who are enrolled in, or who may receive services in, regional classes. These teams must include a representative from the operator of the regional program.

THE CONTENT OF AN IEP

1. When developing each pupil's IEP, the IEP Team shall consider the following:
 - a. The strengths of the pupil.
 - b. The concerns of the parents or guardians for enhancing the education of the pupil.
 - c. The results of the initial assessment or most recent assessment of the pupil.
2. The IEP Team shall do the following:
 - a. In the case of a pupil whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.
 - b. In the case of a pupil with limited-English proficiency, consider the language needs of the pupil as those needs relate to the pupil's individualized education program.
 - c. In the case of a pupil who is blind or visually impaired, provide for instruction in Braille, and the use of Braille, unless the individualized education program team determines, after an assessment of the pupil's reading and writing skills, needs, and appropriate reading and writing media, including an assessment of the pupil's future needs for instruction in Braille or the use of Braille is not appropriate for the pupil.
 - d. Consider the communication needs of the pupil, and in the case of a pupil who is deaf or hard of hearing, consider the pupil's language and communication needs, opportunities for direct communications with peers and professional personnel in the pupil's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the pupil's language and communication mode. (Use SELPA form, *Statement of Program Components for Pupils who are Deaf and Hard of Hearing* (SELPA12), for student who are deaf or hard of hearing).
 - e. Consider whether the pupil requires assistive technology devices and services.
3. If, in considering the special factors described in subdivisions 1 and 2, the IEP Team determines that a pupil needs a particular device or service, including an intervention, accommodation, or other program modifications, in order for the pupil to receive a free appropriate public education, the IEP Team shall include a statement to that effect in the pupil's IEP.
4. The IEP Team shall review the pupil's individualized education program periodically, but not less frequently than annually, to determine whether the annual goals for the pupil are being achieved, and revise the individualized education program, as appropriate, to address among other matters the following:
 - a. Lack of expected progress toward the annual goals and in the general curriculum, where appropriate.
 - b. The results of any reassessment conducted.
 - c. Information about the pupil provided to, or by, the parents or guardians.
 - d. The pupil's anticipated needs.
 - e. Any other relevant matter.

The IEP is a written statement developed by an IEP Team that includes the following:

1. A statement of the individual's present level of academic achievement and functional performance, including the following:
 - a. The manner in which the disability of the individual affects his or her involvement and progress in the general education curriculum.
 - b. For preschool children, as appropriate, the manner in which the disability affects his or her participation in appropriate activities.
 - c. For individuals with exceptional needs who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.
2. A statement of measurable annual goals, including academic and functional goals, designed to do the following:
 - a. Meet the individual's needs that result from the individual's disability to enable the pupil to be involved in and make progress in the general curriculum.
 - b. Meet each of the pupil's other educational needs that result from the individual's disability.
3. A description of the manner in which the progress of the pupil toward meeting the annual goals described in paragraph (2) will be measured and when periodic reports on the progress the pupil is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards will be provided.
4. A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the pupil, or on behalf of the pupil, and a statement of the program modifications or supports for school personnel that will be provided to the pupil to do the following:
 - a. To advance appropriately toward attaining the annual goals.
 - b. To be involved in and make progress in the general education curriculum in accordance with paragraph (1) and to participate in extracurricular and other nonacademic activities.
 - c. To be educated and participate with other individuals with exceptional needs and nondisabled pupils.
5. An explanation of the extent, if any, to which the pupil will not participate with nondisabled pupils in the regular class and in the activities described in subparagraph (c) of paragraph (4).
6. A statement of any individual appropriate accommodations which are necessary to measure the academic achievement and functional performance of the pupil on state and district-wide assessments.
 - a. If the individualized education program team determines that the pupil shall take an alternate assessment on a particular state or district-wide assessment of pupil achievement, a statement of the following:

- (i) The reason why the pupil cannot participate in the regular assessment.
 - (ii) The reason why the particular alternate assessment selected is appropriate for the pupil.
- 7. The projected date for the beginning of the services and modifications described in paragraph (4), and the anticipated frequency, location, and duration of those services and modifications.
- 8. Beginning not later than the first individualized education program to be in effect when the pupil is 16 years of age, and updated annually thereafter, the following shall be included:
 - a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills.
 - b. The transition services, including courses of study, needed to assist the pupil in reaching those goals.

When appropriate, the IEP shall also include but not be limited to all, of the following:

- 1. For pupils in grades 7 to 12, inclusive, any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and to meet or exceed proficiency standards for graduation.
- 2. For individuals whose native language is other than English, linguistically appropriate goals, objectives, programs, and services.
- 3. Extended school year services, when needed, as determined by the IEP Team on an individual basis for the provision of a free appropriate public education.
- 4. Provision for the transition into the regular class program if the pupil is to be transferred from a special class or center, or nonpublic, nonsectarian school into a regular class in a public school for any part of the school day including the following:
 - a. A description of the activities provided to integrate the pupil into the regular education program. The description shall indicate the nature of each activity, and the time spent on the activity each day or week.
 - b. A description of the activities provided to support the transition of pupils from the special education program into the regular education program.
- 5. For pupils with low incidence disabilities, specialized services, materials, and equipment, consistent with guidelines established pursuant to Section 56136 (Education Code).
- 6. Beginning not later than one year before the pupil reaches the age 18, a statement that the pupil has been informed of the pupil's rights under this part, if any, that will transfer to the pupil upon reaching the age of 18 pursuant to Section 56041.5.
- 7. Type of physical education (regular, modified, specially designed, or adapted).

8. Support Plan for Behavior Interfering with Learning of Student or Peers.
9. Behavior Intervention Plan for pupils with serious behavior problems for which other instructional/behavioral approaches in the student's IEP have been ineffective.
10. Transportation services.

NOTE

The completed IEP must show a direct relationship among the assessment information, present levels of performance, the goals and objectives aligned to state standards and the specific services to be provided.

IMPORTANT

A single IEP is to be developed for each individual with exceptional needs that specifies all of the services that the pupil receives, including both special education and DIS.

The individualized education program team is not required to include information under one component of a pupil's individualized education program that is already contained under another component of the individualized education program.

The parent shall be given a copy of the completed IEP.

IMPORTANT

The local education agencies of the SELPA are responsible for providing all the programs and services written in the IEP. They are also responsible for revising and updating the IEP annually or more often if the student is demonstrating a lack of progress towards meeting the goals.

While each LEA is required to make a good faith effort to assist each individual with exceptional needs to achieve the goals/objectives listed in the child's IEP, it must be understood, that the IEP is not a contract which guarantees that the student will meet or exceed the growth projected in the pupil's IEP.

Right to Audiotape IEP Meetings

The parent or guardian, or local educational agency shall have the right to record electronically the proceedings of IEP Team meetings on a recording device. The parent or guardian, or local educational agency shall notify the members of the IEP Team of their intent to record a meeting at least 24 hours prior to the meeting. If the local educational agency initiates the notice of intent to audiotape record a meeting and the parent or guardian objects or refuses to attend the meeting because it will be recorded the meeting shall not be recorded on recording device.

Parent Consent for Special Education Services

1. Local education agencies that are responsible for providing special education services to students with disabilities must seek to obtain informed written consent from the parent before providing initial special education and related services to a child. If the parent refuses to consent to the initiation of services, the local education agency shall not provide special education and related services to the child. In such cases, the local education agency must continue to serve the child as a regular education student.
2. If the parent or guardian of a child who has previously been provided with special education services refuses all services in the IEP after having consented to those services in the past, the local education agency shall file a request for due process.
3. If the parent consents in writing to the receipt of special education and related services for the child but does not consent to all of the components of the IEP, those components of the program to which the parent has consented shall be implemented so as not to delay providing instruction and services to the child.
4. If the local education agency determines that the proposed special education program component to which the parent does not consent is necessary to provide a free appropriate public education to the child, a due process hearing shall be initiated. While a resolution session, mediation conference, or due process hearing is pending, the child shall remain in his or her current placement, unless the parent and the local education agency agree otherwise.

NOTE

Each district, special education local plan area, or county office shall, prior to the placement of the individual with exceptional needs, ensure that the regular education teacher, or teachers, the special education teacher or teachers, and other persons who provide special education, related services, or both to the individual with exceptional needs, shall be knowledgeable of the content of the individualized education program.

A copy of each individualized education program shall be maintained at each school site where the pupil is enrolled. Service providers from other agencies who provide instruction or a related service to the individual off the school site shall be provided a copy of the individualized education program. All individualized education programs shall be maintained in accordance with state and federal pupil record confidentiality laws. (EC 56347)

Rights Related to Parental Notice

Both state and federal law require that parents be provided with prior written notice whenever an LEA proposes to initiate or change or refuses to initiate or change the identification, evaluation, or educational placement of a child with a disability or the provision of a free appropriate public education. This notice must be provided in the parent's native language unless it clearly is not feasible to do so.

The notice must include the following information:

1. A description of the action proposed or refused by the LEA;
2. An explanation of why the agency proposes or refuses to take the action and a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
3. A statement that the parents of the child with a disability have protection under the procedural safeguards of the IDEA and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
4. Sources for parents to contact to obtain assistance in understanding the provisions of the IDEA;
5. A description of other options considered by the IEP Team and the reasons why those options were rejected; and
6. A description of the factors that are relevant to the agency's proposal or refusal.

The requirement to provide the written notice must be implemented in cases where there is disagreement between the parent and the IEP Team regarding the services that a child should receive. If such a disagreement occurs, the IEP administrative designee is responsible to contact the LEA special education administrator regarding the need to provide the parent with written parental notice as described above.

Notice of Graduation with a Regular Diploma

Local education agencies that serve high school age students are required by both state and federal law to provide prior written notice to parents or guardians of students with disabilities that their child will be graduating from high school with a regular high school diploma. This prior written notice must be provided a reasonable time before the student is scheduled to receive his or her diploma. The Supplemental IEP form, *Notice of Graduation with a Regular High School Diploma* (SUPP36), should be used to provide this parental notice.

Summary of Pupil's Academic Achievement and Functional Performance

When a student's eligibility for special education services will terminate either due to graduation from secondary school with a regular high school diploma, or due to exceeding the age eligibility to receive special education, the local education agency is required to provide the pupil with a summary of the pupil's academic achievement and functional performance, which must include recommendations in assisting the pupil in meeting his or her postsecondary educational goals. Local education agencies that serve high school age students should use Supplemental IEP form, *Summary of the Student's Academic Achievement and Functional Performance* (SUPP27), Pages 1 and 2 to meet this requirement. These forms should be completed by the special education staff who have provided services to the student in his or her most current special education placement. It is recommended that the forms be sent home to the student and his/her parents near the end of the last quarter that the student is enrolled in school.

THE LAW AND REVIEW

Section 56380. (a) of the California Education Code requires each local education agency of the SELPA to maintain procedures to ensure that the IEP Team:

1. Reviews the pupil's IEP periodically, but not less frequently than annually, to determine whether the annual goals for the pupil are being achieved, and
2. Revises the IEP as appropriate to address, among other matters any lack of expected progress toward the annual goals and in the general curriculum, where appropriate and the results of any reassessment conducted.

WHEN REVIEWS MUST BE CONDUCTED

As indicated in the statement above, a student's IEP must be reviewed at least once a year. There are other instances, however, which also call for a review.

REQUESTED REVIEW:

Parents are notified annually, through the parent's rights form, of their right to request a review of their child's IEP. Reviews may also be requested at any time by:

1. School personnel (including regular class teachers who have integrated students)
2. Other public agencies involved with the student
3. The student, when appropriate.

IMPORTANT

A meeting of the IEP Team requested by a parent must be held within 30 calendar days, not counting days in July and August, from the date of receipt of a parent's written request. If the parent makes an oral request, the school district shall notify the parent of the need for a written request and the procedure for filing a written request.

CONDUCTING A REVIEW

WHAT IS THE PURPOSE OF A REVIEW?

1. To assess a student's progress toward the successful achievement of goals and, where appropriate, objectives specified in his or her IEP.
2. To determine the appropriateness of a student's placement in terms of:
 - a. How it is meeting his or her needs
 - b. Whether or not it is the least restrictive.

3. To make recommendations for a change in placement or services and/or additional assessment.
4. To communicate to the parent the effectiveness of the IEP and to receive from the parent any ideas which might help improve it.

For the Annual Review IEP, the current IEP should be brought to the review meeting conducted by the IEP Team. Progress on each goal and objective must be documented on the previous IEP. If the student is to be continued in a special education placement or service, a new IEP must be completed.

WHO IS RESPONSIBLE FOR CONDUCTING THE REVIEW?

The chairperson of the IEP Team is responsible for seeing that all required reviews are conducted.

Annual and Requested Reviews must be conducted by at least the minimum required membership of the IEP Team, including the parent and the regular education teacher, if the student is, or may be, participating in the regular education environment.

IMPORTANT

Annual Reviews for students moving between districts or major grade levels, e.g., elementary to junior high school, should have representation from both the transferring and receiving schools and/or districts.

WHAT ABOUT INVOLVEMENT OF OTHER PUBLIC AGENCIES AND NON-PUBLIC SCHOOLS?

If a special education student is receiving services through an IEP from another public agency (i.e., California Children Services or Department of Mental Health), representatives from the agency must be invited to participate in the annual and requested review meetings. If a child has been placed in a non-public school, non-public school personnel *must* be involved in the child's IEP.

IMPORTANT

The finalized version of each IEP must be completed at the IEP Team meeting and not before. A draft version of suggested goals, and objectives where appropriate, may be presented, as long as parents understand that it is only a draft and that they have every opportunity to give input and to alter the suggested goals/objectives.

WHAT FORMS SHOULD BE USED

The following forms should be used during the Instructional Planning and IEP Development phase:

- NC 1 Notice of Rights and Safeguard (mailed home with SIRAS Notice of Meeting form for the annual review IEP) (E & S)
- NC6A Notice of Meeting.
This form is used to inform the parents that the IEP Team (of which they are a member) intends to meet to discuss assessment results and/or probable changes in their child's IEP and to invite them to attend. It also allows the parents to inform other members of the IEP Team as to whether or not they will attend, or will send a representative or bring one with them. This form is the major piece of documentation the team must have to show, if the parents do not attend the meeting, that attempts were made to involve them.
- IEP: Individualized Education Plan (E & S) These forms are used to develop the pupil's Individualized Education Program. All components must be completed in order to meet all legal IEP requirements.
- NC 7 IEP Team Member Excusal
- IEP 6D Postsecondary Transition Plan (E & S)
This form is used to develop a Transition Plan for each pupil enrolled in special education beginning no later than the pupil's 16th birthday. The Transition Plan becomes part of the pupil's IEP and is reviewed annually.
- IEP 2 IEP Eligibility and (IEP 2C) SLD Eligibility (E & S)
This form is used by the IEP Team for initial and triennial evaluations to document whether a pupil meets standardized criteria to be identified as having a specific learning disability. This form is to be attached to, and become part of, the pupil's IEP.
- IEP 2 IEP Eligibility and (IEP 2C) SLD Eligibility (E & S)
This form is completed and attached to the (IEP 2) form to document a specific learning disability when a severe discrepancy between ability and achievement was not obtained using standardized tests.
- IEP 6G, 6G-1 Behavior Intervention Plan (E & S)
This form is used to document the teaching strategies, environmental structure and supports and reinforcement procedures needed to implement a plan of interventions for students:
- who exhibit behavior that impedes his or her learning or that of others; or
 - who are subject to the disciplinary provisions of the IDEA (see Chapter 10)
- This form will become part of the student's IEP when used.

IEP 2B	Present Levels of Performance (E & S)
SUPP36:	Notice of Graduation with a Regular High School (E)
SELPA12:	Statement of Program Components for Pupils Who are Deaf and Hard of Hearing

NOTE

E = <i>ENGLISH</i> and S = <i>SPANISH</i>
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Appendix A references the forms highlighted throughout this handbook. SELPA and Supplemental IEP forms can be found on our county's on-line *SIRAS Systems*, www.sirassystems.org.

PROCEDURAL HANDBOOK

SECTION

4

Implementation

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THE LAW AND IMPLEMENTATION

56360. Each Special Education Local Plan Area shall ensure that a continuum of program options is available to meet the needs of individuals with exceptional needs for special education and related services as required by the Individuals with Disabilities Education Act and federal regulations.

PROGRAM OPTIONS

The continuum of program options in this Special Education Local Plan Area contains all of the following:

1. ***A Resource Specialist Program*** which provides, but is not limited to:
 - a. Instruction and services for pupils who have been found eligible for special education by an IEP Team, but whose needs can be met while they are assigned to a regular classroom for the majority of the school day.
 - b. Information and assistance to individuals with exceptional needs and their parents.
 - c. Consultation, resource information, and materials regarding special education pupils, for parents and other staff members.
 - d. Coordination of special education services with the regular school program for each Resource Specialist Program enrollee.
 - e. Monitoring of pupil progress; participation in review and revision of IEPs for students in the Resource Specialist Program; and referral of students not making progress to the IEP Team.
 - f. Emphasis at the secondary level on academic achievement, career and vocational development, and preparation for adult life.
2. ***Related Services*** which include, but are not limited to:
 - a. Language and Speech Development and Remediation
 - b. Audiological Services
 - c. Orientation and Mobility Instruction
 - d. Instruction in the Home or Hospital
 - e. Adapted Physical Education
 - f. Physical and Occupational Therapy
 - g. Vision Services and Therapy
 - h. Specialized Driver Training Instruction

- i. Counseling and Guidance, including Rehabilitation Counseling
- j. Psychological Services (other than assessment and development of the Individualized Education Program)
- k. Parent Counseling and Training
- l. Health-Nursing Services
- m. Social Worker Services
- n. Specially designed Vocational Education and Career Development
- o. Recreation Services
- p. Specialized Services for Low Incidence Disabilities, such as readers, transcribers, and vision and hearing services
- q. Interpreting Services

The term “related services” is defined in the federal Individuals with Disabilities Education Act. The term “related services” means transportation, and such developmental, corrective, and other supportive services as may be required to assist an individual with exceptional needs to benefit from special education.

The term “related services” does not include a medical device that is surgically implanted or the replacement of that device.

3. ***Special Day Classes:***

- a. Enroll pupils with similar and more intensive educational needs.
- b. Enroll pupils when the nature and/or severity of their disability is such that education in regular classes with the use of supplementary aids and services including curriculum modification and behavioral support cannot be achieved satisfactorily.
- c. Provide, or arrange for the provision of, non-academic and extra-curricular services and activities, including meals and recess periods, that include, to the maximum extent appropriate, participation with nondisabled pupils.

A student shall be considered enrolled in a special day class for funding purposes under the following circumstances:

- The student is on the caseload of an SDC teacher and/or receives his/her special education instruction (excluding related services specified in the IEP) outside the regular education setting for a majority* of the school day.

- The student receives special education instruction outside the regular education setting for less than a majority of the school day but is included on the caseload of a low incidence special day class teacher.
- The student receives instruction outside the regular education setting for less than a majority* of the school day but is included on the caseload of an itinerant special day class teacher and receives specialized instruction from special education staff for a majority* of the school day.

*more than 50%

4. ***Nonpublic, Nonsectarian School Services:***

Are provided under contract with the Special Education Local Plan Area when no appropriate public education program is available.

5. ***State Special Schools:***

Are considered for referral for further assessment or placement of individuals with exceptional needs upon recommendation by the IEP Team. This recommendation will be made only as a result of a finding that no appropriate placement is available in the Local Plan Area.

6. ***Instruction in settings other than classrooms where specially designed instruction may occur:***

Including instruction in such settings as the community and vocational work sites.

7. ***Itinerant instruction in classrooms, resource rooms, and settings other than classrooms where specially designed instruction may occur as required by law.***

Itinerant instruction may be provided by special education staff, including those with specialized knowledge and training in serving students with low incidence disabilities, when recommended by the IEP team.

8. ***Instruction using telecommunication and instruction in the home, in hospitals and in other institutions as required by law.***

When recommending placement for home instruction, the IEP Team shall have in the assessment information a medical report from the attending physician or report of a psychologist, as appropriate, stating the diagnosed condition and certifying that the severity of the condition prevents the pupil from attending a less restrictive placement.

Other placement options that individual districts may make available include the following:

1. ***Special Day Class with Maximum Mainstreaming***

A Special Day Class may maintain pupils within the SDC caseload who are mainstreamed in general education for more than 50% of the instructional day. The IEP shall indicate the amount of time the pupil shall be served in the general education setting and the activities of the SDC teacher to support successful mainstreaming.

2. ***SDC/Inclusion Support***

An SDC teacher may maintain a caseload containing pupils with IEPs who are placed in general education classrooms for 100% of the instructional day, with the SDC inclusion teacher and/or special education staff providing support to the general education teachers in curriculum modification, instructional strategies, assignment monitoring, and/or program coordination.

3. ***Embedded Special Day Class***

A district may create embedded Special Day Classes by merging a complete SDC with a general education classroom. Team teaching shall be provided as long as the district assures that all IEP goals/objectives and services are addressed and that general education pupils' families have been fully informed regarding the program.

4. ***Learning Center Special Education Delivery Options***

A district may elect to provide special education services via a Learning Center model provided the district assures that all IEP goals/objectives and services are met. The Learning Center concept assigns all pupils to age appropriate general education classrooms for appropriate activities such as the opening of school, appropriate instructional and non-instructional activities, special events, lunch, recess, field trips, and other activities as appropriate per each IEP. The Learning Center may include services previously provided via SDC, RSP and/or Related Services based on each district's defined Learning Center. Learning Centers may also include other categorical services, i.e., ELL/ELD, Title 1, GATE, general education services, and other district/school services.

5. ***Departmentalized Special Education Services***

A district may provide departmentalized services, blending services between SDC teachers and RSP teachers, with the IEP specifying the total amount of special education services to be provided. Pupils may receive services from both SDC and RSP staff per the IEP. A case carrier for each student shall be assigned.

6. ***Small Group Instruction (SGI)***

Provides the option for districts to provide services to special education pupils in small group settings utilizing appropriately credentialed special education staff.

LEAST RESTRICTIVE ENVIRONMENT

Special education is an integral part of the total public education system and should promote maximum interaction between disabled and nondisabled pupils in a manner which is appropriate to the needs of both.

OVERVIEW OF REGIONAL PROGRAMS

Students who are supported in Regional Programs:

- Students who are referred to the TLP/ GROW program;
- Students who are DHH;
- Students determined to be CAPA Level 1;
- By exception only: Students determined to be CAPA Level 2-4 with significant challenging behavior that cannot be successfully addressed with district resources (attempts must be well documented)

How Students are placed in District or Regional Programs:

Condition 1. A student is moving into Santa Barbara County from an out of county program with an IEP.

- a. The call from the parent is directed to the special education operator of the District of Residence.
- b. The District of Residence requests a copy of the IEP and current Psych report from the sending LEA or the parent.
- c. The District of Residence reviews the paperwork and if the student is a student as described above and being supported by a Regional Program, the district of residence refers the student to the Regional Operator, the Regional Operator conducts a 30-day interim placement IEP and the IEP team determines if the Regional program is the appropriate placement.

OR

The District of Residence reviews the paperwork and if the student is not a student as described above and was being supported in a non-Regional program, the District of Residence operator conducts a 30-day interim placement IEP and enrolls the student in a non-Regional program.

- d. If the student is placed in a non-regional program, then The District of Residence implements the IEP, conducts assessment during the 30 days and reconvenes the IEP within the 30 days.
 - i. If the student is determined to need more specialized support than can be provided within the non-Regional program, the District of Residence may refer the student to the Regional Program Operator for consideration for enrollment in a Regional class (follow process outlined below).
 - ii. If the student's IEP can be implemented with appropriate supports and services provided by the District of Residence, new goals are written, services recommended, and placement maintained by the District of Residence.

Condition 2. A student has been in a non-Regional class through elementary, middle school and high school. The student is now transitioning to an adult transition program.

- a. The District of Residence is to continue to support the student through the non-Regional District transition program unless recommended for a move to a more restrictive placement due to a change in student needs.

Condition 3. A student is in a non-Regional class with specialized needs that can no longer be met by the District of Residence.

- a. The District of Residence may refer the student to the Regional Program Operator for consideration for enrollment in a Regional class (follow process outlined in SELPA form, *Regional Program Referral Process* (SELPA21)).

Condition 4. A student is moving into an LCI in Santa Barbara County

- a. A call or letter from the placing agency to the SBCSELPA will be forwarded to the special education director in the prospective District of Residence.
- b. The District of Residence reviews the referral for appropriateness for placement in a district program. If the student falls into one of the categories of appropriateness for Regional classes listed above, the Regional Program Operator will be the recommended service provider. For all others the District of Residence will be responsible for implementing a 30-day interim placement.

Condition 5. A student has been in a Regional Special Day Class as a preschooler and is recommended by the IEP team and the District of Residence for continued support in a school aged Regional program.

Condition 6. In the case of an anticipated enrollment of a preschool student into a district that runs preschool programs, but the district believes their current programs do not meet the student's individual needs.

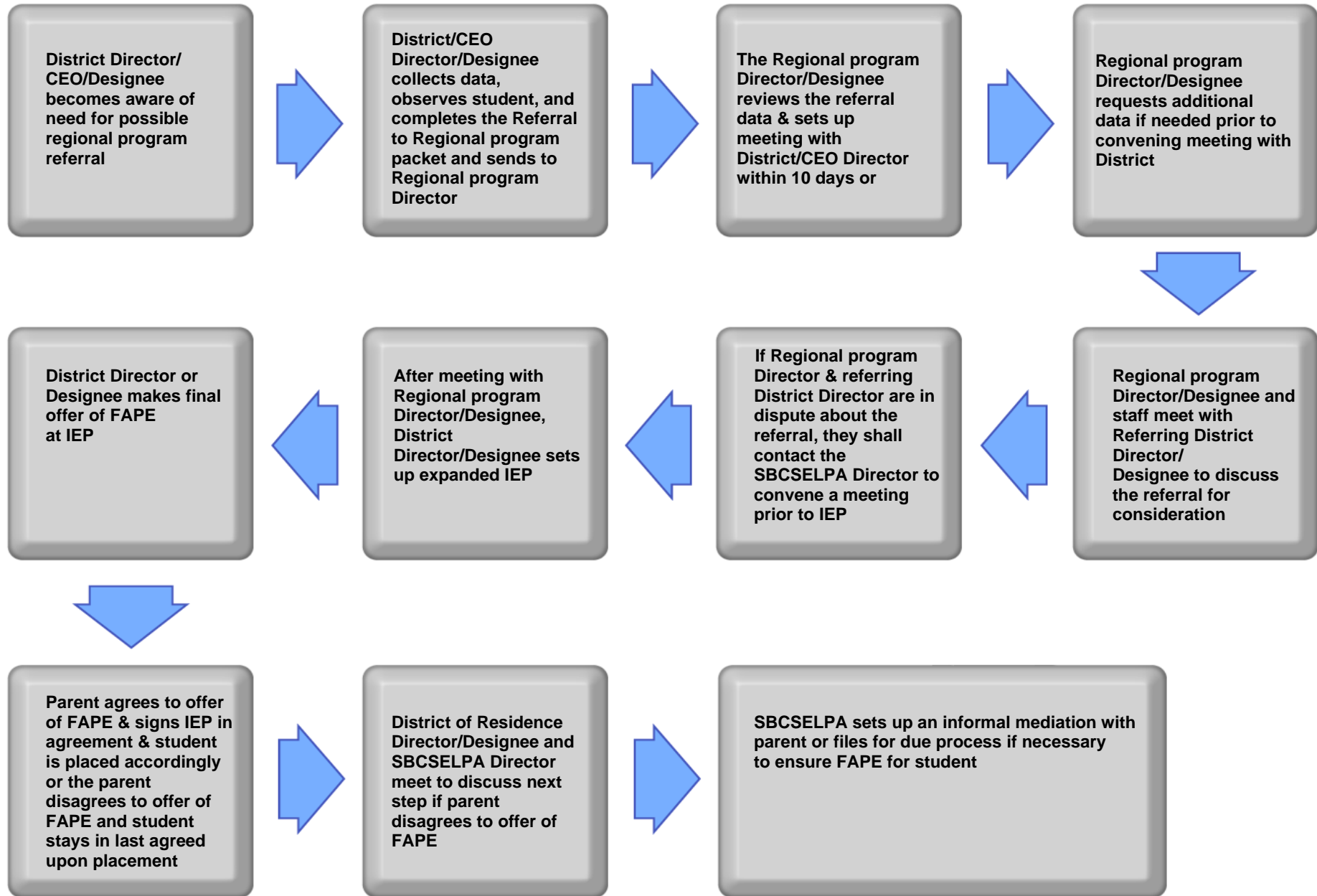
- a. The district may refer the student to the Regional Program Operator for consideration for enrollment in a Regional class (follow process outlined in SELPA form, *Regional Program Referral Process* (SELPA21)).

Conditions that may not be included as reason for referral to a more restrictive placement:

- Class size
- Funding issues
- Strength of teacher
- Parent choice
- Student doesn't "fit" into existing model of support

English Language learner creating need for bilingual supports.

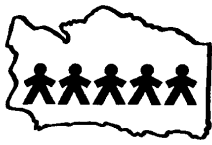
Santa Barbara County SELPA Regional Special Class Program Referral Process Chart



DATE APPROVED: May 05, 2008

***NOTIFICATION PROCEDURE FOR A REGIONAL PROGRAM STUDENT
CHANGING DISTRICT OF RESIDENCE***

1. When the case manager of a regional student becomes aware that their regional student is moving out of their current district, they shall inform their special education administrator within 3 school days.
2. Within 3 school days, the current regional program administrator or designee shall inform the parent that they must contact the special education administrator of the new district of residence for placement of the student.
3. The current Regional program operator will also notify the special education administrator of the new district of residence regarding the student move.
4. The special education administrator or designee of the new district of residence shall make the needed arrangements for placement of the student in the appropriate program including continuation of transportation, if needed.



Santa Barbara County
Special Education Local Plan Area
A Joint Powers Agency

TLP PROGRAM COMPONENTS
(Updated 2020)

(SBCSELPA regional Therapeutic Learning Program (TLP) programs utilizing the Growth Mindset, Resilience, Other Centered, Work Ethic (GROW) Model to include the following components)

<p style="text-align: center;">Environment</p> <ul style="list-style-type: none"> ▪ Explicitly posted schedules ▪ Explicitly posted GROW visuals ▪ Educational environment conducive to learning that is separate from counseling space, if possible ▪ Private space for counseling, if possible ▪ “Honors room” for students that meet goals/levels ▪ Class size of no more than 12 for TLP Level 1 and 8-10 for TLP Level 2 (day treatment) 	<p style="text-align: center;">Instruction</p> <ul style="list-style-type: none"> ▪ Core instruction aligned to the <i>common core</i> ▪ Evidence-based remediation/intervention programs in reading, writing, or math as required to meet individual needs ▪ Credit recovery opportunity for secondary students (online) ▪ Core curriculum available online ▪ Individualized instruction as needed ▪ Alternatives for PE and elective credits ▪ GROW Evidence Based Social Emotional (SEL) curricular materials
<p style="text-align: center;">Professional Development</p> <ul style="list-style-type: none"> ▪ Beginning of the year GROW group staff trainings ▪ All staff must be trained in CPI ▪ On-going professional development opportunities ▪ Ongoing collaboration through regularly weekly scheduled staff team meetings ▪ Parent training ▪ End of year GROW Summit 	<p style="text-align: center;">Staffing</p> <ul style="list-style-type: none"> ▪ Mental Health support available (50% FTE in TLP Level 1 and 100% FTE in Level 2) ▪ BCBA/Behaviorist support as needed ▪ Limit staff rotations (teachers & aides) ▪ Substitute coverage for teachers & aides ▪ Staff collaboration time ▪ One teacher, two aides (behavior certified aides in TLP Level 2 and preferred in Level 1), maximum 12 students (per class) ▪ School psychologist: .20 FTE
<p style="text-align: center;">Technology</p> <ul style="list-style-type: none"> ▪ Technology: minimum 6 computers, smart board or other projection technology, and internet access (per class) ▪ iPad or other notebook access for students as deemed needed ▪ Assistive Technology (AT) as needed for individual students 	<p style="text-align: center;">Classroom Management / Behavioral Support</p> <ul style="list-style-type: none"> ▪ Positive behavior support ▪ Applied Behavior Analysis principles implemented ▪ High motivation/reinforcement opportunities available (ex. art, music, cooking, auto mechanics, gardening, etc.)
<p style="text-align: center;">Mental Health Services</p> <ul style="list-style-type: none"> ▪ Individual counseling available for all students ▪ Group counseling available for all students ▪ Family counseling and/or intensive home services available as deemed needed for FAPE 	<p style="text-align: center;">Family</p> <ul style="list-style-type: none"> ▪ Parent training component (behavioral, SEL etc.) ▪ Group parent trainings at least 2x annually ▪ Daily/Weekly written or oral communication with families ▪ Periodic team meetings for students as needed
<p style="text-align: center;">Community</p> <ul style="list-style-type: none"> ▪ Access to community-based learning / instruction ▪ Access to public transportation (bus pass, etc.) ▪ Access to TLP regional program van for community outings ▪ Interagency collaboration (community mental health, Department of Rehabilitation, or Tri Counties Regional Center, as appropriate) 	<p style="text-align: center;">Transition/Exit from TLP</p> <ul style="list-style-type: none"> ▪ Gradual transition to LRE determined by IEP Team meeting ▪ Teach skills needed for reintegration back to home school and provide supports in general education, as needed

ADMINISTRATIVE PLACEMENT OF STUDENTS WITH NPS IEP DESIGNATIONS TO REGIONAL PROGRAMS

The following steps shall take place by the LEA District of Residence (DOR) Special Education Administrator/Designee prior to making an interim 30 day placement in a regional program for a student with an NPS placement designated on their IEP that has been placed in an LCI/foster placement by an outside agency:

- 1) Check to see if the placing agency notified the SBCSELPA prior to making the placement as per §EC 56156(a) if no, then refer placing agency to SBCSELPA prior to making a 30 day interim placement decision.
- 2) The DOR SPED Administrator/Designee determines if there is a comparable placement available within the district. If not, then an interim placement not to exceed 30 calendar days is made in a regional program as per §EC 56325 (a) (1). Upon placement, the following steps shall occur:
- 3) The regional program operator arranges for comprehensive assessment to take place prior to the end of the 30 calendar days to help inform the IEP team regarding FAPE for the student.
- 4) The regional program operator schedules an IEP by the 30th calendar day and invites all applicable members including the DOR SPED Administrator/Designee.

