



Special Education Services Parent Handbook

November 2014

SPECIAL EDUCATION SERVICES PARENT HANDBOOK

INTRODUCTION

A cornerstone of service for a student with disabilities is parent knowledge of and participation in the Individualized Education Plan (IEP) process. Professionals in the Larkspur-Corte Madera School District recognize that you, as a parent, have unique insight and expertise about your child and their educational experience. By working closely with parents, we feel that our efforts to reach the goal of providing effective education programs for our students can be achieved. We hope that this guide will provide parents with an understanding of the IEP process that will assist us all in meeting the individual needs of every student.

Although our staff makes every effort to acquaint parents with the many aspects of our programs and services, we acknowledge a more comprehensive overview of the IEP process and District resources is necessary. Therefore, the District, together with parents providing feedback of their experiences of the IEP process, has developed this handbook to provide you with information that will support your participation in the IEP process. If further questions arise after reviewing the information contained in this manual, please contact any member of the special education staff with your questions.

Table of Contents

	Page
Part 1: Larkspur-Corte Madera Special Education Program Overview	
Vision Statement.....	4
Special Education Philosophy.....	4
Special Education Services.....	5
Part 2: Procedural Essentials	
What is Special Education?.....	8
Referral and Assessment.....	9
IEP Meeting.....	12
IEP Development and Contents.....	14
Accommodations and Modifications.....	17
Part 3: Parent Resources	
Special Education Terms and Definitions	19
Directory of Resources.....	24
Frequently Asked Questions.....	25
IEP vs 504.....	30
Notice of Procedural Safeguards (Special Education Rights of Parents and Children)	31

Larkspur-Corte Madera School District

Part I

Special Education Services Program Overview

Larkspur-Corte Madera School District

Vision Statement

Larkspur-Corte Madera School District is a dynamic learning community. We are inspired to think critically, collaborate, encourage creativity, and communicate effectively in supportive and inclusive environments. Every individual is empowered to become a productive citizen through relevant, rigorous, and engaging curriculum, active partnerships, and authentic interdisciplinary learning experiences.

Special Education Philosophy

The Larkspur-Corte Madera School District prides itself on the inclusive and diverse nature of its educational programs. The mission of the District, developed with staff and parents is to create productive, conscientious and empowered citizens who share a deeply-instilled sense of community.

Core values and beliefs emanate from the philosophy that all children can learn and be served well in their neighborhoods schools. The Larkspur-Corte Madera School District learning community values collaboration, student-centered education, continuous improvement, social responsibility and results orientation. Faculty, staff and parents work together to provide an extraordinary education for every child and a positive, supportive environment where each student can thrive.

The goal of the Larkspur-Corte Madera School District is to serve all students, including those with varying abilities in schools and in classrooms with their typical peers in the neighborhood community schools. We believe that students are best educated alongside and with one another with the supports and supplemental services provided that are necessary to ensure their success. We support students, depending on their individual needs, utilizing various models: full inclusion, co-teaching and learning center instruction. Each of these models has been validated in the research and is specially designed for students through the IEP process. To date, our students with disabilities have demonstrated measurable gains across academic, social and behavioral objectives.

Special Education Services

Larkspur-Corte Madera School District Special Education Programs serve students with a wide range of disabilities in a variety of educational settings. The programs are designed to meet the needs of individual students based on the child's Individualized Education Plan (IEP). Students with disabilities may receive instruction and support in the general education setting or may receive direct instruction in the learning center classroom. The IEP team determines the type of services and the setting in which these services are most appropriately delivered.

Larkspur-Corte Madera School District (LCMSD) supports students, based on their individual needs, utilizing various models: full inclusion, co-teaching and learning center instruction. Each of these models has been validated in the research and is specially designed for students through the IEP process. Education Specialists (special education teachers) and DIS (designated instruction service: speech, occupational therapy, vision services, etc.) providers work with general education teachers to provide instruction on IEP goals and objectives in the most meaningful environment. Data is collected frequently to ensure students are making progress on IEP goals and objectives. Collaborative meetings with staff and parents are held to review and monitor the effectiveness of individualized student plans and programs. A brief description of the Instructional Models for students with special needs is provided below.

Co-Teaching

Co-teaching is a model in which an education specialist and the general education subject teacher group students with special needs in a general education classroom that is being co-taught for one or two periods of the day. Students with mild or moderate learning challenges are placed in one of the co-taught classrooms usually for math or language arts instruction. The education specialist, in collaboration with the general education classroom teacher, ensures students with IEPs receive appropriate instruction on IEP goals and objectives in support of grade level standards based curriculum. Students placed in co-taught classrooms are members of these classrooms but may also receive additional teaching services at some other time of day in the learning center classroom where instruction is primarily provided by special education staff. Most students with an IEP, regardless of their disability, will receive instruction in the co-taught classes within the general education setting. Only those students who demonstrate the need for more intensive services, as determined by the IEP team will receive direct instruction in the learning center classroom. All students with disabilities participate in the general education setting for some elective courses and physical education.

Full Inclusion

This model is offered to students with moderate or severe disabilities who are members of the general education classroom and spend the majority of their day in classrooms with their typically developing peers. These students receive the support services necessary to be successful in these environments. Students participate in all activities with their general education peers. Students may receive some designated instructional services in the learning center, as deemed appropriate by the IEP team. Students receive various

levels of assistance as needed throughout the day. General education teachers and education specialists collaborate to implement accommodations and modifications. Education Specialists who support teachers or paraprofessionals in implementing these accommodations and modifications develop more detailed curriculum modifications per the IEP.

