**Solano County**
**Special Education Local Plan Area**

Participants:
Benicia Unified School District
Dixon Unified School District
Fairfield-Suisun Unified School District
Travis Unified School District
Vacaville Unified School District
Solano County Office of Education

# SELPA Governance and Finance Committee

Wednesday, October 21, 2026
9:00 – 11:00 a.m.
SCOE – Waterman Conference Room
5100 Business Center Drive
Fairfield, CA 94534

1. Call to Order & Roll Call — Action

2. Approve Agenda — Action

3. Approve Governance and Finance Committee Meeting Minutes from September 16, 2026 — Action

4. Public Comment
   Members of the public wishing to address any item listed on the agenda are asked to submit a Request to Speak form to the Assistant Superintendent of the SELPA at the opening of the meeting. Speakers are requested to limit their comments to three (3) minutes. Public comments will be limited to a combined total of 15 minutes.

5. SELPA Reports
   - 5.1. Nonpublic School Expenditure (NPS) Report — Information
   - 5.2. Legal Pool Update — Information
   - 5.3. Legal Education Fund Update — Information
   - 5.4. Vallejo Deaf/Hard of Hearing (DHH) Budget Update — Information
   - 5.5. SELPA Funding Allocations — Information

6. SELPA Business
   - 6.1. Solano County SELPA Procedural Manual
     - 6.1.1. Section A: Individualized Education Program — Action
     - 6.1.2. Section B: Procedural Safeguards and Complaints for Special Education — Action
     - 6.1.3. Section E: Identification and Evaluation of Individuals for Special Education — Action
     - 6.1.4. Section F: Independent Educational Evaluations — Action
     - 6.1.5. Section N: Nonpublic School and Agency Policy — Action
     - 6.1.6. Section O: Positive Behavior Interventions — Action
   - 6.2. California Children's Services Medical Therapy Unit (CCS MTU) Purchase — Information

7. Advance Planning

8. Adjournment

In compliance with the Americans with Disabilities Act, for those requiring special assistance to access SELPA public meetings, to access written documents being discussed at the meetings, or to otherwise participate at SELPA public meetings, please contact the SELPA office at (707) 399-4460. Notification at least 72 hours prior to the meeting will enable the SELPA to make reasonable arrangements to ensure accessibility to the meeting and to provide any required accommodations, auxiliary aids, or services.

Any writings or documents that are public records and are provided to the SELPA Governance and Finance Committee regarding an item on this agenda will be made available for public inspection in the Solano County SELPA office located at 5100 Business Center Dr., Fairfield, CA, during normal business hours. In addition, such writings and documents may be posted on the SELPA's website at www.SolanoCountySELPA.net.

# SELPA Governance and Finance Committee
# September 16, 2026
# Minutes

**1. Call to Order & Roll Call:** Andrew Ownby called the meeting to order at 9:00 a.m.

**Members Present**:
Solano County SELPA: Andrew Ownby, Erik Deadmond
Benicia USD: Trudy Barrington
Dixon USD: Joanne Ahola
Fairfield-Suisun USD: Stavros Gougoumis, Laneia Grindle, Amanda Rish
Solano COE: Emie Ambrose, Becky Lentz, Clarissa Tuttle
Travis USD: Tiffany Benson, Deanna Brownlee, Ashley Hague, Gabriel Moulaison
Vacaville USD: Kelly Burks, Karine Fickes, Aumrey Moland

**2. Approval of Agenda**

Move to approve the agenda.
Motion by: Trudy Barrington
Second by: Gabriel Moulaison
Final Resolution: Motion Carries
Yes: Joanne Ahola, Trudy Barrington, Deanna Brownlee, Kelly Burks, Stavros Gougoumis, Laneia Grindle, Becky Lentz, Aumrey Moland, Gabriel Moulaison, Clarissa Tuttle

**3. Approval of Governance and Finance Committee Minutes of May 20, 2026**

Move to approve minutes.
Motion by: Deanna Brownlee
Second by: Laneia Grindle
Final Resolution: Motion Carries
Yes: Joanne Ahola, Trudy Barrington, Deanna Brownlee, Kelly Burks, Stavros Gougoumis, Laneia Grindle, Becky Lentz, Aumrey Moland, Gabriel Moulaison, Clarissa Tuttle

**4. Public Comment** – No public comment was made.

**5. SELPA Reports**
**5.1. Nonpublic School (NPS) Expenditure Update** Information item. Andrew Ownby reported on the potential for two additional residential placements.
**5.2. Legal Pool Update** Information item. No concerns were reported.
**5.3. Legal Education Fund Update** Information item. No concerns were reported.
**5.4. Vallejo Deaf/Hard of Hearing (DHH) Budget** Information item. No concerns were reported.
**5.5. SELPA Funding Allocations** Information item. A discrepancy was identified in the proportionate share column, which will be corrected in future reports.

**6. SELPA Business**
**6.1. 2026-27 Independent Educational Evaluation (IEE) Cost Containment**
Andrew Ownby reviewed a revised document (see attached). He shared that the SELPA was not recommending adjustments to the cost containment, except for removing music therapy, as there are insufficient providers to establish containment in this area. Additionally, after a discussion with the Special Education Council that academic achievement and psychological assessments were included in psychoeducational assessments, there was consensus to remove them from the IEE cost containment.

Move to recommend that the Council of Superintendents approve the 2026-27 IEE Cost Containment.
Motion by: Kelly Burks
Second by: Aumrey Moland
Yes: Joanne Ahola, Trudy Barrington, Deanna Brownlee, Kelly Burks, Stavros Gougoumis, Laneia Grindle, Becky Lentz, Aumrey Moland, Gabriel Moulaison, Clarissa Tuttle

**6.2. FCMAT-Recommended SELPA Budget Development and Monitoring Calendars**
Andrew Ownby reported that following the Council of Superintendents' adoption of the new funding model, which will take effect in the 2027-28 school year, the SELPA was proposing adjustments to certain activities outlined in the Budget Development and Monitoring Calendars. The group reviewed the proposed schedule and made recommendations for the COS' consideration for approval.

Move to recommend that the Council of Superintendents approve the SELPA Budget Development and Monitoring Calendars, as recommended by the SELPA Governance and Finance Committee.
Motion by: Kelly Burks
Second by: Trudy Barrington
Yes: Joanne Ahola, Trudy Barrington, Deanna Brownlee, Kelly Burks, Stavros Gougoumis, Laneia Grindle, Becky Lentz, Aumrey Moland, Gabriel Moulaison, Clarissa Tuttle

**6.3. 2027-28 Budget Development Calendar**

Move align the 2027-28 Budget Development Calendar activities with the previous approved SELPA Budget Development and Monitoring Calendars and recommend that the Council of Superintendents approve the 2027-28 Budget Development Calendar, as recommended by the SELPA Governance and Finance Committee.
Motion by: Kelly Burks
Second by: Aumrey Moland
Yes: Joanne Ahola, Trudy Barrington, Deanna Brownlee, Kelly Burks, Stavros Gougoumis, Laneia Grindle, Becky Lentz, Aumrey Moland, Gabriel Moulaison, Clarissa Tuttle

**6.4. California Children's Services (CCS) Medical Therapy Unit (MTU) Purchase**
Andrew Ownby reported that consistent with the Council of Superintendents' (COS) August 20, 2026, direction and Solano COE's September 1, 2026, request for formal, explicit direction to proceed with the purchase of the California Children's Services Medical Therapy Unit (CCS MTU), a resolution authorizing the purchase would be presented to the COS at the September 24, 2026, meeting. Andrew clarified that the SELPA would fund the purchase of the CCS MTU. He also noted that to date, Solano COE had not communicated an update to the SELPA regarding the COS' request to extend the current lease. The group discussed the implications of delaying the purchase, including the possibility of an alternative LEA purchasing the MTU on behalf of the SELPA. There was consensus from the group to extend the current lease for no more than seven months and to finalize the purchase no later than June 30, 2027.

**7. SCOE Reports**
**7.1. 2025-26 Special Education Year-End Financial Report**
Emie Ambrose reviewed the report and highlighted the 2025-26 ending balance distribution of $1,762,487.

**7.2. 2026-27 Transportation Budget**
Emie Ambrose reviewed the report with the group. A request was made to provide an update at first interim.

**8. Advance Planning**
The October 21, 2026, agenda will include:
- Procedural Manual Section E: Identification and Evaluation of Individuals for Special Education
- Procedural Manual Section F: Independent Educational Evaluations

**9. Adjournment** – The meeting adjourned at 10:07 a.m.

Minutes submitted by: Monica Hurtado.
Reviewed by: Andrew Ownby.

## F16. 2026~~5~~-2027~~6~~ Cost Containment for Independent Educational Evaluations

# 2026~~5~~-2027~~6~~ Cost Containment for Independent Educational Evaluations (IEE)

As stated in the Solano SELPA IEE Policy:

> The cost of an IEE shall be comparable to those costs that the District incurs when it uses its own employees or contractors to perform a similar evaluation. Costs include observations, administration and scoring of tests, report writing, and attendance in person or by phone at the IEP team meeting where the IEE is presented. Reimbursement will be in an amount no greater than the actual cost to the parent and will be subject to proof of payment.
>
> Costs above these amounts will not be approved unless the parent can demonstrate that such costs reflect unique circumstances justifying the selection of an evaluator whose fees fall outside these criteria.

The following table provides cost limitations based upon the types of assessment being conducted for the 2026~~5~~-2~~6~~7 school year. Rates are reviewed and adjusted, as appropriate, annually.

| Type of Assessment | Maximum Allowable Rate |
|---|---|
| ~~Academic Achievement~~ | ~~$ 4,200~~ |
| Adapted Physical Education (APE) | * |
| Assistive Technology (AT) | $ 4,750 |
| Audiological Services | * |
| Educationally Related Mental Health Services (ERMHS) | $ 4,750 |
| Functional Behavioral Assessment (FBA) | $ 4,750 |
| Health and Nursing | * |
| Music Therapy (MT) | ~~$990~~ * |
| Occupational Therapy (OT) | $ 4,750 |
| Orientation and Mobility (OM) | $ 4,750 |
| Physical Therapy (PT) | $ 4,750 |
| Psycho-Educational (Psychological Assessment with Academic Achievement) | $ 6,000 |
| ~~Psychological Assessment~~ | ~~$5,000~~ |
| Speech & Language | $ 4,750 |
| Transition | $3,500 |

# 2026-2027 NPS FUND UPDATE - October 2026 *Meeting*

| Expenditures: | 26/27 Budget | 10/13/2026 | Projected as of 6/30/27 | Projected as of 6/30/27 (77% attendance estimate) |
|---|---|---|---|---|
| Non-Public School (NPS): | 16,221,386 | 1,886,386 | 14,965,409 | 11,523,365 |
| Day Treatment: | 1,551,072 | 16,492 | 1,271,186 | 978,813 |

**Direct District Contribution:**

**NPS**

| | | | | |
|---|---|---|---|---|
| BUSD | 358,546 | 34,074 | 478,884 | 368,741 |
| DUSD | 1,941,205 | 314,201 | 1,902,467 | 1,464,900 |
| FSUSD | 8,397,512 | 812,318 | 7,445,988 | 5,733,411 |
| TUSD | 2,139,552 | 215,398 | 1,745,157 | 1,343,771 |
| VUSD | 3,384,571 | 510,394 | 3,392,911 | 2,612,542 |
| | **16,221,386** | **1,886,386** | **14,965,409** | **11,523,365** |

**Day Treatment**

| | | | | |
|---|---|---|---|---|
| BUSD | 79,315 | 1,302 | 121,086 | 93,236 |
| DUSD | 113,648 | - | 80,507 | 61,990 |
| FSUSD | 741,428 | 7,378 | 658,812 | 507,285 |
| TUSD | 307,914 | 6,076 | 247,380 | 190,483 |
| VUSD | 308,767 | 1,736 | 163,401 | 125,819 |
| | **1,551,072** | **16,492** | **1,271,186** | **978,813** |