At the IEP meeting to take place by the 30th calendar day after placement, the following questions shall be addressed by the IEP team:

- 1) Does the LEA (District of Residence) have the ability to absorb, expand, or to open new programs to meet the needs of the pupil population given the limitations of instructional personnel service units, available school facilities, funds, and staff? If no, then proceed to 2 below:
- 2) If the LEA DOR does not have the ability to serve the student, then does the SBCSELPA continuum of options available have the ability to serve the student? If no, then proceed to 3 below:
- 3) If the DOR deems there is no continuum of options available or appropriate to serve the student within the DOR, then the IEP team shall review and make an offer of FAPE.

APPROVED: March 02, 2009

REVISED: March 15, 2013

REGULATIONS RELATIVE TO THE PLACEMENT OF LCI/FOSTER YOUTH WITH IEPS

§EC 56325 (a) (1) As required by subclause (I) of clause (i) of subparagraph (C) of paragraph (2) of subsection (d) of Section 1414 of Title 20 of the United States Code, the following shall apply to special education programs for individuals with exceptional needs who transfer from district to district within the state. In the case of an individual with exceptional needs who has an individualized education program and transfers into a district from a district not operating programs under the same local plan in which he or she was last enrolled in a special education program within the same academic year, the local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved individualized education program, in consultation with the parents, for a period not to exceed 30 days, by which time the local educational agency shall adopt the previously approved individualized education program or shall develop, adopt, and implement a new individualized education program that is consistent with federal and state law.

§ EC 60505. Community Care Facilities.

(e) The SELPA director and the administrator of the LEA in which a group home or small family home is located shall provide the facility licensee the following information:

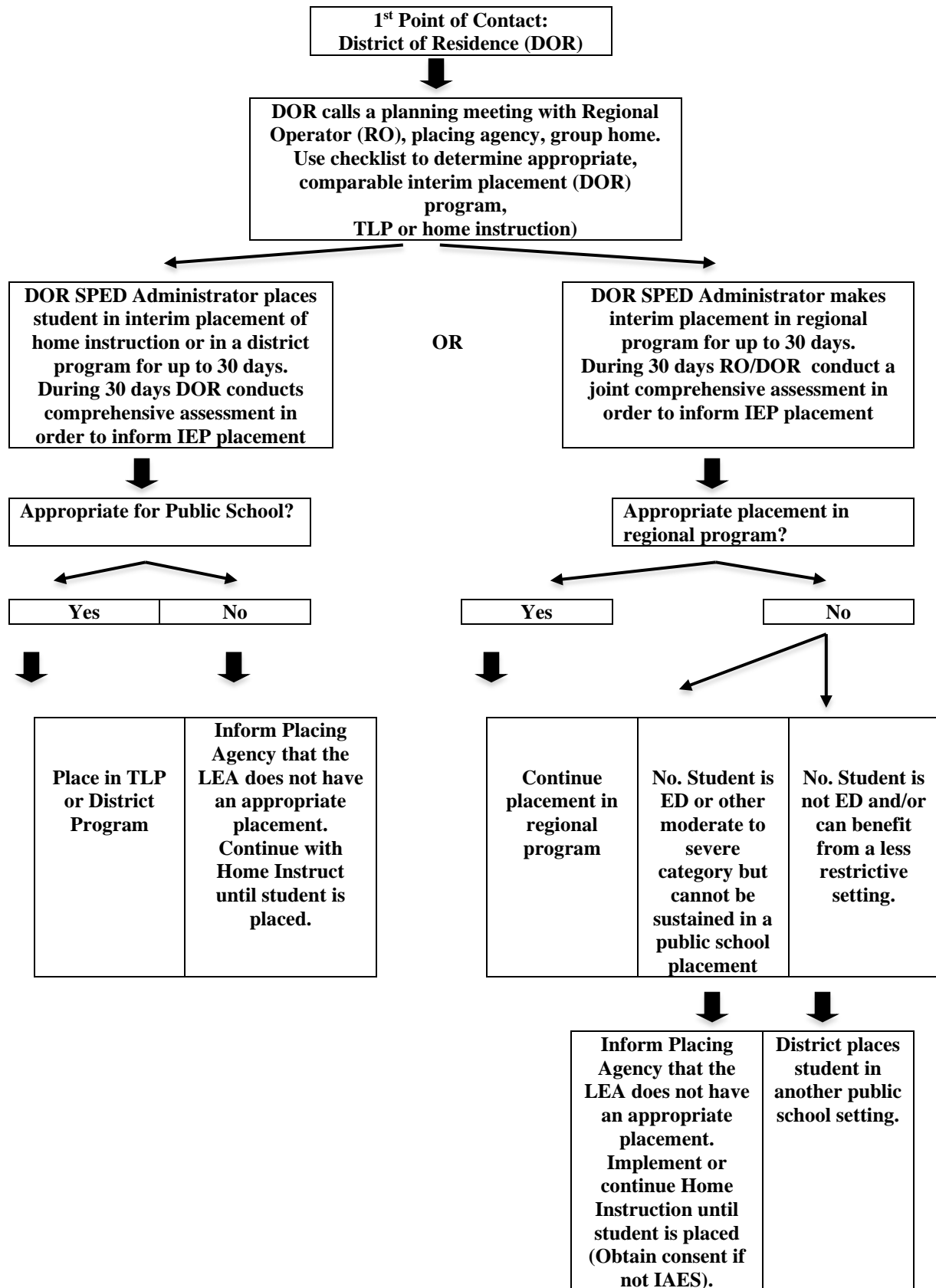
- (1) The types and locations of public and state certified nonpublic, nonsectarian special education programs available within the SELPA; and
- (2) The ability of the LEAs within the SELPA to absorb, expand, or to open new programs to meet the needs of the pupil population given the limitations of instructional personnel service units, available school facilities, funds, and staff.

§ EC 56156 – Report of Referral or Admission of Potentially Eligible Children; Identification of Individual Representing the Child; Notice of Potentially Eligible Children; List and Notice of Institutions.

§ EC 56156(a) Each court, regional center for the developmentally disabled, or public agency that engages in referring children to, or placing children in, licensed children's institutions shall report to the special education administrator of the special education local plan area in which the licensed children's institution is located any referral or admission of a child who is potentially eligible for special education.

DATE APPROVED: March 02, 2009

**ADMINISTRATIVE PLACEMENT OF STUDENTS WITH NPS IEP
DESIGNATIONS (placed by outside agencies) TO REGIONAL PROGRAMS**



DATE APPROVED: March 02, 2009

SBCSELPA FUNDED NONPUBLIC SCHOOL PLACEMENT PROCEDURES (RTC and Non-Residential)

Task	Agency/Person(s) Responsible	Timeline	Comments
Send Referral Packet to Potential NPS	SBCSELPA MH Clinician and SELPA Director	After IEP team designates a referral for consideration of a NPS referral (A district may designate a referral for consideration to SBCSELPA prior to an IEP as well)	LEA is to seek two-way parent release of information between SBCSELPA and the District and forward with referral packet to SBCSELPA
Draft Master Contract and Individual Service Agreement (ISA)	SBCSELPA Office Manager	Once the SBCSELPA approves placement as meeting the criteria for SBCSELPA funding and prior to student placement in NPS	ISA and master contract will be drafted by SBCSELPA according to the services indicated in IEP
General Oversight of the NPS Student Case	SBCSELPA Director and Mental Health Specialist	The SBCSELPA Mental Health Specialist (SBCSELPA Director in some cases) shall visit the student a minimum of 2 times annually until student transitions back to the District	SBCSELPA Director and Mental Health Specialist provide general oversight but are not the IEP case manager in SIRAS– a LEA/district staff member must be the designated case manager in SIRAS
Mental Health Case Management and Oversight	SBCSELPA Mental Health Specialist and District School Psychologist	Two times annually for NPS visits; one to two times monthly for treatment team meetings as designated by the NPS	SBCSELPA Mental Health Specialist and District School Psychologist participate in MH treatment team meetings
Schedule IEPs and Mail out IEP Notice of Meeting	SBCSELPA MH Clerical Assistant	Every six months or two times annually, unless otherwise specified in IEP or requested	SBCSELPA MH Clerk will contact SBCSELPA Director, MH Specialist, District Administrator, NPS staff, and Parent(s) to schedule the IEP and will send out Notice of Meeting 10 days prior to scheduled meeting when feasible. The required District staff that must attend NPS/RTC IEP: <ul style="list-style-type: none"> ○ SPED Administrator ○ School Psychologist (mandatory) ○ Other Related Service Staff (if applicable) ○ Student Case Manager ○ School Guidance Counselor (if student is in 9th-12th+ grade) or IEPs where it is expected the student will be transitioning back to a comprehensive school campus soon, a special education and general education teacher must attend
Completion of IEP Paperwork	District in collaboration with NPS	Prior to each IEP District is to collaborate with the NPS staff to get IEP goal updates and develop a <i>draft of the IEP</i> (not to include services / offer of FAPE)	District may opt to provide NPS staff SIRAS access to student in order to complete IEP; LEA is responsible for contacting NPS for necessary IEP documents to ensure all paperwork is complete (transition plans, BIP, proposed goals; goal updates, etc.) for presentation at IEP meeting; IEP paperwork presented at meeting should have only “draft goals” and basic student information with services left blank; LEA to send SBCSELPA copy of completed IEP
Make IEP Room Arrangements	District designated SPED Administrator	At least 4 weeks prior to IEP	District designated Administrator is to contact SBCSELPA MH Clerk with location of IEP for the <i>Notice of IEP Meeting</i> ; LEA must ensure there are appropriate conference phone lines available for IEP
Conduct / Chair IEP	SBCSELPA Director and District SPED Administrator shall collaborate	Ongoing until student transitions back to District	SBCSELPA Director shall ensure that transition and other NPS IEP requirements are compliant since SBCSELPA has potential liability in case

**NONPUBLIC SCHOOL (NPS)/RESIDENTIAL TREATMENT CENTER (RTC)
PLACEMENT FUNDING GUIDELINES**

It is the goal of the SBCSELPA for students be served in the Least Restrictive Environment (LRE) to the extent possible. Students shall only be placed in nonpublic schools and out of home residential treatment center (RTC) placements in cases where the local continuum of options has been exhausted to the extent possible. Further, SBCSELPA does not believe it is best practice based on the literature, for students to be served in out-of-home placements for longer than 6 - 12 months in most circumstances.

As per Local Plan Policy 3204 Section XII, "Approval for funding of NPS out of SELPA shared funding will not be granted if the LEA has not practiced due diligence in searching and serving students and has exhausted the continuum of least restrictive environment (LRE) placements available within the LEA or SBCSELPA prior to the IEP team recommending a NPS placement as FAPE".

Students referred by LEAs/districts to SBCSELPA for consideration of placement in a NPS/RTC through shared funding must meet the following criteria:

- LEA must have engaged in compliant IEP procedures and offered the student FAPE prior to the referral.
- LEA must have exhausted the "continuum of placement options" within the SELPA to include most if not all of the following: RSP, SDC, and SDC Therapeutic ED programs (if the student is identified as ED and is being recommended for a NPS / RTC due to mental health related reasons).
- LEA must have attempted and ruled out (data taken over time) intensive home mental health "Wrap Around like" social work services to prior to recommending out-of-home placements.
- Staff perception that the home environment is inadequate to meet the student's needs shall not be the sole reason for a referral to SBCSELPA to fund a NPS out-of-home placements unless factors in the home environment have a direct, documented impact on the student being able to access their education.
- NPS / RTC placement referrals to SBCSELPA shall not be made in cases where the placement is the result of a "settlement agreement" as per Local Plan Policy 3204.
- NPS / RTC referrals shall not be made for unilateral parent placements in NPS / RTC unless the district has assessed, an IEP team has met and determined that the NPS RTC placement is needed for FAPE. The placement shall not be made due to LEA/district's failure to search and serve or provide a *free and appropriate education (FAPE)*.
- There may be exceptions to the requirement to rule out local options and engage in the recommended steps above if a student manifests an extreme, immediate danger to themselves or others in the school environment or outside of school and it results in a negative impact on the student being able to access their education. The IEP team must document that it would be unsafe for the student or others if the student were to be served within the LEA or SBCSELPA regional continuum of program options even with intensive local level supports and services or a change of placement.
- The LEA/district must have conducted current social-emotional or other applicable assessment, convened an IEP meeting and concur that a referral for placement in a NPS (with or without a RTS) is appropriate (*SELPA28D*).

It is not mandatory that SBCSELPA have oversight for, or be required to be involved in the decision making or placement process of mental health related NPS student placements that exceed the above stipulated caps (see Local Plan 3204 Section XII) and are funded 100% by the LEA; however, the LEA/district may request SBCSELPA assistance with the process.

The mental health funding balance designated for costs associated with member NPS / RTC placements will be reviewed annually concurrent with the Second Interim Report to determine if there is a potential shortfall of funding.

All other LEA NPS placements that are non-mental health related made via an IEP decision shall be funded at 70% by SELPA shared costs as per Local Plan Policy 3204 guidelines.

All nonpublic school and agency placements require the involvement of the SBCSELPA Director and Mental Health Specialist in the IEP process, as well as final approval from the JPA Board, in order to be funded out of SELPA shared funding.

NPS VISITATION AND ASSESSMENT GUIDELINES

AGENCY RESPONSIBILITIES

I. SBCSELPA Responsibility

Visits to NPS

- SBCSELPA Mental Health Specialist or SELPA Director makes visit to NPS two times annually
- SBCSELPA Mental Health Specialist notifies LEA/district and parent in writing (email or letter) no less than five business days prior to each visit being made
- SBCSELPA Mental Health Specialist makes prior arrangements with Non Public School (NPS) to be visited at least five business days prior to visit
- SBCSELPA Mental Health Specialist observes student, meets with treating therapist, reviews educational records to include grades, progress towards IEP goals, etc.
- SBCSELPA Mental Health Specialist completes any pertinent rating scales to inform need for out of home placement to meet educational needs of student
- SBCSELPA Mental Health Specialist meets with a NPS administrator to introduce self and discuss any concerns relative to the student or students case(s)

Follow-Up Summary and Assessment Report

- SBCSELPA Mental Health Specialist completes a brief written assessment report within 5 business days of returning from a NPS student visit
- The brief *NPS Visitation & Assessment Report* includes a compilation and summary of the student's current levels of mental health functioning, academic progress, any documented progress towards IEP goals and other pertinent information deemed needed
- SBCSELPA Mental Health Specialist disseminates the *NPS Visitation & Assessment Report* to the parent, district administrator, and district school psychologist that oversees the NPS placement for the district

II. LEA/District Responsibility

- District documents in each NPS review IEP that the SBCSELPA Mental Health Specialist will be visiting the student twice annually to assess progress and ongoing need for out of home placement in a nonpublic school (NPS) with or without a residential treatment center (RTC) and that parent will be notified in writing (email or letter) no less than five business days prior to each visit being made.

III. Non Public School (NPS) Responsibility

- Provide LEA/district, SELPA (Director and MH Specialist), and parent copies of any behavior incident or emergency report requiring a restraint or hold within 24 hours of the incident (BER)
- Arrange for SBCSELPA Mental Health Specialist to meet with treating therapist, administrator and conduct observation
- Complete rating scales or provide any requested assessment data
- Provide SBCSELPA Mental Health Specialist access to student report cards, academic work samples, etc.
- Provide updates on social emotional functioning and progress towards IEP goals

**PARENT/GUARDIAN TRAVEL REIMBURSEMENT GUIDELINES FOR OUT OF COUNTY
RESIDENTIAL NONPUBLIC SCHOOL STUDENT PLACEMENTS**

Your child with special needs will soon be enrolled in a residential school outside of Santa Barbara County. You or your child's travel associated with the child's initial placement, subsequent therapeutic visits by you to meet your child and his/her therapist at the Residential Nonpublic School or your child's therapeutic visits home may be reimbursable by the Santa Barbara County SELPA (SBCSELPA). The SBCSELPA will fund a total of four round-trip nonpublic school visits per school year (i.e., parent/guardian trip to visit student, student travel to visit home, etc.). For students placed within the state of California in a location that can be accessed within two hours or less the SBCSELPA will fund one day trip per week to and from the placement. Any visits above and beyond this limit shall be an IEP team decision and are the fiscal responsibility of the district of residence (DOR). All student travel for a home visit must be recommended by the IEP team as part of the transition process for the student to return to a less restrictive environment (LRE) in their home community. SBCSELPA will fund the costs associated with required supervision or transport to bring the student home.

Please use *Parent/Guardian Travel Reimbursement Claim Form for Nonpublic School Placements (SELPA58)*. All travel must be approved by the SELPA Director for initial placements, family therapy/counseling, and therapeutic home visits.

GUIDELINES FOR REIMBURSEMENT

- **Parent or guardian must be a resident of Santa Barbara County to be eligible for travel reimbursement.**
- Parent must notify the SELPA Director at least one week prior in advance of the intent to make trip to the NPS.
- Nonpublic school must provide the SELPA Director with written documentation of the EXACT date(s) of therapy session(s) (if applicable as per therapeutic mental health placements) before travel approval is granted.
Note: If more than one day of family therapy is requested, sessions must be on consecutive calendar days only (**two days maximum**).
- SELPA will contact parent and confirm that trip is approved and eligible for reimbursement.
- PARENT and/or NPS SCHOOL is responsible for making all travel arrangements.
- Parent is responsible for submitting **ORIGINAL** itemized receipts for ALLOWABLE EXPENDITURES.
Make a copy of the itemized receipts and documents you submit to the SELPA. Keep copies for your files.
- All claims must be submitted within 30 days of the completion of the trip.
- Absolutely no reimbursements will be made for travel outside of the fiscal year in which it took place.
- Claim form (attached) and documentation are to be submitted to Santa Barbara County SELPA, 5385 Hollister Avenue, Box 107, Santa Barbara, CA 93111.

ALLOWABLE EXPENDITURES

- **Airfare** – Coach class – submit passenger ticket receipts for student and/or parent(s) indicating date, passenger name, destination and cost. If a trip is postponed, reservations should be cancelled immediately. **Maximum reimbursable cost for airline tickets or travel by auto per trip is \$500.**
- **Automobile mileage** – allowance for transportation by private automobile to and from the residence of the student and the nonpublic school at the SELPA approved rate up to a maximum of \$500.00.
- **Hotel** – itemized original payment documentation. The SELPA may reimburse a standard Hotel accommodation at the rate determined by the US Government Service Administration for the area or \$100.00 total per night, **exclusive of state and occupancy taxes** (whichever is higher). Contact school for recommendations re: suggested hotels. **Maximum reimbursable 2 night's hotel accommodation per adult trip.**
- **Rental car agreement and fuel receipts** – not to exceed mid-size car – itemized original payment documentation. Maximum reimbursable 2 days of rental car at \$40 per day, exclusive of service charges/taxes. Collision Damage Waiver (CDW) charges are not reimbursable.
- **Meals** – reimbursement shall not exceed a maximum of **\$56** per day of travel, - per adult, per day – with **itemized** original payment documentation indicating the date, name and location of the restaurant.
- **Airport parking** – receipt, not to exceed \$12 per day.
- **Shuttle, fly-a-way** – to and from airport – receipt not to exceed \$25.00 one-way per trip.

NON-ALLOWABLE EXPENDITURES

Including, but not limited to:

- First Class/Business Class Airfare
- Travel expenses for family members (i.e. siblings, etc.)
- Luxury hotels/accommodations
- Luxury vehicle rentals
- Student meals
- Meals in Santa Barbara County
- Entertainment related expenses (i.e. amusement parks, sporting events, movies, etc.)
- Alcoholic beverages
- Snacks
- Tips, etc.

EVALUATING PROGRESS

WHEN MUST EVALUATION TAKE PLACE?

The progress of all special education students **MUST** be evaluated at least annually. A regular, periodic check of pupil progress toward the successful completion of goals and, where appropriate, objectives specified in the IEP is also required. Annual goals should be reviewed, and /or revised if the student is not making satisfactory progress.

IMPORTANT

The parents of all special education students must be informed at least as often as parents of regular education students of progress toward the IEP goals and the extent to which that progress is sufficient for the student to achieve the goals by the projected annual achievement date.

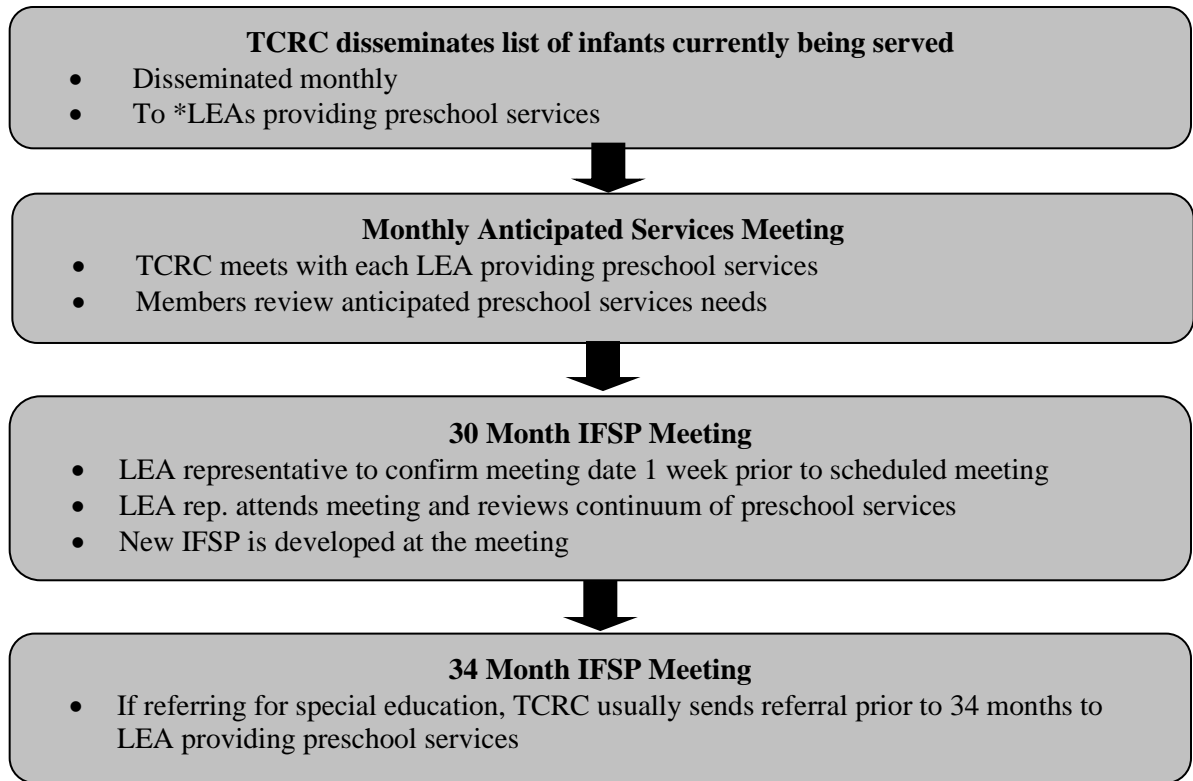
NOTE

Each time a student's program is evaluated, whether it be a periodic teacher evaluation, requested review or annual review, the IEP should serve as the focal point of that evaluation.

WHAT IF THE STUDENT'S PROGRAM HAS TO CHANGE?

You must involve the parents and the IEP Team if you need to make changes on the IEP.

INFANT TO PRESCHOOL TRANSITION PROCEDURES **UNDER 3 YEARS OLD**



→ LEA conducts the assessment and holds the IEP meeting prior to the child's 3rd birthday.

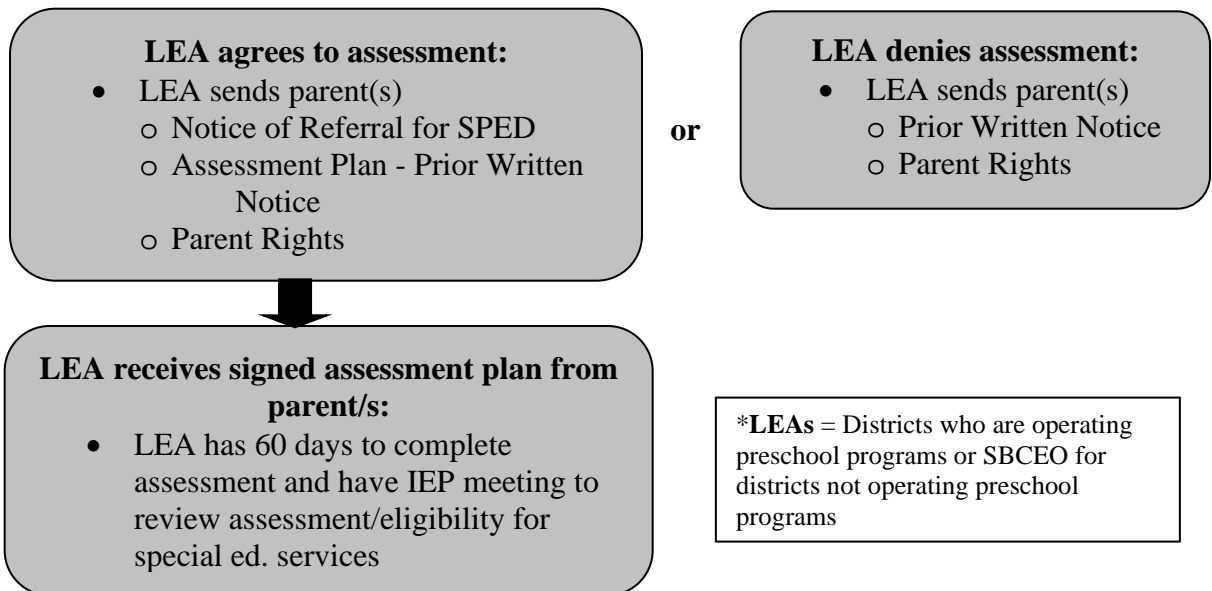
PRESCHOOL REFERRAL PROCEDURES **OVER 3 YEARS OLD**

The LEA providing preschool services receives a referral for an assessment of eligibility for special education (SPED) and related services by ...



→ If the child is less than 3 years old, refer to TCRC.

Within 15 days of LEA receiving referral for assessment for SPED.



*LEAs = Districts who are operating preschool programs or SBCEO for districts not operating preschool programs

SBCSELPA PRESCHOOL TO TRANSITIONAL KINDERGARTEN (TK) OR KINDERGARTEN TRANSITION GUIDELINES

Introduction

The process and guidelines outlined below are to clarify the roles and responsibilities during transition time from preschool to TK or kindergarten. It is understood that parents are an important part of the transition process at every transition; however, this document is not meant to explain the entire process but simply clarify the roles mentioned above. These guidelines are to make the process, roles and responsibilities clear for education personnel for both the regional program operator and the district of residence and therefore parents' role is not included in this information. TK is the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate. Pursuant to law, EC 48000(c), a child is eligible for TK if a child will have his or her fifth birthday between September 2 and December 2 (inclusive).

Preschool to TK or Kindergarten Transition Assessment

Prior to transitioning an individual with exceptional needs from a preschool program to kindergarten, or first grade as the case may be, an appropriate reassessment of the individual shall be conducted by the regional program operator in collaboration with the district of residence pursuant to Article 2 (commencing with Section 56320) of Chapter 4 to determine if the individual is still in need of special education and services (Section 56445).

The exact breadth of this required reassessment, and tools that may be utilized, must be determined on a case-by-case basis. If the regional program operator is considering NOT giving cognitive abilities test to an incoming kindergartner who will be recommended for continuing service, the regional program operator staff member (psychologist and Special Education Administrator will contact the receiving district to discuss assessment prior to the transition meeting. Each special day class and special consideration student who will transition to kindergarten will be discussed by district and regional program operator specified staff to determine assessment needs prior to the transition. If, after reviewing the existing data, and receiving input from the parent, it is determined that no additional data is needed, the regional program operator must provide the parent with prior written notice of its determination. The prior written notice letter must also notify the parent of his/her right to request an assessment to either determine continuing eligibility, or educational need. If the parent requests a reassessment, the regional program operator must conduct the requested assessment (34 CFR§300.305(a) (2)).

Preschool students transitioning to transitional kindergarten (TK) or kindergarten (K) who are referred for initial assessment at year-end will be assessed by the regional program operator if they are referred before April 15th. If referral is received after April 15th then the regional operator will contact the district of residence that will serve that particular child in the fall as a kindergartner to determine a collaborative process to complete assessment.

Collaborative Transition Process from Preschool Special Day Class and Preschool Plus Services to Special Education Services in Kindergarten

1. The transition process is discussed at the IEP meeting the year before the child is age eligible to attend kindergarten. The district of residence will be invited to attend this meeting. At this meeting, needed assessment is reviewed and documented in the notes page of the IEP. If there is any discussion of the possibility of the child spending an extra year in preschool, the district of residence shall be notified in order to get their input.

2. A joint staffing meeting with both the regional program operator and district of residence will be held by December 1. The regional program operator special education administrator will send the SBCEO Preschool Transition to Kindergarten Summary to district of residence by December 1. The summary includes the name of the student, DOB, address, telephone, parents' names, preschool SDC teacher, primary language, disability, services, frequency and duration, instructional support, and other agency involvement. It also includes a short summary of the child's progress, needs and parent concerns. As new IEPs or assessment are completed, copies will be forwarded to the district of residence. The district of residence is to receive assessment reports two weeks prior to transition IEP meeting.
3. At the December 1 meeting, proposed assessment is reviewed and agreed upon and a transition meeting is scheduled. The regional program operator will be responsible for sending home the assessment plan and prior written notice 60 days prior to the scheduled meeting.
4. For a student who may need an instructional support assistant, the district of residence may request the regional program operator to complete and send to the district of residence a "SPED Preschool to Kindergarten Instructional Aide Needs Observation/Screening Report pgs. 1-3" prior to the transitional IEP meeting.
5. It will be the responsibility of the district of residence representative and regional program operator Special Education teacher to connect by February 1 to arrange observations.
6. By March 15, the elementary district of residence staff will have observed preschool students.
7. The district of residence may request teacher recommendation and/or parent input in making a preliminary determination of kindergarten program options.
8. Prior to the IEP Meeting:
 - a. Regional program operator will prepare Notice of Meeting and email it to district of residence.
 - b. Regional program operator will send Notice of Meeting to the parent.
 - c. District of residence will distribute the meeting notice to the required site team members, including the site principal, the District Special Education teacher, and a kindergarten teacher.
 - d. Regional program operator will be responsible for arranging for an interpreter to attend the IEP meeting, if one is needed.
 - e. Regional program operator will bring the IEP paperwork to the meeting.
9. During the IEP Meeting:
 - a. Regional program operator staff chairs the meeting.
 - b. After team discussion as to needs, goals, services and placement, district of residence staff makes the official offer of FAPE for kindergarten.
 - c. Regional program operator (Special Education teacher) takes the meeting notes, including the offer of FAPE.
10. After the IEP Meeting:
 - a. Regional program operator makes a copy of the IEP and distributes it to the parent and the district of residence staff (if possible) at the end of the meeting and keeps a copy for reference.

- b. Regional program operator Special Education teacher or IEP chair takes the IEP paperwork with them and makes updates in SIRAS, as discussed during the IEP meeting.
 - c. Regional program operator finalizes the IEP.
11. If the Triennial/Annual Review is due between March 1 – June 30, the transition meeting and Triennial/Annual review meeting will be held as one meeting, if possible, as schedule permits, and the district of residence will attend.
If the Triennial or an Annual Review is due between July 1-September 30 of the next school year, the district of residence representative and the Regional Program Operator Special Education Administrator will determine if meetings are to be combined or not between July 1 – September 30
 12. After the Transition IEP meeting, the district of residence receiving staff keeps a copy of the IEP and the file is returned to the regional program operator office for transfer of file paperwork.
 13. The student's Cumulative File is sent to the district of residence or school site prior to the beginning of the district of residence's school year.
 14. For children attending preschool summer school programs, progress reports will be forwarded to the district of residence.

Transition Process from Preschool Specialist Services to Special Education Services in Kindergarten

1. A preliminary list of students receiving preschool specialist services who will be age eligible to transition to elementary programs in the fall is to be sent to each district of residence Special Education Administrator by January 15. The list will include name of student, DOB, address, telephone, parent's names, preschool specialist provider, language, disability, services, frequency and duration, other agency involvement and elementary school of residence.
2. A current list of district speech therapists will be given to the Regional program operator preschool Special Education Administrator by January 15.
3. By March 15, the regional program operator will initiate a meeting between the elementary school therapist and preschool specialists for the purpose of sharing information, determining assessment, collaborating on goals and setting dates for the transition IEP's. The regional program operator is responsible for sending the assessment plan and prior written notice. These meetings will be determined by agreement between each district and the preschool specialist office. The district administrator or designee is encouraged to attend the meeting in order to approve the offer of FAPE. The Regional Program Operator SIRAS Coordinator will add the district speech therapists (SLPs) to the students' SIRAS files for students' transition to the district elementary programs.
4. Prior to the IEP Meeting:
 - a. Regional Program Operator SLP will prepare Notice of Meeting and email it to district of residence SLP at receiving school.
 - b. Regional Program Operator SLP will send Notice of Meeting to the parent.
 - c. District of Residence SLP will distribute the meeting notice to the required site team members, including the site principal, the District of Residence SLP, and a kindergarten teacher.
 - d. Regional Program Operator SLP will be responsible for arranging for an interpreter to attend the IEP meeting, if one is needed.

e. Regional Program Operator SLP will bring the IEP paperwork to the meeting.