Learning Center Classroom

The Learning Center provides specialized instruction in small groups or more intensive one-on-one instruction on a daily basis. Students who receive services in the learning center do so for only a small portion of their instructional day. Systematic, direct, small group instruction is provided in academics or in the application of social skills necessary for students to be successful in school.

Self-Contained, Small Class Instructional Model (in the Learning Center Classroom)

A highly specialized model of instruction is available for those students with disabilities who require more intensive, small group, one-on-one instruction or behavioral support. Reverse mainstreaming with peer supports, community-based instruction or functional skills may be targeted for these students. The IEP team makes the determination as to whether or not a student will be included in the general education classroom or will receive instruction in the learning center classroom or both.

Larkspur-Corte Madera School District

Part II

Procedural Essentials

WHAT IS SPECIAL EDUCATION?

California Education Code (Section 56031) describes special education as specially designed instruction at no cost to the parent to meet unique needs of individuals with exceptional needs whose educational needs cannot be met with modification of the regular instructional program, and related services at no cost to the parent which may be needed to assist such individuals to benefit from specially designed instruction. Special education is an integral part of the total public education system and provides education in a manner that promotes maximum interaction between children or youth with a disability and children or youth who are not disabled, in a manner that is appropriate to the needs of both.

There are 13 categories of special education as defined by the Individuals with Disabilities Education Act (IDEA). In order to qualify for special education, the IEP team must determine that a child demonstrates one of the following:

- **Autism**
- **Blindness**
- **Deafness**
- **Emotional Disturbance**
- **Hearing Impairment**
- **Intellectual Disability**
- **Multiple Disabilities**
- **Orthopedic Impairment**
- **Other Health Impaired**
- **Specific Learning Disability**
- **Speech or Language Impairment**
- **Traumatic Brain Injury**
- **Visual Impairment**

In order for the IEP team to **QUALIFY** a child for services, the child must demonstrate difficulties/challenges/discrepancies in one of the 13 categories of special education which **adversely affect their educational performance.**

Referral and Assessment

Initial Referral

If a parent notices problems in their child's academic performance or believe the child may have social, emotional, or behavioral difficulties, the parent may request a meeting with the teacher to discuss the potential cause. The teacher should notify parents if there has been a noticeable gap in academic performance, possible learning difficulties or problems with attendance or behaviors. The teacher may also make what is called a "referral", requesting a meeting with the Student Study Team (SST) to explore possible causes and solutions. Parents are also able to request an SST meeting. The SST may consist of a classroom teacher, a counselor, an administrator, the school psychologist and the parent. In some instances, the referred student may also be invited to attend.

The purpose of the SST meeting is to identify the sources of the student's difficulties and to develop interventions and resources that are available within the general education classroom. Parent participation in the SST meeting is integral to the process and can help ensure that a full discussion of a student's educational and social emotional performance takes place.

After interventions by the general education classroom teacher and general education staff have been attempted, and if progress **across academic subjects** is still a concern, the SST may recommend the student for assessment to determine eligibility for special education and related services.

If the parent decides there is a need to have their child assessed for special education at any time, they may make such a request to their child's teacher, principal or to another school administrator. This request should be made in writing via letter or email.

Request for Assessment

The initial assessment to determine whether a child may require special education services may be made by the parent. A recommendation for assessment may also be made by the SST team or teacher.

When a parent requests an assessment, the district has 15 days to respond. The school district may determine that the student does demonstrate the need for assessment and provide the parents with the Consent for Assessment form for signature. The school district may determine that the student does not demonstrate a need for an assessment. The district is then required to provide a letter to the parents explaining the determination.

Assessment Plan

If a child is referred for an assessment for special education services, the parents must sign the assessment plan before the district can assess the child. The District has 15 calendar days to develop an assessment plan. The 15 days does not include breaks of longer than 5 school days. This timeline also does not include the summer months.

The assessment plan will include all areas to be assessed.

Assessment Period

The assessment of the child is conducted to determine if the child has special needs that may qualify him or her for special education services. Testing results in the identification of the child's present skills levels and learning needs.

The assessment involves collection of important information from the parent(s) and from qualified district personnel. During this step, the child will be evaluated. The evaluation may include:

- Formal/informal test administration in a one-to-one setting
- Review of school records
- Parent Interview
- Teacher Interview
- Observation of the student in the classroom and possibly in other settings, such as on the playground
- Health and Developmental History

Possible Assessment Team Members and Their Contributions

Parent

- Reviews and approves the assessment plan by signing it
- Authorizes the exchange of information between school, doctor, psychologist or other private consultant, if appropriate and relevant
- Provides health and developmental history
- Describes student response to tasks and social interactions in the non-school setting of home, neighborhood and community
- Releases existing assessment reports if available, including physicians' reports if relevant

General Education Teacher

- Informs the team about the student's academic, physical/motor performance, class participation, homework, tests, and social behaviors in the classroom
- Provides a frame of reference for state standards, classroom curriculum, performance and expectations

Special Education Teacher/Education Specialist

- Provides present level of performance in the areas of academic and behavior
- Administers academic standardized tests

Speech/Language Specialist

- May administer testing in the areas of speech and language development including articulation, expressive and receptive language development, social pragmatics

School Psychologist

- May administer testing in the areas of the social, emotional, behavioral, and intellectual development

Occupational Therapist

- May administer testing in the areas of physical and sensory motor development

IEP Meeting

The Individual Education Plan (IEP)

What is an IEP?