**Residential Placement**

| Beginning Balance | Encumbered | Expenditure | Projected Ending |
|---|---|---|---|
| 300,000 | 205,587 | 41,117 | 53,295 |

| | Current Invoice Amount | Projected Year End Invoice |
|---|---|---|
| BUSD | $ 4,064.87 | $ 24,389.21 |
| DUSD | $ 2,669.34 | $ 16,016.06 |
| FSUSD | $ 17,842.90 | $ 107,057.43 |
| TUSD | $ 4,949.30 | $ 29,695.82 |
| VUSD | $ 11,591.00 | $ 69,546.00 |

**** Direct District Contribution is charged back to districts based on actual usage.**

# 2026-2027 Legal Pool Expenditure Breakdown by District
## Solano County SELPA

| Date | Vendor | Invoice Amt | SELPA | BUSD | DUSD | FSUSD | TUSD | VUSD | SCOE | Balance |
|---|---|---|---|---|---|---|---|---|---|---|
| | *26-27 AB602 Contribution* | | | | | | | | | $ 58,954.00 |
| | *25-26 Ending Balance* | | | | | | | | | $ 92,266.33 |
| | ***Total Beginning Balance*** | | | | | | | | | **$ 151,220.33** |
| 7/31/26 | Fagen Friedman & Fulfrost | $ 11,670 | $ - | $ 94.50 | $ 339.00 | $ 3,148.00 | $ 337.50 | $ 7,750.50 | $ - | $ 139,550.83 |
| 8/31/26 | Fagen Friedman & Fulfrost | $ 20,223 | $ 141.00 | $ - | $ - | $ 4,684.50 | $ 18.00 | $ 15,379.50 | $ - | $ 119,327.83 |
| 8/31/26 | Fagen Friedman & Fulfrost | $ 2,752 | $ 2,752.00 | $ - | $ - | $ - | $ - | $ - | $ - | $ 116,575.83 |
| | | | | | | | | | | $ 116,575.83 |
| | | | | | | | | | | $ 116,575.83 |
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| | | | | | | | | | | $ 116,575.83 |
| | | | | | | | | | | |
| | | | | | | | | | | |
| | ***Total*** | $ 34,644.50 | $ 2,893.00 | $ 94.50 | $ 339.00 | $ 7,832.50 | $ 355.50 | $ 23,130.00 | $ - | |
| | Percent of total expenditures: | | 8.35% | 0.27% | 0.98% | 22.61% | 1.03% | 66.76% | 0.00% | |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| SELPA distribution to LEAs per 25-26 ADA%: | [redacted] | $ 286.00 | $ 187.81 | $ 1,255.42 | $ 348.23 | $ 815.54 | $ - | |
| Total usage of pool: | | $ 380.50 | $ 526.81 | $ 9,087.92 | $ 703.73 | $ 23,945.54 | $ - | $ 34,644.50 |
| **Percent of pool usage:** | | **1.10%** | **1.52%** | **26.23%** | **2.03%** | **69.12%** | **0.00%** | |

**TOTAL REMAINING: $ 116,575.83**

Return to Agenda

# 2026-2027 Legal Education Breakdown by District - Fagen Friedman & Fulfrost (FFF)

## Solano County SELPA

| Date | Month | Monthly Contract | SELPA | BUSD | DUSD | FSUSD | TUSD | VUSD | SCOE | *Total hours used by month* | Hours Remaining |
|---|---|---|---|---|---|---|---|---|---|---|---|
| *2026-2027 Annual Cost* | | $ 39,680.00 | | | | | | | | | |
| | | | **215 Hours** | | | | | | | | |
| 7/31/26 | July | $ 3,305.00 | - | 1.00 | - | 0.90 | 0.40 | 16.90 | - | *19.20* | 195.80 |
| 8/31/26 | August | $ 3,475.20 | 8.60 | 2.30 | 0.30 | 0.40 | 0.40 | 2.80 | - | *14.80* | 181.00 |
| | | | | | | | | | | - | 181.00 |
| | | | | | | | | | | - | 181.00 |
| | | | | | | | | | | - | 181.00 |
| | | | | | | | | | | - | 181.00 |
| | | | | | | | | | | - | 181.00 |
| | | | | | | | | | | - | 181.00 |
| | | | | | | | | | | - | 181.00 |
| | | | | | | | | | | - | 181.00 |
| | | | | | | | | | | - | 181.00 |
| | | | | | | | | | | - | 181.00 |
| | | | | | | | | | | - | 181.00 |
| | ***Total*** | $ 6,780.20 | 8.60 | 3.30 | 0.30 | 1.30 | 0.80 | 19.70 | - | 34.00 | |
| | *Usage of hours to Date* | | 25.29% | 9.71% | 0.88% | 3.82% | 2.35% | 57.94% | 0.00% | | |

# 2026-2027 DHH UPDATE - October 2026 *Meeting*

| **Expenditures:** | **26/27 Budget** | **Projected 6/30/27** |
|---|---|---|
| DHH Fee for Service | $ 90,132.96 | $ 96,445.40 |
| DHH Students | 11 | 14 |
| 26/27 AB602 OTT | $ 991,462.56 | $ 991,462.56 |
| 26/27 Projected DHH Cost | $ 991,462.56 | $ 1,350,235.60 |
| Remaining Balance | $ - | $ (358,773.04) |

# 2026/2027 SELPA Allocations

**10/13/2026**

| **Revenue:** | | | **IDEA** | | **IDEA Preschool** | | **AB602** |
|---|---|---|---|---|---|---|---|
| Revenue | | | **$ 10,715,473** | | **$ 351,984** | | **$ 58,794,035** |
| **Deductions :** | | | | | | | |
| SCOE Direct Allocation | | | (1,017,962) | | | | (29,085,132) |
| Pooled Allocations | | | | | | | (926,723) |
| SELPA Allocation | | | | | | | (1,897,227) |
| VCUSD DHH Program | | | | | | | (1,350,236) |
| | | | $ 9,697,511 | | $ 351,984 | | $ 25,534,717 |
| DISTRICT | **25/26 Annual ADA** | **% of Total ADA** | **District Allocation IDEA (3310)** | **Proportionate Share (transfer from 3310 to 3311)** | **District Allocation Preschool (3315)** | **Proportionate Share (transfer from 3315 to 3317)** | **District Allocation AB602 (6500)** |
| BUSD | 4,183.85 | 9.89% | 958,681 | - | 34,797 | - | 2,524,322 |
| DUSD | 2,747.56 | 6.49% | 629,571 | 5,784 | 22,851 | - | 1,657,737 |
| FSUSD | 18,365.64 | 43.40% | 4,208,273 | 28,922 | 152,745 | - | 11,080,890 |
| TUSD | 5,094.20 | 12.04% | 1,167,277 | - | 42,368 | - | 3,073,580 |
| VUSD | 11,930.39 | 28.19% | 2,733,710 | 44,828 | 99,224 | 1,557 | 7,198,188 |
| Total: | 42,321.64 | 100% | 9,697,511 | 79,534 | 351,984 | 1,557 | 25,534,717 |

Participants:

Benicia Unified School District
Dixon Unified School District
Fairfield-Suisun Unified School District
Travis Unified School District
Vacaville Unified School District
Solano County Office of Education

**Solano County**
**Special Education Local Plan Area**

It is requested that the SELPA Governance and Finance Committee recommend that the Council of Superintendents approve the following Solano County SELPA Procedural Manual Sections.

| | **Approval/Adoption of:** | **Substantive Revision:** |
|---|---|---|
| 6.1.1. | Procedural Manual Section A: Individualized Education Program | Incorporate changes from:<br>1. AB 438 (2023-2024) - transition plan development change<br>2. SB 389 - permits LVNs to perform respiratory care<br>3. AB 1412 - processing out-of-state transfers |
| 6.1.2. | Procedural Manual Section B: Procedural Safeguards and Complaints for Special Education | Incorporates change from SB 373, requiring procedural safeguards provision to students. |
| 6.1.3. | Procedural Manual Section E: Identification and Evaluation of Individuals for Special Education | Clean up of the policy language tracking to code in several areas.<br><br>Reorganized, in part, and created a new section for the evaluation report requirements separate from the determination of eligibility.<br><br>Incorporated changes from AB 2173, to authorize use of emotional disability in lieu of emotional disturbance. |
| 6.1.4. | Procedural Manual Section F: Independent Educational Evaluations | Removed separate criteria for academic and psychological assessment as these are included in a psycho-educational assessment. |
| 6.1.5. | Procedural Manual Section N: Nonpublic School and Agency Policy | Removed “nonsectarian.”<br><br>Incorporated changes from:<br>1. AB 611 (2023-2024) - notice to families re: NPS/A status change.<br>2. SB 373 – districts may request and SPI must make available info related to out-of-state certification of NPS; LEAs must disclose info to parents.<br>3. SB 373 – out-of-state required annual in-person interview of students and quarterly, unmonitored telephone check-ins. |
| 6.1.6. | Procedural Manual Section O: Positive Behavior Interventions | Removed “nonsectarian.” |

Andrew Ownby, Assistant Superintendent, SELPA, 5100 Business Center Drive, Fairfield, CA 94534
Phone: (707) 399-4460 – FAX: (707) 863-4176

**6. Solano County SELPA Procedural Manual:**

6.1.1. Section A: Individualized Education Program | Clean, Redlined

6.1.2. Section B: Procedural Safeguards and Complaints for Special Education | Clean, Redlined

6.1.3. Section E: Identification and Evaluation of Individuals for Special Education | Clean, Redlined

6.1.4. Section F: Independent Educational Evaluations | Clean, Redlined

6.1.5. Section N: Nonpublic School and Agency Policy | Clean, Redlined

6.1.6 Section O: Positive Behavior Interventions | Clean, Redlined

# A. Individualized Education Program

The Solano County SELPA desires to provide full educational opportunities to all students with disabilities. Students with disabilities, who require special education and related services to meet their unique needs shall receive a free appropriate public education (FAPE) and, to the maximum extent possible, shall be educated in the least restrictive environment with nondisabled students.[1]

For each student with disabilities, an individualized education program (IEP) shall be developed which identifies the special education instruction and related services to be provided to the student. The membership of the IEP team, the team's responsibility to develop and regularly review the IEP, the contents of the IEP, and the development, review, and revision processes shall be in accordance with the accompanying administrative regulation.

Member LEAs shall make FAPE available to individuals with disabilities ages 3-21 who reside in the district, including: (Education Code 56040; 56440; 20 USC 1412; 34 CFR 300.17, 300.101, 300.104)

1. Students who have been suspended or expelled from school

2. Students who are placed by the district in a nonpublic school

3. Individuals 18-21 years of age who are incarcerated in an adult correctional facility and were identified as being an individual with disabilities or had an IEP in their prior educational placement

At the beginning of each school year, each LEA shall have an individualized education program (IEP) in effect for each student with a disability within district jurisdiction. The IEP shall be a written statement that is developed, reviewed, and revised by the IEP team to meet the unique educational needs of a student with a disability. (Education Code 56344; 56345; 34 CFR 300.320, 300.323)

## A1. Members of the IEP Team

Unless excused by written agreement in accordance with Education Code 56341, the IEP team for any student with a disability shall include the following members: (Education Code 56341, 56341.5; 20 USC 1414(d)(1); 34 CFR 300.321)

[1] See corresponding member LEA board policy and administrative regulation 6159

1. One or both of the student's parents/guardians and/or a representative selected by them

   To the extent permitted by federal law, a foster parent shall have the same rights relative to a foster child's IEP as a parent/guardian, subject to juvenile court orders regarding the foster child's educational rights holder(s). (Education Code 56055)

2. If the student is or may be participating in the general education program, at least one of the student's general education teachers designated by the Superintendent or designee to represent the student's general education teachers

   The general education teacher shall, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of appropriate positive behavioral interventions, supports, and other strategies for the student, and supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student, consistent with 34 CFR 300.320. (Education Code 56341; 20 USC 1414; 34 CFR 300.324)

3. At least one of the student's special education teachers or, where appropriate, special education providers

4. A representative of the district who is:

   a. Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities

   b. Knowledgeable about the general education curriculum

   c. Knowledgeable about the availability of district resources

5. An individual who can interpret the instructional implications of assessment results

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

6. At the discretion of the parent/guardian or the Superintendent or designee, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate.