5. During the IEP Meeting:

- a. Regional Program Operator staff chairs the meeting.
- b. After team discussion as to needs, goals, services and placement, district of residence staff makes the official offer of FAPE for kindergarten.
- c. Regional Program Operator takes the meeting notes, including the offer of FAPE.

6. After the IEP Meeting:

- a. Regional Program Operator SLP makes copies of the IEP and distributes it to the parent and the district staff (if possible) at the end of the meeting and keeps a copy for reference.
- b. Regional Program Operator SLP takes the IEP paperwork with them and makes updates in SIRAS.
- c. Regional Program Operator SLP makes any necessary updates to the student's SIRAS file, as discussed during the IEP meeting.
- d. Regional Program Operator SLP finalizes the IEP.

After March 1, parents of students who are not registered in Kindergarten will be contacted by a district of residence member to remind them to register their children for Kindergarten.

DATE APPROVED: April 6, 2009

DATE REVISED: May 3, 2010

DATE REVISED: February 22, 2013

DATE REVISED: May 12, 2015

DATE REVISED: March 20, 2020

NEW HIGH SCHOOL GRADUATION REQUIREMENTS
(Adopted from the Southwest SELPA)

Per action by the Governor, pupils with IEPs who have met all other graduation requirements shall be eligible to receive a valid high school diploma as of July 1, 2009. This decision shall remain in effect until the State Board of Education approves an alternative assessment process for these pupils (anticipated later this school year).

For pupils who exited high school or a transition program in June, 2009 or at the end of ESY, and who have met all other graduation requirements, the following procedure is recommended:

1. Require the pupil to re-enroll in the district and enroll the pupil into either the local high school or other district program, i.e. Adult Ed.; ROP; Workability; specific class related to area of need. Note: To collect ADA, you may need to enroll the pupil for at least the minimum day (4 hours per day).
2. Reactivate their records, transcripts and file, making sure they appear in your district's database, the same system that does credit and graduation checks/transcripts.
3. Hold an IEP (amendment or full IEP as appropriate based on previous IEP), to re-establish special education services. Utilizing existing data to the maximum extent possible.
4. Develop a program for the pupil to address transition needs:
 - Pupil does not have to attend school daily unless you plan to collect ADA.

- Select a remedial class, alternative Ed class with special education consultation, independent study with special education consultation, SCROC, work experience, etc.
 - All school rules regarding attendance and discipline apply and failure to adhere to rules may impact placement, services and completion of IEP requirements.
5. Hold a second IEP amendment during this fall semester.
 - This is an “exit IEP”.
 - Complete credit check/graduation check.
 - Notify family and pupil of anticipated exit date.
 - Document that pupil is eligible for a diploma based on the current CDE guidance if IEP requirements are met during this semester (along with all other graduation requirements). Note: for Independent study: If your district allows a student to complete the class mid-semester for other students, then this applies to the student with an IEP as well.
 - Obtain signatures.
 - Assure that SIRAS and MIS in SIRAS are completed.
 6. Exit the pupil at the end of the semester or as specified on the IEP once the items above have been met.
 7. Assure that the district’s database via the school database is current and reflects graduation requirements as having been met.
 8. Issue the diploma and allow pupil to participate in graduation ceremonies per district policies.

Other considerations:

Since this pupil has “re-enrolled”, they may have missed other graduation related activities such as photos, events, etc. You may wish to document it on the IEP indicating that the pupil is informed of any exceptions.

Procedures may change, so stay informed. Contact the Santa Barbara County SELPA for updates.

DATE REVISED: *February 18, 2020*

WHAT FORMS SHOULD BE USED

The following forms should be used during the implementation phase:

IEP:	Individualized Education Program (E & S) These forms are used to develop the pupil's Individualized Education Program. All components must be completed in order to meet all legal IEP requirements.
NC 2A:	Notice of Referral
NC 3:	PWN-Assessment Plan
NC 1:	Notice of Rights and Safeguards (E&S)
SELPA18:	NPA Placement Request – Non-mental Health
SELPA21:	Non TLP Regional Program Referral Process/Pre-Referral Checklist
SELPA28A:	IMH/Related Services Provided by an NPA Request Process/Checklist
SELPA28B:	TLP Program Process/Checklist
SELPA28C:	MH Day Treatment Program Process/Checklist
SELPA28D	NPS Placement Request – Mental Health
SELPA28E:	Documentation of MH Services
SELPA40:	Special Education Preschool to Kindergarten Instructional Aide Needs Observation/Screening Report
SELPA58:	Parent/Guardian Travel Reimbursement Guidelines For Out of County Residential Nonpublic School Student Placements

NOTE

E = ENGLISH and S = SPANISH

Appendix A references the forms highlighted throughout this handbook. SELPA and Supplemental IEP forms can be found on our county's on-line **SIRAS Systems**, www.sirassystems.org.

PROCEDURAL HANDBOOK

SECTION

5

English Learners with Disabilities

This section contains information you should know about...

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Assessment, Identification, and Programs for English Learners	5-1
Interventions for English Learners Prior to Referrals to Special Education.....	5-10
Assessment and Identification of English Learners for Special Education	5-11
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Updated June 1, 2020

SBCSELPA

Meeting the Needs of English Learners with Disabilities

Procedures and Guidelines

I. Review of Laws & Regulations Governing Instruction for English Learners

The previous federal statute under Title III of the No Child Left Behind (NCLB) Act provided funding to help English learners (ELs) and immigrant students. NCLB required yearly improvements in academic achievement for English learner (EL) students. Measurement of EL achievement was tracked through “Annual Measurable Achievement Objectives” (AMAOs) each year. The performance targets for ELs are equal to those set for all students. AMAO 1 required EL students to show progress in attaining English proficiency, as measured by the California English Language Development Test (CELDT). AMAO 2 requires EL students to demonstrate Proficiency on the CELDT. AMAO 3 requires the EL subgroup to meet Adequate Yearly Progress (AYP) objectives at the local education agency (LEA) level. EL students demonstrate annual growth on the CELDT in one of three ways, depending on their CELDT performance the previous tested year:

If an EL earned an Overall level of Beginning (1), Early Intermediate (2), or Intermediate (3) on the CELDT the previous year, he or she must gain a minimum of one performance level Overall for the current year. For example, if an EL student scored Early Intermediate (2) on the CELDT Overall in 2009, he or she must score at least Intermediate (3) on the CELDT Overall in 2010.

If an EL earned an Overall level of Early Advanced (4) or Advanced (5) on the CELDT the previous year but was not yet classified as Proficient on the CELDT, he or she must achieve proficiency on the CELDT for the current year. A student in grades 2-12 is considered Proficient on the CELDT only when he or she earns a performance level of three (Intermediate) or above in every domain and a 4 (Early Advanced) or above Overall. K-1 students, however, only have to meet this criterion for Listening, Speaking, and Overall in order to score Proficient. Only when an EL student scores Proficient on the CELDT should he or she be considered for reclassification.

If an EL earned the Proficient status on the CELDT the previous year, it is recommended that he or she maintains that level for the current year. ELs with disabilities frequently do not show the required growth to meet the Title III accountability measures, and many times this due to their disabilities versus inadequacy in their English development instruction.

ELs with disabilities are expected to meet both the targets set for students in special education and ELs. Therefore, LEAs need to ensure that ELs in special education have access to and are provided English language development services with fidelity that are closely monitored.

II. Assessment, Identification, and Programs for English Learners

California’s Statewide Assessment System

The English Language Proficiency Assessments for California (ELPAC) is the required state test for English language proficiency (ELP) that must be given to students whose primary language is a language other than English. State and federal law require that local educational agencies administer a state test of ELP to eligible students in kindergarten through grade twelve. The California Department of Education (CDE) transitioned from the California English Language Development Test (CELDT) to the ELPAC as the state ELP assessment in 2018. The ELPAC is aligned with the 2012 California English Language Development Standards. It consists 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.

Assessment of English Learners in California

Upon enrollment, every family completes a home language survey.

In the transitional kindergarten (TK)/K–12 school context, current law and regulations require state and local educational agencies (LEAs) to identify students whose current language use or home environment includes a language other than English. The basic trajectory of how a student enters, moves through, and exits English learner status includes four phases:

1. identifying a student as a potential English learner through the Home Language Survey (HLS);
2. classifying a student as English learner or initial fluent English proficient (IFEP) based on results on the Initial English Language Proficiency Assessments for California (Initial ELPAC);
3. annually assessing an English learner's progress toward English proficiency using the Summative ELPAC; and
4. reclassifying a student to fluent English proficient (RFEP) through the use of the State Board of Education Adopted four reclassification criteria.

A Home Language Survey (HLS)

When parents or guardians first register their child for school, they complete a HLS that indicates what language(s) is spoken in the home. The survey is a form administered by the school district to be completed by the pupil's parent or guardian at the time of first enrollment in a California public school indicating language use in the home, which, if completed, fulfills the school district's obligation (Education Code (EC) 60810). A sample home language survey is available on the California Department of Education (CDE) English Learner Forms web page at <http://www.cde.ca.gov/ta/cr/el/forms.asp>. The California State Board of Education approved the following guidelines for interpreting the sample survey:

If a language other than English is indicated on:

- any of the first three questions, student should be tested with the ELPAC;
- the fourth question, student may be tested at the LEA's discretion 2019-2020 English Language Proficiency Assessment for California Information Guide).

English Language Proficiency Assessment for California (ELPAC)

The ELPAC is the state's newly designated test of ELP. It is administered (1) as an initial assessment to newly enrolled students whose primary language is not English, as indicated on a home language survey (HLS); and (2) annually as a summative assessment to students who have been previously identified as ELs.

In November 2012, the State Board of Education adopted the English Language Development Standards (2012 ELD Standards). The 2012 ELD Standards are aligned with key knowledge, skills, and abilities described in the California Common Core State Standards for English Language Arts and Literacy in History/Social Studies, Science, and Technical Subjects. The ELPAC is aligned with the 2012 ELD Standards, which can be found on the California

Department of Education (CDE) website at <https://www.cde.ca.gov/sp/el/er/documents/eldstndpublication14.pdf>. Additional ELPAC resources, along with contact information, are available through links provided on the CDE ELPAC web page at <https://www.cde.ca.gov/ta/tg/ep/>.

When a student is identified as a potential English learner based on HLS results, it triggers the requirement to administer the Initial ELPAC. This initial assessment of the student's English proficiency confirms whether the student is an English learner or is English proficient. The student who scores below the English proficient performance standard established on the Initial ELPAC (that is, at the Novice English Learner or Intermediate English Learner level) is classified as English learner. Following classification, an English learner can be placed into an appropriate language acquisition program, initially selected by the family when enrolling the child in school. A student who meets or exceeds that Initial ELPAC performance standard is classified as initial fluent English proficient (IFEP) and is not classified as an English learner. That is, an IFEP student is considered to have sufficient initial English proficiency not to require specialized language instruction support services.

Assessing a student's academic and linguistic proficiency in their primary language and using informal/dynamic assessments are also extremely useful steps in this process to yield a more comprehensive picture of the student. It also ensures that the student is placed appropriately into academic coursework and that teachers can support the transfer of academic and linguistic skills from the primary language to English in a culturally competent way

Alternative Assessment to CELDT

Most students with disabilities will be able to participate in the ELPAC. For those students whose disabilities make it impossible for them to participate in one or more domains of the ELPAC, their IEP teams may recommend accommodations, modifications, or an alternate assessment (See EC 56345).

The California Department of Education and Educational Testing Service are in the early stages of development for the Alternate English Language Proficiency Assessments for California (Alternate ELPAC) for students with the most significant cognitive disabilities.

The Alternate ELPAC will be aligned to the English language development connectors and are linked to the 2012 California English Language Development Standards. The Alternate ELPAC will balance maximum accessibility while maintaining the intended construct(s) to be assessed as defined by the 2012 ELD Standards though reduced in depth and complexity.

The Alternate ELPAC will replace all locally determined alternate assessments and, for the first time, provide a consistent, standardized measurement of ELP across the state for students with the most significant cognitive disabilities.

The purpose of the Alternate ELPAC is twofold:

1. The Initial Alternate ELPAC will provide information to determine a student's initial classification as an English learner (EL) or as initial fluent English proficient (IFEP).
2. The Summative Alternate ELPAC will provide information on annual student progress toward ELP and support decisions on student reclassification as fluent English proficient (RFEP).

In May 2019, the California State Board of Education (SBE) approved the Alternate ELPAC high-level test design. The Initial Alternate ELPAC will be operational July 1, 2021, and the Summative Alternate ELPAC will be operational February 1, 2022.

CRITERIA FOR DETERMINING ALTERNATIVES TO ELPAC

All English Learner (EL) students or potential EL students must be assessed on the English Language Proficiency Assessments for California (ELPAC). This checklist may be used to help teachers, Section 504 teams, and Individualized Education Program (IEP) teams determine which resources, testing conditions, or combination thereof will allow each student to take the test. A complete list of accessibility resources (universal tools, designated supports, and accommodations) can be found on Matrix 4 at <https://www.cde.ca.gov/ta/tg/ep/documents/elpacmatrix4.docx>

For more information, refer to ELPAC Administration Guidance and Governing Definitions for Student Accessibility Discussions at <https://www.cde.ca.gov/ta/tg/ep/documents/elpacadminguide.pdf>

“The CDE does not make specific recommendations about which alternate assessment instruments to use. The appropriate alternate assessment must be identified annually in a student’s IEP, and the IEP team should include an “ELD specialist” or person with second language expertise whenever possible”

The Alternate ELPAC High-Level Test Design (PDF) was approved and adopted by the State Board of Education on May 8, 2019. The Alternate ELPAC is aligned with California English Language Development Connectors for the Alternate ELPAC (ELD Connectors) which is based on California’s 2012 English Language Development Standards.

Alternate ELPAC General Performance Level Descriptors

Performance Level	Descriptor
Fluent English Proficient	Students at this level have sufficient English language proficiency. They may need occasional linguistic support to enable them to access adapted grade-level content in English.
Intermediate English Learner	Students at this level have moderate English language proficiency. They may need frequent linguistic support to enable them to access adapted grade-level content in English.
Novice English Learner	Students at this level have minimal English language proficiency. They need substantial linguistic support to enable them to access adapted grade-level content in English.

Below is a list of potential assessment tools that LEAs around the State of California have used as alternatives to ELPAC for students that are precluded from taking one or more sections of ELPAC.

Potential Alternative Assessment Option to Statewide ELD Assessments for English Language with Moderate to Severe Disabilities In Interim of the CDE Alternate ELPAC Becoming Operational

Assessment Name	Skills Assessed	Publisher	Contact Information
Ventura County Comprehensive Alternate Language Proficiency Survey (VCCALPS)	Listening, Speaking, Reading, Writing literacy	Ventura County SELPA	www.venturacountyselpa.com

Identification of English Learners

“One of the purposes of the ELPAC is to identify students who are limited English proficient (LEP). EC Section 306(a) defines an LEP student as a student who does not speak English or whose native language is not English and who is not currently able to perform ordinary classroom work in English. For all students in transitional kindergarten through grade twelve (TK–12), upon first enrollment in a California public school, the local education agency (LEA) uses a standardized procedure to determine a student’s primary language. This procedure usually begins with a home language survey (HLS), which is completed by the parents or guardians at the time the student is first enrolled”

If the HLS is completed in error, the parent or guardian may make a request to change it prior to the assessment. However, once a student is identified as an EL based on the results of the Initial ELPAC, and the student has been administered the Summative ELPAC, changing the HLS will not change the student’s identification.

If a language other than English is indicated on any of the first three questions of the HLS, the student should be tested with the Initial ELPAC. If a language other than English is indicated on the fourth question of the HLS, the student may be tested at the LEA’s discretion.

The following are the guidelines for meeting the ELPAC criteria for English fluency:

State law (California Education Code [EC] sections 313 and 60810) and federal law (Titles I and III of the Every Student Succeeds Act [ESSA], the reauthorization of the Elementary and Secondary Education Act [ESEA]) require that LEAs administer a state test of English language proficiency (ELP) and develop an English Learner Progress Indicator (ELPI) for (1) newly enrolled students whose primary language is not English, as an initial assessment; and (2) students who are English learners (ELs), as a summative assessment.

The Initial ELPAC has one purpose:

1. To identify students who are ELs or are initial fluent English proficient (IFEP) The Summative ELPAC has two purposes:
2. To determine the level of ELP of EL students
3. To assess the progress of EL students in acquiring the skills of listening, speaking, reading, and writing in English 1

All students in kindergarten through grade twelve (K–12), ages three through twenty-one, whose primary language is a language other than English must take the initial ELPAC to determine whether they are ELs. This must be done within 30 calendar days after they are

first enrolled in a California public school or 60 calendar days prior to instruction, but not before July 1, per ELPAC regulations.

Kindergarten through Grade 12

LEAs will use the LST, found in TOMS, to calculate the official Initial ELPAC score.

The Initial ELPAC has three performance level descriptors.

Performance Level Descriptors Initial ELPAC Performance Level Descriptors

Initial Fluent English Proficient (IFEP)

Students at this level have well developed oral (listening and speaking) and written (reading and writing) skills. They can use English to learn and communicate in meaningful ways that are appropriate to different tasks, purposes, and audiences in a variety of social and academic contexts. They may need occasional linguistic support to engage in familiar social and academic contexts; they may need light support to communicate on less familiar tasks and topics. This test performance level corresponds to the upper range of the “Bridging” proficiency level as described in the 2012 California English Language Development Standards, Kindergarten Through Grade 12 (2012 ELD Standards).

Intermediate English Learner

Students at this level have somewhat developed to moderately developed oral (listening and speaking) and written (reading and writing) skills. This level captures a broad range of English learners, from those who can use English only to meet immediate communication needs to those who can, at times, use English to learn and communicate in meaningful ways in a range of topics and content areas. They may need some degree of linguistic support to engage in familiar social and academic contexts (depending on the student, the level of support needed may be moderate, light, or minimal); they may need substantial to-moderate support to communicate on less familiar tasks and topics. This test performance level corresponds to the entire “Expanding” proficiency level and to the lower range of the “Bridging” proficiency level as described in the 2012 ELD Standards.

Novice English Learner

Students at this level have minimally developed oral (listening and speaking) and written (reading and writing) English skills. They tend to rely on learned words and phrases to communicate meaning at a basic level. They need substantial-to-moderate linguistic support to communicate in familiar social and academic contexts; they need substantial linguistic support to communicate on less familiar tasks and topics. This test performance level corresponds to the “Emerging” proficiency level as described in the 2012 ELD Standards.

IFEP, Intermediate EL, Novice EL Students in K–12 are considered to have met the ELPAC criterion for English proficiency when the Overall score is in the IFEP range.

The Summative ELPAC must be given annually to students identified as ELs until they are reclassified to fluent English proficient (RFEP).

Summative ELPAC Performance Level Descriptors

Level 4

English learners at this level have well developed oral (listening and speaking) and written (reading and writing) skills. They can use English to learn and communicate in meaningful ways that are appropriate to different tasks, purposes, and audiences in a variety of social and academic contexts. They may need occasional linguistic support to engage in familiar social and academic contexts; they may need light support to communicate on less familiar tasks and topics. This test performance level corresponds to the upper range of the “Bridging” proficiency level as described in the 2012 California English Language Development Standards, Kindergarten through Grade 12 (CA ELD Standards).

Level 3

English learners at this level have moderately developed oral (listening and speaking) and written (reading and writing) skills. They can sometimes use English to learn and communicate in meaningful ways in a range of topics and content areas. They need light-to-minimal linguistic support to engage in familiar social and academic contexts; they need moderate support to communicate on less familiar tasks and topics. This test performance level corresponds to the upper range of the “Expanding” proficiency level through the lower range of the “Bridging” proficiency level as described in the CA ELD Standards.

Level 2

English learners at this level have somewhat developed oral (listening and speaking) and written (reading and writing) skills. They can use English to meet immediate communication needs but often are not able to use English to learn and communicate on topics and content areas. They need moderate-to-light linguistic support to engage in familiar social and academic contexts; they need substantial-to-moderate support to communicate on less familiar tasks and topics. This test performance level corresponds to the low- to mid-range of the “Expanding” proficiency level as described in the CA ELD Standards.

Level 1

English learners at this level have minimally developed oral (listening and speaking) and written (reading and writing) English skills. They tend to rely on learned words and phrases to communicate meaning at a basic level. They need substantial-to-moderate linguistic support to communicate in familiar social and academic contexts; they need substantial linguistic support to communicate on less familiar tasks and topics. This test performance level corresponds to the “Emerging” proficiency level as described in the CA ELD Standards.

For further information on ELPAC administration, please consult:
<https://www.cde.ca.gov/ta/tg/ep/documents/elpacinfo19>

California English Language Development Standards Electronic Edition: Kindergarten through Grade 12

CDE Sacramento 2019: California Practitioners' Guide for Educating English Learners with Disabilities

LEAs may determine if a student with disabilities is not able to access the ELPAC in order to provide meaningful data about language proficiency upon entry. The LEA must then utilize other assessment alternatives to determine proficiency at entry.

Assembly Bill 2193, signed in September 2012, added new Education Codes to definitions and reporting requirements. A “long-term English learner meets the following criteria: is enrolled in any of grades 6-12, inclusive; has been enrolled in schools in the United States for more than six years; has remained at the same English language proficiency (ELP) level for two or more consecutive years as determined by the CELDT or any successor test (i.e., the ELPAC); and scores far below basic or below basic on the English-language arts standards-based achievement test or any successor test”. An “English learner at risk of becoming a long-term English learner” means an English learner who fits the following description: is enrolled in any of grades 5-11, inclusive; is in schools in the United States for four years; scores in levels 3 or 4 on the ELPAC or any successor test and scores in the fourth year at the below basic or far below basic level on the English-language arts standards-based achievement test or any successor test. If funding is provided, the CDE will have to report these EL numbers on its Website.

California English Language Development Standards

As of November 2012 there are now revised English Language Development (ELD) Standards. The 2012 ELD standards are designed to:

1. be used in tandem with Common Core State Standards (CCSS) for English Language Arts (ELA) & Literature;
2. highlight and amplify the critical language uses, knowledge about language, and skills using language in the CCSS necessary for English learners to be successful in school; and
3. provide fewer, clearer, higher standards so teachers can focus on what is most important.

Instructional Programs & Methodology for English Learners in California

An English language classroom is the placement for all English learners (ELs) in California, unless a parental exception waiver is granted for an alternate program. In addition, it is required that all ELs, regardless of the program they are being served in, be provided with English Language Development (ELD) and Specially Designed Academic Instruction in English (SDAIE). A description of each is provided below:

English Language Development (ELD)

ELD consists of instruction of English designed to promote the effective and efficient acquisition of listening, speaking, reading, and writing skills of the English learner (EL) student. All ELs, regardless of placement, must receive ELD appropriate to their proficiency level. During the regular day, differentiated ELD instruction appropriate to the English proficiency level of each EL must be provided by an authorized teacher until the student is reclassified. Districts are to provide ELs with instruction using whatever materials are deemed appropriate that are specifically designed to enable students to acquire academic English rapidly, efficiently, and effectively. Local education agencies (LEAs) must provide EL students at the secondary level a *prescriptive English language program* for not less than one full period a day or its equivalent (see E.C. 52163). This holds true for all students that are ELs and have an IEP too.

Specially Designed Academic Instruction in English (SDAIE)

SDAIE is an instructional approach designed to increase the level of comprehensibility of the English language in the content area of the class. Prior to 1994, the term *sheltered English instruction strategies* was used to describe this type of instruction (CTC, 2007). All EL students should receive SDAIE, and, if necessary and reasonably possible, primary language support. School districts are required to continue to provide additional and appropriate educational services to ELs until they have met reclassification criteria. This means that ELs must be provided with ELD and SDAIE as needed, until they are reclassified as fluent English proficient (RFEP).

Once classified as an English learner, a student should be placed in a language acquisition program with ELD instruction based on her level of English language proficiency (i.e., Emerging, Expanding, Bridging) and the preferences of her parents or guardians regarding particular program model goals (e.g., biliteracy and academic achievement in two languages; English proficiency and academic achievement in English only).

At a minimum, an LEA is required to provide a program of Structured English Immersion (SEI) for English learners, which includes both integrated ELD⁸ and designated ELD.⁹

Depending on the program model, students can be homogeneously grouped for “designated ELD” and heterogeneously group for “integrated ELD”. Regardless of language acquisition program model, the current evidence based on best and promising practices indicates schools and districts should integrate English learners with students who are proficient in English (i.e., not segregate or isolate English learners) to promote inclusivity and provide standard English language models. Following the 2016 passage of Proposition 58, California Education for a Global Economy (Ed.G.E.) Initiative (accessible at: <https://bit.ly/2MIZIGm>), California public schools have greater discretion over language acquisition programs, and students can learn English through multiple programs beyond the SEI model—for example, dual-language immersion (DLI) and transitional or developmental bilingual instructional program models (EC 306[c][10],[2],[3]) (<https://bit.ly/2PbN8WJ>).

Staff Certification Requirements for Teaching English Learners

The California Commission on Teacher Credentialing (CTC) requires that teachers of English learners (ELs), to include special education teachers, attain English learner authorization. The type of certificate, permit, or credential required depends on the type of service and/or instruction being provided to ELs. As of the 2011-2012 school year the appropriate certificates, credentials, and permits required, according to the type of English learner (EL) service provided per EC 44258.9, are listed in the chart from the CTC *Administrator’s Assignment Manual* (2007).

California Commission on Teacher Credentialing (CCTC) Requirements

	English Language Development (ELD) 1	Specially Designed Academic Instruction in English (SDAIE) 1	Instruction in Primary Language (Bilingual) 1
1	Bilingual Specialist Credential	Bilingual Specialist Credential	Bilingual Specialist Credential
2	Bilingual Certificate of Competence (BCC) 2	Bilingual Certificate of Competence (BCC) 2	Bilingual Certificate of Competence (BCC) 2
3	BCLAD Certificate or BCLAD Emphasis	BCLAD Certificate or BCLAD Emphasis	BCLAD Certificate or BCLAD Emphasis
4			Sojourn Tchg. Cred.

5	Language Development Specialist (LDS) Certificate 2	Language Development Specialist (LDS) Certificate 2	
6	CLAD Certificate or CLAD Emphasis	CLAD Certificate or CLAD Emphasis	
7	Multiple or Single Subject Credential with AB 1059 English Learner Content	Multiple or Single Subject Credential with AB 1059 English Learner Content	
8	Multiple or Single Subject SB 2042 Credential	Multiple or Single Subject SB 2042 Credential	
9	Education Specialist Credential 3	Education Specialist Credential 3	
10	General Teaching Credential 4		
11	Supplementary Authorization in English as a Second Language 2		
12	Certificate of Completion of Staff Development 5	Certificate of Completion of Staff Development 5	
13	SB 1969 Certificate of Completion 6	SB 1969 Certificate of Completion 6	
14	In training for Certificate of Completion of Staff Development 5	In training for Certificate of Completion of Staff Development 5	

III. Interventions for English Learners Prior to Referrals to Special Education

Pre-Referral Interventions for English Learners

The provision of research-based, early intervention services that are intensive in nature provided to English learners (ELs) with disabilities can minimize their being at risk for later school failure. Early intervention means that “supplementary instructional services are provided early in students' schooling, and that they are intense enough to bring at-risk students quickly to a level at which they can profit from high-quality classroom instruction” (Madden, Slavin, Karweit, Dolan, & Wasik, 1991). These services are above and beyond the “core” ELD services an English learner (EL) receives. It is recommended that the following steps be taken when it is determined that an EL student is struggling academically:

Step 1: Analyze the School Environment: Determine if there is appropriate curriculum and instruction for ELs being implemented.

Step 2: Provide Pre referral Intervention, Multi-Tiered Systems of Support (MTSS) or Response to Intervention (RtI): Determine if pre referral interventions in areas of weakness have been implemented and documented over time, to include progress-monitoring outcomes.

Step 3: Referral to Special Education: Assess in native language & English and other best practices for bilingual assessment to rule out language difference versus disability.

IV: Assessment and Identification of English Learners for Special Education

Learning Disability versus Language Difference (or Lack of Language Fluency)

Some students who are English learners (ELs) are misidentified as having learning disabilities because of inadequate assessment tools and practices (Klingner & Artiles, 2003; Garcia & Ortiz, 2004; Klingner, Almanza, deOnic, & Barletta, 2008; Rueda & Windmueller, 2006). Assessment tools for evaluating learning disabilities among students who are ELs are still in development (Baca, Fletcher, & Hoover, 2008; Skiba, Knesting, & Bush, 2002). One of the challenges is capturing the broad spectrum of bilingualism in assessment, which is difficult to capture with a set of assessment tools (Olvera, 2010).

Teachers observing language acquisition in a student who is an English learner (EL) can confuse the symptoms of learning disabilities with the patterns of pronunciation development (Piper, 2003), development of syntax (Gopaul-McNicol & Thomas- Presswood, 1998; Kuder, 2003), or semantic development (Mercel, 1987) for second language learner. Because of the longer time required to acquire cognitive academic language proficiency, educators may incorrectly identify delays as a learning disability rather than a language development/difference issue (Cummins, 1984; Ortiz, 1997; Ruiz, 1995). Questions for the student study team and assessors to consider prior to making a referral for an EL student to special education might be:

- Has the student received intensive interventions using appropriate materials and strategies designed for ELs, and have they been implemented with fidelity over time and demonstrated little or no progress?
- Does the team have data regarding the rate of learning over time to support that the difficulties (academic, social-emotional, or in speech & language) are most likely due to a disability versus a language difference? If answers to the questions above are “YES,” a referral to special education maybe appropriate.
- Has the team consulted with the parent regarding learning patterns and language use in the home?
- Are the error patterns seen in L1 similar to the patterns seen in L2 (if student has sufficient primary language skills)?
- Are the learning difficulties and/or language acquisition patterns manifested over time similar in different settings and in different contexts?

(See SELPA79: English Learner (EL) Pre Referral Checklist)

Legal Requirements for Assessment of English Learners

Pursuant to The Code of Federal Regulations (34 CFR 300.304 (1) (i) (ii)), assessments and other evaluation materials used to assess a child under this regulation are selected and administered so as not to be discriminatory on a racial or cultural basis; and are provided and administered in the child’s native language or other 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. California Education Code further stipulates that testing and assessment materials and procedures used for the purposes of assessment and placement of individuals with exceptional needs are selected and administered so as not to be racially, culturally, or sexually discriminatory.

For assessment to determine eligibility for infants and toddlers, the assessment shall “be conducted in the language of the family’s choice or other mode of communication unless it is not feasible to do so” (EC 56320, 56001(j), 56127; 17 CCR 52082(b) & 52084(d)).

Following are legal citations related to the requirements for teams to consider prior to referring English learner students for special education:

1. “A pupil shall be referred for special education services only after the resources of the regular education program have been considered, and when appropriate, utilized” (EC 56303).
2. The normal process of second language acquisition, as well as manifestations of dialect and sociolinguistic variance shall not be diagnosed as a handicapping condition (CCR) Title 5 3023(b)).
3. A child may not be determined to be eligible...if the determinant factor for that eligible determination is... lack of instruction in reading or math, or limited English proficiency (CFR 300.534 (b)).

Assessment of English Learner Students for Special Education

Professionals assessing English learners (ELs) should not only evaluate English interpersonal communication skills, but should also utilize formal or informal assessments that measure the literacy-related aspects of language.

It is also legally required to assess **in the student’s native language when feasible**. It provides comparative data to the IEP team about how the student performs in the native language versus English. In addition, the assessor (psychologist, speech & language specialist, special educator, etc.) can determine if similar error patterns are seen in both the native language and English (listening, speaking, reading, or writing) in order to discern if the student is having academic difficulty due to a language difference or a disability.

Note that there is no legal requirement to formally identify preschool students as ELs, as there is no assessment process designated for this purpose in the State of California; however, the IEP team must follow bilingual assessment protocol to determine the language of preference of the student if the parent indicates that a language other than English is spoken at home and assess according to second language learner requirements (EC 56440 and 56441.11).