The IEP is a legal document written for each student who receives special education services. It documents the outcome of the initial assessment, and is updated annually. A child's IEP helps ensure that special education services support all identified needs. The IEP team meeting is to be held within 60 calendar days after the District receives a parent's consent to the assessment plan. This 60-day period does not include school breaks of 5 or more days, or the summer months.

The IEP specifies services to be provided by the school district. It describes anticipated long-term goals for the child, as well as the accommodations and modifications to be implemented, and serves as a "blueprint" for instruction and other related services. A written progress report will be delivered to the parent(s) at the end of each trimester along with the report card.

The IEP must be reviewed and updated at least once a year. The parent(s) or the child's teacher can request a review more frequently if needed. An IEP meeting can be convened to issue a change in one or more aspects, at anytime at the parent's request. If a parent is requesting an IEP meeting without the need for new assessments for a student already in special education, the IEP meeting shall be held within 30 calendar days from the date the written request is received.

The district must provide the parent(s) with an IEP meeting notice, and schedule the meeting at a mutually agreed-upon time and place.

Who are the members of the IEP team?

Individuals with Disabilities Education Act, IDEA (at §300.321) describes the IEP team as including the following members:

- the **parents** of the child;
- not less than one **general education teacher** of the child (if the child is, or may be, participating in the general education environment);
- not less than one **special education teacher** of the child, or where appropriate, not less than one special education provider of the child;
- a **representative of the public agency** who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; is knowledgeable about the general education curriculum; and is knowledgeable about the availability of resources of the public agency;
- other individuals who have **knowledge or special expertise regarding the child**, including related services personnel as appropriate (invited at the discretion of the parent or the agency);
- the **child** with a disability (the student typically begins attending the IEP in middle school; this can be determined by the IEP team).

Who else may a parent bring to an IEP meeting?

- A non-school therapist or a specialist who works with the student
- A friend, relative or other person who will provide moral support
- A lawyer or an advocate (prior notice in writing is advised)

How does an IEP team meeting work?

The IEP team works to develop an IEP, which involves communication and cooperation between the parent(s), the child's teacher(s) and specialists from various disciplines, who may work for the school district or outside agencies. Together, the team will prepare an IEP that is intended to provide the student with meaningful educational benefits. **Think of the IEP team as a circle of participants with the student as the center.** A Meeting Notice indicating date, time, location and participants is sent to parents for signature prior to the IEP meeting taking place.

What to expect at an IEP meeting?

- District staff will state the purpose of the meeting and introduce IEP team members
- Parent receives a copy of Notice of Procedural Safeguards
- Identification of parental concerns
- Review assessments/present levels of performance
- Determine eligibility (if appropriate)
- Identification of assessed areas of need
- Development of present goals and objectives that address assessed areas of need
- Identification of services necessary for student to benefit from education program, as well as the frequency and duration of the services the student will receive

IEP Development and Content

What must the IEP document contain?

In addition to eligibility information, the IEP document always includes at least six specific items:

1) The child's present levels of educational and functional performance

Statements about what the child can and cannot do are based upon assessment information, a review of records and a report of progress in the classroom. These reports include information regarding academic, social, language, motor, self-help, and pre-vocational skills. The reports describe the way the child performs and how the disability affects the child's participation and progress in the general curriculum.

2) The child's annual goals and objectives

Based on the child's identified learning needs, the IEP defines goals the child will work towards achieving, based on present levels of performance, current records and assessment data. The IEP must specify measurable annual goals, i.e., what the child can reasonably be expected to accomplish within one year. The goals must relate to meeting the child's educational needs resulting from the identified disability, and enabling the child to participate in and progress in the general curriculum. For students who are limited English Proficient (LEP), the goals and objectives will address English language development and be based on the student's level of English language proficiency.

3) Placement

Placement refers to the setting or settings in which the services identified in the student's IEP will be implemented. A variety of placement options will be discussed and the team will determine the appropriate placement based upon the student's unique needs.

4) Designated Instructional Services (DIS) or Related Services

Related services help children with disabilities benefit from their special education by providing extra help and support in needed areas, such as speaking or moving. Related services can include, but are not limited to, any of the following:

- speech-language pathology and audiology services
- interpreting services
- psychological services
- physical and occupational therapy
- recreation, including therapeutic recreation
- early identification and assessment of disabilities in children
- counseling services, including rehabilitation counseling
- orientation and mobility services
- medical services for diagnostic or evaluation purposes
- school health services and school nurse services
- social work services in schools

- parent counseling and training

5) Other IEP discussion items:

a) Medical/Health

Vision and hearing screening results will be noted. If the student has important medical or health considerations, such as seizures or the need for prescription medication, this information can be discussed and recorded on the IEP document.

b) Behavior

A student's behavioral function is also reviewed at the IEP meeting. If the IEP team feels that a student behavior is negatively affecting his or her academic progress, a continuum of interventions will be considered. Behavioral issues may be addressed through environmental modification, goals and objectives, a Behavior Intervention Plan, a Functional Behavior Assessment, DIS counseling services, or a combination of one or more of the above.