   The determination of whether the individual has knowledge or special expertise regarding the student shall be made by the party who invites the individual to be a member of the IEP team. (Education Code 56341)

7. Whenever appropriate, the student

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

8. When the IEP team is determining eligibility for a student who is suspected of having a specific learning disability, at least one individual who is qualified to conduct individual diagnostic examinations of the student such as a school psychologist, speech language pathologist, or remedial reading teacher. (34 CFR 300.308)

   In accordance with 34 CFR 300.310, at least one team member other than the student's general education teacher shall observe the student's academic performance and behavior in the areas of difficulty in the student's learning environment, including in the general education classroom setting. If the child is younger than five years of age or not enrolled in school, a team member shall observe the child in an environment appropriate for a child of that age.

In the following circumstances, the Superintendent or designee shall invite other specified individuals to an IEP team meeting:

1. When the student has been placed in a group home by the juvenile court, a representative of the group home shall be invited to attend the IEP team meeting. (Education Code 56341.2)

2. Whenever the IEP team is meeting to consider the student's postsecondary goals and the transition services needed to assist the student in reaching the goals, the following individuals shall be invited to attend: (34 CFR 300.321)

   a. The student, regardless of the student's age

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

   b. To the extent appropriate, and with the consent of the parent/guardian or adult student, a representative of any other agency that is likely to be responsible for providing or paying for the transition services

3. If the student was previously served under the Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004), and upon request of the student's parent/guardian, the Superintendent or designee shall invite the Infant and Toddlers with Disabilities Coordinator or other representative of the early education or early intervention system to the initial IEP team meeting to assist with the smooth transition

of services. (Education Code 56341; 20 USC 1414; 34 CFR 300.321)

A member of the IEP team shall not be required to attend an IEP team meeting, in whole or in part, if the parent/guardian and the district agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. When the meeting involves a discussion of the IEP team member's area of the curriculum or related service, the member may be excused from the meeting if the parent/guardian, in writing, and the district consent to the excusal after conferring with the member and the member submits to the parent/guardian and team written input into the development of the IEP prior to the meeting. (Education Code 56043, 56341; 20 USC 1414; 34 CFR 300.321)

### A2. Contents of the IEP

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

1. A statement of the present levels of the student's academic achievement and functional performance, including:

    a. The manner in which the disability affects the student's involvement and progress in the general education curriculum, which is the same curriculum as for students without disabilities.

    b. For a preschool student, as appropriate, the manner in which the disability affects the student's participation in appropriate activities

    c. For a student with a disability who takes alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives

2. A statement of measurable annual goals, including academic and functional goals, designed to:

    a. Meet the student's needs that result from their disability in order to enable the student to be involved in and make progress in the general education curriculum

    b. Meet each of the student's other educational needs that result from the disability

3. A description of the manner in which the student's progress toward meeting the annual goals described in Item #2, above, will be measured and when the district will provide periodic reports on the progress the student is making toward meeting the annual goals, such as through quarterly or other periodic reports, concurrent with the issuance of report cards

4. A statement of the special education instruction and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student to:

    a. Advance appropriately toward attaining the annual goals

    b. Be involved and make progress in the general education curriculum in accordance with Item #1, above, and to participate in extracurricular and other nonacademic activities

    c. Be educated and participate with other students with disabilities and students without disabilities in the activities described in the IEP

5. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the general education class and in extracurricular and other nonacademic activities described in the IEP

6. A statement of any appropriate individual accommodations necessary to measure the academic achievement and functional performance of the student on state and districtwide assessments

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

7. The projected date for the beginning of the services and modifications described in item #4 above and the anticipated frequency, location, and duration of those services and modifications

8. If determined appropriate by the IEP team, when the student starts high school or not later than the first IEP to be in effect when the student is 16 years of age, or younger, as appropriate, and updated annually thereafter, the following:

    a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills

    b. The transition services, including courses of study, needed to assist the student in reaching those goals

If the IEP team determines the student would benefit from postponing the measurable postsecondary goals and transition services until the student is 16 years of age, the IEP team should document the reason(s) for the postponement.

9. A description of the means by which the IEP will be provided under emergency conditions, as described in Education Code 46392, in which instruction and/or services cannot be provided to the student either at the school or in person for more than 10 school days

   The description shall take into account public health orders and shall include special education and related services, supplementary aids and services, transition services, and extended school year services.

10. Beginning at least one year before the student reaches 18 years of age, a statement that the student has been informed of the rights, if any, that will transfer to the student upon reaching 18 years of, pursuant to Education Code 56041.5

11. For a student in grades 7-12, any alternative means and modes necessary for the student to complete the district's prescribed course of study and to meet or exceed proficiency standards required for graduation

12. For a student whose native language is not English, linguistically appropriate goals, objectives, programs, and services

13. Extended school year services when the IEP team determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education (FAPE)

14. If the student is to be transferred from a special class or nonpublic school into a general education program in a public school for any part of the school day, provision for transition into the general education program including descriptions of activities intended to:

    a. Integrate the student into the general education program, including the nature of each activity and the time spent on the activity each day or week

    b. Support the transition of the student from the special education program into the general education program

15. For a student with low incidence disabilities, specialized services, materials, and equipment consistent with the guidelines pursuant to Education Code 56136

    To assist a student who is blind, has low vision, or is visually impaired, the IEP team may

consider instruction in the expanded core curriculum, including compensatory skills such as Braille, concept development, or other skills needed to access the core curriculum; orientation and mobility; social interaction skills; career technical education; assistive technology, including optical devices; independent living skills; recreation and leisure; self-determination; and sensory efficiency. When appropriate, such services may be offered before or after school. (Education Code 56353)

### A3. Development of the IEP

Any IEP required as a result of an assessment of a student shall be developed within 60 days from the date of receipt of the parent/guardian's written consent for assessment, unless the parent/guardian agrees, in writing, to an extension, or repeatedly fails or refuses to produce the child for the assessment. (Education Code 56043, 56302.1, 56344).

Days between the student's regular school sessions, terms, or vacation of more than five school days shall not be counted. In the case of school vacations, the 60-day time limit shall recommence on the date that the student's school days reconvene. (Education Code 56043, 56344)

However, when a student has been referred for assessment with 30 or fewer days remaining until the end of the regular school year, the IEP shall be developed within 30 days after the commencement of the subsequent regular school year. (Education Code 56344)

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

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

However, such instruction need not be included in the IEP if the IEP team determines that instruction in Braille or the use of Braille is not appropriate for the student. This determination shall be based upon an assessment of the student's reading and writing skills, needs, and appropriate reading and writing media, including an assessment of future needs for instruction in Braille or the use of Braille.

8. The communication needs of the student and, in the case of a student who is deaf, hard of hearing, or deaf-blind, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode

   Additionally, the team shall consider placements, related services, and program options that provide the student with an equal opportunity for communication access in the least restrictive environment, as specified in Education Code 56345.

9. Whether the student requires assistive technology devices and services

If, in considering the special factors in Items #1-9 above, the IEP team determines that the student needs a particular device or service, including an intervention, accommodation, or other program modification, in order to receive FAPE, the team shall include a statement to that effect in the student's IEP. (Education Code 56341.1)

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

*Special education* is specially designed instruction, at no cost to the parent/guardian, to meet the unique needs of individuals with disabilities, including instruction conducted in the classroom, in the home, in hospitals and institutions, and other settings, and instruction in physical education. This definition does not prohibit an IEP from including specialized deaf and hard-of-hearing related services as the only services provided to a student with disabilities. (Education Code 56031)

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

The Superintendent or designee shall ensure that the student's IEP is accessible to each general education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. Additionally, the Superintendent or designee shall ensure that such teachers and providers are informed of their specific responsibilities related to implementing the IEP and the specific accommodations,

modifications, and supports that shall be provided to the student in accordance with the IEP. (34 CFR 300.323)

If an orientation and mobility evaluation is determined to be needed for a student who is blind, has low vision, or is visually impaired, the evaluation shall be conducted by a person who is appropriately certified as an orientation and mobility specialist and shall occur in familiar and unfamiliar environments, in varying lighting conditions, and in the home, school, and community, as appropriate. The Superintendent or designee may require annual written parent/guardian consent to provide orientation and mobility services when such services are provided before or after school and when they are provided away from the school site. (Education Code 56354; 5 CCR 3051.3)

If a student's IEP requires the provision of assistive technology devices or services, the district shall provide such devices or services and shall, on a case-by-case basis, provide for the use of school-purchased devices or services in the student's home or other settings if the IEP team determines that the student needs access to those devices or services in order to receive FAPE. If a student who requires the use of an assistive technology device or services transfers to another local educational agency, the district shall provide the student with continued access to that device or services or a comparable device or service for two months from the date the student ceased to be enrolled in the district or until alternative arrangements can be made to provide access to the device, whichever occurs first. (Education Code 56040.3; 34 CFR 300.105)

Students with disabilities who require specialized physical health care services during the regular school day may be assisted by the persons authorized in Education Code 49423.5.

Special education and related services provided in the home or hospital are limited to students who have been identified as students with disabilities and for whom the IEP team recommends such instructions or services. Such services shall be provided in accordance with law, including 5 CCR 3051.4, and Administrative Regulation 6183 - Home and Hospital Instruction.

### A5. Review and Revision of the IEP

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

1. Determine whether the annual goals for the student are being achieved

2. Revise the IEP, as appropriate, to address:

   a. Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate

   b. The results of any reassessment conducted pursuant to Education Code 56381

c. Information about the student provided to or by the parents/guardians regarding review of evaluation data pursuant to 34 CFR 300.305 and Education Code 56381

d. The student's anticipated needs

e. Any other relevant matter

3. Consider the special factors listed in Items #5-9 above, under "Development of the IEP," when reviewing the IEP of any student with a disability to whom one of those factors may apply

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

When a parent/guardian requests an IEP team meeting to review the IEP, the team shall meet within 30 days of receiving the parent/guardian's written request, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days. If a parent/guardian makes an oral request, the district shall notify the parent/guardian of the need for a written request and the procedure for filing such a request. (Education Code 56043, 56343.5)

A general education or special education teacher may request a review of the classroom assignment of a student with a disability need by submitting a written request to the Superintendent or designee. The Superintendent or designee shall consider the request. If the review indicates a need for change in the student's placement, instruction, and/or related services, the Superintendent or designee shall convene an IEP team meeting, which shall be held within 30 days of the Superintendent or designee's review, not counting days when school is not in session, unless the student's parent/guardian consents in writing to an extension of time.

If a participating agency other than the district fails to provide the transition services described in the student's IEP, the team shall reconvene to identify alternative strategies to meet the transition service objectives set out for the student in the IEP. (Education Code 56345.1; 20 USC 1414; 34 CFR 300.324)

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

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

300.324)

When a change is necessary to a student's IEP after the annual IEP team meeting for the school year has been held, the parent/guardian and the Superintendent or designee may agree not to convene an IEP team meeting for the purpose of making the change and instead may develop a written document to amend or modify the student's current IEP. The IEP team shall be informed of any such changes. Upon request, the Superintendent or designee shall provide the parent/guardian with a revised copy of the IEP with the incorporated amendments. (Education Code 56380.1; 20 USC 1414; 34 CFR 300.324)

### A6. Audio Recording of IEP Team Meetings

Parents/guardians and the Superintendent or designee shall have the right to audio record the proceedings of IEP team meetings, provided members of the IEP team are notified of this intent at least 24 hours before the meeting. If the Superintendent or designee gives notice of intent to audio record a meeting and the parent/guardian objects or refuses to attend because the meeting would be audio recorded, the meeting shall not be audio recorded. Parents/guardians also have the right to: (Education Code 56341.1)

1. Inspect and review the audio recordings

2. Request that an audio recording be amended if they believe it contains information that is inaccurate, misleading, or in violation of the student's privacy rights or other rights

3. Challenge, in a hearing, information that the parents/guardians believe is inaccurate, misleading, or in violation of the student's privacy rights or other rights

### A7. Parent/Guardian Participation and Other Rights

The Superintendent or designee shall take steps to ensure that one or both of the parents/guardians of the student with a disability are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include notifying the parents/guardians of the meeting early enough to ensure that they will have the opportunity to attend and scheduling the meeting at a mutually agreed upon time and place. (Education Code 56341.5; 34 CFR 300.322)

The Superintendent or designee shall send parents/guardians notices of IEP team meetings that: (Education Code 56341.5; 34 CFR 300.322)