Based on the requirements in the regulations to assess students in their “native language” the follow hierarchy of best practices is recommended when conducting assessment of ELs to determine eligibility for special education:

First Option - It is best practice to engage in the follow steps “if feasible”:

1. Administer cross cultural, non-discriminatory full or partial bilingual assessment in native language and English using bilingual assessors using evidence-based practices – begin the process by administering English psycho-educational assessment and then administer assessment in the native language
2. Use of structured interviews with parents and staff
3. Engage in observation of student in varied environments
4. Collect data from curriculum based and criterion-based assessment measures

Second Option - If it is “not feasible” to engage in the above best practice assessment options for ELs above since there is no assessor available in the native language, engage in the following:

1. Use of structured interviews with parents and staff
2. Engage in observation of student in varied environments
3. Collect data from curriculum based and criterion-based assessment measures
4. Using an interpreter, administer the assessment in the native language under the supervision of school licensed assessors – document limitations in assessment report

Third Option - If it is “not feasible” to engage in either of the two above options for assessing ELs for determining eligibility for special education since there is no assessor available and there are no standardized psycho-educational assessment instruments available in the native language, engage in the following:

1. Use of structured interviews with parents and staff
2. Engage in observation of student in varied environments
3. Collect data from curriculum based and criterion-based assessment measures
4. Use an interpreter who speaks the native language to provide an oral translation of assessments normed and written in English – document limitations in assessment report

Research also suggests best practices to guide bilingual assessment decisions are:

- An assessor fluent in both languages should assess to determine the student’s relevant strengths and weaknesses in their native language and English to guide the assessment team regarding types of assessment to be performed by using like instruments in native language and English when available. This helps to provide a more comprehensive view of what the student knows and can do (Artiles & Ortiz, 2002).
- All assessors should assess in the language of preference when possible.
- If primary language assessments are not available, use non-verbal measures with other information gathering to inform decisions.
- Assessors should be trained in second language acquisition and assessment.
- The decisions made regarding language modality to assess in should be clearly documented in the assessment reports.

Some possible examples of when it may not “be feasible” to assess in the student’s primary language are:

- The student is severely handicapped and lacks communication skills.
- Primary language assessments are unavailable. It is best practice to interview parent/guardian about the student’s patterns of use in their primary language patterns through use of an interpreter.

IEP teams also must decide on the form of the assessment most likely to yield accurate information on what the child knows and can do academically when making determinations about how and when to assess in the primary language.

It may be best practice for a psychologist or speech pathologist to conduct preliminary language proficiency assessment of an English learner (EL) student first in English and then in his or her native language to one, validate the scores in English are correct, or two, determine if the student may be functioning at a higher cognitive level in his or her primary language. The results of this preliminary assessment may help to guide future assessment decisions such as which language to conduct the academic, speech and language assessment in, etc. If the preliminary bilingual assessment data indicates the student has little or no skills in the primary language (in cognition, academics, or speech & language), the team may opt to continue the remainder of the assessment in part, or in whole, in English.

Assessors should also address socio-cultural factors as part of the assessment process. The following four sources of information may be used to help address socio-cultural factors related to ELs:

1. Norm-referenced assessments in English and the student's primary language (if primary language assessments are available)
2. Criterion-referenced tests
3. Systematic observation in educational environments
4. Structured interviews (with student, parent, teachers, etc.)

Following is a list of the different areas of assessment and specific tools that may be utilized by professionals for use with students who are ELs to determine if they are eligible for special education:

Cognitive Assessments Appropriate for an English Learner

The following bilingual test instruments are frequently used by psychologists to evaluate English learner/bilingual students:

- The Bilingual Verbal Ability Test (BVAT)
- WISC IV Spanish
- KABC (English & Spanish Response Scoring)
- Batería III Woodcock-Munoz
- Spanish WISC
- Southern California Ordinal Scales of Development:
- Development Scale of Cognition
- Cognitive Assessment System (CAS)
- Use of an Authentic Language Sample from home and school (collaborate with speech & language specialist)

Following is a list of possible non-verbal assessment tools frequently used by school psychologists to help inform cognition:

- The Universal Nonverbal Intelligence Test (UNIT)
- Bender Visual Motor Gestalt Test (visual-motor test)
- Naglieri Nonverbal Abilities Test (NNAT)

- Test of Non-verbal Intelligence (CTONI)
- Leiter
- Test of Visual Perceptual Skills (TPVS) (visual-perceptual test)

It is recommended that as standard procedure assessors investigate the student's use of their primary language by engaging in conversation with interpreters who speak the student's primary language and same dialect. Some bilingual assessment experts recommend that psychologists use cognitive assessment measures of evaluation that include many developmental and experiential activities.

Speech and Language Assessment for English Learners

The following speech and language test instruments are frequently used to evaluate English learner/bilingual students:

- PPVT: 3/TVIP
- EOWPVT: Bilingual
- CELF:IV English / Spanish versions
- TAPS:3 English / Spanish versions
- Goldman-Fristoe/La Meda (articulation)
- BVAT-The *Bilingual Verbal Ability Tests*
- Language Sample- in English and native language
- ROWPVT (Spanish Bilingual Version)
- Woodcock-Munoz Language Survey (WMLS-R)
- Idea Proficiency Test (IPT – II)
- Contextual Probes of Articulation Competence - Spanish (CPAC-S)

Academic Assessment Options for English Learners

When assessing the academic skills of an English learner (EL) to determine eligibility for special education, it is required to assess in both the primary language and English skills (unless it has been determined that the student has little or no academic skills in the primary language). When assessing academic skills in the primary language one needs to consider the amount and quality of primary language academic instruction an EL has received. Some of the factors that need to be considered are:

1. last grade completed if the EL attended school in the native country;
2. amount of time passed since the EL has received native language instruction;
3. amount of native language instruction the EL has received since leaving the native country (e.g. dual immersion program vs. transitional bilingual program);
4. subjects taught in the native language; and
5. levels of academic achievement in the native language when first entering the United States.

Many times a student from a second language background is born in the United States and has received most of their academic instruction in school in English; however, one cannot assume that this student is unable to think, read, or write their primary language.

If the EL's primary language is other than Spanish or other language where bilingual assessment materials are available, then informal assessment of the primary language skills for reading, writing, and math must be conducted to the extent possible. If an interpreter is used for assessing academic skills using English instruments that haven't been normed on the translation, then numerical scores should not be used and this test variation must be noted in the assessment report. The information obtained using an interpreter must be noted in assessment reports and shared at the IEP meeting for decision-making purposes. For example, after giving the "Applied Problems" subtest from the Woodcock Johnson III (W-J III) in English to an EL, an interpreter is then used to check if the student would perform better after hearing the problem read in their primary language. A new score could not be obtained, but if the EL was more successful after hearing the problem in their primary language, then the "difficulty" could be due to second language acquisition rather than a learning disability affecting math skills. The effect of "test/retest validity" does need to be considered in these cases and included in the assessment report.

To date, there are a limited number of standardized academic assessments available in languages other than English. Some possible academic/other assessment instruments that may be used to assess students whose primary language is Spanish are:

- Bateria III Woodcock-Munoz
- Language Assessment Scales (LAS)
- Spanish Brigance (criterion-referenced)
- Use of Dibels and Curriculum based measures if available (not standardized)
- Boehm Test of Basic Concepts - Revised (BTBC-R)(1986) (K-2 Spanish)
- Aprenda: La prueba de logros en español, Segunda edicion (1997)
- Bracken Basic Concept Scale - Revised (1998) (Spanish Edition) (ages 2.8 to 8 years)

Social-Emotional / Cultural Assessment for English Learners

To date, there are a limited number of social-emotional assessments available in languages other than English:

- BASC – Pearson Assessments
- Acculturation Rating Scale for Mexican Americans (ARSMA)
- Spanish Version of the Social Skills Rating System
- Vineland Adaptive Behavior Scales
- Connors Spanish

Use of Interpreters for Assessment

It is recommended that the following steps be taken in preparation for use of an interpreter in assessment:

1. Know what tests are being administered.
2. Be prepared for the session to account for extra time needed with an interpreter.

3. Know the skill level of the interpreter.
4. Ensure the interpreter speaks the same dialect of the student.
5. Administer only the tests, which the interpreter has been trained to assist in administering.

The following briefing procedures are recommended prior to administering assessments with use of an interpreter (assessor and interpreter review together):

1. Go over the general purpose of the assessment session with interpreter.
2. Describe to the interpreter the assessment instruments that will be administered.
3. Provide the interpreter information about the student.
4. Review English test behavior with the interpreter, if applicable.
5. Remind the interpreter they he or she should make a written note of all behaviors observed during the assessment.
6. Allow time for the interpreter to organize materials, re-read the test procedures, and ask for clarification, if needed.
7. Remind interpreter that he or she will need to follow the exact protocol of the test (ex: can they repeat question, cue, etc.).

The following debriefing procedures are recommended after the interpreter has assisted with an assessment:

1. Ask interpreter to go over each of the test responses without making clinical judgment.
2. Go over any difficulties relative to the testing process.
3. Go over any difficulties relative to the interpretation process.
4. Go over any other items relevant to assessment process.

The following best practices are recommended when conferencing with parents with the use of an interpreter:

1. Observe body language when meeting with an interpreter and parent. Rely on interpreter to assist you in understanding culturally appropriate behavior.
2. If the interpreter is used with the parent, avoid portraying the interpreter as the parent's representative or advocate – stay professional.
3. Seating arrangements are critical. Give the name and position of each person present. The interpreter should not in any way block the parent from the school person. Parents must be able to see both interpreter and assessor.
4. The interpreter should only translate not editorialize or give opinion.
5. The educator needs to speak to the parent, not to the interpreter.

Components of the Assessment Report for an English Learner

In addition to the basic requirements of a report, assessment reports for English learner (EL) students are required to have the following documentation included in the report:

1. Impact of language, cultural, environmental and economic factors in learning;
2. How standardized tests and techniques were altered;

3. Use of the interpreters, translations for tests; include a statement of validity and reliability related to the use of such; and
4. Examiner's level of language proficiency in language of student and the effect on test results and overall assessment (5 CCR 3023; EC 56341 & 56327)

It is best practice to include cross-validation of information between norm-referenced, criterion, and interview/observation based measures, to include information from home setting. In addition, it is best practice to include the following in an assessment report for a student who is EL/bilingual:

- Consideration of the second language acquisition process and its relationship to the possible handicapping conditions
- Results of current language proficiency testing
- If and how standardized tests and techniques were altered
- A statement of student limitations if non-verbal measures were used
- Recommendations for linguistically appropriate goals
- Test scores and interpretation of the scores - what do they mean and how do the test scores/results relate to the student's performance in school and in life.

Lastly, remember that reports should be translated into the primary language if requested by the parent/guardian. Often parents will indicate that verbal translation is sufficient.

Use of Interpreters in Assessment in Special Education

The California Code of Regulations states:

Assessments shall be administered by qualified personnel who are competent in both the oral or sign language skills and written skills of the individual's primary language or mode of communication and have a knowledge and understanding of the cultural and ethnic background of the pupil. If it clearly is not feasible to do so, an interpreter must be used, and the assessment report shall document this condition and note that the validity may have been affected. CCR Title 5: 3023

Determining Eligibility for Special Education

When looking at an English learner's performance on an English academic test, such as the WJ III, one needs to view this assessment as a possible level of second language acquisition and not necessarily a true measurement of the English learner's academic skills. When interpreting the levels of achievement on the English tests, one must factor in such things as the grade/age the English learner (EL) was first exposed to English, the amount, consistency and type of schooling, and EL services the student has received, etc. This needs to be documented in the assessment report and taken into consideration when eligibility decisions are being made.

Remember, if an EL has been assessed in similar tests in the native language and English, and if a discrepancy model is being used to qualify a student as learning disabled, the highest cluster scores need to be used for purposes of qualifying the student for special education. For example, if an EL whose native language is Spanish receives a standard score (SS) of 95 on the Spanish test for "Basic Reading Skills" and a SS of 80 on the English test for "Basic Reading Skills," then the 95 would be used to calculate the discrepancy between ability and achievement;

however, both scores should be reported in the assessment report. If an EL receives a SS score of 95 in English “Basic Math Skills” and an 80 SS in Spanish on “Basic Math Skills,” then the 95 would be used to calculate the discrepancy; however, it is best practice to report both scores in the assessment report.

V. Development of Linguistically Appropriate IEPs

When appropriate the IEP shall also include, but not be limited to, all of the following: “for individuals whose native language is other than English, linguistically appropriate goals, objectives, programs and services” (EC 56345(b)). The IEP is a written document that is developed for each public school child who is eligible for special education services. The IEP is created through a team effort and reviewed at least once a year. The required “IEP Team” members are:

1. The parents of a child with a disability;
2. Not less than one regular education teacher of such child (if the child is, or may be, participating in the regular education environment);
3. Not less than one special education teacher, or where appropriate, not less than one special education provider of such child;
4. A representative of the local education agency (LEA) who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; knowledgeable about the general education curriculum; and, knowledgeable about the availability of resources of the LEA;
5. An individual who can interpret the instructional implications of evaluation results, and who may be a member of the team described above;
6. At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
7. Whenever appropriate, the child with a disability.

A person specialized in ELs should be one of the IEP team members with special expertise under number 6 above (34 CFR 300.321(a) (6)-(7); EC 56341(b) (6)-(7)).

For EL students it is best practice to invite staff members to the IEP who have expertise in English language development and can also interpret the results of ELPAC testing and primary language testing, when applicable.

The IEP team must ensure that parents are provided copies of the IEP notice in their primary language. In addition, districts must ensure that parents understand the proceedings of the IEP meeting. This may require the district to provide an interpreter if necessary. Parents also have the right to request that a copy of the IEP be provided to them in their primary language. It is also best practice to provide a copy of the assessment reports in the parents’ primary language if requested; however, this requirement is not clear in the regulations (Reid, 2010).

Required IEP Components for English Learner Students

The IEP team must consider the language needs of the student as those needs relate to the student’s IEP. Specifically, the IEP must include “linguistically appropriate goals, objectives, programs and services”. There are also specific IEP team requirements relative to making decisions about whether or not the student will take ELPAC or an alternate assessment to measure English proficiency progress, as well as whether or not accommodations or

modifications will be needed for the student to take ELPAC (20 USC 1414(d) (3) (b) (ii); 34 CFR 300.324 (a) (2) (ii); 30 EC 56345 (b) (2); 30 EC 56341.1 (b) (2)).

Below is a checklist for staff members to use when drafting IEP for an English learner (EL) student with a known or suspected disability:

- ✓ The IEP indicates if the student is classified as an EL
- ✓ The IEP includes information about the student's current level of English language proficiency in listening, speaking, reading, and writing (based on current ELPAC or alternate assessment scores/levels)
- ✓ The IEP indicates if testing accommodations or modifications are needed for the student to take ELPAC or if the student requires an alternate assessment to ELPAC and, if so, what the alternate assessment(s) utilized will be
- ✓ The IEP addresses programs and services for the EL, to include how English language development needs will be met and who will provide those services *Note: Indicate the setting, duration and frequency*
- ✓ The IEP indicates if primary language support is needed
- ✓ The IEP indicates what language will be the language of instruction
- ✓ The IEP includes goals and objectives that are linguistically appropriate (LAGOS)

Note: Linguistically appropriate goals should align to the student's current linguistic level in English or assessed level on the ELPAC (or designated alternate assessment).

(See-SUPP37: IEP team Checklist for English Learners (ELs))

Decisions Regarding ELPAC and the IEP

Most students with disabilities take the ELPAC along with all other students under standard conditions. Some students with disabilities may require test variations, accommodations, and/or modifications, or may take alternate assessments. Test variations are allowed for any student who regularly uses them in the classroom. Accommodations, modifications, and/or alternate assessments must be specified in each student's IEP or Section 504 Plan. Before any test variation is used, the following activities must be considered when preparing or updating the IEP:

1. The IEP team determines if the student's disability would preclude him or her from taking any or all domains of the ELPAC (with or without variations, accommodations, and/or modifications).
2. IEP teams review Matrix 1 in the Matrix of Test Variations, Accommodations, and Modifications for Administration of California Statewide Assessments (see Appendix B1 or go to <http://www.cde.ca.gov/ta/tg/el/resources.asp>).
3. IEP teams discuss the impact of modifications or alternate assessments on the ELPAC resulting in scores that are not valid.

Linguistically Appropriate Goals and Objectives

It is required that the IEP for an English learner (EL) include linguistically appropriate goals and objectives (*objectives are only required for students receiving a functional skills level curriculum*) which lead to the development of English language proficiency. IEPs for ELs should not include EL Goals. Legally, linguistically appropriate goals, objectives, and programs means:

1. Those activities which lead to the development of English language proficiency;

2. Those instructional systems which lead to the language development of English language proficiency; and
3. Those instructional systems, which lead to the language development needs of ELs. For individuals whose primary language is other than English, and who's potential for learning a second language, as determined by the IEP team, is severely limited, the IEP team may determine that instruction may be provided through an alternate program, including a program provided in the individual's primary language. The IEP team must periodically, but not less than annually, reconsider the individual's ability to receive instruction in the English language (EC Section 311(c); CR, Title 5, Section 3001 (s)).

Note: Even though it is not a legal requirement to formally identify a preschool age student as an EL in California, federal regulations require the IEP team to determine if the student is an EL for purposes of the IEP and include linguistically appropriate goals and services.

The IEP team must ensure that IEP goals that involve language are linguistically appropriate. This means the goals must reflect the student's current linguistic level in order to ensure the student can access the goal. When drafting goals, IEP teams should consider the following:

- Take into consideration the cognitive level of the student;
- Be appropriate for the linguistic level of the student (applicable to goals that involve language);
- Match the developmental level of the student's primary (L1) or secondary (L2) language;
- Access the student's prior knowledge and experiences;
- Incorporate culturally relevant materials and experiences; and
- Affirm the student's cultural heritage.

In developing linguistically appropriate goals and objectives (LAGOS), IEP teams must first determine the linguistic levels of the student. Once the team has determined the linguistic needs of the student (by analyzing progress towards attaining the ELD Standards and reviewing ELPAC or other language assessment results), the next step is to draft goals based on assessed areas of need related to the disability that align to the student's linguistic needs.

Reminder: a minimum of two (2) benchmark objectives must be developed for each goal if the curriculum the student uses is considered an alternate-curriculum that focuses on "life-skills".

The following are samples of linguistically appropriate goals (LAGOS) that are aligned to ELPAC data and aligned to student levels on the 2012 ELD Standards.

Sample Goal (Based on 2012 ELD Standards)

Current ELD Levels

<i>Age/Grade</i>	<i>Level of Student</i>	<i>Mode of Communication</i>	<i>Proficiency Level</i>
<i>1st Grade</i>	<i>CAPA Level</i>	<i>Collaborative</i>	<i>Exit Emerging</i>
			participates in simple, face-to-face conversations with peers and others

Appropriate ELD and IEP Target Level

<i>Age/Grade</i>	<i>Level of Student</i>	<i>Mode of Communication</i>	<i>Proficiency Level</i>
<i>1st Grade</i>	<i>CAPA Level</i>	<i>Collaborative</i>	<i>Early Stage Expanding</i>
			initiate simple conversations on social and academic topics

Baseline: *The student manifests a disability separate from language differences or being English language in the area of verbal expression. The student currently is able to initiate non-verbal gestures of simple one-word nouns to communicate wants and needs or engage in simple conversations in English and one or two word utterances in his or her native language.*

By (date), (student) will records initiate simple conversations (3 to 5 word utterances) on social and academic topics to peers or adults; on two consecutive trials as demonstrated by classroom observation and data tracking records.

IEP Accommodations and Modifications

The IEP should stipulate appropriate accommodations and/or modifications that may be needed to assist the student who is an English learner be successful in an educational setting.

Examples of accommodations that may be appropriate to consider for students learning English may be but are not limited to the following:

- Primary language support to assist with academics
- Translation devices
- Extra time on tests and assignments
- Use of reference materials with visuals to aide comprehension
- Bilingual dictionary if applicable to second language

Examples of modifications that may be appropriate to consider for students learning English may be but are not limited to the following:

- Tests provided or adapted to be more “comprehensible”
- Tests and assignments modified in length and content
- Alternate testing formats such as use of visuals, drawings, etc.

Other Legal Requirements Related to IEPs of English Learners

Section 3302 of Title III of NCLB that requires school districts receiving Title III funds states: “no later than 30 days after the beginning of the school year or within two weeks of a student’s placement in a language instruction program after the beginning of the school year, to inform parents or guardians of (1) the reasons for their student’s identification as an English learner and (2) the need for placement in the specified program.” “Parents or guardians of English learners with an IEP must be notified how the recommended placement will help their child to meet the objectives of the IEP.” This requirement is typically met through a letter that is sent out through the English Learner Department (see sample letter in Appendix B2).

Frequently Asked Questions

1. **Question:** Is it required that the IEP team classify preschool students as EL?

Response: There is no formal process in place in the State of California to identify/classify students in preschool as English Learners. IEP teams still need to take into consideration the language needs of the student in order to develop linguistically appropriate IEPs for students who, through the assessment process, are determined to be more proficient in a language other than English (CDE Special Education Division, 2010).

2. **Question:** Is it required for an EL student who is identified as having a learning disability to receive only instruction in English so as not to confuse the student?

Response: There is research that indicates that the student may acquire L2 easier if they are proficient in L1 (Fortune & Menke, 2010). The IEP team needs to carefully consider the individual needs of the student before making this decision.

VI: Programs and Services for English Learners with Disabilities

Appropriate instructional strategies that focus on language acquisition, scaffolding techniques and proven methodology effective with English learners (ELs) and collaboration between the English Learner programs and Special Education programs promotes academic success for all. Potential ways that ELs with an IEP may receive the EL services are:

- Regular education program with specially designed accommodations and modifications
- Regular education classroom with pull-out or collaborative in-class specialized academic instruction (SAI) with or without related services support
- Regular education classroom combined with SAI in a special education classroom with or without related services support
- SAI in learning centers
- Special education classes
- Home or hospital settings
- Nonpublic, nonsectarian school (NPS)
- State special schools

Students may receive their English language development (ELD) in any of the above program options as is determined most appropriate by the IEP team. It should be clear in the IEP where and when the student will receive ELD services, the duration of the services, and who is responsible for providing the services. The IEP should also indicate which staff member(s) will be specifically working towards the “linguistically appropriate” IEP goals as well as who will be responsible for monitoring English language development/annual measurable achievement objectives (AMAOs).

Some recommended best practices for meeting the education needs of EL students with disabilities are:

1. Provide professional development in evidence-based best practices for working with ELs to special educators;
2. Collaboration between the EL and Special Education staff; and

3. Native language core instruction be provided (bilingual special education programs) and taught by dually certificated teachers if the IEP team determines it is a Free Appropriate Public Education (FAPE) for a student.

Below are the recommended ELD service delivery options for ELs in special education based on their ELPAC scores/levels. Note this is a local LEA decision.

OVERALL ELPAC SCORE/LEVEL of PROFICIENCY	CLASSROOM SETTING	ELD SERVICES	SERVICE PROVIDER
“Beginning” (level 1 or 2) overall or in one of the two areas).	Structured English Immersion (SEI) with SDAIE the full day	Daily, intensive, targeted ELD services (provided small group within general education or special education per the IEP) along with integrated classroom ELD daily	SEI classroom setting with general education teacher (in gen ed classroom or sometimes pull out) or could be provided in special education classroom setting or through collaborative model
“Somewhat Moderately” level 3	Structured English Immersion (SEI) or an alternate program such as a “dual immersion” bilingual program; with SDAIE the full day	Daily” integrated” ELD services provided aligned to the ELD standards and ELPAC levels and individual student needs	Regular classroom setting with ELD services to be provided
Well developed” level 4 in one or both areas.	Student is referred for consideration to be reclassified RFEP. Structured English Immersion (SEI) or an alternate program such as a “dual immersion” bilingual program; with SDAIE the full day until student is reclassified as RFEP	Daily” integrated” ELD services provided aligned to the ELD standards and ELPAC levels and individual student needs until student is RFEP’d.	Regular classroom setting with ELD services to be provided daily until the student is RFEP.

Sample Elementary School ELD/SPED Service Delivery Models

One district (Pomona Unified School District) implements the use of an ELD rotation system that groups students (including English learner students with disabilities) for instruction by ELPAC levels. The ELD instruction is provided to all English learners during a specified time of the school day by various staff members, including special educators.

The initiative for establishing this type of an ELD rotation system was implemented through collaboration of district office level administrators from both the Instructional Services Division and the Special Education Department. Included in the discussion were principals, teachers, and the employee association. Key stakeholder groups reviewed the guidelines. The guidelines for this instructional delivery model were based on the following program principles:

1. Dedicated daily time for delivery of standards-based ELD instruction that addresses specific needs of English learner students at each fluency level supported by use of quality, research-based materials that target all four domains of language with a major emphasis on building a strong oral language foundation;
2. Curriculum, instruction, and strategies that promote transfer between English and the native or home language; and,
3. Emphasis throughout the curriculum is placed on research-based practices that focus on enriched oral language development.

A second model for providing ELD services at the elementary level is where the ELD services are provided in a pullout special education setting by the speech and language specialist (if the student is identified for speech & language) or in a resource room setting by special education staff members. In this model, the special education case managers/teachers engage in ongoing consultation with the general education teacher and EL department.

A third model for providing ELD services to students with disabilities at the elementary level is through collaboration between the special and general education teacher into the general classroom setting. The special education teacher typically goes in to the general education classroom and works with a group or groups of student(s) that function at similar levels of language acquisition. It is important that not only special education students are included in the groups lead by either the general or special education teacher. As stated earlier, it is important that teachers have training and background in successful collaboration techniques.

Sample Secondary School ELD/SPED Service Delivery Models

At the secondary level, some districts have implemented model programs to serve English learner (EL) students with disabilities (in the mild to moderate range) by offering a *sheltered English* class as the students' core English class. During this class, the students receive ELD services as appropriate based on their levels of language acquisition. This class may be taught by a special or general education teacher who has appropriate ELD instruction certification. The class may also be taught collaboratively between special education and general education staff members.

A second model often utilized at the secondary level to provide ELD services to EL students with disabilities is for the students to receive their ELD services during their general education or special education English class as appropriate for their levels of language acquisition. When implementing this type of service delivery model, staff members need to ensure that EL students have adequate access to the core English curriculum with English speaking peers.

A third model sometimes utilized by districts to provide ELD services to students with disabilities at the secondary level is to have those services provided by special education staff members during a special education support class period.

Note: Regardless of the ELD service delivery model implemented, this should be discussed at the IEP team meeting and included in the content of the IEP. In addition, it is important to note that paraprofessionals may assist with the provision of ELD services as long as these services

are designed and supervised by the credentialed teacher who has appropriate certification to provide such services.

Instructional Strategies/ELD for English Learners with Disabilities

According to Saunders, Goldenberg, and Marcelleti (2013), ELD instruction should include the following elements:

1. Explicitly teach linguistic elements of English (vocabulary, syntax, grammar, functions, and conventions).
2. ELD should integrate meaning and communication via explicit, direct teaching of language (academic & conversational).
3. ELD instruction should include interactive activities among students that are carefully planned and carried out.
4. Provide students corrective feedback on form.
5. Use of English during ELD instruction should be maximized with native language strategically incorporated.
6. ELD instruction should include communication and language-learning strategies.
7. ELD instruction should be planned and delivered with specific language objectives in mind.

Core instructional strategies such as “Systemic ELD” as put forth by Dutro (2013) have been found effective for teaching English learners with disabilities. Some of the elements of Systemic ELD are:

- Systematic ELD provides a time for English learners to learn and practice language they need in order to navigate rigorous content instruction and a myriad of adult and peer interactions, such as discussions and collaborative work.
- Systematic ELD challenges students to explore language in compelling and playful ways, continually growing their ability to use English flexibly, fluently, and accurately – to have agency over their own language use. Ultimately, the goal of Systematic ELD is for English to be a bridge to academic success rather than a barrier.
- Systemic ELD puts language learning and exploration in the foreground.
- Systemic ELD groups students by assessed proficiency level as determined by multiple sources.
- Systemic ELD uses a functional language approach organized around essential purposes for communication. Language tasks are highly applicable to real world and academic interactions.
- Systemic ELD provides an organized method of language instruction to help prevent gaps and fill existing gaps in language knowledge that can hinder students’ achievement.
- Systemic ELD explicitly emphasizes oral language development through structured, purposeful interaction.

VII: Reclassification of English Learners with Disabilities

Under current state law (EC Section 313), identified students who are English learners must participate in the annual administration of the ELPAC until they are reclassified as RFEP (California Practitioners' Guide for Educating English Learners with Disabilities, 2019). It is important that school personnel understand reclassification of English learners as Fluent English Proficient (RFEP), the California Education Code reclassification criteria guidelines, the issues related to reclassification of English learners, and how the reclassification criteria apply to students with disabilities

Understanding Reclassification of English Learners

Reclassification is the process used by districts/local education agencies (LEAs) to make a determination if an English learner (EL) student has acquired sufficient English skills to successfully access curriculum being delivered without English development support. When EL students demonstrate that they are able to compete effectively or are commensurate with English-speaking peers, they are then reclassified as fluent English speakers (RFEP). The reclassification process in public schools in California is based on guidelines approved by the State Board of Education (SBE) and is based on California EC Section 313(d). The reclassification guidelines utilize multiple criteria in determining whether to reclassify a student as being proficient in English.

The California Department of Education Reclassification Guidelines

It is important to remember that reclassification of ELs is a local decision. The ELPAC California Practitioner's' Guide for Educating English Learners with Disabilities, 2019 states: "Reclassification is a local decision to be established by the local school board in accordance with state law (EC Section 313). School districts must use individual ELPAC results as one of four criteria when considering reclassifying English learners.

1. assessment of English language proficiency, using an objective assessment instrument, including, but not limited to, the state test of English language development;
2. teacher evaluation, including, but not limited to, a review of the student's curriculum mastery;
3. parent opinion and consultation; and
4. comparison of student performance in basic skills against an empirically established range of performance in basic skills based on the performance of English proficient students of the same age.

Additional measures that must be considered are the comparison of the student's performance in basic skills against an empirically established range of performance in basic skills based upon the performance of English proficient students of the same age, teacher evaluation, and parent or guardian opinion and consultation."

Further, the California Practitioners' Guide for Educating English Learners with Disabilities, 2019 states students with disabilities, including severe cognitive disabilities, are to be provided the same opportunities to be reclassified as students without disabilities. Therefore, local IEP teams may determine appropriate measures of English language proficiency and performance in basic skills, in accordance with local and ELP approved reclassification guidelines.

In accordance with federal and state laws, the IEP team may address the individual needs of each English learner with a disability, using multiple criteria in concert with the four reclassification criteria in EC 313(f). These four criteria are the minimum required components that LEAs must include in their local reclassification policy. Other criteria may be used to supplement the four required criteria to ensure that the most appropriate decision is made for each student.

The following are recommendations for applying the four criteria in EC 313(f) (accessible at: <https://bit.ly/2VNknSS>) to local reclassification policies regarding English learners with disabilities from the annual ELPAC Information Guide:

Criterion 1: Assessment of ELP Using an Objective Assessment Instrument Assessment of ELP using an objective assessment, including but not limited to the ELPAC, is one of four criteria, in state law per EC 313(f), to be used by LEAs in determining whether an English learner should be reclassified as RFEP. The IEP team can use the scores from an alternate assessment aligned with the state 2012 CA ELD Standards for reclassification purposes. An alternate assessment may be used to measure the student's ELP on any or all four domains in which the student cannot be assessed using the ELPAC.

For purposes of Title I accountability requirements, a student assessed with a locally determined alternate assessment, will receive the lowest obtainable scale score (LOSS) on the ELPAC for each domain tested with an alternate assessment. The IEP team, however, may use results from the alternate assessment in conjunction with the other required criteria (i.e., teacher evaluation, parental opinion and consultation, and the student's scores on an assessment of basic skills) to determine a student's eligibility for reclassification. Once the Alternate ELPAC is operational, there will be criteria established for reclassification based on a student's performance.

Criterion 2: Teacher Evaluation The student's academic performance information, that is based on the student's IEP goals for academic performance and ELD, should be used for reclassification consideration.

Criterion 3: Parent Opinion and Consultation The parent or guardian should be encouraged to be a participant on the IEP team and in understanding and making a decision on reclassification.

Criterion 4: Comparison of Performance in Basic Skills the IEP team should specify in the student's IEP an assessment of basic skills to meet the guidelines for reclassification (e.g., the California Alternate Assessment for English language arts). The IEP team may consider using other assessments that are valid and reliable and designed to compare the basic skills of English learners with disabilities to primary speakers of English with similar disabilities to determine whether the English learner with disabilities has sufficiently mastered the basic skills for reclassification consideration.

The CDE cannot make specific recommendations of alternate assessment instruments because it is the responsibility of the IEP team to gather pertinent information regarding the student and assessment needs specific to that student. The IEP team may use this comprehensive approach to make decisions regarding program supports and reclassification that will allow the student to make maximum progress, given the student's capacities.

Basic skills criteria:

1. A student's score on the test of basic skills (e.g., the CAASPP for ELA or the CAA for ELA) in the range from the beginning of the Basic level up to the midpoint of the Basic level suggests that the student may be sufficiently prepared to participate effectively in the curriculum and should be considered for reclassification. The LEAs may select a cut point in this range.
2. Students with scores above the cut point selected by the LEA should be considered for reclassification.
3. For students scoring below the cut point, LEAs should attempt to determine whether factors other than ELP are responsible for low performance on the test of basic skills (e.g., the CAASPP for ELA or the CAA for ELA) and whether it is reasonable to reclassify the student.
4. For students in grade twelve, the grade eleven CAASPP for ELA results may be used, if available.
5. For students in grade one, LEAs should base a decision to reclassify on ELPAC results, teacher evaluation, parent consultation, and other locally available assessment results (California Practitioners' Guide for Educating English Learners with Disabilities, 2019).

Application of the Four Criteria to Students with Disabilities

The California Practitioners' Guide for Educating English Learners with Disabilities, 2019 provides guidance to professionals regarding decisions about whether or not to reclassify a student with disabilities as follows:

Promoting Collaboration between Special Education Experts and English Learner

Specialists LEA leaders can offer school discussion guides and professional learning community discussions that facilitate conversations between special education and English learner staff on developing and implementing integrated special education and English learner services, including collaboration around reclassification decisions. It is important to note that IEP services must be delivered according to the IEP; however, special education staff members should provide linguistically appropriate services when accommodating the disability. LEA teams could come together with school-based teams to review individual student cases and offer support for making reclassification decisions for English learner students with IEPs.