Please note: Students with disabilities cannot be suspended for more than 10 consecutive days or expelled from school for misconduct that is a manifestation of their disability. A manifestation determination meeting is an IEP meeting to determine whether a child with a disability may be expelled or have his/her placement changed for misconduct. The IEP team determines two findings: 1) were the behaviors caused by or did they have a direct relationship to the child's disability and 2) were the behaviors the direct result of the school's failure to implement the IEP.

c) Assistive Technology

Assistive technology (AT) can be high or low technology. AT can be as simple as a special grip or as complex as special software. The IEP team must determine whether the child needs assistive technology devices or services.

d) Transportation

The IEP team is responsible for determining whether special transportation is needed for the student between school and home.

e) State or District-Wide Assessment

Participation in State or District-Wide Assessment

6) Annual and Triennial dates

These are dates by which the yearly review of the IEP will be held and the triennial (3-year) assessment will be conducted. The IEP team may decide that the IEP needs to be reviewed sooner than one year. The parent may request an IEP meeting at any time and a meeting must be scheduled within 30 calendar days of the request.

7) Signature and Parent/Guardian approval

All persons attending an IEP meeting are asked to sign the IEP to indicate participation. However, only the parent/guardian is asked to approve the IEP. An IEP cannot be implemented without parental approval.

Before indicating approval of the IEP, the parent may take a copy of the IEP document home to review and discuss. However, when doing so, the parent should sign the document indicating they were in attendance.

If this is an initial IEP, services will not be provided until parental consent is obtained. If the student has an existing IEP, the original signed version will continue to be implemented until the new IEP is signed.

If the parent disagrees with any part of the IEP, they may approve only the part of the IEP with which they agree. The parts of the IEP agreed upon will then be implemented.

The goal of the Larkspur-Corte Madera School District is to work collaboratively to address all family concerns. A recommended first step is to request an informal meeting with the special education director. If resolution is not achieved, other options for consideration are outlined in the Notice of Procedural Safeguards (included in Part III of this handbook).

Accommodations or Modifications: What is the difference? What is best for my child?

Accommodations

Accommodations are changes in course content, teaching strategies, standards, test presentation, location, timing, scheduling, expectations, student responses, environmental structuring, and /or other attributes which provide access for a student with a disability to participate in a course/standard/test, which DO NOT fundamentally alter or lower the standard or expectations of the course/standard/test. (See Terms and Definitions)

If students receive accommodations, they receive a regular grade (as measured by grade level benchmarks) with no mark indicating the accommodation.

Classroom Accommodations are:

- Team/Teacher Generated
- Related to Specific Classroom Demands
- Reasonable/Do-able
- Empowering versus Humiliating
- Student Validated or Generated
- Neutral or Positive with Respect to Impact on Other Students' Learning

Modifications

Modifications are changes in course content, teaching strategies, standards, test presentation, location, timing, scheduling, expectations, student responses, environmental structuring, and/or other attributes which provide access for a student with a disability to participate in a course/standard/test, which DO fundamentally alter or lower the standard or expectations of the course/standard/test. (See Terms and Definitions)

If a student receives modifications in a curriculum area, he/she will also receive modified grades as determined by the IEP team.

Classroom Modifications are:

- Team/Teacher Generated
- Related to Specific Classroom Demands
- Reasonable/Do-able
- Empowering versus Humiliating
- Student Validated or Generated
- Neutral or Positive with Respect to Impact on Other Students' Learning

Larkspur-Corte Madera School District

Part III

Parent Resources

SPECIAL EDUCATION TERMS AND DEFINITIONS

Accommodations: Changes in course content, teaching strategies, test presentation, location, timing, scheduling, expectations, student responses, environmental structuring, and/or other attributes which provide access for a student with a disability to participate in a course/standard/test, which DO NOT fundamentally alter or lower the standard or expectations of the course/standard/test. Accommodations help a student work around their disability while still accessing the curriculum. Examples of accommodations include: shortened assignments, every other math problem, spelling not included in grading rubric, answers given orally instead of in writing are examples of accommodations.

Adaptive Physical Education (APE): A program for students who, because of their disabilities, cannot access regular PE with accommodations and modifications and require specialized physical education.

Assessment or Evaluation: Term used to describe the testing and diagnostic processes leading up to the development of an appropriate IEP for a student with special education needs.

Behavior Intervention Plan (BIP): Special education term used to describe the written plan used to address problem behavior that includes positive behavioral interventions, strategies and support. The plan may include program modifications and supplementary aids and services.

Case Manager: A case manager is an education specialist or speech language pathologist who is a member of the IEP team and is responsible for coordinating instruction and related services for the student. The case manager will coordinate the delivery of special education services and will be the primary contact for the parent.

Collaborative Teaching: Two general education teachers share ownership of 2 groups of students.

Confidentiality: The special education law specifically states that teachers, related services providers, and others who work with the child must have easy access to the child's IEP. *All LCMSD employees are required to maintain confidentiality within the general education setting and within the community unless parent provides signed consent to share information with others. See FERPA*

Co-Teaching: One general education teacher and special education teacher (education specialist) share ownership of one group of students.

Designated Instruction Services (DIS): Instruction and services not normally provided by general classes or educational specialists programs. They may include speech therapy and occupational therapy.

Disability: Physical or mental impairment that substantially limits one or more major life activities.

Dyslexia: Dyslexia is a language-based learning disability. Dyslexia refers to a cluster of symptoms, which result in people having difficulties with specific language skills, particularly reading. Students with dyslexia usually experience difficulties with other language skills such as spelling, writing, and pronouncing words. Dyslexia affects individuals throughout their lives; however, its impact can change at different stages in a person's life. It is referred to as a learning disability because dyslexia can make it very difficult for a student to succeed academically in the typical instructional environment, and in its more severe forms, will qualify a student for special education, special accommodations, or extra support services. (*Definition from International Dyslexia Association*).