1. Indicate the purpose, time, and location of the meeting

2. Indicate who will be in attendance at the meeting

3. Inform them of:

    a. Their right to bring to the meeting other individuals who have knowledge or special expertise about the student, pursuant to Education Code 56341

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

Additionally, if determined appropriate by the pupil's individualized education program team, beginning when the pupil starts their high school experience or not later than the first individualized education program to be in effect when the pupil is 16 years of age or younger, as appropriate, , the Superintendent or designee's notice to the student's parents/guardians shall include the following: (Education Code 56341.5)

1. An indication that one purpose of the meeting will be the consideration of postsecondary goals and transition services for the student pursuant to Education Code 56345.1, 20 USC 1414, and 34 CFR 300.320

2. An indication that the student is invited to the IEP team meeting

At each IEP team meeting convened by the district, the district administrator or specialist on the team shall inform the parent/guardian and student of the federal and state procedural safeguards included in the notice of parental rights provided pursuant to Education Code 56321. (Education Code 56301, 56500.1)

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

The parent/guardian shall have the right to present information to the IEP team in person or through a representative and the right to participate in meetings that relate to eligibility for special education and related services, recommendations, and program planning. (Education Code 56341.1)

If neither parent/guardian can attend the meeting, the Superintendent or designee shall use other methods to ensure parent/guardian participation, including video conferences or individual or conference telephone calls. (Education Code 56341.5; 20 USC 1414; 34 CFR 300.322)

An IEP team meeting may be conducted without a parent/guardian in attendance if the Superintendent or designee is unable to convince the parent/guardian to attend. In such a case, the Superintendent or designee shall maintain a record of the attempts to arrange a mutually agreed upon time and place for the meeting, including: (Education Code 56341.5; 34 CFR 300.322)

1. Detailed records of telephone calls made or attempted and the results of those calls

2. Copies of correspondence sent to the parent/guardian and any responses received

3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits

The Superintendent or designee shall take any action necessary to ensure that the parents/guardians understand the proceedings of the meeting, including arranging for an interpreter for parents/guardians with deafness or whose native language is not English. (Education Code 56341.5; 34 CFR 300.322)

The Superintendent or designee shall give the parents/guardians of a student with a disability a copy of the IEP at no cost. (Education Code 56341.5; 34 CFR 300.322)

### A8. Parent/Guardian Consent for Provision of Special Education and Services

Before providing special education and related services to any student pursuant to 20 USC 1414, the Superintendent or designee shall seek to obtain informed consent of the student's parent/guardian. (Education Code 56346)

If the parent/guardian fails to respond or refuses to consent to the initiation of services, the district shall not use the due process hearing procedures pursuant to 20 USC 1415 to obtain agreement or a ruling that the services may be provided to the student. In such circumstances, the district shall not be required to convene an IEP team or develop an IEP for the student. (Education Code 56346).

If the parent/guardian consents in writing to the receipt of special education and related services for the student but does not consent to all of the components of the IEP, then those components to which the parent/guardian has consented shall be implemented so as not to delay providing instruction and services to the student.

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

parent/guardian and the Superintendent or designee agree otherwise. (Education Code 56346)

If at any time subsequent to the initial provision of services, the student's parent/guardian, in writing, revokes consent for the continued provision of special education services, the Superintendent or designee shall provide prior written notice within a reasonable time before ceasing to provide services to the student. The Superintendent or designee shall not request a due process hearing or pursue mediation in order to require an agreement or ruling that services be provided to the student. (Education Code 56346; 34 CFR 300.300, 300.503)

Prior to the discontinuation of services, the Superintendent or designee may offer to meet with the parents/guardians to discuss concerns for the student's education. However, this meeting shall be voluntary on the part of the parent/guardian and shall not delay the implementation of the parent/guardian's request for discontinuation of services.

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

### A9. Transfer Students

To facilitate the transition of a student with a disability who is transferring into the district, the Superintendent or designee shall take reasonable steps to promptly obtain the student's records, including the IEP and the supporting documents related to the provision of special education services. The district shall accept unofficial records provided by the student's parent/guardian pending validation by the official records, consistent with the requirements of the Interstate Compact on Educational Opportunity for Military Children. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from another school district within the same Special Education Local Plan Area (SELPA) during the school year, the district shall continue to provide services comparable to those described in the student's existing IEP, unless the student's parent/guardian and the district agree to develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from a school district outside of the district's SELPA during the school year, the district shall provide the student with FAPE, including services comparable to those described in the previous district's IEP in consultation with the student's parent/guardian, for a period not to exceed 30 days. By the end of that period, the district shall either adopt the previous district's IEP or shall develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district within the same academic year from outside the state or within the state from a different SELPA, within 30 days of receipt of official records or specified

unofficial records, the Superintendent or designee shall either adopt and implement the IEP previously adopted for the student or develop, adopt, and implement a new IEP for the student that is consistent with federal and state law, as applicable. For students transferring into the district from outside the state, the district may conduct a full and individual initial assessment pursuant to 20 USC 1414 when such assessment is necessary to develop an IEP that is consistent with federal and state law. (Education Code 56325)

If the student transfers into the district within the same academic year from district to district within the same SELPA, the new district shall continue, without delay, to provide services comparable to those described in the existing approved individualized education program, unless the parent and the local educational agency agree to develop, adopt, and implement a new individualized education program that is consistent with federal and state law.

## B. Procedural Safeguards and Complaints for Special Education

The Solano County SELPA and the member LEAs recognize their obligation to provide a free appropriate public education (FAPE) to students with disabilities and to uphold the rights of parents/guardians to be involved in educational decisions regarding their child. Students with disabilities and the parents/guardians of such students with disabilities shall receive written notice of their rights under the federal Individuals with Disabilities Education Act. [2]

The Superintendent or designee shall represent the member LEA in any due process hearing conducted with regard to district students and shall inform the Board about the result of the hearing.

A complaint alleging the LEA's noncompliance with federal or state laws or regulations related to the provision of a free appropriate public education to students with disabilities shall be filed in accordance with 5 CCR 3200-3205.

### B1. Prior Written Notice

The Superintendent or designee shall send to the parents/guardians of any student with disabilities a prior written notice: (20 USC 1415; 34 CFR 300.102, 300.300, 300.503; Education Code 56346, 56500.4, 56500.5)

1. Before the district initially refers the student for assessment

2. Within a reasonable time before the district proposes to initiate or change the student's identification, assessment, educational placement, or the provision of a free appropriate public education (FAPE) to the student

3. Within a reasonable time, before the district refuses to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student

[2] See corresponding member LEA board policy and administrative regulation 6159.1

## A. Individualized Education Program

The Solano County SELPA desires to provide full educational opportunities to all students with disabilities. ~~Eligible S~~students with disabilities, who require special education and related services to meet their unique needs ~~, ages 3-22,~~ shall receive a free appropriate public education (FAPE) and, to the maximum extent possible, shall be ~~placed~~ educated in the least restrictive environment with nondisabled students.[1]

For each student with ~~a~~ disabilities~~y~~, an individualized education program (IEP) shall be developed which identifies the special education instruction and related services to be provided to the student.
The membership of the IEP team, the team's responsibility to develop and regularly review the IEP, the contents of the IEP, and the development, review, and revision processes shall be in accordance with the accompanying administrative regulation.

Member LEAs shall make FAPE available to individuals with disabilities ages 3-21~~2~~ who reside in the district, including: (Education Code 56040; 56440; 20 USC 1412; 34 CFR 300.17, 300.101, 300.104)

1. Students who have been suspended or expelled from school

2. Students who are placed by the district in a nonpublic school

3. Individuals ~~age~~ 18-21~~2~~ years of age who are incarcerated in an adult correctional facility and were identified as being an individual with disabilities or had an IEP in their prior educational placement

At the beginning of each school year, each LEA shall have an individualized education program (IEP) in effect for each student with a disability within district jurisdiction. The IEP shall be a written statement that is developed, reviewed, and revised by the IEP team to meet the unique educational needs of a student with a disability. (Education Code 56344; 56345; 34 CFR 300.320, 300.323)

### A1. Members of the IEP Team

Unless excused by written agreement in accordance with Education Code 56341, the IEP team for any student with a disability shall include the following members: (Education Code 56341,

[1] See corresponding member LEA board policy and administrative regulation 6159

56341.5; 20 USC 1414(d)(1); 34 CFR 300.321)

1. One or both of the student's parents/guardians and/or a representative selected by them

   To the extent permitted by federal law, a foster parent shall have the same rights relative to a foster child's IEP as a parent/guardian, subject to juvenile court orders regarding the foster child's educational rights holder(s). (Education Code 56055)

2. If the student is or may be participating in the general education program, at least one of the student's general education teachers designated by the Superintendent or designee to represent the student's general education teachers

   The general education teacher shall, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of appropriate positive behavioral interventions, supports, and other strategies for the student, and supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student, consistent with 34 CFR 300.320. (Education Code 56341; 20 USC 1414; 34 CFR 300.324)

3. At least one of the student's special education teachers or, where appropriate, special education providers

4. A representative of the district who is:

   a. Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities

   b. Knowledgeable about the general education curriculum

   c. Knowledgeable about the availability of district resources

5. An individual who can interpret the instructional implications of assessment results

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

6. At the discretion of the parent/guardian or the Superintendent or designee, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate.

   The determination of whether the individual has knowledge or special expertise regarding the student shall be made by the party who invites the individual to be a member of the IEP team. (Education Code 56341)

~~6.~~7. Whenever appropriate, the student

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

~~7.~~8. When the IEP team is determining eligibility for a ~~the~~ student who is suspected of having a specific learning disability, at least one individual who is qualified to conduct individual diagnostic examinations of the student such as a school psychologist, speech language pathologist, or remedial reading teacher. (34 CFR 300.308)

In accordance with 34 CFR 300.310, at least one team member other than the student's general education teacher shall observe the student's academic performance and behavior in the areas of difficulty in the student's learning environment, including in the general education classroom setting. If the child is younger than five years of age or not enrolled in school, a team member shall observe the child in an environment appropriate for a child of that age.

In the following circumstances, the Superintendent or designee shall invite other specified individuals to an IEP team meeting:

1. When the student has been placed in a group home by the juvenile court, a representative of the group home shall be invited to attend the IEP team meeting. (Education Code 56341.2)

2. Whenever the IEP team is meeting to consider the student's postsecondary goals and the transition services needed to assist the student in reaching the goals, the following individuals shall be invited to attend: (34 CFR 300.321)

   a. The student, regardless of the student's age

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

   b. To the extent appropriate, and with the consent of the parent/guardian or adult student, a representative of any other agency that is likely to be responsible for providing or paying for the transition services

3. If the student was previously served under the Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004), and upon request of the student's parent/guardian, the Superintendent or designee shall invite the Infant and Toddlers

with Disabilities Coordinator or other representative of the early education or early intervention system to the initial IEP team meeting to assist with the smooth transition of services. (Education Code 56341; 20 USC 1414; 34 CFR 300.321)

A member of the IEP team shall not be required to attend an IEP team meeting, in whole or in part, if the parent/guardian and the district agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. ~~Even if~~When the meeting involves a discussion of the IEP team member's area of the curriculum or related service, the member may be excused from the meeting if the parent/guardian, in writing, and the district consent to the excusal after conferring with the member and the member submits to the parent/guardian and team written input into the development of the IEP prior to the meeting. (Education Code 56043, 56341; 20 USC 1414; 34 CFR 300.321)

### A2. Contents of the IEP

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

1. A statement of the present levels of the student's academic achievement and functional performance, including:

   a. The manner in which the ~~student's~~ disability affects ~~his/her~~the ~~involvement~~student's involvement and progress in the general education curriculum, ~~(i.e.,~~which is the same curriculum as for ~~nondisabled~~ students without disabilities.~~)~~

   b. For a preschool student, as appropriate, the manner in which the disability affects the student's participation in appropriate activities

   c. For a student with a disability who takes alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives

2. A statement of measurable annual goals, including academic and functional goals, designed to:

   a. Meet the student's needs that result from their disability in order to enable the student to be involved in and make progress in the general education curriculum

   b. Meet each of the student's other educational needs that result from ~~his/her~~the disability

3. A description of the manner in which the student's progress toward meeting the annual

goals described in ~~i~~Item #2, above, will be measured and when the district will provide periodic reports on the progress the student is making toward meeting the annual goals, such as through ~~the use of~~ quarterly or other periodic reports, concurrent with the issuance of report cards

4. A statement of the special education instruction and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student to:

   a. Advance appropriately toward attaining the annual goals

   b. Be involved and make progress in the general education curriculum in accordance with ~~i~~Item #1, above, and to participate in extracurricular and other nonacademic activities

   c. Be educated and participate with other students with disabilities and ~~nondisabled~~ students without disabilities in the activities described in the IEP

5. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the general education ~~regular~~ class and in extracurricular and other nonacademic activities described in the IEP

6. A statement of any appropriate individual accommodations necessary to measure the academic achievement and functional performance of the student on state and districtwide assessments

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

7. The projected date for the beginning of the services and modifications described in item #4 above and the anticipated frequency, location, and duration of those services and modifications

8. If determined appropriate by the IEP team, when the student starts high school or not later than the first IEP to be in effect when the student is 16 years of age, or younger~~-~~, as appropriate, and updated annually thereafter, the following:

   a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate,

independent living skills

b. The transition services, including courses of study, needed to assist the student in reaching those goals

If the IEP team determines the student would benefit from postponing the measurable postsecondary goals and transition services until the student is 16 years of age, the IEP team should document the reason(s) for the postponement.