Pathways to Reclassification for Students with Disabilities

The Council of Chief State School Officers (CCSSO) recently published a Framework for Exiting English Learners with Disabilities from English Learner Status. In this national-level resource, the authors describe three broad pathways for English learner students with disabilities to exit English learner status:

- Pathway 1: English learners with disabilities who are able to demonstrate English language proficiency in all four domains (listening, speaking, reading, writing) with or without accommodations.
- Pathway 2: English learners with significant cognitive impairments who are assessed using an alternate ELP assessment process.

- Pathway 3: English learners with disabilities whose disabilities preclude assessment in one or more domains on the English language proficiency assessment and there are no appropriate accommodations for the affected domain(s).

For each pathway, the authors provide guidance on the composition of the IEP team and the body of evidence (including specific, high-priority evidence and evidence to include if possible) for educators to consider when making reclassification decisions for English learners with disabilities who may not be able to demonstrate their proficiency due to factors not related to a language difference.

It may be best practice for reclassification teams to consider whether or not the impact of a student's disability, "other than English language proficiency", is a contributing factor to the student's low achievement on standardized tests of basic skills or CAASPP/CAA. If the team determines that low performance (lower than the beginning point of "basic") is due to a disability rather than English language proficiency and the student has acquired language proficiency, they must document this when making the decision of whether or not the student has met the fourth criteria.

In addition, some students with disabilities, as designated in their IEP, take the alternate statewide tests such as the California Alternate Performance Assessment (CAPA). Reclassification/IEP teams may use results from other alternate test measures such as CAPA results to inform whether or not a student has acquired the basic skills in English at their functional level.

It is important for reclassification teams (be it the IEP team or other multi-disciplinary reclassification team) to remember the purpose for identifying students as English learners when making a determination if an English learner has acquired sufficient English skills or fluency to perform successfully in academic subjects without ELD support. It is not advisable for educators to make hasty decisions when deciding whether or not to reclassify a student based solely on the student having a disability. English language development is a valuable service that specifically targets the skills required to be fluent in English. If the reclassification team feels a student would still benefit from an ELD program because he or she has not fully developed English language proficiency, reclassification may not be appropriate. Districts/LEAs are advised to seek further guidance from the CDE if they have questions about reclassification of students with disabilities.

(See SELPA78: English Learner with Special Needs Reclassification Worksheet)

See the *Meeting the Needs of English Learners with Disabilities* guidebook for sample reclassification scenarios and frequently asked questions.

WHAT FORMS SHOULD BE USED

The following forms should be used during the assessment phase, as appropriate:

SELPA78: EL/SPED Reclassification Checklist (E)

SELPA79: English Language Learner Pre-referral Checklist (E)

SUPP37: IEP Team Checklist for English Learners

NOTE

E = <i>ENGLISH</i> and S = <i>SPANISH</i>

Appendix A references the forms highlighted throughout this handbook. SELPA and Supplemental IEP forms can be found on our county's on-line *SIRAS Systems*, www.sirassystems.org.

PROCEDURAL HANDBOOK

SECTION

6

Positive Behavior Intervention For Special Education Students

This section contains information you should know about...

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Updated June 1, 2020

THE LAW

A.B. 2586, California Education Code, Part 30, Chapter 5.5 Title 5, and California Code of Regulations Section 3001 and 3052 provide (d) the description of procedures for implementing the Hughes Bill. Assembly Bill 86 (“AB 86”) was passed, resulting in the repeal of the Hughes Bill as of July 1, 2013. AB 86 amends Education Code Sections 56520-56525 and repeals Sections 3052 and 3001(d)-(g) and (ab) of Title 5 of the California Regulations with respect to Behavior Intervention Plans for special education students. It aligns state law with federal law and adds restrictions on the use of emergency behavior interventions.

PHILOSOPHY

Core Beliefs

- That all behavior is communicative;
- That all students are individuals with unique needs who are capable of growth and change;
- That all students must be treated with dignity and respect; and
- That all students deserve a chance to succeed.

Assumptions

- The teacher views behaviors as having a communicative intent and has explored the use of positive strategies to teach more appropriate behavior prior to using restrictive emergency procedures.
- Effective teachers knowingly use behavior management procedures every day.
- Prior to consent for assessment, the school and parent/guardian will have discussed the student's needs.
- School expectations will have been clearly communicated to student and parent.

INTRODUCTION

AB 2586, authored by Assemblywoman Theresa Hughes, was enacted by the California State Legislature in January 1991, and codified in California Education Code as Section 56520. The supporting regulations were revised January 1, 1995, (CCR Title 5 3001 and 3052). AB 86, a budget omnibus trailer bill, repealed the “Hughes Bill,” which was a California behavior intervention program mandate for special education students who exhibited serious behavioral problems. AB 86 now requires behavior interventions for special education students to align more closely with federal law, as identified in the Individuals with Disabilities Education Act (“IDEA”) and its regulations. AB 86 revises Education Code sections 56520-56525 and requires the Superintendent of Public Instruction to repeal Sections 3052 and 3001(d)-(g) and (ab) of Title 5 of the California Regulations.

Federal legislation was developed to provide a way to assess, analyze and provide positive behavioral intervention and monitoring for special education students exhibiting serious behavior problems that significantly interfere with the implementation of goals and objectives of the IEP. Serious behaviors are defined as:

“...behaviors which are self-injurious, assaultive or cause serious property damage for which instructional/behavioral approaches specified in the student’s IEP are found to be ineffective.”

This Procedural Handbook contains information regarding:

- SBCSELPA approved emergency procedures;
- Evaluation of the Behavior Intervention Plan (BIP) effectiveness; and
- Requirements for those writing Behavior Intervention Plan Certificate of Competence

The SBCSELPA has adopted the Behavior Intervention Plan Desk Reference Manual, revised edition, 2013, by Diana Browning Wright and Gail Cafferta, which is a comprehensive resource and training manual for developing BIP and structuring school environments to prevent behavior problems. The manual outlines all the “Big Ideas” in behavior and how to write and evaluate a comprehensive BIP.

***PROCEDURES FOR
SYSTEMATIC USE OF POSITIVE BEHAVIORAL INTERVENTIONS
AND
EMERGENCY INTERVENTIONS***

POSITIVE BEHAVIORAL INTERVENTIONS DEFINITION:

Behavioral intervention: is the systematic implementation of procedures that result in lasting positive changes in the individual's behavior. They are designed to provide:

- Greater access to a variety of community settings;
- Greater access to social contacts and public events;
- Ensure the individual's rights to placement in the least restrictive environment; and
- An educational environment as outlined in the individual's IEP.

Such interventions shall only be used to replace specified maladaptive behavior(s) with alternative acceptable behavior(s) and shall never be used solely to eliminate maladaptive behaviors.

A referral for a Functional Behavior Assessment (FBA) and subsequent IEP team meeting at which a Behavior Intervention Plan may be written is mandated whenever:

1. The IEP team finds that instructional/behavioral approaches specified in the student's IEP have been ineffective, or
2. The IEP Team determines at an IEP meeting the necessity for a FBA after any Behavioral Emergency Report has been written regarding an individual who does not have a Behavior Intervention Plan.

Nothing in this section shall preclude a parent or legal guardian from requesting a FBA pursuant to provisions of Education Code Sections 56330, et. seq.

The criteria to be used to determine the possible need for special behavioral interventions include the following:

1. A pupil demonstrates a *continuous serious* behavior problem which poses a *threat of injury* to self, other pupils, and/or staff, AND/OR
2. A pupil demonstrates *continuous serious* property damage, AND/OR
3. A pupil demonstrates a *severe* behavior problem that is *pervasive and maladaptive* which *requires* the *systematic and frequent* application of *behavioral intervention* including special behavioral interventions, AND
4. The severe behavior *significantly interferes with* implementation of the *pupil's IEP goals and objectives*, AND

5. A behavioral program involving positive-only behavioral interventions has been unsuccessful in reducing the pupil's behavior to a safe level, OR
6. The IEP team determines that it would be unsafe to provide a trial of positive-only behavioral programming for a pupil based on research suggesting that the use of special behavioral interventions (along with positive behavioral interventions) is more effective in quickly reducing dangerous behaviors (particularly self injurious behaviors).

NOTE

It is to be expected that in a significant majority of the cases where individuals with exceptional need are exhibiting inappropriate behavior, the behavior problem can be addressed appropriately through development of a Behavior Intervention Plan. *SIRAS IEP 6G-1: Behavior Intervention Plan (IEP6G:)*, or a district equivalent, should be used for this purpose. The IEP Team will record on this form the function of the student's behavior (i.e. what is the student attempting to achieve through his/her behavior), the replacement behavior that the Team has identified for the student to use instead, and the instructional approaches and interventions that will be used to assist the student to learn to utilize the more positive behavior.

EMERGENCY INTERVENTIONS

Education Code section 56521.1 states that emergency interventions may only be used to control unpredictable, spontaneous behavior which:

1. Poses clear and present danger of serious physical harm to the individual with exceptional needs, or others

AND

2. Cannot be immediately prevented by a response less restrictive than temporary application of a technique used to contain the behavior.

Section 56521.1 further states emergency intervention(s) shall not be used to substitute for the systematic Behavior Intervention Plan that is designed to change, replace, modify, or eliminate a targeted behavior.

Whenever a behavior emergency occurs, only behavioral emergency interventions approved by the SBCSELPA may be used. Staff utilizing these procedures must be certified according to SBCSELPA approved training program.

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

Emergency interventions MAY NOT include:

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

PROHIBITED BEHAVIORAL INTERVENTIONS

The legislation states that a local educational agency or nonpublic, nonsectarian school or agency serving individuals with exceptional needs shall not authorize, order, consent to, or pay for the following interventions, or any other interventions similar to or like the following:

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

APPROVED BEHAVIORAL EMERGENCY PROCEDURES

For

Students and Staff Care, Welfare, Safety and Security

A behavior emergency is the demonstration of a serious behavior problem which has not previously been observed and for which a Behavior Intervention Plan (BIP) has not been developed; or for which a previously designed behavior intervention is not effective or de-escalation procedures have not been effective.

1. Applies to unpredictable and spontaneous behavior. Aggressive behavior which is part of a student's regular pattern of behavior must be addressed in a BIP.
2. Applies **ONLY** if less restrictive techniques are not successful e.g., if a student is throwing chairs, tables, and you are able to leave him/her alone and she/he calms down.

Only emergency procedures that have been approved by the SBCSELPA may be used. Only staff who have been trained in utilizing these procedures may implement them. Correct use of these procedures is taught in trainings offered by the SBCSELPA several times annually.

SBCSELPA approved behavior emergency procedures include the following:

1. Children's control position
2. Team control technique

SBCSELPA utilizes CPI: Nonviolent Crisis Prevention and Intervention certification for emergency procedures. Staff must renew certification every two years.

Key points to remember about emergency interventions:

1. Emergency procedures should protect the safety and personal dignity of all parties.
2. Emergency procedures should be applied only when safety requires them and may not be used in lieu of a systematic positive BIP.
3. Emergency procedures should only be applied at the last resort, when all other less restrictive interventions have been exhausted.

BEHAVIORAL EMERGENCY REPORT

To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parents and residential care provider, if appropriate, shall be notified within one school day whenever an emergency intervention is used or serious property damage occurs.

A Behavioral Emergency Report (BER) shall immediately be completed and maintained in the individual's file. The report shall contain all of the following:

1. The name and age of the student
2. The setting, time, and location of the incident

3. The name of staff and other persons involved
4. A description of the incident and the emergency intervention used
5. Whether the individual is currently engaged in any systematic Behavior Intervention Plan (BIP)
6. Details of any injuries sustained by the individual or others, including staff, as a result of the incident

All BERs shall immediately be forwarded to, and reviewed by, a designated responsible administrator. Anytime a BER is written regarding an individual who does not have a BIP, the designated responsible administrator shall, within two days schedule an IEP meeting to review the emergency report, to determine the necessity for a Functional Behavioral Assessment (FBA), and to determine the necessity for an interim BIP. The IEP team shall document the reasons for not conducting the FBA and/or not developing an interim plan.

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

FUNCTIONAL BEHAVIORAL ASSESSMENT

When the use of special behavioral interventions is considered for a pupil with a continuous serious behavior problem, a proposed assessment plan will be developed by the Case Manager which describes the components to be included in the Functional Behavioral Assessment of the pupil's behavior *PWN and Assessment Plan (NC 3)*. A Functional Behavioral Assessment (FBA) is an analytical process based on observations, review of records, interviews, and data analysis to determine the function the behavior serves for the student, how that function can be met more appropriately and how the environment can be altered to better support general positive behaviors, and functionally equivalent replacement behaviors. The FBA will include data from direct observation, interviews with significant others, environmental analysis and review of available data. Prior to conducting the assessment, parent notice and consent shall be given and obtained. The FBA must be conducted by, or under the supervision of a person who has documented training in behavioral analysis with an emphasis on positive behavioral interventions.

Where a student does not have a Behavior Intervention Plan (BIP) in place following a Behavioral Emergency Report (BER), school districts are required to schedule IEP meeting within two school days. The IEP team must review the BER to determine the necessity for a FBA and an interim plan, pending development of a BIP, if needed.

The FBA procedures shall include all of the following:

1. Systematic observation of the occurrence of the targeted behavior for an accurate definition and description of the frequency, duration, and intensity;
2. Systematic observation of the immediate antecedent events associated with each instance of the display of the targeted inappropriate behavior;
3. Systematic observation and analysis of the consequences following the display of the behavior to determine the function the behavior serves for the individual, i.e., to

identify the specific environmental or physiological outcomes produced by the behavior. The communicative intent of the behavior is identified in terms of what the individual is either requesting or protesting through the display of the behavior;

4. Ecological analysis of the settings in which the behavior occurs most frequently. Factors to consider should include the physical setting, the social setting, the activities and the nature of instruction, scheduling, the quality of communication between the individual and staff and other students; the degree of independence, the degree of participation, the amount and quality of social interaction, the degree of choice, and the variety of activities;
5. Review of records for health and medical factors which may influence behaviors (e.g. medication levels, sleep cycles, health, diet); and
6. Review of the history of the behavior to include the effectiveness of previously used behavioral interventions.

Following the assessment, a *Functional Behavior Assessment Report* (SELPA42) shall be prepared and a copy shall be provided to the parent. The report shall include all of the following components:

1. Identifying student information;
2. A description of the nature and severity of the targeted behavior(s) in clear, measurable, and observable terms;
3. A description of the targeted behavior(s) frequency, intensity, and/or duration that includes baseline data and an analysis of the antecedents and consequences that maintain the targeted behavior, and a functional analysis of the behavior across all appropriate settings in which it occurs;
4. Determination and rationale of whether the behavior is impeding the learning of the student or peers;
5. A review of Tier II Strategies or other positive behavioral interventions and strategies. If strategies have been utilized, then include the results of the interventions and/or strategies;
6. A review of environmental factors, including reported and observed predictors and what supports the student's use of these behaviors; and
7. Hypothesis of the function of the behavior based on data collection and a description of the suggested functionally equivalent replacement behaviors.
8. Recommended behavior interventions and teaching strategies.

IEP MEETING FOLLOWING THE FUNCTIONAL BEHAVIORAL ASSESSMENT

Upon completion of the Functional Behavioral Assessment (FBA), an IEP team meeting shall be held to review results and, if necessary, to develop the Behavior Intervention Plan (BIP). The IEP team shall review the Functional Behavior Assessment Report (Form SELPA42) and determine whether or not special behavioral interventions are needed to reduce the target behavior(s).

The BIP is a written document which is developed whenever an individual exhibits a serious behavioral problem that significantly interferes with implementation of the goals and objectives of

the individual's IEP. When it is determined that special behavioral interventions are needed, the BIP will be developed based on the FBA which emphasized the use of positive behavioral interventions and describes a hierarchy of interventions.

When special behavioral interventions are included as part of the BIP, they will be used in consideration of the pupil's physical freedom, social interaction, and individual choice. Further, special behavioral interventions will be administered in a manner which respects the pupil's human dignity and personal privacy.

BIPs shall only be implemented by, or be under the supervision of, staff with documented training in behavior analysis, including the use of positive behavioral interventions.

BEHAVIOR INTERVENTION PLAN

The *Behavior Intervention Plan (IEP 6G-1, 6G)* shall become part of the IEP. A copy of the plan shall be provided to the person or agency responsible for implementation in non-educational settings. The plan shall include the following components:

1. A summary of relevant and determinative information gathered from a Functional Behavioral Assessment;
2. An objective and measurable description of the targeted maladaptive behavior(s) and replacement positive behavior(s);
3. The individual's goals and objectives specific to the Behavior Intervention Plan for the target and replacement behavior(s);
4. A detailed description of the behavioral interventions to be used and the circumstances for their use;
5. Specific schedules for recording the frequency of the use of the interventions and the frequency of the targeted and replacement behaviors; including specific criteria for discontinuing the use of the intervention for lack of effectiveness or replacing it with an identified and specific alternative;
6. Criteria for referral back to the IEP team when designated special behavioral interventions appear ineffective;

7. Criteria by which the use of special behavioral interventions will be reduced and/or less intensive/frequent special behavioral interventions will be used;
8. A description of the extent to which special behavioral interventions will be used across settings in which the IEP is being implemented (playgrounds, integrated classroom settings, work sites, etc.) and (to the extent known) a description of the use of special behavioral interventions in settings for which the LEA does not have responsibility (home, residential facility, etc);
9. Specific dates for periodic review by the IEP team of the "efficacy" of the Behavior Intervention Plan; and
10. The frequency of consultation to be provided by School Psychologist, BCBA, and/or Mental Health Specialist to staff and parents responsible for implementing the plans.

Positive programming to include in a Behavior Intervention Plan may include the following:

1. Altering the identified antecedent event to prevent the occurrence of the behavior;
2. Teaching the individual alternative behaviors that produce the same consequences as the inappropriate behavior;
3. Teaching the individual adaptive behaviors which ameliorate negative conditions that promote the display of inappropriate behaviors;
4. Manipulating the consequences for the display of targeted inappropriate behavior and alternative, acceptable behaviors, so that it is the alternative behaviors that more effectively produce the desired outcomes.
5. Teaching the individual underlying skills to ameliorate existing skill deficits and reducing the display of inappropriate behavior.

When the targeted behavior(s) occur(s), acceptable responses shall include but are not limited to one or more of the following:

1. The behavior is ignored, but not the individuals;
2. The individual is verbally, or verbally and physically, redirected to an activity;
3. The individual is provided with feedback;
4. The message of the behavior is acknowledged; and
5. A brief, physical prompt is provided to interrupt or prevent aggression, self-abuse, or property destruction.

BEHAVIORAL INTERVENTION REVIEW

Program effectiveness will be reviewed by the teacher, school psychologist, parent or care provider, and others as appropriate at scheduled intervals determined by the IEP team. This review may be conducted in meetings, by telephone conference, or by other means, as agreed upon by the IEP team.

The review shall include:

1. A review of the Behavior Intervention Plan (BIP) effectiveness including effect on the target behavior(s) and the replacement behavior(s).
2. Recommendations for continuing, discontinuing or modifying the BIP, or
3. Recommendation for additional Functional Behavior Assessment with possible modification to the BIP.

Each modification or change shall be addressed in the BIP provided that the parent, or parent representative, is notified of the need and is able to review the existing program evaluation data prior to implementing the modification or change. Parents shall be informed of their right to question any modification to the plan through the IEP process.

FUNCTIONAL BEHAVIOR ASSESSMENT AND BEHAVIOR INTERVENTION PLAN CERTIFICATE OF PARTICIPATION

To promote the systematic use of Behavioral and Emergency Interventions, trainings shall be made available for staff who are writing Functional Behavior Assessments and Behavior Intervention Plans, including teachers, school psychologists, related service providers, and instructional assistants.

To receive a Functional Behavior Assessment and Behavior Intervention Plan Certificate of Participation these individuals must be trained in applied behavior analysis with an emphasis on positive behavioral interventions.

Competencies:

- Knowledge of theory and practice of behavior analysis including positive behavioral interventions.
- Knowledge of unique characteristics of individuals with severe behavior problems.
- Consultation skills.
- Knowledge of principles of behavioral intervention planning.
- Ability to coordinate and assist in conducting Functional Behavioral Assessments and development of Behavioral Intervention Plans and written reports.
- In-depth knowledge and application of behavioral interventions.
- Ability to conduct ongoing evaluation of behavioral interventions.
- Knowledge of Santa Barbara County SELPA approved emergency intervention procedures.
- Knowledge of regulations and procedures in Santa Barbara County SELPA for implementing positive behavioral interventions.

Methods:

Training will be developed or authorized by Santa Barbara County SELPA.

WHAT FORMS SHOULD BE USED

The following forms should be used with positive behavior intervention procedures:

NC3:	PWN and Assessment Plan
SIRAS IEP 6G:	Behavior Intervention Plan 6 page to accompany FBA
SIRAS IEP 6G-1:	Behavior Intervention Plan 2 page
SELPA 13:	Environmental Analysis Summary of Observations
SELPA34:	Behavioral Emergency Report (E)
SELPA42:	Functional Behavioral Assessment Report (E)
SELPA47:	Functional Behavioral Assessment Summary (E)
SELPA60:	Functional Assessment Observation Form (E)
SELPA62:	Behavioral Intervention Plan Data Collection (E)

NOTE

E = ENGLISH and S = SPANISH

Appendix A references the forms highlighted throughout this handbook. SELPA and Supplemental IEP forms can be found on our county's on-line *SIRAS Systems*, www.sirassystems.org.

PROCEDURAL HANDBOOK

SECTION

7

***Procedures for Proper Functioning of Hearing Aids and External Components
of Surgically Implanted Medical Devices
and
South and North D/HH Services in Santa Barbara County***

This section contains information you should know about...

	Page
The Law	7-1
Procedures for Hearing Device Checks	7-1
Annual Audiological Assessment/Hearing Device Checks Referral Process	7-2
South/North D/HH Services in Santa Barbara County	7-3
Santa Barbara County D/HH ‘South’ Procedures Flowchart	7-4
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Referral Process for D/HH ‘North’ Santa Barbara County	7-9
What Forms Should Be Used.....	7-12

THE LAW

The regulations implementing the Individuals with Disabilities Education Act include a provision regarding the proper functioning of hearing aids and surgically implanted medical devices. This requirement states that: “Each public agency must ensure that the hearing aids and external components of surgically implanted medical devices worn in school by children with hearing impairments, including deafness, are functioning properly.” 34 CFR 300.113.

In this document, hearing aids and surgically implanted medical devices, including but not limited to cochlear implants and/or surgically implanted Bone Anchored Hearing Aids (BAHA), will here after collectively be referred to as “Hearing Devices.”

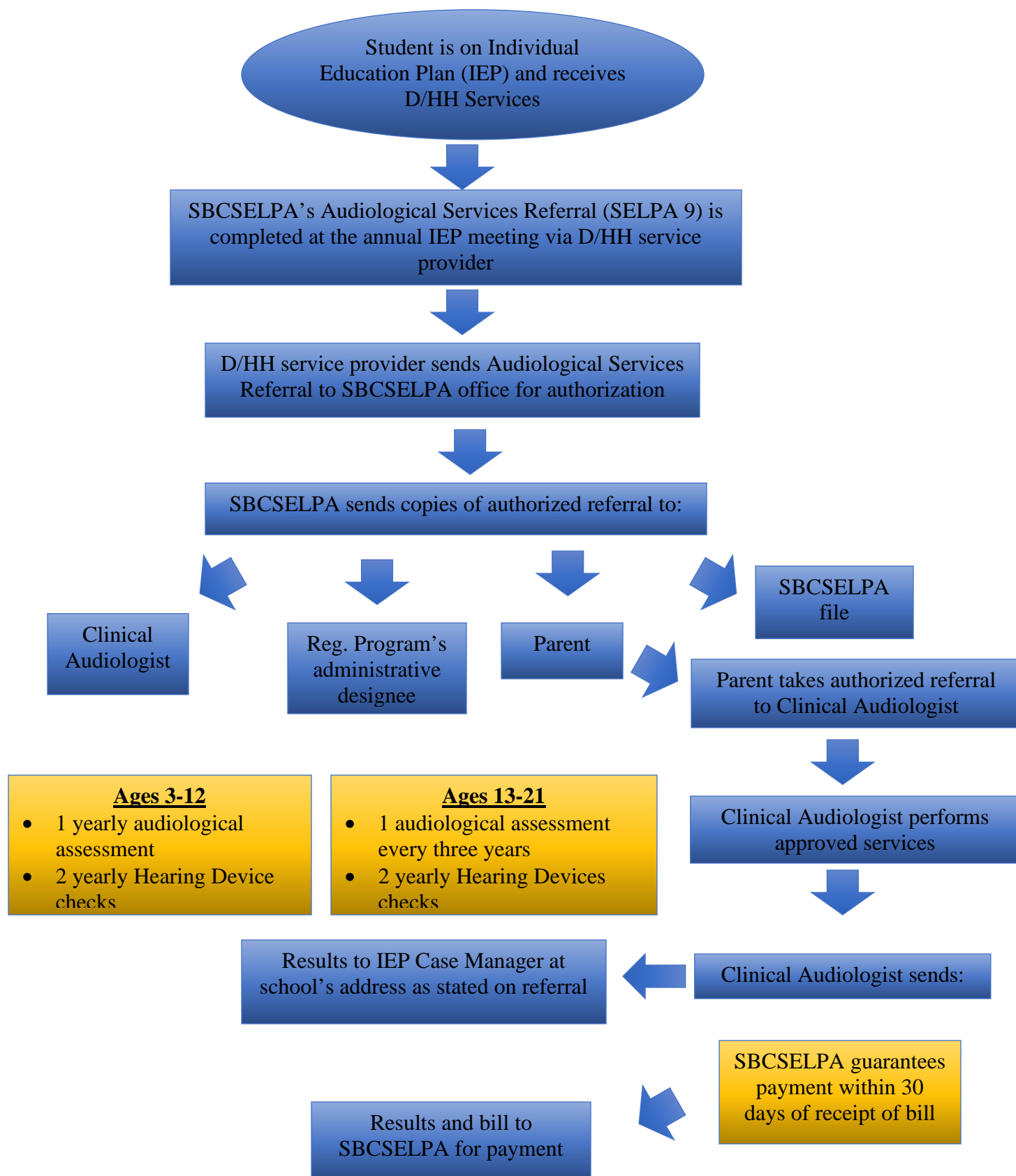
PROCEDURES FOR HEARING DEVICE CHECKS

Individual Hearing Devices worn by students with hearing loss are checked as the students arrive at school each morning. The general education or Special Day Class teacher (or designated staff member), as appropriate, is responsible for checking each morning to ensure the students’ individual Hearing Devices are functioning properly. Students with the capability to monitor their own Hearing Devices performance (generally beginning in 2nd grade) are asked if their Hearing Devices are working properly. Replacement batteries for students’ Hearing Devices will be kept at school for use as needed.

For students who receive D/HH services, the D/HH Specialist is responsible for training each child’s general education or Special Day Class teacher in the procedures to be used to check the Hearing Devices of children with hearing loss enrolled in general education or Special Day Class programs.

If a child’s Hearing Device is not working properly, it is the responsibility of the general education or Special Day Class teacher to contact the child’s D/HH Specialist as soon as possible. The D/HH Specialist and/ or the student’s case manager is responsible for notifying the child’s parent and Educational Audiologist (as needed) regarding the Hearing Device malfunction.

Annual Audiological Assessment and Hearing Device Checks Referral Process



‘South’ and ‘North’ D/HH Services in Santa Barbara County

The Santa Barbara D/HH ‘South’ County referral process differs from the Santa Barbara D/HH ‘North’ County process. Please refer to the following pages and flow charts for instructions on D/HH Services throughout ‘South’ and ‘North’ Santa Barbara County.

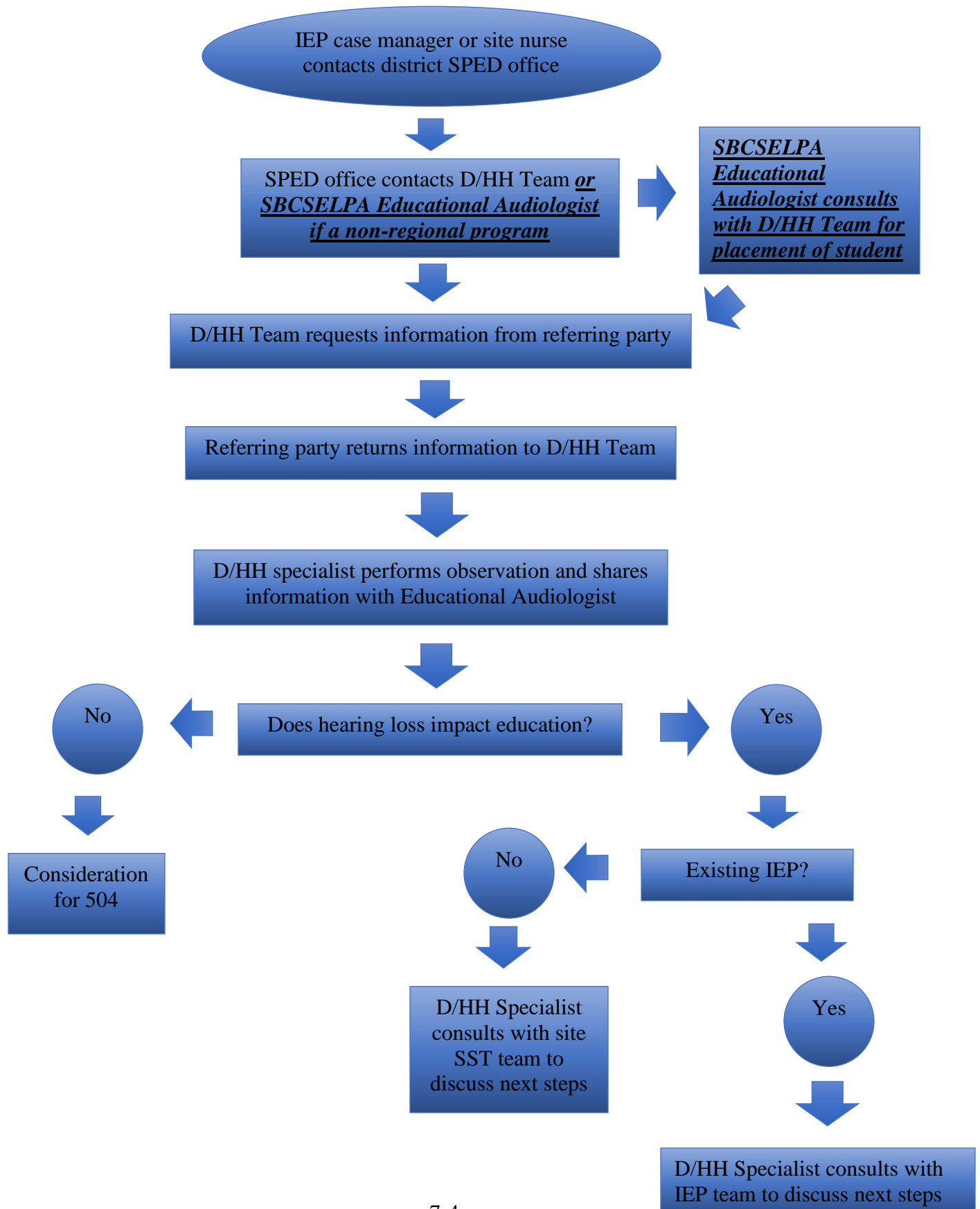
Santa Barbara ‘South’ County D/HH Services

Santa Barbara ‘South’ County encompasses the districts of Carpinteria Unified School District, Santa Barbara Unified School District, Montecito Union School District, Cold Springs School District, Adelante Charter School, Santa Barbara Charter School, Goleta Union School District, and the Santa Ynez Valley Consortium.

Santa Barbara ‘North’ County D/HH Services

Santa Barbara ‘North’ County encompasses the districts of Guadalupe Union School District, Orcutt Union School District, Santa Maria Joint Union High School District, Santa Maria Bonita School District, Lompoc Unified School District, and Cuyama Unified School District.

Santa Barbara County D/HH 'South' County Procedures: D/HH Request for Consultation (RFC)



Referral process for Deaf/Hard of Hearing (D/HH) Specialist and Educational Audiology services in 'South' Santa Barbara County

The Santa Barbara 'South' County D/HH program offers regional D/HH services through the districts' D/HH Specialists and SBCSELPA Educational Audiologist.

The Santa Barbara 'South' County Program offers a regional Total Communication Elementary Program, in addition to students being served through itinerant services on district campuses. Total Communication is an approach to communicating that aims to make use of several modes of communication such as signed, oral, auditory, written, and visual aids, depending on the needs and abilities of the student.

Upon receiving a student to a 'South' county district with D/HH Services, the IEP Case Manager or District nurse will contact the Special Education Office to notify the district of the D/HH service.

If receiving a student to a 'South' county non-regional district program, such as Cold Springs School District, Hope School District, Santa Barbara Charter School, Montecito Union School District, Adelante Charter School, the Santa Ynez Valley Special Education Consortium, or Carpinteria Unified School District, the SBCSELPA Educational Audiologist will be sent the referral (s) to review.

In collaboration with South County D/HH Specialists, the SBCSELPA Educational Audiologist will determine which D/HH Specialist will be assigned to the student (s), based on current case management and service time.