Early Intervention: Programs for developmentally delayed infants and toddlers through 35 months of age; designed to identify and address needs early and mitigate problems as the child matures.

Education Specialists: Credentialed teachers who provide instructional planning and support and direct services to students whose needs have been identified in an IEP and are assigned to general education classrooms or the learning center to deliver instruction.

Extended School Year Services (ESY): An extended school year is a component of special education services for students with unique needs who require services in excess of the regular academic year. Extended year often refers to summer school.

Free Appropriate Public Education (FAPE): Special education and related services are provided at public expense, without charge to the parents.

Family Education Rights and Privacy Act (FERPA): A federal statute designed to address access to educational records, parental rights to inspect and review records, amendment of records, and destruction of records. The purpose of FERPA is twofold: 1. To ensure that parents have access to their children's educational records and 2. To protect the privacy rights of parents and children by limiting access to these records without parental consent.

Functional Behavioral Assessment (FBA): A problem-solving assessment process for addressing inappropriate behavior.

Hearing Specialist: This specialist provides consultation and support to staff and direct instructional support to students with hearing impairments. Services provided through the Marin County Office of Education.

Inclusion: Term used to describe services that place students with disabilities in general education classrooms with appropriate support services. Student may receive instruction from both a general education teacher and an education specialist.

Individuals with Disabilities Education Act (IDEA 2004): The original legislation was written in 1975 guaranteeing students with disabilities a free and appropriate public education and the right to be educated with their non-disabled peers. Congress has reauthorized this federal law. The most recent revision occurred in 2004.

Individualized Education Plan (IEP): The Special Education term outlined by IDEA to define the written legal document that states the disabled child's goals, objectives and services for students receiving special education.

Independent Educational Evaluation (IEE): An independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the school district. A school district is required by law to conduct assessments for students who may be eligible for special education. If the parent disagrees with the results of a school district's evaluation, they have the right to request an independent educational evaluation at public expense, i.e. the school district pays for the full cost of the evaluation at no cost to the parent. The district will provide parents with information about how to obtain an IEE. The district utilizes the Marin County Office of Education policy on IEEs.

Individualized Family Service Plan (IFSP): A process of providing early intervention services for children ages 0-3 with special needs. Family-based needs are identified and a written plan is developed and reviewed periodically. This service is provided through the Marin County Office of Education.

Least Restrictive Environment (LRE): The placement of a special needs student in a manner promoting the maximum possible interaction with the general school population. Placement options are offered on a continuum including regular classroom with no support services, general classroom with support services, designated instructional services, and special day classes.

Local Education Agency (LEA): Term used to describe a school district participating in a Special Education Local Plan Area (SELPA).

Manifestation Determination: After 10 school days of suspension of a child with a disability because of the child's violation of school code, the IEP team must review all relevant information in the student's file to determine if the conduct in question was

caused by the child's disability or if the conduct was a direct result of the school district's failure to implement the child's IEP.

Modifications: Changes in course content, teaching strategies, standards, test presentation, location, timing, scheduling, expectations, student responses, environmental structuring, and/or other attributes which provide access for a student with a disability to participate in a course/standard/test, which DO fundamentally alter or lower the standard or expectations of the course/standard/test. Modifications change what a student is learning in the classroom, while participating with peers. Examples of modifications include: Copy a sentence versus writing an essay, time/money concepts instead of grade level or rolling a ball instead of playing basketball are examples of possible modifications.

Non-public School (NPS): Districts contract with non-public schools when an appropriate placement cannot be found within the scope of the public education setting. Non-public school placement is sought only after all efforts to find appropriate placement in public schools have been exhausted.

Occupational Therapists: Provide consultation and support to staff to improve a student's educational performance related to fine motor, gross motor and sensory integration development.

Paraprofessional: A paraprofessional educator, alternatively known as a para-pro, paraeducator, instructional assistant, teacher's aide or classroom assistant, is a teaching-related position within a school generally responsible for specialized or concentrated assistance for students in elementary and secondary schools.

Parent Consent: The Special Education term used by IDEA stating a parent has been fully informed in their native language or other mode of communication of all the information about the action for which they are giving consent and understand and agree in writing to that action.

Private School: There are new laws regulating the rights of students with disabilities whose parents place them in private schools. When a student is enrolled in private school and has academic difficulties, the school where the student attends is to inform the parent and the local public school district of the student's difficulties. The district of location may need to assess the student to determine if the student qualifies for special education. If they do qualify, the district of residence is responsible for writing an Individualized Education Plan.

Referral: The formal request to assess and determine a child's special education needs. A referral may be made by a parent, teacher or anyone with specific knowledge of the child.

Residential and Private Placements: Part B of IDEA does not require a school district to pay for the cost of education for a disabled child at a private school or facility if the school district made an offer of FAPE (free appropriate public education) available to the child and the parent chooses to privately place the child.

School Psychologist: A certificated individual assisting in the identification of intellectual, social and emotional needs of students. They provide consultation and support to families and staff regarding behavior and conditions related to learning. The School Psychologist plans programs to meet the special needs of children and may serve as a facilitator during an IEP meeting.

Speech and Language Specialists: The professional assessing students for possible delayed speech and language skills and provides direct services in the area of phonology, morphology, syntax, semantics and pragmatics.