9. A description of the means by which the IEP will be provided under emergency conditions, as described in Education Code 46392, in which instruction and/or services cannot be provided to the student either at the school or in person for more than 10 school days

   The description shall take into account public health orders and shall include special education and related services, supplementary aids and services, transition services, and extended school year services.

10. Beginning at least one year before the student reaches ~~age~~ 18 years of age, a statement that the student has been informed of ~~his/her~~the rights, if any, that will transfer to the student~~him/her~~ upon reaching ~~age~~ 18 years of, pursuant to Education Code 56041.5

11. For a student in grades 7-12, any alternative means and modes necessary for the student to complete the district's prescribed course of study and to meet or exceed proficiency standards required for graduation

12. For a student whose native language is not English, linguistically appropriate goals, objectives, programs, and services

13. Extended school year services when the IEP team determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education (FAPE)

14. If the student is to be transferred from a special class or nonpublic school into a general education program in a public school for any part of the school day, provision for transition into the general education program including descriptions of activities intended to:

    a. Integrate the student into the general education program, including the nature of each activity and the time spent on the activity each day or week

    b. Support the transition of the student from the special education program into the general education program

15. For a student with low incidence disabilities, specialized services, materials, and equipment consistent with the guidelines pursuant to Education Code 56136

    To assist a student who is blind, has low vision, or is visually impaired, the IEP team may consider instruction in the expanded core curriculum, including compensatory skills such as Braille, concept development, or other skills needed to access the core curriculum; orientation and mobility; social interaction skills; career technical education; assistive technology, including optical devices; independent living skills; recreation and leisure; self-determination; and sensory efficiency. When appropriate, such services may be offered before or after school. (Education Code 56353)

### A3. Development of the IEP

Any IEP required as a result of an assessment of a student shall be developed within 60 days from the date of receipt of the parent/guardian's written consent for assessment, unless the parent/guardian agrees, in writing, to an extension, or repeatedly fails or refuses to produce the child for the assessment. (Education Code 56043, 56302.1, 56344).

Days between the student's regular school sessions, terms, or vacation of more than five school days shall not be counted. In the case of school vacations, the 60-day time limit shall recommence on the date that the student's school days reconvene. (Education Code 56043, 56344)

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

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

1. The strengths of the student
2. The concerns of the parents/guardians for enhancing the education of their child
3. The results of the initial or most recent assessment of the student
4. The academic, developmental, and functional needs of the student
5. In the case of a student whose behavior impedes the student's learning or that of

others, the use of positive behavioral interventions and supports and other strategies to address that behavior

6. In the case of a student with limited English proficiency, the language needs of the student as such needs relate to the student's IEP

7. In the case of a student who is blind or visually impaired, the need to provide for instruction in Braille and instruction in the use of Braille

   However, such instruction need not be included in the IEP if the IEP team determines that instruction in Braille or the use of Braille is not appropriate for the student. This determination shall be based upon an assessment of the student's reading and writing skills, needs, and appropriate reading and writing media, including an assessment of future needs for instruction in Braille~~, and other appropriate reading and writing media~~.

8. The communication needs of the student and, in the case of a student who is deaf, hard of hearing, or deaf-blind, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode

   Additionally, t~~T~~he team shall ~~also~~ consider placements, related services, and program options that provide the student with an equal opportunity for communication access in the least restrictive environment, as ~~described~~ specified in Education Code 56345.

9. Whether the student requires assistive technology devices and services

If, in considering the special factors in I-~~i~~tems #1-9 above, the IEP team determines that the student needs a particular device or service, including an intervention, accommodation, or other program modification, in order to receive FAPE, the team shall include a statement to that effect in the student's IEP. (Education Code 56341.1)

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

*Special education* is specially designed instruction, at no cost to the parent/guardian, to meet the unique needs of individuals with disabilities, including instruction conducted in the classroom, in the home, in hospitals and institutions, and other settings, and instruction in physical education. This definition does not prohibit an IEP from including specialized deaf and hard-of-hearing related services as the only services provided to a student with disabilities. (Education Code 56031)

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

The Superintendent or designee shall ensure that the student's IEP is accessible to each general education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. Additionally, t~~T~~he Superintendent or designee ~~also~~ shall ensure that such teachers and providers are informed of their specific responsibilities related to implementing the IEP and the specific accommodations, modifications, and supports that ~~must~~ shall be provided to the student in accordance with the IEP. (34 CFR 300.323)

If an orientation and mobility evaluation is determined to be needed for a student who is blind, has low vision, or is visually impaired, the evaluation shall be conducted by a person who is appropriately certified as an orientation and mobility specialist and shall occur in familiar and unfamiliar environments, in varying lighting conditions, and in the home, school, and community, as appropriate. The Superintendent or designee may require annual written parent/guardian consent to provide orientation and mobility services when such services are provided before or after school and when they are provided away from the school site. (Education Code 56354; 5 CCR 3051.3)

If a student's IEP requires the provision of assistive technology devices or services, the district shall provide such devices or services and shall, on a case-by-case basis, provide for the use of school-purchased devices or services in the student's home or other settings if the IEP team determines that the student needs access to those devices or services in order to receive FAPE. If a student who requires the use of an assistive technology device or services transfers to another local educational agency, the district shall provide the student with continued access to that device or services or a comparable device or service for two months from the date the student ceased to be enrolled in the district or until alternative arrangements can be made to provide access to the device, whichever occurs first. (Education Code 56040.3; 34 CFR 300.105)

Students with disabilities who require specialized physical health care services during the regular school day may be assisted by the persons authorized in Education Code 49423.5.

Special education and related services provided in the home or hospital are limited to students who have been identified as students with disabilities and for whom the IEP team recommends such instructions or services. Such services shall be provided in accordance with law, including 5 CCR 3051.4, and Administrative Regulation 6183 - Home and Hospital Instruction.

### A5. Review and Revision of the IEP

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

1. Determine whether the annual goals for the student are being achieved

2. Revise the IEP, as appropriate, to address:

   a. Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate

   b. The results of any reassessment conducted pursuant to Education Code 56381

   c. Information about the student provided to or by the parents/guardians regarding review of evaluation data pursuant to 34 CFR 300.305 and Education Code 56381~~(b)~~

   d. The student's anticipated needs

   e. Any other relevant matter

3. Consider the special factors listed in li~~I~~tems #5-9 above, under "Development of the IEP," when reviewing the IEP of any student with a disability to whom one of those factors may apply

Additionally, t~~T~~he IEP team shall ~~also~~ meet at any other time upon request by the student's parent/guardian or teacher to review or revise the IEP. (Education Code 56343)

When a parent/guardian requests an IEP team meeting to review the IEP, the team shall meet within 30 days of receiving the parent/guardian's written request, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days. If a parent/guardian makes an oral request, the district shall notify the parent/guardian of the need for a written request and the procedure for filing such a request. (Education Code 56043, 56343.5)

A general education or special education teacher may request a review of the classroom assignment of a student with a~~n exceptional~~ disability need by submitting a written request to the Superintendent or designee. The Superintendent or designee shall consider the request. If the review indicates a need for change in the student's placement, instruction, and/or related services, the Superintendent or designee shall convene an IEP team meeting, which shall be held within 30 days of the Superintendent or designee's review, not counting days when school is not in session, unless the student's parent/guardian consents in writing to an extension of time.

If a participating agency other than the district fails to provide the transition services described in the student's IEP, the team shall reconvene to identify alternative strategies to meet the transition service objectives set out for the student in the IEP. (Education Code 56345.1; 20 USC 1414; 34 CFR 300.324)

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

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

When a change is necessary to a student's IEP after the annual IEP team meeting for the school year has been held, the parent/guardian and the Superintendent or designee may agree not to convene an IEP team meeting for the purpose of making the change and instead may develop a written document to amend or modify the student's current IEP. The IEP team shall be informed of any such changes. Upon request, the Superintendent or designee shall provide the parent/guardian with a revised copy of the IEP with the incorporated amendments. (Education Code 56380.1; 20 USC 1414; 34 CFR 300.324)

### A6. Audio Recording of IEP Team Meetings

Parents/guardians and the Superintendent or designee shall have the right to audio record the proceedings of IEP team meetings, provided members of the IEP team are notified of this intent at least 24 hours before the meeting. If the Superintendent or designee gives notice of intent to audio record a meeting and the parent/guardian objects or refuses to attend because the meeting would be audio recorded, the meeting shall not be audio recorded. Parents/guardians also have the right to: (Education Code 56341.1)

1. Inspect and review the audio recordings

2. Request that an audio recording be amended if they believe it contains information that is inaccurate, misleading, or in violation of the student's privacy rights or other rights

3. Challenge, in a hearing, information that the parents/guardians believe is inaccurate, misleading, or in violation of the student's privacy rights or other rights

### A7. Parent/Guardian Participation and Other Rights

The Superintendent or designee shall take steps to ensure that one or both of the parents/guardians of the student with a disability are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include notifying the parents/guardians of the meeting early enough to ensure that they will have the opportunity to attend and scheduling the meeting at a mutually agreed upon time and place. (Education Code

56341.5; 34 CFR 300.322)

The Superintendent or designee shall send parents/guardians notices of IEP team meetings that: (Education Code 56341.5; 34 CFR 300.322)

1. Indicate the purpose, time, and location of the meeting

2. Indicate who will be in attendance at the meeting

3. Inform them of:

   a. Their right to bring to the meeting other individuals who have knowledge or special expertise about the student, pursuant to Education Code 56341

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

Additionally, if determined appropriate by the pupil's individualized education program team, beginning when the pupil starts their high school experience or not later than the first individualized education program to be in effect when the pupil is 16 years of age or younger, as appropriate, ~~when the IEP team meeting is to consider the development, review, or revision of the IEP of a student with a disability who is 16 years of age or older, or younger than 16 if deemed appropriate by the IEP team~~, the Superintendent or designee's notice to the student's parents/guardians shall include the following: (Education Code 56341.5)

1. An indication that ~~a~~one purpose of the meeting will be the consideration of postsecondary goals and transition services for the student pursuant to Education Code 56345.1, 20 USC 1414, and 34 CFR 300.320~~(b)~~

2. An indication that the student is invited to the IEP team meeting

At each IEP team meeting convened by the district, the district administrator or specialist on the team shall inform the parent/guardian and student of the federal and state procedural safeguards included in the notice of parental rights provided pursuant to Education Code 56321. (Education Code 56301, 56500.1)

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

days. (Education Code 56043, 56504)

The parent/guardian shall have the right to present information to the IEP team in person or through a representative and the right to participate in meetings that relate to eligibility for special education and related services, recommendations, and program planning. (Education Code 56341.1)

If neither parent/guardian can attend the meeting, the Superintendent or designee shall use other methods to ensure parent/guardian participation, including video conferences or individual or conference telephone calls. (Education Code 56341.5; 20 USC 1414; 34 CFR 300.322)

An IEP team meeting may be conducted without a parent/guardian in attendance if the Superintendent or designee is unable to convince the parent/guardian to attend. In such a case, the Superintendent or designee shall maintain a record of the attempts to arrange a mutually agreed upon time and place for the meeting, including: (Education Code 56341.5; 34 CFR 300.322)

1. Detailed records of telephone calls made or attempted and the results of those calls

2. Copies of correspondence sent to the parent/guardian and any responses received

3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits

The Superintendent or designee shall take any action necessary to ensure that the parents/guardians understand the proceedings of the meeting, including arranging for an interpreter for parents/guardians with deafness or whose native language is not English. (Education Code 56341.5; 34 CFR 300.322)

The Superintendent or designee shall give the parents/guardians of a student with a disability a copy of the IEP at no cost. (Education Code 56341.5; 34 CFR 300.322)

### A8. Parent/Guardian Consent for Provision of Special Education and Services

Before providing special education and related services to any student pursuant to 20 USC 1414, the Superintendent or designee shall seek to obtain informed consent of the student's parent/guardian. (Education Code 56346)

If the parent/guardian fails to respond or refuses to consent to the initiation of services, the district shall not use the due process hearing procedures pursuant to 20 USC 1415 to obtain agreement or a ruling that the services may be provided to the student. In such circumstances, the district shall not be required to convene an IEP team or develop an IEP for the student.