The Special Education District Office will contact the D/HH Specialists Team to share the student information. The D/HH Specialists Team requests the following information from the referring staff (case manager or nurse):

- The current IEP and Multidisciplinary Report.
- A recent audiogram from the student's physician/clinical audiologist, preferably from within the past six months, but no older than 12 months.
- Audiological/medical records.

The D/HH Specialist presents to the parent or guardian the 'Request for Deaf and Hard of Hearing Observation Consent' (SELPA41) to observe the student to gather further information on the student's academic performance with the hearing loss and their access to all environments within the school setting.

The information from the observation is shared with the Educational Audiologist as needed to collaborate on next steps for the student. Through the collaboration, the D/HH Specialist determines if the hearing loss impacts the educational performance of the student.

If the student's hearing loss does not impact the educational performance of the student, the D/HH Specialist will recommend to an SST Team the consideration of support through a 504.

If there is evidence that the hearing loss does impact the student's educational performance, the following actions may occur if the student does or does not have an existing IEP:

No existing IEP:

- If there is evidence that the hearing loss may have an educational impact on the student's performance and the student does not currently have an IEP, the D/HH Specialist will contact the school's SST team to determine next steps for support of the student.

Existing IEP:

- If there is evidence that the hearing loss may have an educational impact on the student's performance and the student currently has an academic IEP, the D/HH Specialist will discuss next steps with the IEP Team.
- If there is evidence that the hearing loss may have an educational impact on the student's performance and the student currently has a Speech only IEP, an IEP meeting will need to be held to discuss the need for a psychoeducational assessment plan, to include D/HH Specialist, School Psychologist, and Special Education Teacher to determine if factors besides the hearing loss may be impacting the student's learning.

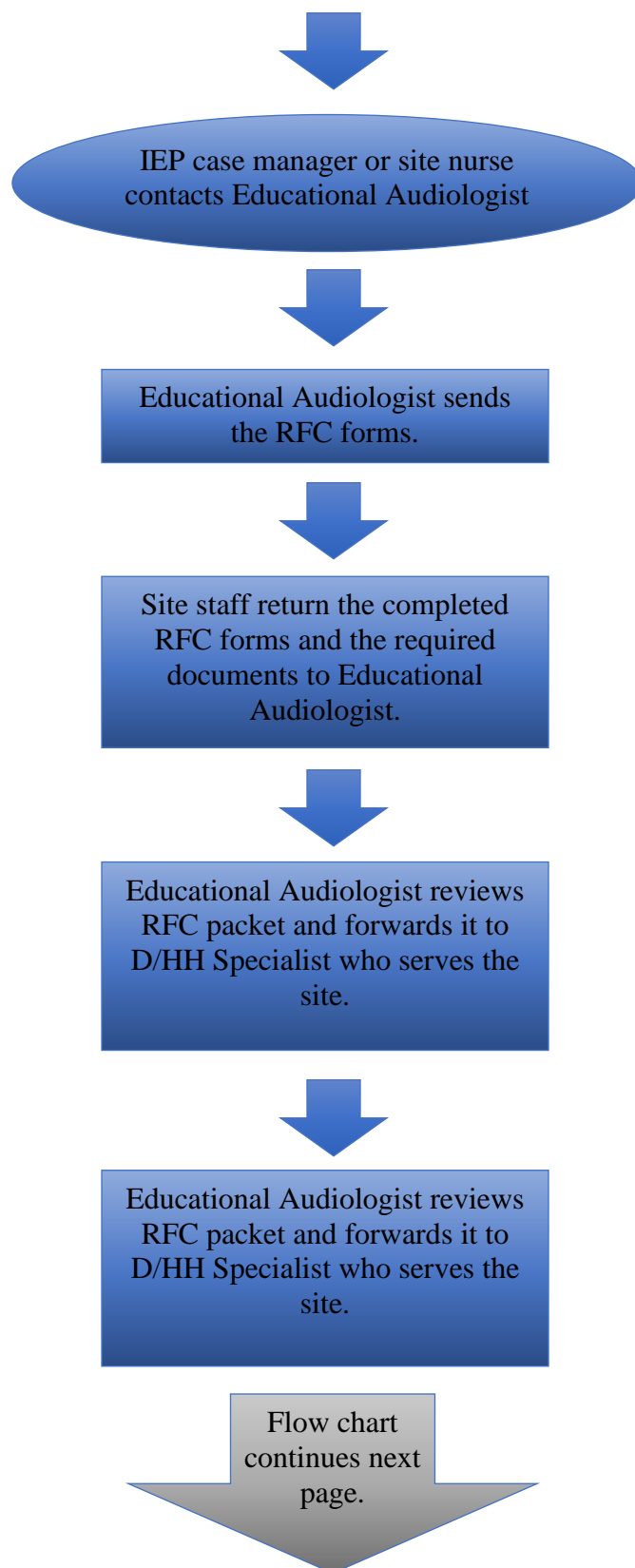
SBCSELPA Educational Audiology Services

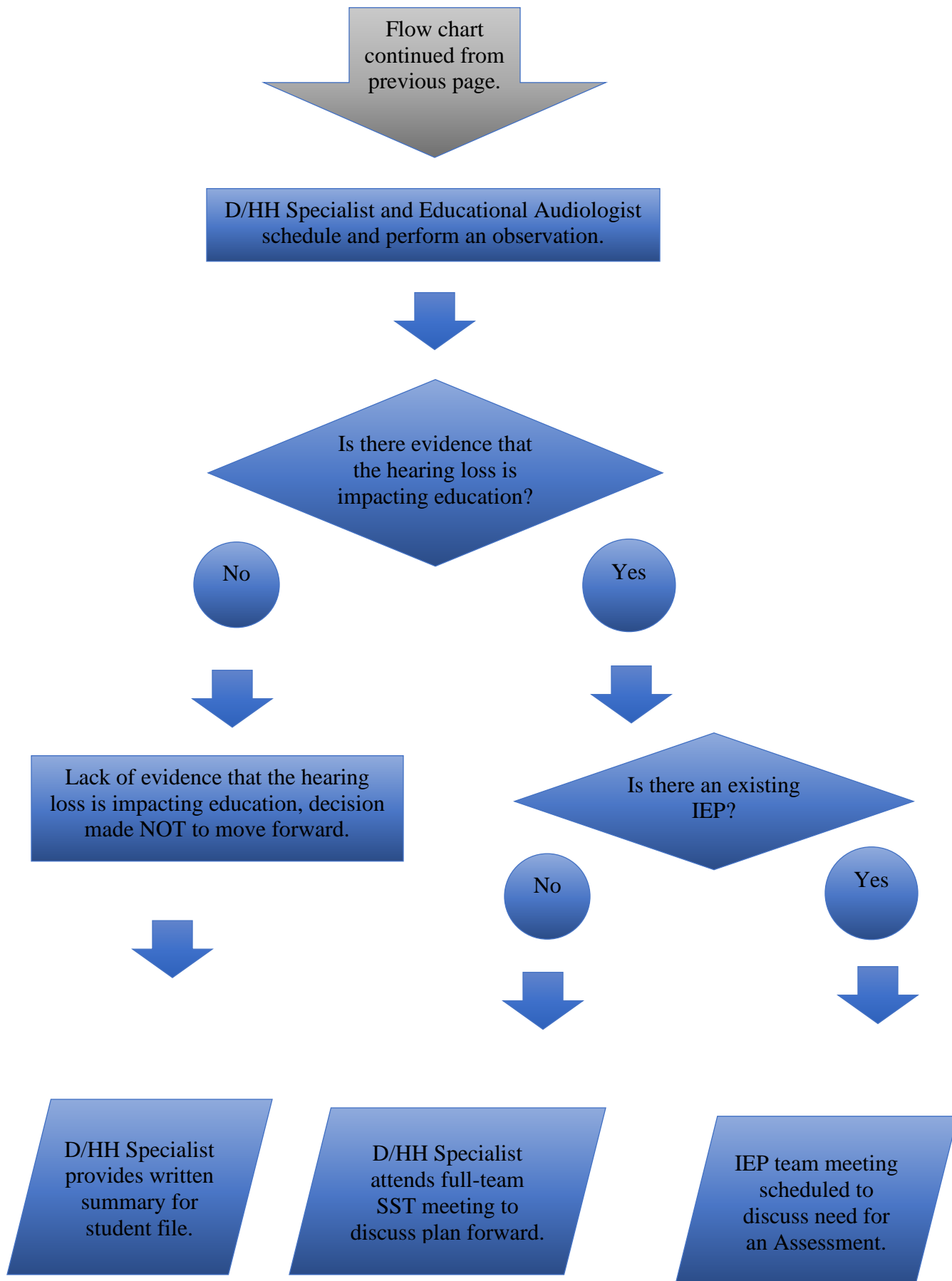
Not all students served by D/HH Specialists receive Educational Audiology services. The Educational Audiologist does not work with every student with Hearing Devices. Students who require Hearing Assistance Technology ('HAT', formerly known as 'FM equipment') to gain auditory access to the curriculum will require occasional support from the SBCSELPA Educational Audiologist.

- If a student's hearing loss is significant enough to require HAT, then the IEP Team would convene to discuss next steps for Hearing Assistance Technology (HAT) and would also include D/HH Specialist support in the IEP, due to the educational impact of the hearing loss on the student's performance.
- SBCSELPA Educational Audiology is a support service, unlike D/HH Specialist services, which is a direct instructional service. No goals are written or worked on by the Educational Audiologist, and therefore Educational Audiology cannot be a "stand alone" service in the absence of other goal-based direct instructional services.

Within Santa Barbara County, Educational Audiologist positions are funded through Special Education, and therefore the service cannot be provided to general education students or students with 504 Plans. In addition, HAT equipment is purchased with Low Incidence funding which cannot be accessed for students without Special Education service.

Santa Barbara County D/HH 'North County' SBCEO Procedures: D/HH Request for Consultation (RFC)





Referral process for SCBEO Deaf/Hard of Hearing (D/HH) Specialist and Educational Audiology services in 'North' Santa Barbara County

The Santa Barbara 'North' County D/HH Programs offer D/HH and Educational Audiology through SBCEO.

The Santa Barbara 'North' County Program offers a regional Total Communication Program, with D/HH Special Day Class settings from Pre-K through High School, in addition to students being served through itinerant services on district campuses. Total Communication is an approach to communicating that aims to make use of several modes of communication such as signed, oral, auditory, written, and visual aids, depending on the needs and abilities of the student.

When a student with a known hearing loss and academic performance concerns is received in a 'North' Santa Barbara County district, the student's case manager or the school site nurse would complete the 'Request for Deaf and Hard of Hearing Consultation' (SELPA40).

The parent or guardian will be asked to sign the 'Request for Deaf and Hard of Hearing Observation Consent' (SELPA41), giving permission for the D/HH Specialist and Educational Audiologist to observe the student.

The student's case manager submits the 'Request for Deaf and Harding Consultation' (SELPA40) and the 'Request for Deaf and Hard of Hearing Observation Consent' (SELPA41) to the SBCEO Educational Audiologist,

Additional information required to be included with SELPA 40, SELPA 41 would be the following:

- A recent audiogram from the student's physician/clinical audiologist, preferably from within the past six months, but no older than 12 months. The SBCEO Educational Audiologist does not do testing for the required audiogram.
- The school nurse or case manager would gather audiological/medical records.

For students with an active IEP, if an IEP meeting will be held soon, the case manager will provide the 'Request for Consult' packet forms (SELPA 40 and SELPA 41) to the parent or guardian at the meeting, discuss the forms and seek consent to the consultation and observations. Upon parent or guardian consent, the 'Request for Consult' packet will be sent to the SBCEO Educational Audiologist.

Once the SBCEO Educational Audiologist reviews the completed 'Request for Consult' packet and accompanying required documents, the packet and documents will be given to the D/HH Specialist who is assigned to the student's school site.

Upon receiving and reviewing the packet and documents, the D/HH Specialist and Educational Audiologist will observe the student. After the observation, one of the following will take place:

- If it is determined that there is a lack of evidence that the hearing loss has an educational impact on the student's performance and therefore there is no need to move forward with possible D/HH services, a written summary will be provided for the student's file.
- If there is evidence that the hearing loss may have an educational impact on the student's performance and the student does not currently have an IEP, the D/HH Specialist will attend a full-team SST meeting to discuss a plan to move forward.
- If there is evidence that the hearing loss may have an educational impact on the student's performance and the student currently has an academic IEP, the D/HH Specialist will discuss the need for an assessment plan with the case manager.
- If there is evidence that the hearing loss may have an educational impact on the student's performance and the student currently has a Speech only IEP, an IEP meeting will need to be held to discuss the need for a psychoeducational assessment plan, to include D/HH Specialist, School Psychologist, and Special Education Teacher to determine if factors besides the hearing loss may be impacting the student's learning.

SBCEO Educational Audiology Services

After performing the student observation, if the student appears to have issues with auditory access in the educational setting, Audiology will be added to assessment plan.

An audiological assessment includes:

- performing a classroom observation
- performing a "Functional Listening Evaluation"
- gathering input from the classroom staff

This classroom-based assessment process does not include audiometric testing that would be performed by a Clinical Audiologist.

If the Educational Audiologist's assessment indicates that the service is indicated, Educational Audiology will be added to the IEP.

Not all students served by D/HH Specialists also receive Educational Audiology services, as some students with a hearing loss have their hearing "corrected" by their amplification devices to a degree that they have appropriate auditory access in the classroom. The Educational Audiologist does not work with every student with hearing aids.

Students who need extra help with auditory access to the curriculum, via use of Hearing Assistance Technology ('HAT', formerly known as 'FM equipment') will require Educational Audiology support. The Educational Audiologist as a rule only works with students who need or use HAT.

The Educational Audiologist does not work with students who do not have D/HH Specialist services.

- If a student's hearing loss is significant enough to require HAT, then the IEP Team would convene to discuss next steps for Hearing Assistance Technology (HAT) and would also include D/HH Specialist support in the IEP, due to the educational impact of the hearing loss on the student's performance.
- Educational Audiology is a support service, unlike D/HH Specialist services, which is a direct instructional service. No goals are written or worked on by the Educational Audiologist, and therefore Educational Audiology cannot be a "stand alone" service in the absence of other goal-based direct instructional services.

Within Santa Barbara County, Educational Audiologist positions are funded through Special Education, and therefore the service cannot be provided to general education students or students with 504 Plans. In addition, HAT equipment is purchased with Low Incidence funding which cannot be accessed for students without Special Education service.

WHAT FORMS SHOULD BE USED

The following forms should be used:

SELPA9: Audiological Services Referral (E & S)

IEP7A: Services (E & S)

SELPA12: D/HH Program Components (E&S)

SELPA40: Request for Deaf and Hard of Hearing Consultation

SELPA41: D/HH Observation Consent Form

NOTE

<p>E = <i>ENGLISH</i> and S = <i>SPANISH</i></p>
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IEP Forms referenced in this handbook are included in our county's on-line SIRAS Systems www.sirassystems.org website.

PROCEDURAL HANDBOOK

SECTION

8

Procedures for Providing Special Education Services to Parentally Enrolled Private School Children with Disabilities

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PROCEDURES FOR PROVIDING SPECIAL EDUCATION SERVICES TO PARENTALLY ENROLLED PRIVATE SCHOOL CHILDREN WITH DISABILITIES

The following procedures apply to school age children who are enrolled by their parents in private schools. Children of preschool age who may need special education services shall be evaluated and provided services, as appropriate, by the Santa Barbara County Education Office via an IEP.

I. Child Find

The Santa Barbara County SELPA will:

Annually inform local private schools of the provisions in Federal Law that address the issue of students enrolled by their parents in private schools who may be eligible for special education services. Representatives of private schools (including private school administrators, teachers, parents and students) will be invited to an annual meeting to discuss issues including, but not limited to, criteria for special education eligibility and special education referral procedures under federal and state laws and regulations. If they do not attend, the information will be mailed to them.

A. Ask private schools to list and specify disabilities of students enrolled in the school who may be eligible for special education services and the districts of residence of those children. The SBCSELPA shall provide this information to each LEA in the SBCSELPA.

B. Ensure that child-find activities undertaken for private school students are comparable to activities undertaken for children ages three to 22 with disabilities in public schools. This will include dissemination of the special education Child-Find brochures in English and Spanish to all private schools in the SBCSELPA annually.

II. Referral for Special Education

A. A student shall be referred for special education instruction only after the resources of the regular education program have been considered and, where appropriate, utilized.

B. If, after considering, and where appropriate utilizing general education resources, it is determined that a private school child may require special education services, the private school staff or parent may make referral for assessment/special education to the district where the private school the student attends is located. The private school should contact the Special Education Administrator of the LEA/district where the private school is located.

III. Assessment for Eligibility and Educational Planning

A. The private school staff and parent(s) are encouraged to conduct a Student Study Team (SST) meeting to consider accommodations and supports within the private school and/or if other non-special education services are appropriate prior to conducting a formal assessment for special education prior to referring a student to special education.

The SST may initiate a referral for assessment at that meeting or at a follow-up meeting, if appropriate.

- B. Following receipt of a referral for assessment/special education, the district where the private school is located shall develop an assessment plan and provide it to the parent within 15 calendar days except in instances where the district determines that an assessment for special education is not warranted. A formal Prior Written Notice of the district's refusal to conduct an assessment and the reasons for the determination is to be provided to the parent. The district where the private school is located shall include a release of information with the assessment plan in order to exchange needed information and forward assessment data if the parents indicates an interest in receiving special education services.
- C. The assessment for special education eligibility must include evaluation in all areas related to the suspected disability and shall be completed and an eligibility meeting convened within 60 calendar days from the date of receipt of the signed assessment plan (not counting days of school vacation as specified in E.C. 56344).

IV. Parents' Rights and Procedural Safeguards for Parentally Enrolled Private School Students with Disabilities

The parents' rights and procedural safeguards for parentally enrolled private school students with disabilities are included on page 9 of the SBCSELPA's Parental and Adult Students' Rights and Procedural Safeguards for Special Education, under the heading "Children Attending Private School".

Parents of parentally enrolled private school students are to be provided with a complete copy of the SBCSELPA's parents rights document upon initial referral for evaluation, at the time each annual review Private School Services Plan meeting notice is provided, or when a reevaluation is to be conducted.

Parents of parentally enrolled private school students with disabilities do not have the right to request a due process hearing regarding the provision of services offered through a Private School Services Plan. A parent of a child enrolled in a private school has the right to file a due process complaint ONLY related to the LEA/district's child-find activities.

V. IEP and/or Private School Services Plan Meetings

- A. Once the assessment is completed by the district where the private school is located, the district of private school Director/Designee contacts the parent to ask if they are possibly interested in enrolling the child in the district of residence and receiving an offer of FAPE via an IEP. If they indicate yes, then the student is referred back to their district of residence and the assessment data is forwarded to the district of residence by the district of the private school. If parent(s) indicates they are not interested in enrolling the student in the district of residence, then an eligibility/ISP meeting is convened by the district where the private school is located.

NOTE: If district where the private school is located finds the student not eligible or no longer eligible, the IEP form, *Demographic and Eligibility (IEP 1) and IEP Eligibility (IEP 2)*, is completed showing "Not eligible"; IEP form, *Present Levels of Performance (IEP3 2B)*, is completed; IEP form, *Notes and Additional Information (IEP9 12)*, and

the IEP form, *Consent and Signatures (IEP 10A)* is completed with the check box “I understand that my child is Not eligible for special education” initialed by parent.

1. If the parent(s) express an interest in enrolling their child in public school, then the district of residence, using the IEP form, *Notice of Meeting (NC 6A)*, shall invite the parent(s) to participate in an eligibility IEP meeting to determine eligibility for special education and develop, as appropriate, an IEP. If the IEP Team determines that a private school student is eligible for special education, then the IEP team shall develop a complete IEP including goals and, as appropriate, objectives to address all areas of identified need. The standard IEP forms should be used to document the program and services to be provided to the student if he/she were to enroll in public school.

NOTE: If district of residence finds student not eligible, the IEP form, *Demographic and Eligibility (IEP 1)* and *IEP Eligibility (IEP 2)*, is completed showing “Not eligible”; IEP form, *Present Levels of Performance (IEP2B)*, is completed; IEP form, *Notes and Additional Information (IEP12)* and the IEP form, *Consent and Signatures (IEP 10A)*, is completed with the check box “I understand that my child is Not eligible for special education” initialed by parent.

If the parents of a private school child with a disability agree with and consent to the IEP developed by the IEP Team and indicate their intention to enroll their child in public school, the IEP shall be implemented as soon as possible following the IEP Team meeting.

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:

- a. Ask the parent to sign in attendance on the IEP form, *Consent and Signatures (IEP 10A)*, and initial the box indicating, “I agree to all parts of the IEP”, and initial box indicating “I decline the offer of initiation of special education services”.
 - b. Include the following statement on the IEP Team Meeting Notes page, “The parent(s) have chosen to enroll their child in private school. The services being offered on this IEP are available if the student enrolls in public school in their district of residence.”
 - c. On the IEP form, *FAPE and Educational Setting (IEP 7B)*, the child’s school of attendance should be listed as the neighborhood public school in the child’s district of residence (unless the IEP Team recommends placement in a special education program located at another school).
 - d. If parent indicates they want an ISP, district where private school is located offers student services via an ISP, as appropriate.
2. If the parent(s) indicate to the district where the private school is located that they are not interested in a public school program or placement, but rather intend to enroll or continue the enrollment of their child in a private school, the district of the private school convenes a meeting and invites the parent(s) using the SELPA

form, *Notice of Meeting and Intent to Participate – Private School Student Service Plan Meeting* (SELPA27), in order to participate in a meeting to determine eligibility for special education and develop, as appropriate, an *Individual Service Plan for Parentally Placed Private School Students* (SUPP30), a private school Individual Service Plan (ISP). Representatives from the child's district of residence need not be invited to the meeting under these circumstances.

VI. Development of Private School Services Plans

- A. If the parents of a child with a disability decline to enroll their child in public school and the parents wish to have some level of special education services provided to their child, then the school district in which the private school is located shall develop a Private School Services Plan for the student. The Supplemental IEP form, *Individual Service Plan for Parentally Placed Private School Students* (SUPP30), should be utilized for this purpose.
- B. The Services Plan must be developed at a meeting attended by the parent, a local education agency administrator, a special education service provider and a regular education teacher. (The regular education teacher may be a teacher from the private school.)
- C. The school district must ensure that a representative of the private school (which may be the private school teacher) be invited to participate in the Services Plan meeting.
- D. The parent must receive written notification of the Services Plan meeting.
 - 1. The SELPA form, *Notice of Meeting and Intent to Participate – Private School Student Service Plan Meeting* (SELPA27) must be sent to the parent prior to the meeting to develop the Service Plan, unless the Services Plan is developed at the same meeting that was convened to develop an IEP offering special education services if the child enrolls in public school.
 - 2. A copy of the SBCSELPA's Parental and Adult Students' Rights which includes the rights related to Children Attending Private Schools, must be sent to the parent along with the SELPA form, *Notice of Meeting and Intent to Participate – Private School Student Plan Meeting* (SELPA27).
- E. The Services Plan form should list the special education service(s) to be provided to the pupil including their frequency, duration and location.
- F. The school district personnel are authorized to make the final decision regarding which service(s) will be provided to the private school child with a disability through a Services Plan. Parent consent to the Services Plan is required.
- G. Special education services provided pursuant to a Private School Services Plan may be provided either at the private school or at a public school site.
 - 1. If the services are provided at a location other than the child's private school, and the child requires transportation in order to access the special education services being offered, then the transportation must be provided.

2. The cost of such transportation shall be included in calculating the total amount of funding districts are required to expend for special education services provided to private school children with disabilities.
3. School districts are not required to provide home-to-school transportation for private school students with special education needs.

H. Meetings to develop, review, and revise Services Plans must be held at least annually.

VII. Child Count of Total Number of Private School Students with Disabilities

- A. Each district is required to conduct an annual child count of the total number of eligible parentally placed private school children with disabilities attending private schools located within their jurisdiction.
- B. This child count is comprised of those parentally enrolled private school students with disabilities receiving special education services through a Private School Services Plan as well as those parentally enrolled private school students who have been found eligible for special education within the last three years but who are not currently receiving special education services through a Private School Services Plan.

VIII. Pupil Count of Private School Children with Disabilities

- A. Children with disabilities enrolled in private schools by their parents should be counted on the Fall CALPADS if they are receiving special education or related services according to a Private School Services Plan.
- B. Children with disabilities enrolled in private schools whose parents choose not to have a Services Plan developed for their child and decline special education services, must also be included in the Fall CALPADS in the category designated for this purpose.

IX. Calculation of Required Expenditure of Funds for Parentally Placed Private School Children with Disabilities

- A. Pursuant to SBCSELPA policy, local education agencies shall offer to annually expend a uniform per pupil amount in the provision of special education and related services for each parentally enrolled private school student with disabilities of school age who attends a private school located within the LEA's jurisdiction. This per pupil amount shall be derived after calculations are performed to determine the proportionate share of the LEA's allocation of IDEA Part B local assistance grant funding for school age children with disabilities that must be expended on the provision of special education and related services for the parentally enrolled private school children attending private schools within the LEA.
- B. Each year each LEA within the SBCSELPA will need to calculate a per pupil amount of federal funding that will be offered to each parentally enrolled school age private school child with a disability using the following formula:

1. From the prior year CALPADS, determine the number of school age children (5-21), enrolled in public school, eligible for special education.

- C. Districts must also report on the Fall CALPADS the total number of parentally enrolled private school students who were assessed during the past year, including those students found not eligible for special education.
1. From the prior year December private school child count and the prior year December special education CALPADS, determine the number of school age (5-21) children enrolled in private schools located within the LEA eligible for special education. This number will include both eligible private school children currently receiving special education services through a Private School Services Plan and eligible private school children currently receiving no special education services.
 2. Add #1 and #2 to determine the total number of school age children attending private schools within the LEA eligible for special education.
 3. Identify the total number of special education-eligible children (attending both public and private school) receiving special education services through either an IEP or a Private School Services Plan.
 4. Determine the total amount of the LEA's Federal Part B local assistance funding for school age children for the current school year.
 5. Divide the total number of school age private school children eligible for special education by the total number of school age public and private school children eligible for special education to determine the percent of special education eligible students residing in the LEA who attend private school.
 6. Multiply the LEA's total current year Part B local assistance grant amount for school age children by the percentage to determine the total amount that must be spent in the current year for the group of parentally placed private school children with disabilities attending private schools within the LEA.
 7. To determine the per child amount of federal funding to be spent in the current year, divide the total amount that must be spent on parentally enrolled private school children with disabilities by the total number of parentally enrolled children with disabilities who received special education services through a Private School Services Plan in the prior year. (See Attachment 1)
- D. After the school district decides which service(s) it will offer to each child with a disability enrolled in private school pursuant to a Services Plan, a calculation must be performed to determine the amount of special education services (including the cost of transportation in some cases) to be provided that is the equivalent to the per child amount of funding that will be expended.
- E. It will be necessary to calculate the hourly salaries (including benefits) of staff who will provide the services specified in the Services Plan, taking into account whether the private school child is seen individually or as part of a group.

1. The total number of hours of service to be provided to the child for the year is calculated by determining the hourly cost of the service:
 - a. For example, the teacher or DIS provider's yearly salary and benefits is divided by 180 divided by the number of hours in the workday.
 - b. The total amount to be spent per child is then divided by this hourly rate to determine the number of hours of service that will be provided.
 - c. If a child will be seen in a group of three, for example, the hourly rate will be divided by three before performing the calculation to determine the number of hours of service that will be provided.
 - d. Transportation costs will need to be calculated separately and will reduce the amount of funding available to provide programmatic services.
- F. Funds expended for assessment and staff participation in IEP and Services Plan meetings may not be included as part of the total of a district's required expenditures for services to parentally enrolled private school children with disabilities.
- G. If a child enrolled in a private school is offered special education services sometime after the start of the school year, then the amount of funding to be expended for the remainder of the current school year is to be prorated accordingly.
- H. At the beginning of each school year, the SBCSELPA office will provide districts with an estimate of the amount of federal funding to be received in the current year for use in calculating projected per pupil expenditures, if this information is available.

Attachment 1
Proportionate Share Calculation for
Parentally-Placed Private School Children with Disabilities

FOR FLINTSTONE SCHOOL DISTRICT:

# of eligible children in public schools	=	300
# of eligible children in private schools	=	20
Total # of eligible children =		320

AT DECEMBER 1 CHILD COUNT:

# of children served in public schools	=	300
# of children served in private schools	=	5
Total # of public & private children served =		305

Note: 305 is the number turned in to OSEP for children served with IEP or service plan.

FEDERAL FLOW-THROUGH FUNDS TO FLINTSTONE SCHOOL DISTRICT:

Total allocation to Flintstone = \$152,500

FORMULA FOR CALCULATING PROPORTIONATE SHARE:

$$\frac{\text{Total Proportionate Share For Private School Children}}{\text{Total Flow-Through Allocation}} = \frac{\text{Eligible Private School Children}}{\text{Total Eligible Public \& Private School Children}}$$

Note: Proportionate share for parentally-placed private school children is based on total children eligible, not children served.

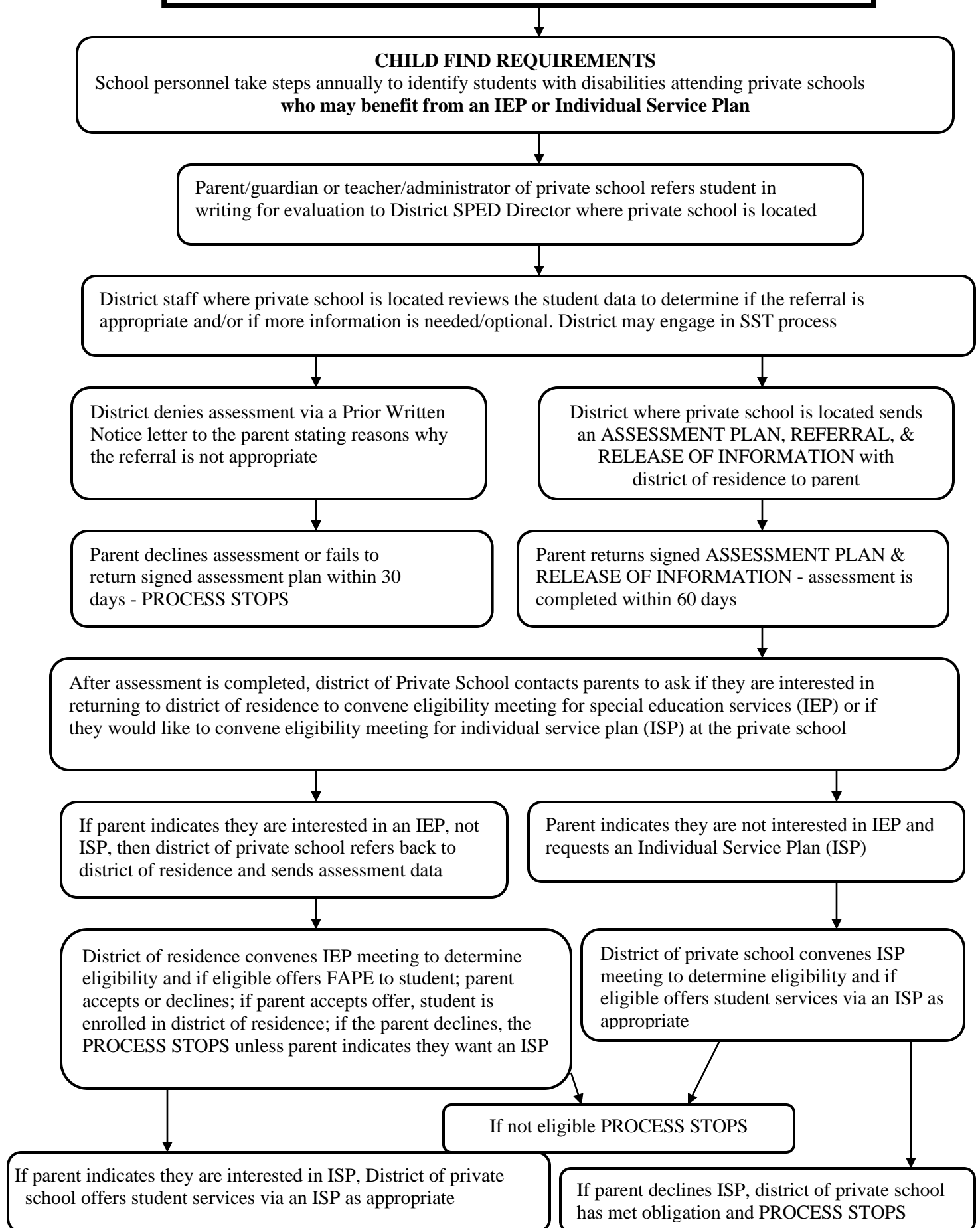
FLINTSTONE SCHOOL DISTRICT OBLIGATION:

$$\frac{X}{\$152,500} = \frac{20}{320}$$

$$X = \$9,531.25$$

(This amount must be spent for the group of parentally-placed children in private schools)

**SBCSELPA
INDIVIDUAL SERVICE PLAN (ISP) PROCESS (Approved March 3, 2008)**



- X. Annual Notice to Parents of Parentally Placed Private School Students of District's Ability to Provide FAPE
- A. School districts are not required to develop an IEP that offers FAPE in the public school for parentally placed private school students with disabilities unless the parent expresses an interest or intention to enroll their child in public school.
 - B. Instead, school districts must provide annual notice to parents (either at the beginning of each new school year or coinciding with the date of determination of initial eligibility for special education) of the availability of a free appropriate public education if the child enrolls in public school.
 - C. This form should be sent return receipt requested to document that the form was received by the parents. A copy of the SELPA form, *Notice of Rights and Safeguards (NC 1)*, should be sent to the parent along with the Annual Notice form.
 - D. If the parents of a private school child with a disability indicate their interest of enrolling the child in public school and receiving special education services through an IEP, the district in which the child resides is responsible for developing an IEP that offers FAPE in the public schools. District of location and district of residence may not share information regarding a student without a release of information signed by the parent or guardian.
- XI. Three-year Reevaluation for Parentally Enrolled Private School Students with Disabilities
- A. All parentally placed private school students with disabilities, who are currently receiving special education services through a Private School Services Plan, are required to be reevaluated at least once every three years or more frequently if conditions warrant a reevaluation, or if the child's parent or teacher requests a reevaluation. A reevaluation need not be conducted more frequently than once a year, unless the parent and the LEA agree otherwise. Parentally placed private school students who have previously been identified as having a disability whose parents have declined special education services are also required to be offered a reevaluation every three years, but if parent consent for the evaluation is denied, the district is not obligated to initiate a due process hearing regarding the issue of assessment. (Documentation of the district's proposal to conduct a three-year reevaluation for such children must be kept on file.)
 - B. The same procedures should be used for private school students as are employed for students with disabilities attending public school to determine the scope of reevaluations, for conducting the reevaluations, and for writing a three-year reevaluation report.
 - C. If the parents express an interest in enrolling their child in public school, then the parents shall be invited to participate in a meeting to determine continued eligibility for special education and to develop, as appropriate, an IEP using the IEP form, *Notice of Meeting (NC 6A)*. Representatives from the child's district of residence must participate in the meeting convened to review the results of the triennial assessment, if the meeting has been convened to develop an IEP for the child that offers FAPE in the public schools.