Student Study Team (SST): A team that evaluates a child's performance, makes recommendations for success and develops a formal plan. The team may include the classroom teacher, parents, and education specialists. The team may make a recommendation for a special education evaluation.

Vision Specialists: A professional providing consultation and support to staff, and direct instructional support for students with visual impairments. They provide functional vision assessments and curriculum modifications including Braille, large type and aural media. Services provided through the Marin County Office of Education.

Directory of Resources

Advocacy

Matrix Parent Network www.matrixparents.org

Wrightslaw Special Education Law and Advocacy www.wrightslaw.com

Attention Deficit Disorder

CHADD of Northern California www.chaddnorcal.org

The National Attention Deficit Disorder Association (ADDA) www.add.org

Autism

Autism Research Institute www.autism.com/ari/

Autism Society of America www.autism-society.org

Autism Speaks www.autismspeaks.org

Inclusion

Beyond Differences www.beyonddifferences.org

Learning Disabilities

LD Online www.ldonline.org

Schwab Foundation for Learning www.schwablearning.org

National Center for Learning Disabilities www.nclid.org

All Kinds of Minds www.allkindsofminds.org

Federal, State and Local Government Education Departments

U.S. Department of Education, Office of Special Education and Rehabilitation Services www.ed.gov/about/offices/list/osers/osep

California Department of Education www.cde.ca.gov

Marin County Office of Education www.mcoe.org

Service Provider Agencies

Golden Gate Regional Center www.ggrc.org

California Children's Services www.dhs.ca.gov/pcfh/cms/ccs

Technology

Technology Resource Center-Marin County Office of Education www.trc.marinschools.org

Frequently Asked Questions

1. What do parents do when they suspect their child has a disability?

When parents suspect that their child has a disability they should contact the student's teacher to review their concerns and learn what resources the district has to support the student's learning. Each school site has Student Study Teams comprised of teachers, administrators, parents and other pertinent members as needed. The teacher presents the student's learning, social, emotional or behavior concerns to the team for suggestions on developing strategies and interventions. If those interventions are not successful and the student's learning and/or behavior are significantly different from same-aged peers the student may be referred for an evaluation for eligibility for Special Education services. However, at any point during the SST process, parents may request, in writing, that the District evaluate their child to determine if s/he qualifies for special education and related services.

2. Is the District obligated to test my child if I request an assessment?

A parent may start the process of referral for a special education assessment by making a written request to the school asking that their child be evaluated for Special Education services due to identified concerns. Within fifteen (15) calendar days of receiving the request, the district will contact the parent to review their concerns, and determine whether to move to assessment or to suggest other supports.

3. How is my child assessed for Special Education services?

Materials and procedures used for assessment and placement must not be racially, culturally, or sexually discriminatory. Assessment materials must be provided and the test administered in the child's native language or mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so. No single procedure can be the sole criterion for determining eligibility and developing FAPE (Free an Appropriate Public Education) for the child. (20 USC 1414[b][1]–[3], 1412[a][6][B]; 34 CFR 300.304; EC 56001[j] and 56320)

4. Are grades a factor in considering eligibility for Special Education services? What else is considered?

Yes. In all cases, the student's ability and achievement level are considered. Federal regulations require each district to draw upon information from a variety of sources,

including aptitude and achievement tests, parent input, teacher recommendations, as well as information regarding a child's physical condition, social or cultural background, and adaptive behavior. Grades are a factor; however, grades are only one factor among many others under consideration by the IEP Team. In order to be eligible for Special Education services, the evaluation would need to show evidence of the suspected disability being an educational handicapping condition that requires specialized instruction beyond what could reasonably be delivered through general education. The IEP Team would assure that the suspected disability adversely affected the student's educational performance and was not due to lack of instruction in reading, math or limited English proficiency.

5. Can a school district determine a child is not eligible for Special Education services when the child has been diagnosed by a doctor?

Yes. A doctor (e.g., family physician, psychiatrist, psychologist, or neuropsychologist) can make a diagnosis identifying a medical condition that is not an educational handicapping condition. The medical condition may be managed without school intervention and does not interfere with the student's ability to be successful in school.

Examples:

a. A doctor may diagnose Attention Deficit Hyperactivity Disorder (ADHD); however, the diagnosis by itself is insufficient for meeting the criteria for Special Education services under Other Health Impaired (OHI).

b. A student may have juvenile diabetes; however, the medical condition is managed through medication and diet with school intervention. Also, the medical condition does not interfere with the student's ability to be successful in school.

c. A student may be diagnosed with Autism Spectrum Disorder (ASD) by a physician; however, the student is achieving at the expected range for their age, is participating in extracurricular activities, is completing school work and passing tests.

d. The student has a mild issue with maintaining a preferred order in their school locker and work areas in classrooms, specific food preferences for lunch, and some insistence in following routines and procedures. The student is engaging in conversation with peers and adults, and is well known to the student body for their knowledge of sports facts. The student has been provided accommodations in general education classes that meet his needs and does not require Special Education. In this case, the student has a medical diagnosis; however, the student does not have an educational handicapping condition.

6. Can a parent request a second evaluation at district expense?

Yes. When the district has completed an evaluation, the results are reported to the IEP Team. If a parent believes that the results do not accurately reflect their child's abilities, the parent may review the test results in more detail with the examiner. If the parent still thinks that the test results are different from how they see their child, the parent may request, in writing, to have a second evaluation. The retesting of the student by another examiner may be administered by a different staff person (e.g., a different speech and language therapist in the district.)