(Education Code 56346).

If the parent/guardian consents in writing to the receipt of special education and related services for the student but does not consent to all of the components of the IEP, then those components to which the parent/guardian has consented shall be implemented so as not to delay providing instruction and services to the student.

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

If at any time subsequent to the initial provision of services, the student's parent/guardian, in writing, revokes consent for the continued provision of special education services, the Superintendent or designee shall provide prior written notice within a reasonable time before ceasing to provide services to the student. The Superintendent or designee shall not request a due process hearing or pursue mediation in order to require an agreement or ruling that services be provided to the student. (Education Code 56346; 34 CFR 300.300, 300.503)

Prior to the discontinuation of services, the Superintendent or designee may offer to meet with the parents/guardians to discuss concerns for the student's education. However, this meeting shall be voluntary on the part of the parent/guardian and shall not delay the implementation of the parent/guardian's request for discontinuation of services.

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

### A9. Transfer Students

To facilitate the transition of a student with a disability who is transferring into the district, the Superintendent or designee shall take reasonable steps to promptly obtain the student's records, including the IEP and the supporting documents related to the provision of special education services. The district shall accept unofficial records provided by the student's parent/guardian pending validation by the official records, consistent with the requirements of the Interstate Compact on Educational Opportunity for Military Children. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from another school district within the same Special Education Local Plan Area (SELPA) during the school year, the district shall continue to provide services comparable to those described in the student's existing IEP, unless the student's parent/guardian and the district agree to develop, adopt, and implement a new IEP that is

consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from a school district outside of the district's SELPA during the school year, the district shall provide the student with FAPE, including services comparable to those described in the previous district's IEP in consultation with the student's parent/guardian, for a period not to exceed 30 days. By the end of that period, the district shall either adopt the previous district's IEP or shall develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district within the same academic year from outside the state or within the state from a different SELPA, within 30 days of receipt of official records or specified unofficial records, the Superintendent or designee shall either adopt and implement the IEP previously adopted for the student or develop, adopt, and implement a new IEP for the student that is consistent with federal and state law, as applicable. For students transferring into the district from outside the state, the district may conduct a full and individual initial assessment pursuant to 20 USC 1414 when such assessment is necessary to develop an IEP that is consistent with federal and state law. (Education Code 56325)

If the student transfers into the district within the same academic year from district to district within the same SELPA, the new district shall continue, without delay, to provide services comparable to those described in the existing approved individualized education program, unless the parent and the local educational agency agree to develop, adopt, and implement a new individualized education program that is consistent with federal and state law.

~~If the student transfers into the district from an out-of-state district during the school year, the district shall provide the student with FAPE, including services comparable to the out-of-state district's IEP, in consultation with the parent/guardian, until such time as the Superintendent or designee conducts an assessment, if it determines that such an assessment is necessary, and develops, adopts, and implements a new IEP, if appropriate. (Education Code 56325; 34 CFR 300.323).~~

## B. Procedural Safeguards and Complaints for Special Education

The Solano County SELPA and the member LEAs recognize their obligation to provide a free appropriate public education (FAPE) to students with disabilities and to uphold the rights of parents/guardians to be involved in educational decisions regarding their child. Students with disabilities and the parents/guardians of such students with disabilities shall receive written notice of their rights under the federal Individuals with Disabilities Education Act. [2]

The Superintendent or designee shall represent the member LEA in any due process hearing conducted with regard to district students and shall inform the Board about the result of the hearing.

A complaint alleging the LEA's noncompliance with federal or state laws or regulations related to the provision of a free appropriate public education to students with disabilities shall be filed in accordance with 5 CCR 3200-3205.

### B1. Prior Written Notice

The Superintendent or designee shall send to the parents/guardians of any student with disabilities a prior written notice: (20 USC 1415; 34 CFR 300.102, 300.300, 300.503; Education Code 56346, 56500.4, 56500.5)

1. Before the district initially refers the student for assessment

2. Within a reasonable time before the district proposes to initiate or change the student's identification, assessment, educational placement, or the provision of a free appropriate public education (FAPE) to the student

3. Within a reasonable time, before the district refuses to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student

4. Within a reasonable time, before the student graduates from high school with a regular diploma, thus resulting in a change in placement

5. Upon receipt of the parent/guardian's written revocation of consent for the continued provision of special education and related services to the student

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

1. A description of the action proposed or refused by the district

2. An explanation as to why the district proposes or refuses to take the action

3. A description of each assessment procedure, assessment, record, or report the district used as a basis for the proposed or refused action

[2] See corresponding member LEA board policy and administrative regulation 6159.1

4. A statement that the parents/guardians of the student have protection under procedural safeguards and, if this notice is not an initial referral for assessment, the means by which a copy of the description of procedural safeguards can be obtained

5. Sources for parents/guardians to obtain assistance in understanding these provisions

6. A description of any other options that the individualized education program (IEP) team considered and why those options were rejected

7. A description of any other factors relevant to the district's proposal or refusal

### B2. Procedural Safeguards Notice

A procedural safeguards notice shall be made available to students with disabilities and their parents/guardians once each school year and: (20 USC 1415(d)(1); 34 CFR 300.504; Education Code 56301)

1. Upon initial referral or parent/guardian request for assessment

2. Upon receipt of the first state compliance complaint in a school year, filed in accordance with the section “State Compliance Complaints” below

3. Upon receipt of the first due process hearing request in a school year

4. In accordance with the discipline procedures pursuant to 34 CFR 300.530(h), when removal of a student because of a violation of a code of conduct constitutes a change of placement

5. Upon request by a parent/guardian or student with disabilities

The procedural safeguards notice shall include a full explanation of the procedural safeguards available under 34 CFR 300.148, 300.151-300.153, 300.300, 300.502-300.503, 300.505-300.518, 300.520, 300.530-300.536, and 300.610-300.625 relating to: (20 USC 1415(d)(2); 34 CFR 300.504; Education Code 56301)

1. Independent educational evaluation

2. Prior written notice

3. Parental consent, including a parent/guardian's right to revoke consent, in writing, to the student's continued receipt of special education and related services

4. Access to educational records

5. Opportunity to present complaints and resolve complaints through the due process complaint and state compliance complaint procedures, including the time period in which to file a complaint, the opportunity for the district to resolve the complaint, and the difference between a due process complaint and the state compliance complaint procedures, including the jurisdiction of each procedure, issues that may be raised, filing and decisional timelines, and relevant procedures

6. The availability of mediation

7. The student's placement during the pendency of any due process complaint

8. Procedures for students who are subject to placement in an interim alternative educational setting

9. Requirements for unilateral placement by parents/guardians of students in private schools at public expense

10. Hearings on due process complaints, including requirements for disclosure of assessment results and recommendations

11. State-level appeals

12. Civil actions, including the time period in which to file those actions

13. Availability of attorney's fees pursuant to 34 CFR 300.517

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

1. Information on the procedures for requesting an informal meeting, prehearing mediation conference, mediation conference, or due process hearing

2. The timelines for completing each process

3. Whether the process is optional

4. The type of representative who may be invited to participate

5. The right of the parent/guardian and/or the district to electronically record the proceedings of IEP meetings in accordance with Education Code 56341.1

6. Information regarding the state special schools for students who are deaf, hard of hearing, blind, visually impaired, or deaf-blind

A copy of this notice shall be attached to the student's assessment plan. At each IEP meeting, the Superintendent or designee shall inform the parent/guardian of the federal and state procedural safeguards that were provided in the notice. (Education Code 56321, 56500.1)

### B3. Format of Parent/Guardian Notices

The parents/guardians of a student with a disability shall be provided written notice of their rights in a language easily understood by the general public and in their native language or other mode of communication used by them, unless to do so is clearly not feasible. (34 CFR 300.503, 300.504; Education Code 56341, 56506)

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

1. the notice is translated orally or by other means in the parent/guardian's native language or other mode of communication

2. and that the parent/guardian understands the contents of the notice

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

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

A student with disabilities may elect to receive the procedural safeguards notice by electronic mail communication.

### B4. Filing Due Process Complaints

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

1. There is a proposal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student

2. There is a refusal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student

3. The parent/guardian refuses to consent to an assessment of the student

4. There is a disagreement between a parent/guardian and the district regarding the availability of a program appropriate for the student, including the question of financial responsibility, as specified in 34 CFR 300.148.

Prior to having a due process hearing, the party requesting the hearing, or the party's attorney, shall provide the opposing party a due process complaint, which shall remain confidential, specifying: (20 USC 1415; 34 CFR 300.508; Education Code 56502)

1. The student's name

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

3. The name of the school the student attends

4. A description of the nature of the student's problem relating to the proposed or refused initiation or change, including facts relating to the problem

5. A proposed resolution to the problem to the extent known and available to the complaining party at the time

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

The request shall be filed within two years from the date the party initiating the request knew or had reason to know of the facts underlying the basis for the request. This timeline shall not apply if the district misrepresented that it had solved the problem or withheld required information from the parent/guardian. (Education Code 56505; 20 USC 1415; 34 CFR 300.507, 300.511)

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

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

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

1. An explanation of why the district proposed or refused to take the action raised in the complaint
2. A description of other options that the IEP team considered and the reasons that those options were rejected
3. A description of each assessment procedure, assessment, record, or report the district used as the basis for the proposed or refused action
4. A description of the factors that are relevant to the district's proposal or refusal

Upon the filing of a due process complaint by either party or upon request of the parent/guardian, the district shall inform the parent/guardian of any free or low-cost legal and other relevant services available in the area. (34 CFR 300.507)

### B6. Informal Process/Pre-Hearing Mediation Conference

Prior to or upon initiating a due process hearing, the Superintendent or designee and a parent/guardian may, if the party initiating the hearing so chooses, agree to meet informally to resolve any issue(s) relating to the identification, assessment, education and placement, or provision of FAPE for a student with disabilities. The Superintendent or designee shall have the authority to resolve the issue(s). (Education Code 56502)

Additionally, either party may file a request with the state Office of Administrative Hearings for a mediation conference. (Education Code 56500.3)

If resolution is reached that resolves the due process issue(s), the parties shall enter into a legally binding agreement that satisfies the requirements of Education Code 56500.3. (Education Code 56500.3)

Attorneys may attend or otherwise participate only in those mediation conferences that are scheduled after the filing of a request for due process hearing. (Education Code 56500.3, 56501)

## B7. State Compliance Complaints

Any individual, including a person's duly authorized representative or an interested third party, public agency, or organization may file with the California Department of Education (CDE) a written and signed statement alleging that, within the previous year, any of the following occurred: (5 CCR 3200, 3201)

1. The district violated Part B of the Individuals with Disabilities Education Act (20 USC 1411-1419) and its implementing regulations (34 CFR 300.1-300.818)
2. The district violated Part 30 of the Education Code (Education Code 56000-56865) and 5 CCR 3200-3205
3. The district violated the terms of a settlement agreement related to the provision of FAPE, excluding any allegation related to an attorney fees provision in a settlement agreement
4. The district failed or refused to implement a due process hearing order to which the district is subject
5. Physical safety concerns interfered with the provision of FAPE

The complaint shall include: (5 CCR 3202; 34 CFR 300.153)

1. A statement that the district has violated or failed to comply with any provision set forth in 5 CCR 3201
2. The facts on which the statement is based
3. The signature and contact information for the complainant
4. If alleging violations with respect to a specific student, the student's name and address (or other available contact information for a homeless student), the name of the school that the student is attending, a description of the nature of the student's problem and facts related to the problem, and a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed

The complainant shall forward a copy of the complaint to the Superintendent or designee at the same time the complaint is filed with CDE. (5 CCR 3202)

Within 30 days of the date of CDE's investigation report, the district or complainant may request reconsideration of the decision in accordance with 5 CCR 3204. Pending CDE's response, any corrective actions set forth in the report shall remain in effect and enforceable, unless stayed by a court. (5 CCR 3204)

## B. Procedural Safeguards and Complaints for Special Education

The Solano County SELPA and the member LEAs recognize their obligation to provide a free appropriate public education (FAPE) to students with disabilities and to uphold the rights of parents/guardians to be involved in educational decisions regarding their child. Students with disabilities and the ~~P~~parents/guardians of such students with disabilities shall receive written notice of their rights under the federal Individuals with Disabilities Education Act. [2]

The Superintendent or designee shall represent the member LEA in any due process hearing conducted with regard to district students and shall inform the Board about the result of the hearing.