- D. If the parents make clear to the case manager that they are not interested in a public program or placement, but rather intend to or continue the enrollment of their child in a private school, then the parents shall be invited to participate in a meeting to determine continued eligibility for special education and develop, as appropriate, a Private School Services Plan using the Supplemental IEP form, *Individual Service Plan for Parentally Placed Private School Students* (SUPP30).

WHAT FORMS SHOULD BE USED

NC 6A:	Notice of Meeting (E & S) This form is used to invite parents of parentally enrolled private school students to an IEP meeting if the parent expresses interest in enrolling their child in public school.
SELPA27:	Notification of Meeting and Intent to Participate – Private School Student Service Plan Meeting (E & S) This form is used to invite parents of parentally enrolled private school students to meetings to develop a Private School Service Plan.
NC 1:	Notice of Rights and Safeguards (E & S) This form is to be sent home along with the Assessment Plan and Meeting Notification forms.
SUPP30:	Individual Service Plan for Parentally Placed Private School Students (E & S) This form is to be used to describe the special education and related services that will be provided to parentally enrolled private school students with disabilities.
NC 2B:	Notice of Reassessment (E & S) This form is to be used to determine the scope of any triennial or other requested re-evaluation for parentally enrolled private school students.
IEP1:	Demographic and Eligibility (E & S)
IEP2:	IEP Eligibility (E&S) This form is to be used when the student is found not eligible or no longer eligible for special education.
IEP 10A:	Consent and Signatures (E & S) This form is to be used when the student is found not eligible or no longer eligible for special education.

NOTE

E = ENGLISH and S = SPANISH

Appendix A references the forms highlighted throughout this handbook. SELPA and Supplemental IEP forms can be found on our county's on-line *SIRAS Systems*, www.sirassystems.org.

PROCEDURAL HANDBOOK

SECTION

9

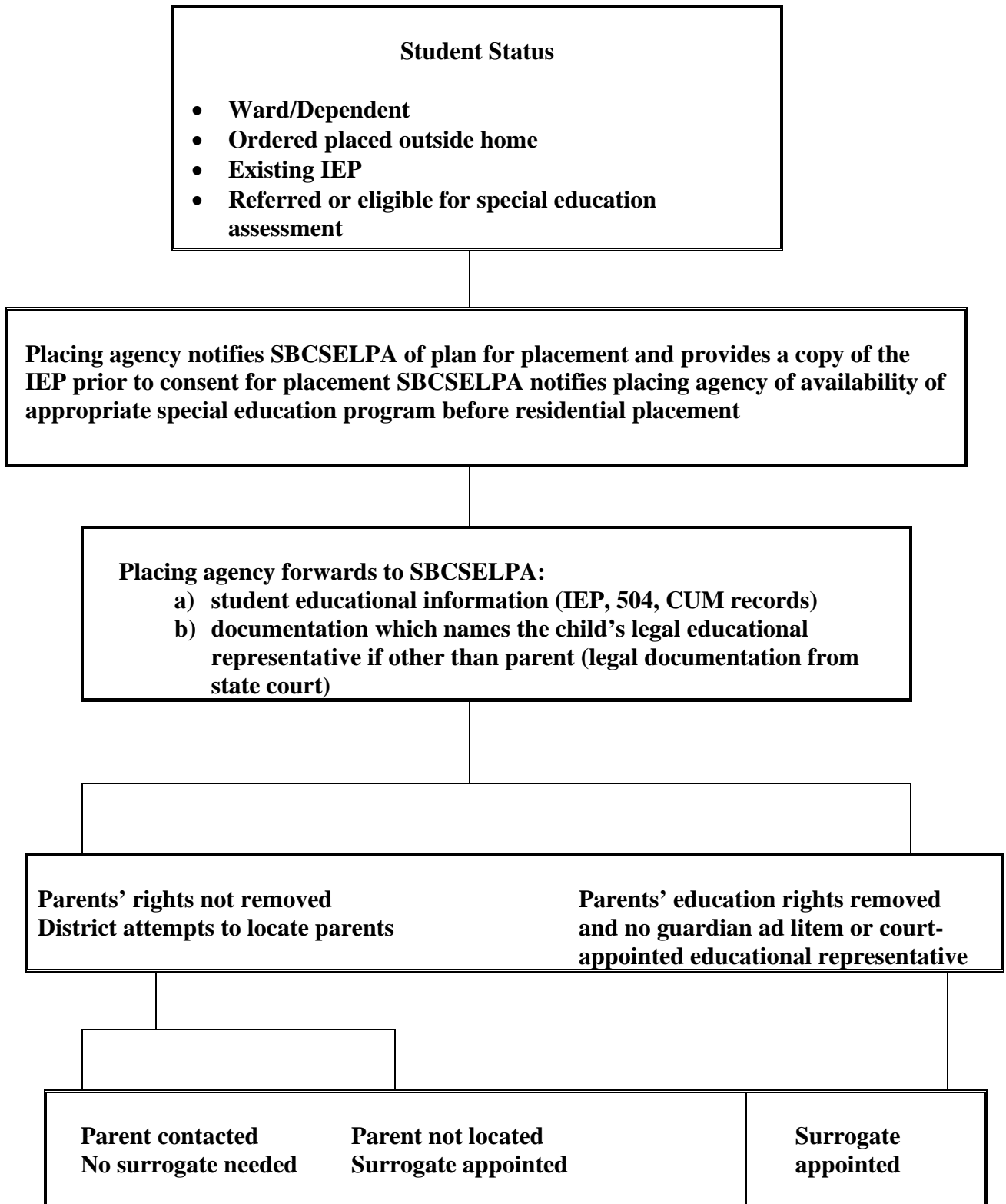
Surrogate Volunteer Procedural Guidelines

This section contains information you should know about...

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Some of the information in this chapter was taken from: *Surrogate Parents in California Special Education*, An Overview from Resources in Special Education.

SURROGATE VOLUNTEER APPOINTMENT PROGRAM GUIDELINES



SURROGATE VOLUNTEER DEFINITION

A SURROGATE VOLUNTEER IS DEFINED AS FOLLOWS:

- An adult appointed by the district to represent a student whenever the student does not have parental representation and has been referred for, or is currently being served in, special education.

PARENT DEFINITION

A PARENT IS DEFINED AS THE FOLLOWING:

- Any person having legal custody of a child.
- Any adult pupil for whom no guardian or conservator has been appointed.
- A person acting in the place of a natural or adoptive parent including a grandparent, stepparent or other relative with whom the child lives.
- A foster parent if the natural parents' authority to make educational decisions on the child's behalf has been specifically limited by court order, the foster parent has an ongoing, long-term parental relationship with the child, the foster parent is willing to make decisions required of parents regarding special education and the foster parent has no interest that would conflict with the interests of the child.
- Any person appointed as a Surrogate Volunteer.

Parent does not include the state or any political subdivision of government.

ADMINISTRATION OF THE PROGRAM

THE SBCSELPA WILL BE RESPONSIBLE FOR THE FOLLOWING ADMINISTRATIVE TASKS:

- Developing a training program for surrogate volunteers.
- Issuing a SELPA, *Surrogate Volunteer Training Certificate* (SELPA23) to candidates who successfully complete the training and pass the Post Test
- Developing forms from advisement of State SELPA.
- Maintaining a master list of Surrogate Volunteers.

THE DISTRICTS WILL BE RESPONSIBLE FOR THE FOLLOWING ADMINISTRATIVE TASKS:

- Notifying and asking placing agencies in the County to indicate the parent's location and educational rights status using SELPA form, *Notification of Placement of Individual with Exceptional Needs in Licensed Children's Institution or Foster Family Home* (SELPA20).
- Determining student status and assigning a Surrogate Volunteer when appropriate.
- Recruiting Surrogate Volunteers.
- Processing Information/Registration Forms for Surrogate Volunteers.
- Maintaining a record of the name of the surrogate volunteer assigned to each individual with disabilities who requires a surrogate.
- Monitoring performance of Surrogate Volunteers using SELPA form, *Surrogate Volunteer Evaluation* (SELPA25).

<p>WHEN TO APPOINT SURROGATE VOLUNTEERS</p>
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SURROGATE VOLUNTEERS WILL BE APPOINTED UNDER THE FOLLOWING CIRCUMSTANCES:

- Parent cannot be located or a court has removed the parent's educational rights to represent the child.
- If a student is a dependent or ward of the court, the specific information provided by the agency representative shall be deemed as documentation that the parental rights to make educational decisions have been removed or limited by the court.
- If parental education rights have been specifically removed by the court, the student shall be assigned a Surrogate Volunteers, unless the judge overseeing the child's care has appointed an individual to act as a surrogate parent and that individual meets the requirements to legally be a surrogate parent.
- If a student is a dependent or ward of the court, the specific information provided by the agency representative shall be deemed as documentation that the parental rights to make educational decisions have been removed or limited by the court.
- If parental education rights have been specifically removed by the court, the student shall be assigned a Surrogate Volunteer, unless the judge overseeing the child's care has appointed an individual to act as a surrogate parent and that individual meets the requirements to legally be a surrogate parent.

- If one parent or legal guardian retains the right to make educational decisions on the student's behalf, and the parent or legal guardian is willing to represent the student, **no** Surrogate Volunteer will be assigned.

NOTE: If reasonable efforts have resulted in a failure to locate the parent or to obtain parent status notification from the placing agency, an interim Surrogate Volunteer may be appointed. This may be necessary to facilitate timely IEP review and/or parent consent for special education assessment. Ongoing efforts to determine student status should, however, continue.

IMPORTANT

A local education agency shall make reasonable efforts to ensure the appointment of a surrogate parent not more than 130 days after there is a determination by the local education agency that a child needs a surrogate parent.

DETERMINING STUDENT STATUS

The districts will be responsible for determining the student's status. The basis for making a decision to appoint Surrogate Volunteers will be determined by the absence of any adult who has the officially recognized right to be the educational representative of that child.

Each district should attempt to locate parents of students who retain education rights. In the event that they cannot be located, a **reasonable search** will be deemed to have been conducted when the district has sent one letter to last known address and has made one follow-up phone call.

Status of students already enrolled will be determined by the program operator. "New" incoming student's status will be determined by the district of residence.

The following steps are recommended for determining student status:

Class lists can be used to identify the following 4 groups of students who **do not** require surrogate volunteers:

1. All special education students who reside with parent.
2. All special education students who have a parent or guardian.
3. All voluntary placements where parent retains educational rights.
4. All non-conserved students who are 18 years or older. (If conserved, conservator may have been given rights, as specified by the court.)

Records of the special education students who do not fall within the above categories should be further analyzed to determine the need for surrogate volunteer appointment. Information that needs to be addressed is parent name, date of birth, residential placement, and dependency status, status of parent educational rights and location of parent. If new student records are incomplete, the placing agency should be notified that the student could not be placed in an educational program until the following information has been received:

Copy of current IEP

Designation of status of parents

Identity of the individual responsible for representing the educational interests of the child.

The placing agency should also be requested to provide copies of current psychological and other pertinent assessment reports, if available.

The placing agency is responsible for notifying the SBCSELPA prior to placing a school-age child with exceptional needs in a Licensed Children's Institution or Foster Family Home within the Special Education Local Plan Area. This step is to take place prior to placement in order to determine whether the requirements in the written IEP can be met.

SELECTING SURROGATE VOLUNTEERS

Persons selected as surrogate volunteers *shall*:

1. Show that they do not have any conflict of interest. Districts should consider the following factors when determining if there is a conflict of interest:
 - Is the person employed by a district or any public agency involved in the education or care of the child?
 - Does the person hold a position that might restrict or bias his/her ability to represent the child's educational needs?
 - Does the person hold a position that might subject his/her to administrative influence or reprimand for acting as the child's educational representative?
 - Does the person have interests that might restrict or bias his or her ability to advocate for all of the services required to ensure a free appropriate public education for an individual with exceptional needs?
2. Have knowledge and skills that ensure adequate representation of the child;
3. Not be an employee of a public or private agency involved in the education or care of the child.

Social workers, probation officers, employees of any public agencies or group homes and LCI's may not act as Surrogate Volunteers if they are employed by an agency involved in the education or care of the child. Foster parents may be surrogate volunteers if there is not a conflict of interest. Districts can use the SELPA form, *Educational Representative (Surrogate Volunteer) Information/Registration* (SELPA33), in the forms section of this chapter to assist in making a determination if there is a conflict of interest.

As far as practical, a surrogate parent should be culturally sensitive to his or her assigned child.

When appointing a Surrogate Volunteer the district 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 the child is moved from the home of the relative caretaker or foster parent who has been appointed as a surrogate parent, the local education agency shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the child.

RECRUITING SURROGATE VOLUNTEERS

Each district will recruit its own Surrogate Volunteers based on certification and recommendation by SBCSELPA. The district administrator will send a list of potential Surrogate Volunteers to the SBCSELPA. The SBCSELPA will maintain an updated master list of trained or potential Surrogate Volunteers. Surrogate Volunteers essentially belong to the district that did the recruiting. Use of a Surrogate Volunteers by another district will occur only by mutual agreement of both district administrators.

The following resources are recommended for locating potential Surrogate Volunteers:

- Local school parent associations
- Community Advisory Committee (CAC)
- Retired Teachers Associations
- Rotary, Lions, Kiwanis
- Big Brother, Big Sisters, Foster Grandparents
- American Association of University Women (AAUW)
- University graduate students
- Parents/foster parents of other special education students

ROLE OF SURROGATE VOLUNTEERS

The surrogate parent may represent the child in matters relating to special education and related services, including the identification, assessment, instructional planning and development, educational placement and revising the IEP, and in all other matters relating to the provision of free appropriate public education of the child. This representation includes providing written consent to the IEP including non-emergency medical services, AB 3632/2726 mental health services and occupational or physical therapy services provided through California Children Services.

The surrogate parent is required to meet with the child at least one time. He/she may also meet with the child on additional occasions, attend the child's IEP Team meetings, review the child's educational records, consult with persons involved in the child's education and sign any consent relating to IEP purposes.

The surrogate parent shall comply with all federal and state laws pertaining to confidentiality of student records and shall use discretion in any necessary sharing of information with appropriate individuals for the purpose of furthering the interests of the child.

LIABILITY

Surrogate Volunteers are held harmless when acting in their official capacity except in acts or omissions found to have been wanton, reckless, or malicious (Government Code 7579.5(l))

ACCESS TO RECORDS

The Surrogate Volunteers will be able to review the student's education records at the school or district. They will be given a copy of the student's current IEP. At the end of their term, the district will request that all copies of IEPs be returned to the IEP chairperson.

TRAINING SURROGATE VOLUNTEERS

The Santa Barbara County SELPA will conduct training and ongoing consultation with potential Surrogate Volunteers in the following areas:

- Surrogate Parent Law
- Cultural Sensitivity
- IEP process

- Team Process/Team Building
- Procedural Safeguards
- Surrogate Volunteer Evaluation

A SELPA, *Surrogate Volunteer Training Certificate* (SELPA23), will be issued to persons who successfully pass the SELPA *Surrogate Volunteer Post Test* (SELPA26). (See forms section of this chapter for sample certificate and Post Test)

TERM OF SURROGATE VOLUNTEER APPOINTMENT

A Surrogate Volunteer's term of appointment will be for one academic year or if applicable until the end of the extended school year session. The district will be responsible for monitoring the Surrogate Volunteers and determining if the term of appointment should be renewed. A Surrogate Volunteer's appointment will be automatically terminated at the end of each school year or for any of the following reasons:

- Conflict of interest.
- Student is no longer eligible for special education.
- Another responsible adult is appointed to make educational decisions for the student.
- Surrogate Volunteer does not perform duties adequately, as per the SELPA form, *Surrogate Volunteer Evaluation* (SELPA25).
- Parent is located and/or
- The student reaches the age of 18 unless the student is deemed by a court to be incompetent.

If the student reaches age 18 and the student chooses not to make educational decisions for himself or herself, the surrogate may continue to act on the student's behalf.

Any parent or guardian who maintains the right to make educational decisions for his or her child may designate another adult to represent the interests of the child for purposes of educational and related services. In such cases, the SELPA form, *Appointment of Educational Representative* (SELPA22), should be used.

WHAT FORMS SHOULD BE USED

The following forms should be used as part of the Surrogate Volunteer appointment, training and evaluation process:

SELPA52: Memo to Licensed Children's Institutions (LCI's) and Foster Family Homes (FFH's)

SELPA53: Memo to Agencies Requesting Specific Information

SELPA54: Request for information from Non-educational Agency

SELPA20: Notification of Placement of Individual with Exceptional Needs in Licensed Children's Institutions or Foster Family Homes

SELPA33: Educational Representative/Surrogate Volunteer Information/Registration (E)

SELPA26: Surrogate Volunteer – Post Test (E)

SELPA23: Surrogate Volunteer Training Certificate (E)

SELPA24: Appointment/Acceptance of Surrogate Volunteer (E)

SELPA25: Surrogate Volunteer Evaluation (E)

SELPA22: Appointment of Educational Representative (E & S)

NOTE

E = <i>ENGLISH</i> and S = <i>SPANISH</i>

Appendix A references the forms highlighted throughout this handbook. SELPA and Supplemental IEP forms can be found on our county's on-line **SIRAS Systems**, www.sirassystems.org.

PROCEDURAL HANDBOOK

SECTION

10

Expulsion Process for Special Education Students Under IDEA and the California Education Code

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Updated June 1, 2020

STEPS IN EXPULSION PROCESS FOR SPECIAL EDUCATION STUDENTS UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AND THE CALIFORNIA EDUCATION CODE

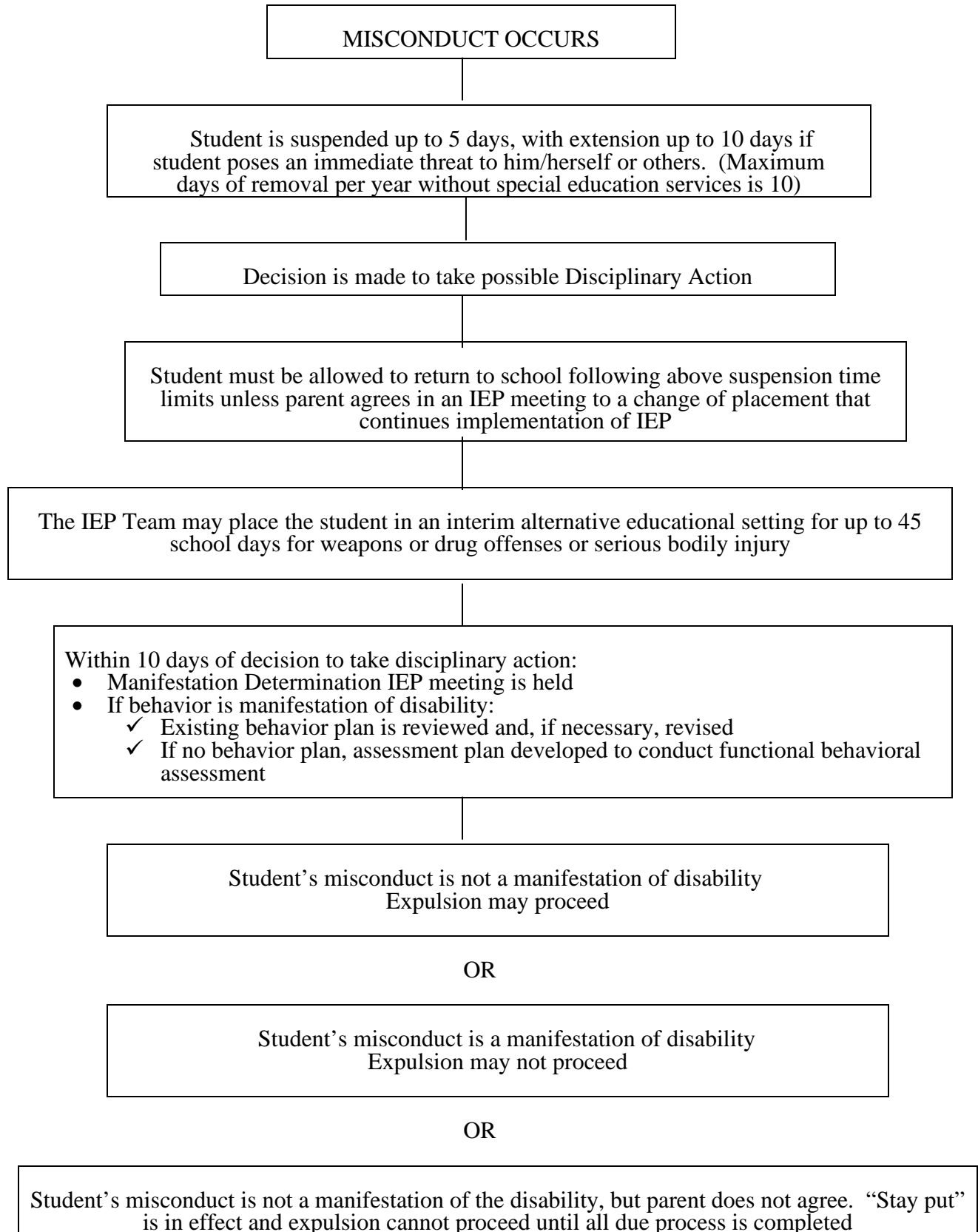
1. Special education students may be suspended for up to 10 consecutive school days when the decision is made to consider expulsion. Under the California Education Code, a 5-day suspension may be extended to 10 consecutive school days in cases when expulsion has been recommended following a meeting in which the pupil and the pupil's parent, guardian, or surrogate is invited to participate where it is determined that the presence of the student would cause a danger to persons or property or a threat of disrupting the educational process.
2. In all instances, educational services must be provided to any special education student once the student has been suspended for 10 days during a school year.
3. If a special education student is being considered for expulsion and the maximum allowable days of suspension in the school year has already been reached, then the student must either be allowed to return to school or moved to another appropriate special education setting through the IEP process and with parent consent.
4. If the student is in possession of a weapon at school or at a school function or knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function, or inflicts serious bodily injury upon another individual while at school or on school premises or at a school function, the IEP Team may place the student in an interim alternative educational setting for up to 45 school days. The student may remain in the interim alternative educational setting for up to the full 45 days even if the IEP Team determines that the misconduct was a manifestation of the disability. Parents may request an expedited due process hearing to challenge the appropriateness of the interim alternative educational setting.
5. A hearing officer may order a change in placement for a special education student to an interim alternative educational setting for up to 45 school days if the hearing officer determines that maintaining the student's current placement is substantially likely to result in injury to the student or to others.
6. Any interim alternative educational setting must be selected so as to enable the student to continue to participate in the general curriculum and to progress toward meeting the IEP goals. The student must also receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications designed to address the behavior violation so that it does not recur.
7. Parents must be notified of the decision to pursue expulsion of a special education student and of all procedural safeguards no later than the date on which the decision to take that action is made.
8. Within 10 school days of any decision to take disciplinary action involving expulsion, the Local Education Agency, the parent, and relevant members of the IEP Team (as determined by the LEA and the parent) shall meet in order to determine whether the misbehavior was a manifestation of the disability (manifestation determination).

9. In conducting the manifestation determination, the Team shall review all relevant information in the student's file including:
 - The student's IEP
 - Any teacher observations
 - Any relevant information provided by the parents.
10. The Team must then determine whether, in relationship to the behavior subject to disciplinary action:
 - The conduct in question was caused by, or had a direct and substantial relationship to, the student's disability, or
 - The conduct in question was the direct result of the Local Education Agency's failure to implement the IEP.

If the LEA, the parent, and relevant members of the IEP Team determine that either of the above conditions is applicable in the case of the disciplinary incident, the conduct shall be determined to be a manifestation of the student's disability.

11. If it is determined that the conduct in question was a manifestation of the student's disability, the IEP Team shall:
 - a. conduct a functional behavioral assessment and implement a behavior intervention plan, if the student did not have a behavior intervention plan in place prior to the misbehavior or
 - b. review any existing behavior intervention plan and modify it, as necessary, to address the behavior.
12. When it has been determined that a student's misbehavior was a manifestation of the disability, the expulsion process may not proceed. In such cases, the student must be returned to his or her prior placement, unless the parent and the LEA agree to a change of placement as part of the modification of the behavior intervention plan.
13. If the result of the IEP Team manifestation determination is that the misbehavior of the student was not a manifestation of the student's disability, the relevant disciplinary procedures applicable to all students may be applied to the special education student in the same manner in which they would be applied to students without disabilities except that provision of appropriate special education services must continue.
14. If the student's parent disagrees with a determination that the misbehavior was not a manifestation of the student's disability or with any decision regarding placement, the parent may request a due process hearing. In such cases, the student must remain in his/her current educational placement until the conclusion of the due process proceedings, or, for placement interim alternative education settings, until the expiration of the disciplinary placement, whichever occurs first, unless the parent and district agree otherwise.
15. If the district recommends expulsion for a special education student, the student's special education and disciplinary records shall be transmitted for consideration by the person or persons making the final determination regarding the disciplinary action.

SPECIAL EDUCATION PRE-EXPULSION PROCEDURES FLOW CHART



6/28/06

Protections for Students Not Yet Eligible for Special Education

A student who has not been identified as an individual with disabilities pursuant to the IDEA and who has violated the code of conduct of the LEA may assert the procedural safeguards of the IDEA only if the LEA had knowledge that the student was disabled before the behavior occurred.

The LEA shall be deemed to have knowledge that the student had a disability if one of the following conditions exists:

1. The parent/guardian has expressed concern in writing, to supervisory or administrative personnel, or to a teacher of the student that the student is in need of special education or related services; and
2. The parent/guardian has requested an initial evaluation of the student for special education pursuant to federal law; or
3. The teacher of the student or other LEA personnel has expressed specific concern about a pattern of behavior demonstrated by the student to the Director of Special Education of the LEA or to other supervisory personnel.

The LEA would be deemed to not have knowledge as specified in items 1-3 above if the parent/guardian has not allowed an initial evaluation of the student or has refused services, or if the student has been evaluated and it was determined that the student was not a child with a disability.

If it is determined that the LEA did not have knowledge that the student was disabled prior to taking disciplinary action against the student, then the student shall be disciplined in accordance with procedures established for students without disabilities.

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities.

WHAT FORMS SHOULD BE USED

The following forms should be used during the pre-expulsion process for special education students.

- SELPA36:** Notice of Decision to Take Disciplinary Action and Notice of Assessment
This sample letter may be used as the format for sending written notification the parents of a special education student regarding the notice of decision to take disciplinary action and the steps that will follow.
- NC 3:** Prior Written Notice and Assessment Plan (E & S)
The Assessment Plan form should indicate the areas to be assessed as part of any necessary assessments and behavior assessment if the student does not already have a behavior plan.
- IEP 15:** Consent to Bill Medical (E &S)
- NC 1:** Notice of Rights and Safeguards
A copy of the Parental and Adult Students' Rights and Procedural Safeguards for Special Education must be sent to the parent along with the Assessment Plan.
- NC 6A:** Notice of Meeting (E & S)
The Parent/Guardian Notification of Meeting & Intent to Participate form is to be used to notify the parent of the date time and location of the Manifestation Determination IEP meeting.
- SUPP26:** IEP Team Checklist for Special Education Discipline – Manifestation Determination (E & S)
The IEP Team Checklist is to be used by the IEP Team to document its conclusions regarding the Manifestation Determination.
- IEP:** IEP Forms (E & S)
SIRAS IEP forms should be used, as needed, to complete the Manifestation Determination IEP meeting. At minimum, the SIRAS: Consent and Signature form must be used to indicate who participated in the meeting and whether the parent agreed with the IEP Team's Manifestation Determination
- IEP 6G-1:** Behavior Intervention Plan 6 page or 2 page. (E & S)
This form is to be used to develop the support plan for behavior interfering with learning of students or peers within 60 days of signed parental consent to conduct a functional behavioral assessment.
- SELPA47:** Functional Behavior Assessment Summary (E)
This form is to be used when conducting a functional behavioral assessment.

<p>E = <i>ENGLISH</i> and S = <i>SPANISH</i></p>

Appendix A references the forms highlighted throughout this handbook. SELPA and Supplemental IEP forms can be found on our county's on-line *SIRAS Systems*, www.sirassystems.org.

PROCEDURAL HANDBOOK

SECTION

11

Procedures Regarding Confidentiality of Student Information/Privacy Rights

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Updated June 1, 2020

PROCEDURES REGARDING CONFIDENTIALITY OF STUDENT INFORMATION/PRIVACY RIGHTS

Definitions

a. "Parent" means a natural parent, an adopted parent, or legal guardian. If the parents are divorced or legally separated, only a parent having legal custody of the pupil may challenge the content of a record pursuant to E.C. Section 49070, offer a written response to a record pursuant to E.C. Section 49072, or consent to release records to others pursuant to E.C. 49075, that either parent may grant consent if both parents have notified, in writing, the school or school district that an agreement has been made. If a pupil has attained the age of 18 years or is attending an institution of postsecondary education, the permission or consent required of, and the rights accorded to, the parents or guardian of the pupil shall thereafter only be required of, and accorded to, the pupil. (E.C. 49061)

b. "Pupil record" means any item of information directly related to an identified pupil, or other than directory information, which is maintained by a school district or required to be maintained by an employee in the performance of his or her duties whether recorded by handwriting, print, tapes, film, microfilm or other means.

"Pupil record" does not include informal notes related to a pupil compiled by a school officer or employee that remain in the sole possession of the maker and are not accessible or revealed to any other person except a substitute. For purposes of this subdivision, "substitute" means a person who performs the duties of the individual who made the notes on a temporary basis, and does not refer to a person who permanently succeeds the maker of the notes in his or her position. (E.C. 49061)

c. "Access" means a personal inspection and review of a record or an accurate copy of a record, or receipt of an accurate copy of a record, an oral description or communication of a record or an accurate copy of a record and a request to release a copy of any record. (E.C. 49061)

Persons with Access to Student Records

Persons, agencies or organizations specifically granted access rights pursuant to state law should have access without written parental consent or judicial order. In addition, parental consent is not required when information is shared with other persons within educational institutions, agencies or organizations obtaining access, as long as those persons have a legitimate educational interest in the information. (E.C. 49076)

The following persons or agencies shall have absolute access to any and all student records in accordance with state law:

1. Natural parents, adoptive parents, or legal guardians of students younger than age 18 (E.C. 49069)
 - a. Access to student records and information shall not be denied to a parent because he/she is not the child's custodial parent. (Family Code 3025)

2. Adult students age 18 or older or students under the age of 18 who attend a postsecondary institution, in which case the student shall alone exercise rights related to his/her student records and grant consent for the release of records (E.C. 49061; 34 CFR 99.5)
3. Those so authorized in compliance with a court order or lawfully issued subpoena (E.C. 49077)

In addition, the following persons or agencies shall have access to those particular records that are relevant to the legitimate educational interests of the requester: (E.C. 49076)

1. Natural parents, adoptive parents or legal guardians of a dependent student age 18 or older.
2. Students 16 or older or who have completed the 10th grade.
3. School officials and district employees.
4. Members of a school attendance review board, and any volunteer aide age 18 or older who has been investigated, selected and trained by such a board to provide follow-up services to a referred student.
5. Officials and employees of other public schools or school systems where the student intends or is directed to enroll, including local, county or state correctional facilities where educational programs leading to a high school graduation are provided.
6. Federal, state and local officials, as needed for program audits or compliance with law.
7. Any district attorney who is participating in or conducting a truancy mediation program or participating in the presentation of evidence in a truancy petition.
8. A prosecuting agency for consideration against a parent/guardian for failure to comply with compulsory education laws.
9. Any probation officer or district attorney 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.
10. Any judge or probation officer for the purposes of conducting a truancy mediation program or for purposes of presenting evidence in a truancy petition. (W & I Code 681)
A school district releasing pupil information to a judge or probation officer pursuant to this paragraph shall inform, or provide written notification to, the parent or guardian of the pupil within 24 hours of the release of the information.
11. Any county placing agency for the purpose of completing a health and education summary (W & I Code 16010) or for the purpose of fulfilling educational case management responsibilities required by the juvenile court or by law and to assist with the school transfer or enrollment of a pupil.