A more formal process is for the parent to exercise their right to an Independent Educational Evaluation (IEE). The retesting of the student may be done through an IEE at no cost to the parent. Parents may request an IEE whenever they disagree with an evaluation completed by the district. If the IEE is to be completed at district expense, the district will provide the Marin County Office of Education policy regarding the criteria for credentials of qualified examiners, suggested sources and locations, procedures for reimbursement, reasonable expected costs and notification that the parent is not restricted to using the sources for an evaluation recommended by the district.

7. Does a district have to honor outside opinions and suggestions, especially if it comes from the doctor?

The district will accept input from the parent and that may include medical reports, private therapist reports or input from other agencies. The IEP Team will consider input from sources outside of the district. The information provides a perspective for the IEP Team in their development of the student's IEP. This information will be reviewed for its relevance to the student's needs in an educational setting.

8. When is my approval required for assessment?

Parents must provide informed, written consent before their child is assessed or provided with any special education services. Parental consent must also be provided before any change in special education services may occur. The district must ensure that parents understand proceedings of the IEP team meeting including arranging for an interpreter for parents with deafness or those whose native language is other than English.

9. When is my approval required for services?

Informed, written consent must be provided before the district can provide your child with special education and related services.

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

If consent is not provided for an initial assessment or there is failure to respond to a request to provide the consent, the school district may pursue the initial assessment by utilizing due process procedures.

If there is refusal to consent to the initiation of services, the school district cannot provide special education and related services and shall not seek to provide services through due process procedures.

If there is consent in writing to some components of the special education and related services for a child, only those components of the IEP which have been consented to must be implemented without delay.

If the school district determines that the proposed special education program component to which there is no consent is necessary to provide a free appropriate public education to a child, a due process hearing must be initiated. If a due process hearing is held, the hearing decision shall be final and binding.

In the case of reevaluations, the school district must document reasonable measures to obtain parent consent. The district may proceed with the reevaluation without a parent consent in the event there is a failure to respond.

11. Can the district hold an IEP Team meeting without the parent in attendance?

An IEP Team meeting may be conducted without the parent in attendance if reasonable efforts to include them have been documented. The requirement is for the district to appoint a team of qualified individuals to attend the IEP Team meeting. The district must arrange for this meeting at a mutually convenient time and place. If neither parent can attend and alternative means to ensure participation have been exhausted (such as video conferences or conference calls), the district has the authority to hold the meeting.

The rules governing special education require the IEP Team meeting to proceed on behalf of the student in order to assure their protection and right to a free appropriate public education (FAPE).

12. Once a child has an IEP do they always have it?

Children found eligible for special education services are reevaluated for eligibility every three (3) years up to the age of 22.

13. What can be done if a parent believes the student's IEP is not being implemented?

The case manager is the initial contact for concerns. If concerns are not addressed in a timely manner, parents always have access to the site administrator or are advised to contact the special education director.

14. At what age does the school district begin providing special education services?

LCMSD provides special education services once a child turns three years old.

15. I am unhappy with a situation at school which concerns my child who has an IEP. I believe that I have exhausted all communication options at my child's school and at my district of residence. Where can I get assistance?

Call the Marin County Special Education Local Plan Area (SELPA) office at 415.499.5850. You may also contact Matrix Parent Network and Resource Center at 415.884.3535, or by email at www.matrixparents.org.

A Support Plan Comparison: IEP vs. 504

	IEP	504
Definition	IEP-Individualized Education Plan: A legal document that defines a child's special education program. An IEP includes the disability under which the child qualifies for special education services, the services the team has determined the school will provide, yearly goals and accommodations to assist their learning.	Section 504 of the Rehabilitation Act of 1973: equal opportunity for those students with disabilities- fundamentally a general education program at its core with supports extended in order to access curriculum.
Purpose	Specialized instruction with accommodations or modifications of general education curriculum that allows access for special education students to general education.	Accommodations which allow access to general education curriculum.
Eligibility	The initial assessment process determines eligibility under one of the 13 specific categories defined by federal law.	Available to students with physical or mental impairment substantially limiting at least one major life activity, have a record of such impairment or regarded as having such an impairment.
Oversight	Individuals with Disabilities Education Act (IDEA)- Education Law	Americans with Disabilities Act (ADA)-Civil Rights Law
Contents	Disability listing, goals, parent concerns, present levels of performance, additional services as needed, student strengths accommodations/modifications, services and placement .	Plan objectives, definitions, care and self-care details, resource access, monitoring, emergency planning, and accommodations.
Funding	Federal Funding	No Federal Funding
Reciprocity	A student covered under IDEA on an IEP is automatically covered under ADA's Section 504.	A student covered under ADA's Section 504 is not necessarily covered by education law under IDEA.
Testing	Standardized testing accommodations available.	Standardized testing accommodations available.
Tracking	Progress reporting	No progress reporting

Special Education Rights of Parents and Children Under the Individuals with Disabilities Education Act, Part B, and the California Education Code

• Notice of Procedural Safeguards •

Revised January 2009

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

What is the Notice of Procedural Safeguards?

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

The Notice of Procedural Safeguards is required under the Individuals with Disabilities Education Act (in English, referred to as IDEA) and must be provided to you:

When you ask for a copy

- The first time your child is referred for a special education assessment
- Each time you are given an assessment plan to evaluate your child
- Upon receipt of the first state or due process complaint in a school year, and
- When the decision is made to make a removal that constitutes a change of placement

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

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

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

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

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

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

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

Where can I get more help?