A complaint alleging the LEA's noncompliance with federal or state laws or regulations related to the provision of a free appropriate public education to students with disabilities shall be filed in accordance with 5 CCR 3200-3205.

### B1. Prior Written Notice

The Superintendent or designee shall send to the parents/guardians of any student with disabilities a prior written notice: (20 USC 1415~~(c)~~; 34 CFR 300.102, 300.300, 300.503; Education Code 56346, 56500.4, 56500.5)

1. Before the district initially refers the student for assessment
2. Within a reasonable time before the district proposes to initiate or change the student's identification, assessment, educational placement, or the provision of a free appropriate public education (FAPE) to the student
3. Within a reasonable time, before the district refuses to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student
4. Within a reasonable time, before the student graduates from high school with a regular diploma, thus resulting in a change in placement
5. Upon receipt of the parent/guardian's written revocation of consent for the continued provision of special education and related services to the student

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

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

[2] See corresponding member LEA board policy and administrative regulation 6159.1

4. A statement that the parents/guardians of the student have protection under procedural safeguards and, if this notice is not an initial referral for assessment, the means by which a copy of the description of procedural safeguards can be obtained

5. Sources for parents/guardians to obtain assistance in understanding these provisions

6. A description of any other options that the individualized education program (IEP) team considered and why those options were rejected

7. A description of any other factors relevant to the district's proposal or refusal

### B2. Procedural Safeguards Notice

A procedural safeguards notice shall be made available to ~~parents/guardians of~~ students with disabilities and their parents/guardians once each school year and: (20 USC 1415(d)(1); 34 CFR 300.504; Education Code 56301)

1. Upon initial referral or parent/guardian request for assessment

2. Upon receipt of the first state compliance complaint in a school year, filed in accordance with the section “State Compliance Complaints” below

3. Upon receipt of the first due process hearing request in a school year

4. In accordance with the discipline procedures pursuant to 34 CFR 300.530(h), when removal of a student because of a violation of a code of conduct constitutes a change of placement

5. Upon request by a parent/guardian or student with disabilities

The procedural safeguards notice shall include a full explanation of ~~all of~~ the procedural safeguards available under 34 CFR 300.148, 300.151-300.153, 300.300, 300.502-300.503, 300.505-300.518, 300.520, 300.530-300.536, and 300.610-300.625 relating to: (20 USC 1415(d)(2); 34 CFR 300.504; Education Code 56301)

1. Independent educational evaluation

2. Prior written notice

3. Parental consent, including a parent/guardian's right to revoke consent, in writing, to the student's continued receipt of special education and related services

4. Access to educational records

5. Opportunity to present complaints and resolve complaints through the due process complaint and state compliance complaint procedures, including the time period in which to file a complaint, the opportunity for the district to resolve the complaint, and the difference between a due process complaint and the state compliance complaint procedures, including the jurisdiction of each procedure, ~~what~~ issues that may be raised, filing and decisional timelines, and relevant procedures

6. The availability of mediation

7. The student's placement during the pendency of any due process complaint

8. Procedures for students who are subject to placement in an interim alternative educational setting

9. Requirements for unilateral placement by parents/guardians of students in private schools at public expense

10. Hearings on due process complaints, including requirements for disclosure of assessment results and recommendations

11. State-level appeals

12. Civil actions, including the time period in which to file those actions

13. Availability of attorney's fees pursuant to 34 CFR 300.517

Additionally, t~~T~~his notice shall ~~also~~ include the rights and procedures contained in Education Code 56500-56509, including: (Education Code 56321, 56321.5, 56321.6)

1. Information on the procedures for requesting an informal meeting, prehearing mediation conference, mediation conference, or due process hearing

2. The timelines for completing each process

3. Whether the process is optional

4. The type of representative who may be invited to participate

5. The right of the parent/guardian and/or the district to electronically record the proceedings of IEP meetings in accordance with Education Code 56341.1

6. Information regarding the state special schools for students who are deaf, hard of hearing, blind, visually impaired, or deaf-blind

A copy of this notice shall be attached to the student's assessment plan. At each IEP meeting, the Superintendent or designee shall inform the parent/guardian of the federal and state procedural safeguards that were provided in the notice. (Education Code 56321, 56500.1)

### B3. Format of Parent/Guardian Notices

The parents/guardians of a student with a disability shall be provided written notice of their rights in a language easily understood by the general public and in their native language or other mode of communication used by them, unless to do so is clearly not feasible. (34 CFR 300.503, 300.504; Education Code 56341, 56506)

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

1. t~~T~~he notice is translated orally or by other means ~~to~~in the parent/guardian's ~~in his/her~~ native language or other mode of communication

2. and that t~~T~~he parent/guardian understands the contents of the notice

~~3. There is written evidence that items #1 and #2 have been satisfied~~

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

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

A student with disabilities may elect to receive the procedural safeguards notice by electronic mail communication.

### B4. Filing Due Process Complaints

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

1. There is a proposal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student

2. There is a refusal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student

3. The parent/guardian refuses to consent to an assessment of the student

4. There is a disagreement between a parent/guardian and the district regarding the availability of a program appropriate for the student, including the question of financial responsibility, as specified in 34 CFR 300.148.

Prior to having a due process hearing, the party requesting the hearing, or the party's attorney, shall provide the opposing party a due process complaint, which shall remain confidential, specifying: (20 USC 1415~~(b)~~; 34 CFR 300.508; Education Code 56502)

1. The student's name

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

3. The name of the school the student attends

4. A description of the nature of the student's problem relating to the proposed or refused initiation or change, including facts relating to the problem

5. A proposed resolution to the problem to the extent known and available to the complaining party at the time

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

The request shall be filed within two years from the date the party initiating the request knew or had reason to know of the facts underlying the basis for the request. This timeline shall not apply if the district misrepresented that it had solved the problem or withheld required information from the parent/guardian. (Education Code 56505; 20 USC 1415; 34 CFR 300.507, 300.511)

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

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

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

1. An explanation of why the district proposed or refused to take the action raised in the complaint
2. A description of other options that the IEP team considered and the reasons that those options were rejected
3. A description of each assessment procedure, assessment, record, or report the district used as the basis for the proposed or refused action
4. A description of the factors that are relevant to the district's proposal or refusal

Upon the filing of a due process complaint by either party or upon request of the parent/guardian, the district shall inform the parent/guardian of any free or low-cost legal and other relevant services available in the area. (34 CFR 300.507)

### B6. Informal Process/Pre-Hearing Mediation Conference

Prior to or upon initiating a due process hearing, the Superintendent or designee and a parent/guardian may, if the party initiating the hearing so chooses, agree to meet informally to resolve any issue(s) relating to the identification, assessment, education and placement, or provision of FAPE for a student with disabilities. The Superintendent or designee shall have the authority to resolve the issue(s). (Education Code 56502)

~~In addition~~Additionally, either party may file a request with the state Office of Administrative Hearings for a mediation conference. (Education Code 56500.3)

If resolution is reached that resolves the due process issue(s), the parties shall enter into a legally binding agreement that satisfies the requirements of Education Code 56500.3. (Education Code 56500.3)

Attorneys may attend or otherwise participate only in those mediation conferences that are scheduled after the filing of a request for due process hearing. (Education Code 56500.3, 56501)

### B7. State Compliance Complaints

Any individual, including a person's duly authorized representative or an interested third party, public agency, or organization may file with the California Department of Education (CDE) a written and signed statement alleging that, within the previous year, any of the following occurred: (5 CCR 3200, 3201)

1. The district violated Part B of the Individuals with Disabilities Education Act (20 USC 1411-1419) and its implementing regulations (34 CFR 300.1-300.818).
2. The district violated Part 30 of the Education Code (Education Code 56000-56865) and 5 CCR 3200-3205.
3. The district violated the terms of a settlement agreement related to the provision of FAPE, excluding any allegation related to an attorney fees provision in a settlement agreement.
4. The district failed or refused to implement a due process hearing order to which the district is subject.
5. Physical safety concerns interfered with the provision of FAPE.

The complaint shall include: (5 CCR 3202; 34 CFR 300.153)

1. A statement that the district has violated or failed to comply with any provision set forth in 5 CCR 3201
2. The facts on which the statement is based
3. The signature and contact information for the complainant
4. If alleging violations with respect to a specific student, the student's name and address (or other available contact information for a homeless student), the name of the school that the student is attending, a description of the nature of the student's problem and facts related to the problem, and a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed

The complainant shall forward a copy of the complaint to the Superintendent or designee at the same time the complaint is filed with CDE. (5 CCR 3202)

~~Within sixty days of the complaint, CDE will carry out an independent investigation.~~

Within 30 days of the date of CDE's investigation report, the district or complainant may request reconsideration of the decision in accordance with 5 CCR 3204. Pending CDE's response, any corrective actions set forth in the report shall remain in effect and enforceable, unless stayed by a court. (5 CCR 3204)

# E. Identification and Evaluation of Individuals for Special Education

The Governing Board recognizes the need to actively seek out and evaluate district residents from birth to 21 years of age who have disabilities in order to provide them with appropriate educational opportunities in accordance with state and federal law.[4]

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

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

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

## E1. Referrals for Special Education Services

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

However, the district shall ensure that evaluations of children suspected of having a disability are not delayed or denied because of the implementation of response to intervention strategies.

A parent/guardian or the district may initiate a request for an initial evaluation to determine if the student is a student with a disability. (34 CFR 300.301)

When a verbal referral is made, staff shall offer assistance to the individual to make the request in writing and shall assist the individual if the individual requests such assistance. (5 CCR 3021)

All referrals from school staff for an initial evaluation shall include a brief reason for the referral and description of the regular program resources that were considered and/or modified for use with the student and, when appropriate, the results of intervention. This documentation shall not delay the timelines for completing the assessment plan or assessment. . (5 CCR 3021)

[4] See corresponding member LEA board policy and administrative regulation 6164.4

## E2. Initial Evaluation for Special Education Services

Before the initial provision of special education and related services to a student with a disability, the district shall conduct an individual initial evaluation of the student's educational needs related to all areas of suspected disability. (Education Code 56320; 34 CFR 300.301)

Upon receipt of a referral of any student for special education and related services, a proposed evaluation plan shall be developed within 15 calendar days, not counting days between the student's regular school sessions or terms or calendar days of school vacation in excess of five school days, unless the parent/guardian agrees, in writing, to an extension. If the referral is made with 10 or fewer days remaining before the end of the student's regular school year or term, the proposed evaluation plan shall be developed within 10 days after the beginning of the next regular school year or term. (Education Code 56043, 56321)

The proposed evaluation plan shall meet all of the following requirements: (Education Code 56321)

1. Be in a language easily understood by the general public

2. Be provided in the native language of the parent/guardian or other mode of communication used by the parent/guardian unless it is clearly not feasible. 34 CFR 300.29 defines "native language" as the language normally used by the individual and, for a child, the language regularly used in the home environment

3. Explain the type(s) of evaluation(s) to be conducted

4. State that no individualized education program (IEP) will result from the evaluation without parent/guardian consent

A copy of the notice of a parent/guardian's rights and procedural safeguards shall be attached to the evaluation plan. (Education Code 56321)

The proposed written evaluation plan shall include a description of recent assessments conducted, including available independent assessments and assessment information requested by the parent/guardian to be considered, as well as information indicating the student's primary language and the student's primary language proficiency as determined by Education Code 52164.1. (5 CCR 3022)

Before conducting an initial evaluation, the district shall provide the parent/guardian with prior written notice in accordance with 34 CFR 300.503. Additionally, as part of the evaluation plan, the parent/guardian shall receive written notice that includes all of the following information: (Education Code 56329; 34 CFR 300.304, 300.502, 300.504)

1. Upon completion of the administration of tests and other evaluation materials, an IEP team meeting that includes the parent/guardian or the parent/guardian's representative shall be scheduled pursuant to Education Code 56341. At this meeting, the team shall determine whether or not the student is a student with disabilities, as defined in Education Code 56026, and shall discuss the evaluation, the educational recommendations, and the reasons for the recommendations.