The Superintendent or designee may release information from student records to the following: (E.C. 49076)

1. Appropriate persons in an emergency if the health and safety of a student or other persons are at stake.
2. Agencies or organizations in connection with a student's application for or receipt of financial aid.
3. Accrediting associations.
4. Under the conditions specified in Education Code 49076, organizations conducting studies on behalf of educational institutions or agencies for the purpose of developing, validating or administering predictive tests, administering student aid programs or improving instruction.
5. Officials and employees of private schools or other school systems where the student is enrolled or intends to enroll.
6. County elections officials for the purpose of identifying students eligible to register to vote and offering such students an opportunity to register.

Persons, agencies, or organizations not afforded access rights pursuant to state law may be granted access only through written permission of the parent/guardian, adult student or by judicial order. (E.C. 49075)

Any person or agency granted access is prohibited from releasing information to another person or agency without written permission from the parent/guardian or adult student. (E.C. 49076)

Procedures for Access

Student records shall be maintained in a central file at the school attended by the student or, when records are maintained in different locations, a notation shall be placed in the central file indicating where other records may be found. Parents/guardians shall be notified of the location of student records if not centrally located. (E.C. 49060; Title 5 CCR 433)

Within five days following the date of a request, an authorized person shall be granted access to inspect, review and obtain copies of student records during regular school hours. (E.C. 49069, Title 5 CCR 431)

Qualified certificated personnel shall be available to interpret records when requested. (E.C. 49069)

The custodian of the records shall be responsible for the security of student records and shall assure that access is limited to authorized persons. (Title 5 CCR 433)

Prior to disclosing a record pursuant to a court order, the Superintendent or designee shall, unless otherwise instructed by the order, give the parent/guardian or adult student at least three days' notice of the name of the requesting agency and the specific record requested if lawfully possible within the requirements of the judicial order. (Title 5 CCR 435)

Duplication of Student Records

To provide copies of any student record, the district shall charge a reasonable fee not to exceed the actual cost of furnishing the copies unless such a fee would effectively prevent a parent from exercising his or her right to inspect and review those records, in which case no fee may be charged. No charge shall be made for providing up to two transcripts or up to two verifications of various records for any former student. No charge shall be made to locate or retrieve any student record. (E.C. 49065, 34 CFR 300.566)

Access Log

A log shall be maintained for each student's record that lists all persons, agencies or organizations requesting or receiving information from the records and the legitimate educational interest of the requester. (E.C. 49064)

In every instance of inspection by persons who do not have assigned educational responsibility, the school custodian of records shall make an entry in the log indicating the record inspected, the name of the person granted access, the reason access was granted, and the time and circumstances of inspection. (Title 5 CCR 435)

The log does not need to include: (E.C. 49064)

1. Parents/guardians or adult students.
2. Students 16 years of age or older who have completed the 10th grade.
3. Parties obtaining district-approved directory information.
4. Parties who provide written parental consent, in which case the consent notice shall be filed with the record pursuant to Education Code 49075.
5. School officials or employees who have legitimate educational interest.

The log shall be accessible only to the parent/guardian, adult student, dependent adult student, and student age 16 years or older or who has completed the 10th grade, custodian of records, and certain state/federal officials. (E.C. 49064, Title 5 CCR 432)

Challenging Student Records

The custodial parent/guardian of any student may submit to the Superintendent or designee a written request to correct or remove from his/her child's records any information concerning the child which he/she alleges to be any of the following: (Education Code 49070)

1. Inaccurate
2. An unsubstantiated personal conclusion or inference
3. A conclusion or inference outside of the observer's area of competence
4. Not based on the personal observation of a named person with the time and place of the observation noted
5. Misleading
6. In violation of the privacy or other rights of the student

When a student grade is challenged, the teacher who gave the grade shall be given an opportunity to state orally, in writing, or both, the reasons for which the grade was given. Insofar as practicable, he/she shall be included in all discussions related to any grade change. In the absence of clerical or mechanical error, fraud, bad faith or incompetency, the student's grade as determined by the teacher shall be final. (Education Code 49066)

Within 30 days of receiving a request to correct or remove information from a record, the Superintendent or designee shall meet with the parent/guardian and with the employee (if still employed) who recorded the information in question. The Superintendent shall then sustain or deny the allegations. (Education Code 49070) If the parent/guardian's allegations are sustained, the Superintendent shall order the correction or removal and destruction of the information. (Education Code 49070)

If the Superintendent denies the allegations, the parent/guardian may write within 30 days to appeal the decision to the Governing Board. Within 30 days of receiving the written appeal, the Board shall meet in closed session with the parent/guardian and the employee (if still employed) who recorded the information in question. The Board shall then decide whether or not to sustain or deny the allegations. If it sustains any or all of the allegations, the Superintendent shall immediately correct or remove and destroy the information from the student's records. (Education Code 49070)

The decision of the Board shall be final. If the decision of the Superintendent or Board is unfavorable to the parent/guardian, the parent/guardian shall have the right to submit a written statement of objections. This statement shall become a part of the student's record. (Education Code 49070)

Both the Superintendent and the Board have the option of appointing a hearing panel to assist in making the decision. The hearing panel may be used at the discretion of the Superintendent or the Board provided that the parent/guardian consents to releasing record information to panel members. (Education Code 49070, 49071) The right to challenge a record becomes the sole right of the student when the student becomes 18 or attends a postsecondary institution. (Education Code 49061)

Recordings

Recordings of the proceedings of Individualized Education Program Team meetings are considered pupil records and are subject to confidentiality requirements of federal laws and regulations. Parents or guardians have the right to: (a) inspect and review the recordings; (b) request that the recordings be amended if the parent or guardian believes that they contain information that is inaccurate, misleading, or in violation of the rights of privacy or other rights of the child; and (c) challenge, in a hearing, information that the parent or guardian believes is inaccurate, misleading, or in violation of the individual's rights of privacy or other rights.

PROCEDURAL HANDBOOK

SECTION

12

Alternative Dispute Resolution (ADR)

This section contains information you should know about...

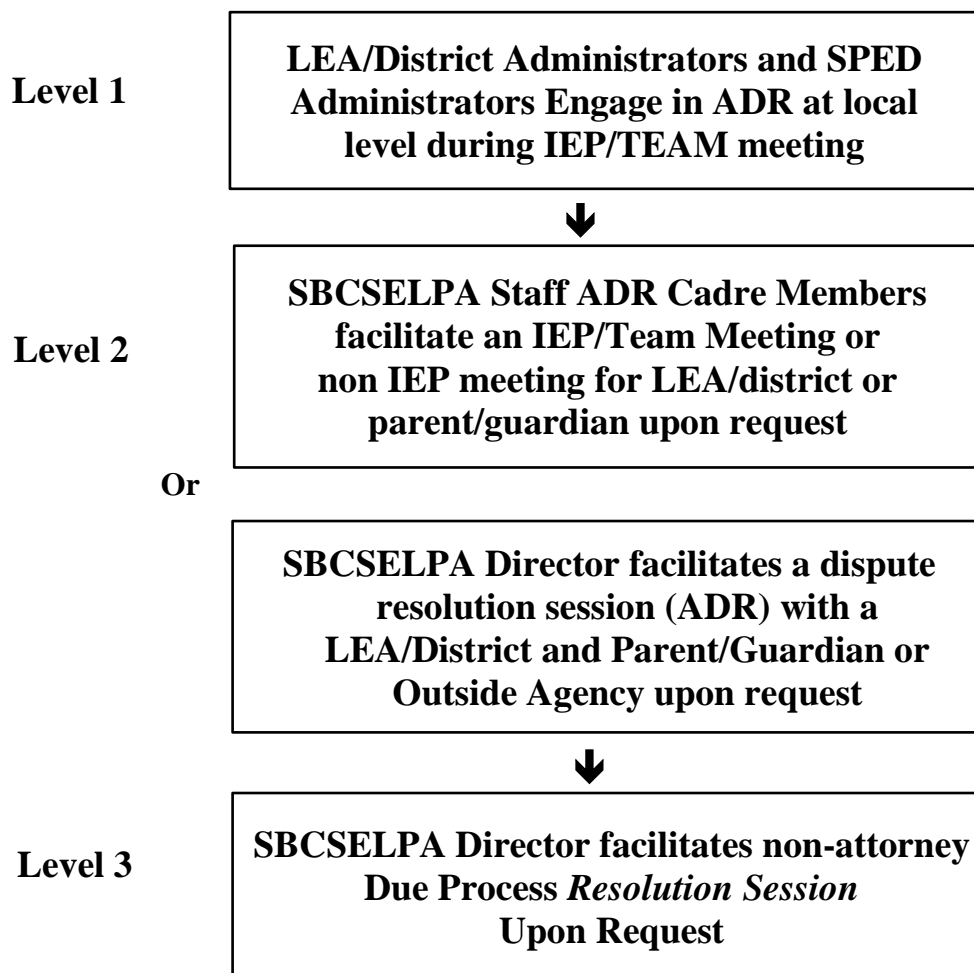
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Updated June 1, 2020

OVERVIEW OF ALTERNATIVE DISPUTE RESOLUTION PROVIDED BY SBCSELPA

It is the goal of the SBCSELPA and member LEAs/districts to promote collaborative relationships with parents/guardians to ensure that students with disabilities receive a free and appropriate education (FAPE).

The SBCSELPA has made available to member LEAs, parents/guardians, and other agencies alternatives for resolving disputes. Utilizing the process of Alternative to Dispute Resolution (ADR) saves time and money by helping districts and parents/guardians avoid the need to retain costly attorneys. ADR also helps teams avoid due process and state complaints, promoting ongoing collaborative relationships.



TYPES OF ALTERNATIVE DISPUTE RESOLUTION (ADR) SERVICES

Facilitated IEP Meeting with Trained ADR Cadre Member:

Facilitation is a process in which a trained and impartial person who is not a member of the IEP team assists the IEP team to communicate effectively and work towards agreements with which the members can all feel comfortable. The facilitator is not a decision maker or an advisor. Facilitation can be used whenever an IEP team wants to improve the effectiveness of communication. When conflicts have developed, facilitation can help defuse tensions and restore trust and more positive working relationships.

Facilitated Non-IEP Meeting with Trained ADR Cadre Member:

A Facilitated Non-IEP Meeting is similar to a Facilitated IEP Meeting in that a trained and impartial person assists the group to communicate effectively and work towards resolution. The difference is that the meeting is not a formal IEP meeting. There are many reasons why one may choose a Non-IEP meeting over an IEP meeting. Some of these reasons may include but are not limited to programming, staffing, and compliance.

ADR Non-IEP Meeting with SELPA Director:

A parents/guardians or LEA/District administrator may make a request to the SBCSELPA Director to meet to resolve a dispute. As a complaint agency, there are times when the SBCSELPA Director may be more directive than would be appropriate as an IEP facilitator to help parties determine what is or is not required under state and federal regulations or the SBCSELPA Local Plan. Examples of when a SBCSELPA ADR meeting may be needed are: 1) complaint filed at SBCSELPA by a parent/guardian or community member/agency, a request from the California Department of Education or CDE Complaint Process, or a *Resolution Session* required as part of a due process filing.

Co-Facilitation:

Co-facilitation is when two people jointly facilitate a meeting.

Models of Practice:

There are various models of practice that can be employed during facilitation.

Evaluative

This model is directive and provides advice and authority. The goal is settlement.

Facilitative

This model is supportive as it guides a team through probes and queries with purpose. The facilitator helps the team to generate options and the goal is a productive dialogue.

Transformative

This model is reflective and follows the discussion while asking questions without providing direction. The facilitator does not generate options for the team, rather the team does this themselves. The goal of this model is empowerment and recognition

IEP AND NON-IEP FACILITATORS

Role and Expectations of IEP and Non-IEP Facilitators:

The role of the facilitator is to be a neutral, impartial party to the process. Please refer to *IEP and Non-IEP Facilitators Code of Ethics (SELPA89)*.

Background and Training Required for SBCSELPA IEP and Non-IEP Facilitators:

All facilitators will complete 18 hours of mediation coursework. Optional resources for coursework are the following: <https://www.cadreworks.org> , Nick Martin with Center for Accord, and Key2Ed.

Follow-up Training:

Facilitators will participate in continuing professional development for a minimum of 6 additional hours yearly as well as attend quarterly cadre meetings.

Confidentiality:

All meetings are confidential, and the facilitator will maintain the confidentiality of all participants in the process. This means that what is discussed in the meeting will not be repeated unless known from other sources or specifically authorized by the parties involved. There are exceptions to confidentiality which are when one of the parties makes a genuine threat of physical harm and/or child or elder abuse. Facilitator will not voluntarily testify or report on anything said during this facilitated meeting UNLESS one of the participants makes a threat of physical harm or reveals information of child abuse or elder abuse.

Potential Conflicts of Interest:

Facilitators may possibly have a conflict in interest in a case. If a conflict of interest is established and all parties are aware and agree, then the facilitator may still facilitate the meeting. If the conflict is such that they cannot take the case, then a different facilitator will be provided.

Available Options:

- IEP Facilitation
Deby Geiger, Santa Barbara County Education Office
Jennifer Connolly, Santa Barbara County SELPA
Patty Moore, Alpha Resource Center
Cathy Breen, Santa Barbara County SELPA
Amy Gillespie, Carpinteria Unified School District
Beverly Sherman, Santa Ynez Valley Consortium
Jamie Carpio, Santa Barbara Unified School District
Dr. Karla Curry, Carpinteria Unified School District
- ADR Non-IEP meeting
Dr. Ray Avila, Executive Director Santa Barbara County SELPA

Use of SBCSELPA Cadre Facilitators Outside of SBCSELPA:

Individual LEA/District's may contract with one of the facilitators outside of the SBCSELPA process. Please notify the SBCSELPA of any contracts.

Dissemination of Information:

A flow chart for positive school communication will be created to inform of ADR services. Information regarding ADR will be posted on the SBCSELPA website as well as through email blasts to LEAs.

TIME AND SCHEDULING

Required Notice:

It is recommended that requests for facilitation be received at least 10 days prior to a scheduled meeting. Exceptions to this rule can be made in extenuating circumstances.

Time Allotment for Each Facilitated IEP or Non-IEP meeting:

Each meeting will be allotted 3 hours of facilitation time and a total of 5 hours per case. Cadre facilitators will be responsible for logging hours spent on each case and will inform district and SBCSELPA of the total hours per case.

REQUESTING A FACILITATED IEP OR NON-IEP MEETING

Who Can Request a Facilitated IEP or Non IEP Meeting:

- Adult Student
- Parents, Guardians
- LEA/Districts

How to Make a Request for a Facilitated IEP or Non-IEP Meeting:

Contact SBCSELPA Clerical Assistant either by phone (805) 683-1424, or by completing the *ADR Facilitated Meeting Intake and Documentation Form (SELPA86)*. The intake process includes collecting background information as well as seeking agreement from both parties to participate in a facilitated meeting. After agreement to participate is reached, the SBCSELPA Clerical Assistant will forward the *ADR Facilitated Meeting Intake and Documentation Form (SELPA86)* to the SBCSELPA Director for review.

Assignment IEP or Non-IEP Meeting Facilitators

The SBCSELPA Director will review the request and determine if it is appropriate for facilitation through SBCSELPA. If appropriate, SBCSELPA Director will assign a SBCSELPA ADR Facilitator based on availability, geographical locations, and issues in the case. Once a facilitator is assigned, the SBCSELPA Director will provide this information to the SBCSELPA Clerical Assistant who will then forward *ADR Facilitated Meeting Intake and Documentation Form (SELPA86)* to the assigned ADR Facilitator. The ADR Facilitator will then contact both parties within two business days of receipt of *ADR Facilitated Meeting Intake and Documentation Form (SELPA86)*.

Denial of Facilitated IEP or Non-IEP Meeting Request:

A request can be denied for facilitation. These types of situations include, but are not limited to:

- a topic beyond the scope of facilitation
- the case is in due process
- families have retained an attorney
- one of the parties does not agree to facilitation
- the request is received with not enough time to arrange for a facilitator or there are no facilitators available.

PROGRAM DATA COLLECTION, EVALUATION AND REPORTING**Evaluation of Each Meeting:**

After being notified by the SBCSELPA ADR Facilitator of case resolution, the *Facilitated IEP or Non IEP Evaluation Form (SELPA88)* will be disseminated by the SBCSELPA Clerical Assistant and sent to parent and LEA. SBCSELPA Clerical Assistant will record outcome and survey data and the SBCSELPA ADR Cadre will review data at minimum of two times annually to determine efficacy and advise future practices.

Ongoing Evaluation of IEP and Non-IEP Facilitators:

The SBCSELPA Director will informally evaluate the effectiveness of the ADR Cadre members annually prior to the June meeting with both the LEA / district special education administrators and the JPA Board. Evaluation will be based on 1) Availability 2) Meeting outcomes and 3) Survey data.

Annual Methods of Overall Program Evaluation:

Record keeping / data collected

- number of cases
- number of meetings
- hours per meeting
- hours per case
- outcome of meeting
- satisfaction level of participants
- facilitator's performance
- perceptions of facilitator
- follow up after facilitation
- relationship to other dispute resolution
- facilitator debrief
- chairperson debrief
- parent debrief

WHAT FORMS SHOULD BE USED

The following forms should be used in conjunction with requesting and implementing Alternative Dispute Resolution (ADR):

- SELPA86: ADR Facilitated Meeting Intake and Documentation Form
- SELPA87: Alternative Dispute Resolution (ADR) Meeting Participation Guidelines and Code of Ethics
- SELPA89: IEP and Non IEP Facilitators Code of Ethics
- SELPA88: Facilitated IEP or Non IEP Evaluation Form

Appendix A references the forms highlighted throughout this handbook. SELPA and Supplemental IEP forms can be found on our county's on-line *SIRAS Systems*, www.sirassystems.org.

PROCEDURAL HANDBOOK

SECTION

13

Regional Program Reporting

This section contains information you should know about...

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Regional Program Expenditure Reporting.....	13-1
Regional Program Enrollment Reporting	13-1
Regional Program Extended School Year Reporting	13-1
Annual Events Schedule	13-2
Calendar of Items Due to SELPA throughout the Year.....	13-3

Updated June 1, 2020

REGIONAL PROGRAM EXPENDITURE REPORTING

Regional programs are operated on a pay as you go basis-to ensure judicious use of public funds. Caps are in place for certain items such as administration, clerical, and related services. Within the allowable caps, the costs associated for each program are funded based on regional program enrollment and the cost per student by program type.

Regional program operators complete regional program expenditure reports (see pages 12-4 through 12-6) five times annually. The reporting periods are:

- Estimate of costs for the year, due to SELPA October 15th
- Estimate of costs for the year, due to SELPA January 15th
- Therapeutic learning program (GROW) estimate of costs for the year, due to SELPA March 31st
- Estimate of costs for the Adopted Budget for next year, due to SELPA April 15th;
- Actual costs for the year, due to SELPA July 15th

Regional program expenditure reports are completed by business personnel of the district operating the regional program(s) and returned to the SELPA Accountant for inclusion in the SELPA Funding Model. SELPA Funding Model updates are published five times each year:

- November – first update of Funding Model using current year regional program estimated costs
- February – P-1 update
- April – Therapeutic learning program (GROW) estimates for use with Mental Health invoices
- April – Adopted Budget for next year
- August – final Funding Model using year end actuals for regional program expenses.

REGIONAL PROGRAM ENROLLMENT REPORTING

Regional program operators report enrollment data to SELPA five times per year. Pay as you go calculations are done using actual program enrollment by district of residence. Regional program enrollment data is annualized and projected for the year and provided to SELPA on the following schedule:

- October
- January
- March - Therapeutic learning program (GROW) only
- April – For next year's Adopted Budget
- June – All regional program enrollment data due for final year end Funding Model calculations

REGIONAL PROGRAM EXTENDED SCHOOL YEAR REPORTING

Attendance and expense reporting for Extended School Year (ESY) are done separately from reporting during the regular school year. Pay As You Go (PAYGO) calculations for ESY are based on a student being enrolled for at least three days during the program. Regional program operators will provide SELPA with copies of attendance rosters to verify student enrollment and regional program expense forms for ESY by the end of July.

APPENDIX A
Santa Barbara County SELPA Funding Plan
Annual Event Schedule

Event		First Quarter			Second Quarter			Third Quarter			Fourth Quarter	
		SELPA provides Enrollment Searches	Data due to SELPA by:		SELPA provides Enrollment Searches	Data due to SELPA by:			Data due to SELPA by:		SELPA provides Enrollment Searches	Data due to SELPA by:
Regional Itinerant VH, O&M, DHH, OT, Pre-K Specialist	Enrollment	3rd Friday of October	October 31st		3rd Friday of January	January 30th					June 30th	July 6th
Adopted Budget									April 15th			
Regional SDC Mod-Severe Elem, Mod-severe Second., DHH, Preschool, Court and Comm. TLP Level 1, TLP Level 2	Enrollment		October 31st		Operators provide enrollment data July 1 st – December 31 st	January 15th		Operators provide year to date enrollment	March 31st TLP {GROW} only		Operators provide year to date enrollment	July 15th
Adopted Budget									April 15th			
Program Cost updates	Expenses		October 15th			January 15th			March 31st TLP {GROW} only			July 15th
Adopted Budget									April 15th			
ESY Actual data	Enrollment & Expenses		September 1st									
Prior Year Adjustments	Expenses		September 30th									
AB602 CDE Exhibits								Feb			Mid- June-Early July	
Funding Model Updates					Nov			Feb	April		Aug	
					Calculated with prior year P-2 ADA			Calculated with prior year P-2 ADA	Adopted Budget for next year. Calculated with prior year P-2 ADA		Actuals calculated with greater of current or prior year P-2 ADA	

REGIONAL PROGRAM REPORTING DUE DATES

CALENDAR OF REGIONAL PROGRAM ITEMS DUE TO SELPA THROUGHOUT THE YEAR

Month		Item	Sent to:	Due to SELPA	Return Data To:
July	*	Final grant award expenditure data collected for PY grant awards (PL 94-142, preschool)	Fiscal	August 1st - SELPA will send memo to collect data	Margaret
	*	Itinerant actual enrollment data for the entire year.	Fiscal	July 6th	Kim
	*	SDC actual enrollment data for the entire year.	Fiscal	July 15th	Kim
	*	Regional program expense reports with actuals for the year	Fiscal/SPED Director	July 15th	Kim
	*	Final YE Funding Model sent out by SELPA for YE accruals	Fiscal/SPED Directors	Early August	NA
August	*	Regional program ESY Attendance Rosters and expense reports	Fiscal/SPED Director	September 1st	Kim
September	*	Excess Cost report due to SELPA	Fiscal	September 15th	Kim
	*	SEMB, SEMA and Table 8 Reports	Fiscal	Early September	Kim
	*	Subsequent Year Tracking	Fiscal	Early September	Kim
	*	Regional Program staff list sent to regional operators to update with staff and FTE information	SPED Directors	Mid-September	Margaret
	*	Prior year Regional Program Expenses Adjustments	Fiscal/SPED Director	September 30th	Kim
	*	Regional Program Expense reports estimated for current year	Fiscal/SPED Director	October 15th	Kim
October	*	Regional enrollment data annualized and projected for current year.	Fiscal	October 31st	Kim
	*	Current Year Funding Model	Fiscal/SPED Directors	N/A	N/A
	*	Memo requesting program reduction due to less than 60% enrollment (SELPA Policy 3204 - Recommended)	SPED Directors	January 1st	Margaret
January	*	Staffing Levels for Regional Programs			Margaret
	*	Memo requesting mid-year data for grant awards (PL 94-142, preschool)	Fiscal		Margaret
	*	Memo requesting updated housing costs for off campus sites	CEO Fiscal	January 15th	Kim
	*	Regional SDC Enrollment data annualized and projected for current year	Fiscal	Jan 15th	Kim

	*	Regional Program Expense estimates for current year	Fiscal/SPED Director	Jan 15th	Kim
	*	Regional Itinerant enrollment data annualized and projected for current year	Fiscal	Jan 30th	Kim
March	*	Regional program operators additional aide requests for upcoming year	SPED Director	March 1st	Margaret
	*	Regional Program Operators to submit annual Technology plan	SPED Director	March 1st	Margaret
	*	Deferred maintenance reports sent to districts for completion for upcoming school year	MOT	March 1st	Margaret
	*	Therapeutic learning program (GROW) Enrollment data annualized and projected for current year.	Fiscal	Mar 31st	Kim
	*	Therapeutic learning program (GROW) Regional Program Expense estimates for current year	Fiscal/SPED Director	Mar 31st	Kim
April	*	Housing Maintenance/Utilities report sent to collect data for upcoming year housing calculations	Fiscal/SPED Director	Mid-April	Kim
	*	Enrollment data annualized and projected for next year.	Fiscal	April 15th	Kim
	*	Regional Program Expense estimates for next year	Fiscal/SPED Director	April 15th	Kim
May	*	Annual Budget request for data if required	Fiscal	Early May	Kim
	*	Mental Health Audits	Fiscal/SPED Director	Mid-May	Ray
June	*	LCI/SDC data collection forms sent to districts for completion	SPED Director	Mid-June	Margaret
	*	District to inform regional program operators of intent to take back programs giving a year and a day notice	Regional Program Operator - special education director	A year and a day notice required	Regional Program Operator and Jarice Ray

PROCEDURAL HANDBOOK

APPENDIX A

SIRAS IEP Forms and SELPA Forms Per Section

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Updated May 3, 2021

SIRAS IEP Forms and SELPA Forms Table of Contents per Section

SECTION 1:

NC 1:	Notice of Rights and Safeguards (E&S)
NC 2:	Notice of Referral (E&S)
IEP 17:	Receipt of Referral to Special Education (E&S)

SECTION 2:

NC 3:	PWN – Assessment Plan (E&S)
IEP 15:	Consent to Bill Medical (E&S)
SELPA 3:	Parent Consent for Release of Information (E&S)
NC 2B:	Notice of Reassessment (E&S)
NC 8:	Notice of Reevaluation (E&S)
NC 1:	Notice of Rights and Safeguards (E&S)
SELPA 56:	A Tool for Teachers to Investigate a Student’s Possible Motor and/or Sensory Delays (E)
IEP 17:	Receipt of Referral to Special Education (E&S)
NC 2:	Notice of Referral (E&S)
SELPA 16:	Physician’s Information for Related Services
SELPA 6:	OT Physician’s Cover Letter
SELPA 55:	OT Referral Steps Checklist
SELPA 8:	California Modified Assessment Survey (E&S)
SELPA 44:	Assistive Technology Consideration of Needs
SELPA 44A:	SBCSELPA AT Guide for Consideration
SELPA 44B:	SBCSELPA Assessment Referral Form

SECTION 3

NC 1:	Notice of Rights and Safeguard
NC 6A:	Notice of Meeting
IEP:	Individualized Education Plan (E&S)
NC 7:	IEP Team Member Excusal
IEP 6D:	Postsecondary Transition Plan (E&S)
IEP 2:	IEP Eligibility
IEP 2C:	SLD Eligibility (E&S)
IEP 6G-1:	Behavior Intervention Plan (E&S)
IEP 2B:	Present Levels of Performance (E&S)
SUPP 36:	Notice of Graduation with a Regular High School (E)
SELPA 12:	Statement of Program Components for Pupils Who are Deaf and Hard of Hearing

SECTION 4:

IEP:	Individualized Education Program (E&S) <ul style="list-style-type: none">• These forms are used to develop the pupil's Individualized Education Program. All components must be completed in order to meet all legal IEP requirements.
NC 2A:	Notice of Referral
NC 3:	PWN – Assessment Plan
NC 1:	Notice of Rights and Safeguards (E&S)
SELPA 18:	NPA Placement Request – Non-Mental Health
SELPA 21:	Non TLP Regional Program Referral Process/Pre-Referral Checklist
SELPA 28A:	IMH/Related Service Provided by an NPA Request Process/Checklist
SELPA 28B:	TLP Program Process/Checklist
SELPA 28C:	MH Day Treatment Program Process/Checklist
SELPA 28D:	NPS Placement Request – Mental Health
SELPA 28E:	Documentation of MH Services

- SELPA 40:** Special Education Preschool to Kindergarten Instructional Aide Needs Observation/Screening Report
- SELPA 58:** Parent/Guardian Travel Reimbursement Guidelines for Out of County Residential Nonpublic School Student Placements

SECTION 5:

- SELPA 78:** EL/SPED Reclassification Checklist (E)
- SELPA 79:** English Language Learner Pre-Referral Checklist (E)
- SUPP 37:** IEP Team Checklist for English Learners

SECTION 6:

- NC 3:** PWN and Assessment Plan
- SIRAS IEP 6G:** Behavior Intervention Plan 6 page to accompany FBA
- SIRAS IEP 6G-1:** Behavior Intervention Plan 2 page
- SELPA 13:** Environmental Analysis Summary of Observations
- SELPA 34:** Behavioral Emergency Report (E)
- SELPA 42:** Functional Behavioral Assessment Report (E)
- SELPA 47:** Functional Behavioral Assessment Summary (E)
- SELPA 60:** Functional Assessment Observation Form (E)
- SELPA 62:** Behavioral Intervention Plan Data Collection (E)

SECTION 7:

- SELPA 9:** Audiological Services Referral (E&S)
- IEP 7A:** Services (E&S)

SECTION 8:

- NC 6A:** Notice of Meeting (E&S)
- This form is used to invite parents of parentally enrolled private school students to an IEP meeting if the parent expresses interest in enrolling their child in public school.
- SELPA 27:** Notification of Meeting and Intent to Participate – Private School Student Service Plan Meeting (E&S)

- This form is used to invite parents of parentally enrolled private school students to meetings to develop a Private School Service Plan.

NC 1:	Notice of Rights and Safeguards (E&S) <ul style="list-style-type: none"> • This form is to be sent home along with the Assessment Plan and Meeting Notification forms.
SUPP 30:	Individual Service Plan for Parentally Placed Private School Students (E&S) <ul style="list-style-type: none"> • This form is to be used to describe the special education and related services that will be provided to parentally enrolled private school students with disabilities.
NC 2B:	Notice of Reassessment (E&S) <ul style="list-style-type: none"> • This form is to be used to determine the scope of any triennial or other requested re-evaluation for parentally enrolled private school students.
IEP 1:	Demographic and Eligibility (E&S)
IEP 2:	IEP Eligibility (E&S) <ul style="list-style-type: none"> • This form is to be used when the student is found not eligible or no longer eligible for special education.
IEP 10A:	Consent and Signatures (E&S) <ul style="list-style-type: none"> • This form is to be used when the student is found not eligible or no longer eligible for special education.

SECTION 9:

SELPA 52:	Memo to Licensed Children's Institutions (LCI's) and Foster Family Homes (FFH's)
SELPA 53:	Memo to Agencies Requesting Specific Information
SELPA 54:	Request for Information from Non-Educational Agency
SELPA 20:	Notification of Placement of Individual with Exceptional Needs in Licensed Children's Institutions or Foster Family Homes
SELPA 33:	Educational Representative/Surrogate Volunteer Information/Registration (E)
SELPA 26:	Surrogate Volunteer – Post Test (E)
SELPA 23:	Surrogate Volunteer Training Certificate (E)
SELPA 24:	Appointment/Acceptance of Surrogate Volunteer (E)
SELPA 25:	Surrogate Volunteer Evaluation (E)
SELPA 22:	Appointment of Educational Representative (E&S)

SECTION 10:

- SELPA 36:** Notice of Decision to Take Disciplinary Action and Notice of Assessment
- This sample letter may be used as the format for sending written notification the parents of a special education student regarding the notice of decision to take disciplinary action and the steps that allow it.
- NC 3:** Prior Written Notice and Assessment Plan (E&S)
- The Assessment Plan form should indicate the areas to be assessed as part of any necessary assessments and behavior assessments if the student does not already have a behavior plan.
- IEP 15:** Consent to Bill Medical (E&S)
- NC 1:** Notice of Rights and Safeguards (E&S)
- A copy of the Parental and Adult Students' Rights and Procedural Safeguards for Special Education must be sent to the parent along with the Assessment Plan.
- NC 6A:** Notice of Meeting (E&S)
- The Parent/Guardian Notification of Meeting & Intent to Participate form is used to notify the parent of the date, time and location of the Manifestation Determination IEP meeting.
- SUPP 26:** IEP Team Checklist for Special Education Discipline – Manifestation Determination (E&S)
- The IEP Team Checklist is to be used by the IEP Team to document its conclusions regarding the Manifestation Determination.
- IEP:** IEP Forms (E&S)
- The SIRAS IEP forms should be used as needed, to complete the Manifestation Determination IEP meeting. At minimum, the SIRAS: Consent and Signature form must be used to indicate who participated in the meeting and whether the parent agreed with the IEP Teams Manifestation Determination.
- IEP 6G-1:** Behavior Intervention Plan 6 page or 2 page (E&S)
- This form is to be used to develop the support plan for behavior interfering with learning of students or peers within 60 days of signed parental consent to conduct a functional behavioral assessment.
- SELPA 47:** Functional Behavior Assessment Summary (E)
- This form is to be used when conducting a functional behavioral assessment.

SECTION 11:

NO FORMS

SECTION 12:

- SELPA 86:** ADR Facilitated Meeting Intake and Documentation Form
- SELPA 87:** Alternative Dispute Resolution (ADR) Meeting Participation Guidelines and Code of Ethics
- SELPA 88:** Facilitated IEP or Non IEP Evaluation Form
- SELPA 89:** IEP and Non IEP Facilitators Code of Ethics

SECTION 13:

NO FORMS