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

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

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

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

Prior Written Notice

When is a notice needed?

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

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

Notice of Procedural Safeguards CDE, T07-037, English, Arial font
Page 3 of 12

What will the notice tell me?

The Prior Written Notice must include the following:

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

Parental Consent

When is my approval required for assessment?

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

When is my approval required for services?

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

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

If you do not provide consent for an initial assessment or fail to respond to a request to provide the consent, the school district may pursue the initial assessment by utilizing due process procedures.

If you refuse to consent to the initiation of services, the school district must not provide special education and related services and shall not seek to provide services through due process procedures.

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

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

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

When may I revoke consent?

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

1. May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with 34 *CFR* Section 300.503 before ceasing such services
2. May not use the procedures in subpart E of Part 300 34 *CFR* (including the mediation procedures under 34 *CFR* Section 300.506 or the due process procedures under 34 *CFR* Sections 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child
3. Will not be considered to be in violation of the requirement to make a free appropriate public education (FAPE) available to the child because of the failure to provide the child with further special education and related services
4. Is not required to convene an IEP team meeting or develop an IEP under 34 *CFR* Sections 300.320 and 300.324 for the child for further provision of special education and related services

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

Surrogate Parent Appointment

What if a parent cannot be identified or located?

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

Notice of Procedural Safeguards CDE, T07-037, English, Arial font
Page 5 of 12

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

Nondiscriminatory Assessment

How is my child assessed for special education services?

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

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

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

Independent Educational Assessments

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

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

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

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

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

District assessment procedures allow in-class observation of students. If the school district observes your child in his or her classroom during an assessment, or if the school district would have been allowed to observe your child, an individual conducting an independent educational assessment must also be allowed to observe your child in the classroom.

If the school district proposes a new school setting for your child and an independent educational assessment is being conducted, the independent assessor must be allowed to first observe the proposed new setting. (20 USC 1415[b][1] and [d][2][A]; 34 CFR 300.502; EC 56329[b] and [c])

Notice of Procedural Safeguards CDE, T07-037, English,
Arial font Page 6 of 12

Access to Educational Records

May I examine my child's educational records?

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

How Disputes Are Resolved Due Process Hearing

When is a due process hearing available?

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

Mediation and Alternative Dispute Resolution

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

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

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

What is a pre-hearing mediation conference?

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

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

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

Notice of Procedural Safeguards CDE, T07-037, English, Arial font
Page 7 of 12

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

Due Process Rights

What are my due process rights?

You have a right to:

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

13. Receive notice from the other party at least ten days prior to the hearing that the other party intends to be represented by an attorney (*EC 56507[a]*). (*20 USC 1415[e]*; *34 CFR 300.506, 300.508, 300.512 and 300.515*)

Notice of Procedural Safeguards CDE, T07-037, English, Arial font
Page 8 of 12

Filing a Written Due Process Complaint

How do I request a due process hearing?

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

Name of the child

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

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

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

What does a resolution session include?

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

The resolution session is not required if the parent and the school district agree in writing to waive the meeting. If the school district has not resolved the due process hearing issue within thirty (30)

days, the due process hearing may occur. If a resolution is reached, the parties shall execute a legally binding agreement. (20 USC 1415[f][1][B]; 34 CFR 300.510)

Does my child's placement change during the proceedings?

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

Notice of Procedural Safeguards CDE, T07-037, English, Arial font
Page 9 of 12

May the decision be appealed?

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

Who pays for my attorneys' fees?

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

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

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

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

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

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

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

Notice of Procedural Safeguards CDE, T07-037, English, Arial font
Page 10 of 12

School Discipline and Placement Procedures For Students with Disabilities School Discipline and Alternative Interim Educational Settings

May my child be suspended or expelled?

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

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

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

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

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

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

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

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

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

Regardless of the setting the school district must continue to provide FAPE for your child. Alternative educational settings must allow the child to continue to participate in the general curriculum and ensure continuation of services and modifications detailed in the IEP. (34 CFR 300.530; EC 48915.5[b])

Notice of Procedural Safeguards CDE, T07-037, English, Arial font
Page 11 of 12

Children Attending Private School

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

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

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

When may reimbursement be reduced or denied?

The court or hearing officer may reduce or deny reimbursement if you did not make your child available for an assessment upon notice from the school district before removing your child from public school. You may also be denied reimbursement if you did not inform the school district that

you were rejecting the special education placement proposed by the school district, including stating your concerns and intent to enroll your child in a private school at public expense. Your notice to the school district must be given either:

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

When may reimbursement not be reduced or denied?

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

- The school prevented you from providing notice
- You had not received a copy of this Notice of Procedural Safeguards or otherwise been informed of the requirement to notify the district

Notice of Procedural Safeguards CDE, T07-037, English, Arial font
Page 12 of 12

- Illiteracy and inability to write in English prevented you from providing notice, or
- Providing notice would likely have resulted in serious emotional harm to your child (20 *USC* 1412[a] [10] [C]; 34 *CFR* 300.148; *EC* 56177)

State Complaint Procedures

When may I file a state compliance complaint?

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

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

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

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

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

Glossary of Abbreviations Used in This Notification

ADR Alternative Dispute Resolution

CFR: Code of Federal Regulations

EC California Education Code

FAPE Free Appropriate Public Education

IDEA Individuals with Disabilities Education Act

IEP Individualized Education Program

OAH: Office of Administrative Hearings

SELPA: Special Education Local Plan Area

USC: United States Code