2. When making a determination of eligibility for special education, the district shall not determine that the student is disabled if the primary factor for such determination is lack of appropriate instruction in reading, including the essential components of reading instruction as defined in 20 USC 6368, lack of appropriate instruction in mathematics, or limited English proficiency, if the student does not otherwise meet the eligibility criteria under 34 CFR 300.8.

3. A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent/guardian.

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

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

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

   If the parent/guardian obtains an IEE at private expense, the results of the IEE shall be considered by the district with respect to the provision of a free appropriate public education (FAPE) to the student, and may be presented as evidence at a due process hearing regarding the student. If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of a student, an equivalent opportunity shall apply to an IEE of the student in the student's current educational placement and setting and in any educational placement and setting proposed by the district, regardless of whether the IEE is initiated before or after the filing of a due process hearing.

6. If the parent/guardian proposes a publicly financed placement of the student in a nonpublic school, the district shall have an opportunity to observe the proposed placement and, if the student has already been unilaterally placed in the nonpublic school by the student's parent/guardian, the student in that proposed placement. Any such observation shall only be of the student who is the subject of the observation and shall not include the observation or evaluation of any other student in the proposed placement unless that other student's parent/guardian consents to the observation or evaluation. The results of any observation or evaluation of another student in violation of Education Code 56329(d) shall be inadmissible in any due process or judicial proceeding regarding FAPE of that other student.

## E3. Parent/Guardian Consent for Evaluations

Consent means that the parent/guardian: (Education Code 56021.1; 34 CFR 300.9)

1. Has been fully informed, in the parent/guardian's native language or other mode of communication, of all information relevant to the activity for which consent is sought

2. Understands and agrees, in writing, to the carrying out of the activity for which parent/guardian consent is sought and the consent describes that activity and lists the records (if any) that will be released and to whom

3. Understands that the granting of consent is voluntary on the parent/guardian's part and may be revoked at any time

4. Understands that if the parent/guardian revokes consent, that revocation is not retroactive, such that it does not negate an action that has occurred after the consent was given and before the consent was revoked

The district is not required to amend the education records of a student to remove any reference to the student's receipt of special education and services if the student's parent/guardian submits a written revocation of consent after the initial provision of special education and related services to the student.

Upon receiving the proposed evaluation plan, the parent/guardian shall have at least 15 days to decide whether to consent to the initial evaluation. The district shall not interpret parent/guardian consent for initial evaluation as consent for initial placement or initial provision of special education services. (Education Code 56321; 34 CFR 300.300)

The district shall make reasonable efforts to obtain the consent of the parent/guardian for an initial evaluation or reevaluation of a student. (Education Code 56321; 34 CFR 300.300, 300.322)

The district shall maintain a record of its attempts to obtain consent, such as: (Education Code 56341.5)

1. Detailed records of telephone calls made or attempted and the results of those calls

2. Copies of correspondence sent to the parent/guardian and any responses received

3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits

If a parent/guardian refuses to consent to the initial evaluation or fails to respond to a request to provide consent, the district may, but is not required to, pursue an evaluation by utilizing the procedural safeguards, including the mediation and due process procedures pursuant to 20 USC 1415 and 34 CFR 300.506-300.516. (Education Code 56321; 34 CFR 300.300)

For a student who is a ward of the state and not residing with the student's parent/guardian, the district shall make reasonable efforts to obtain the consent from the parent/guardian of the student for an initial evaluation to determine whether the student is a student with a disability. The district may conduct an initial evaluation without obtaining consent of the parent/guardian if any of the following situations exists: (Education Code 56321.1; 20 USC 1414; 34 CFR 300.300)

1. Despite reasonable efforts to do so, the district cannot discover the whereabouts of the parent/guardian of the student.

2. The rights of the parent/guardian of the student have been terminated in accordance with state law.

3. The rights of the parent/guardian to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student.

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

### E4. Conduct of the Evaluation

Within 60 calendar days of receiving parent/guardian consent for the initial assessment of a student, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five schooldays, a determination of whether the student is eligible for special education and the educational needs of the student shall be made, an IEP team meeting shall occur, and an IEP shall be developed, unless the parent/guardian agrees in writing to an extension, pursuant to Education Code 56344. If the 60-day time is interrupted by a student school vacation, the 60-day time shall recommence on the date that student school days reconvene. A meeting to develop an initial IEP for the student shall be conducted within 30 days of a determination that the student needs special education and related services. (Education Code 56043, 56344)

However, when a referral has been made for a student 30 days or less prior to the end of the regular school year, an IEP required as a result of an assessment of the student shall be developed within 30 days after the commencement of the subsequent regular school year. (Education Code 56043, 56344; 34 CFR 300.301, 300.323)
The evaluation shall be conducted by qualified personnel who are competent to perform the assessment as determined by the district. (Education Code 56322)

Additionally, evaluations and reevaluations shall be administered by qualified personnel who are competent in the oral or sign language skills and written skills of the student's primary language or mode of communication and have a knowledge and understanding of the cultural and ethnic background of the student. If it is clearly not feasible to do so, an interpreter shall be used, and the assessment report shall document this condition and note that the validity of the assessment may have been affected. The normal process of second-language acquisition, as well as manifestations of dialect and sociolinguistic variance shall not be diagnosed as a disabling condition. (5 CCR 3023)

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. (Education Code 56321; 20 USC 1414; (34 CFR 300.302)

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

The district's evaluation shall not use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability and for determining the appropriate educational program for the student. The assessment shall use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors. (Education Code 56320; 34 CFR 300.304)

Additionally, the district shall ensure that assessments and other evaluation materials provide relevant information that assists in determining the student's educational needs and are: (Education Code 56320; 34 CFR 300.304)

1. Selected and administered so as not to be discriminatory on the basis of race, culture, or sex.

2. Provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer

3. Used for the purposes for which the assessments or measures are valid and reliable

4. Administered by trained and knowledgeable personnel, ensuring that any individually administered tests of intellectual or emotional functioning are administered by a credentialed school psychologist

5. Administered in accordance with any instructions provided by the producer of the assessments

6. Tailored to assess specific areas of educational need and not merely designed to provide a single general intelligence quotient

7. If administered to a student with impaired sensory, manual, or speaking skills, selected and administered to best ensure that the results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills, unless those skills are the factors that the test purports to measure

Students shall be assessed in all areas related to the suspected disability, including, if appropriate, health and development, vision (including low vision), hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. When appropriate, a developmental history shall be obtained. For students with residual vision, a low vision assessment shall be provided in accordance with guidelines established pursuant to Education Code 56136. The

district shall ensure that the evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs, regardless of whether commonly linked to the disability category in which the student has been classified. (Education Code 56320; 34 CFR 300.304)

As part of the initial evaluation and any reevaluation, the IEP team and other qualified professionals shall, if appropriate, review existing evaluation data on the student, including evaluations and information provided by the parents/guardians, current classroom-based local or state assessments and classroom-based observations, and observations by teachers and related services providers. On the basis of that review and input from the student's parent/guardian, the team shall identify what additional data, if any, are needed to determine: (Education Code 56381; 34 CFR 300.305)

1. Whether the student is a student with a disability, or in the case of a reevaluation, whether the student continues to have a disability, and the educational needs of the student

2. The present levels of academic achievement and related developmental needs of the student

3. Whether the student needs, or continues to need, special education and related services

4. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the student's IEP and to participate, as appropriate, in the general education curriculum

If a student has transferred from another district in the same school year or leaves this district, the district shall coordinate with the student's prior or subsequent district as necessary and as expeditiously as possible to ensure prompt completion of full evaluations. Education Code 56320; (34 CFR 300.304)

### E5. Evaluation Report

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

1. Whether the student may need special education and related services

2. The basis for making the determination

3. The relevant behavior noted during the observation of the student in an appropriate setting

4. The relationship of that behavior to the student's academic and social functioning

5. The educationally relevant health, developmental, and medical findings, if any

6. For students with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services

7. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate

8. The need for specialized services, materials, and equipment for students with low incidence disabilities, consistent with Education Code 56136

### E6. Eligibility Determination

Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent/guardian shall determine whether the student is a student with a disability as defined in 5 CCR 3030 and 34 CFR 300.8 and, if so, the student's educational needs. In interpreting the data, the group shall draw information from a variety of sources, including aptitude and achievement tests, parent/guardian input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior. The group shall ensure that the information obtained from these sources is documented and carefully considered. (34 CFR 300.306)

If the student is eligible under the criteria for "emotional disturbance," as defined in 5 CCR 3030 and 34 CFR 300.8, the student may be identified as having an "emotional disability" pursuant to Education Code 97.

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

The normal process of second-language acquisition, as well as manifestations of dialect and sociolinguistic variance, shall not be diagnosed as a disabling condition. (5 CCR 3023)

### E7. Independent Educational Evaluation

An independent educational evaluation is defined as an evaluation conducted by a qualified examiner who is not employed by the district. (34 CFR 300.502)

Public expense means that the district either pays for the full cost of the IEE or ensures that the evaluation is otherwise provided at no cost to the parent/guardian. (34 CFR 300.502)
The parents/guardians of a student with a disability have the right to obtain an IEE at public expense under the same criteria, including the location of the evaluation and the qualifications of the examiner that the district uses for a district-initiated evaluation.

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

If a parent/guardian has requested an IEE, the district may ask for the reason that the parent/guardian objects to the district's evaluation. However, the parent/guardian is not required to provide an explanation and the district may not unreasonably delay either providing the IEE at public expense or

filing a due process complaint to request a due process hearing to defend the public evaluation. (34 CFR 300.502)

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

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

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

If a due process hearing decision determines that the district's evaluation is appropriate, then the parent/guardian may obtain an IEE but not at public expense. (Education Code 56329; 34 CFR 300.502)

In any decision made with respect to providing FAPE to a student with a disability, the result of any IEE obtained by the student's parent/guardian shall be considered by the district if it meets district criteria. (34 CFR 300.502)

### E8. Coordinating Transitions

Each district shall designate an individual as the main point of contact for coordinating and completing, with other agencies and persons, the transition of a child and family from infant/toddler programs to preschool (Part C to Part B of the federal Individuals with Disabilities Education Act), including establishing practices to educate and support families during the transition. (Government Code 95013.1)

### E9. Reevaluation

A reevaluation shall be conducted when the district determines that the educational or related service needs of the student, including improved academic achievement and functional performance, warrant a reevaluation or if the student's parent/guardian or teacher requests reevaluation. Such reevaluations shall occur every three years, unless the parent/guardian and district agree in writing that a reevaluation is unnecessary. A reevaluation may not occur more than once a year, unless the parent/guardian and the district agree otherwise. (Education Code 56043, 56381; 34 CFR 300.303)

The district shall ensure that any reevaluations of the student are conducted in accordance with the evaluation procedures pursuant to 34 CFR 300.304-300.311. (34 CFR 300.303)

Before entering kindergarten or first grade, children with disabilities who are in a preschool program shall be reevaluated to determine if they still need special education and services. IEP teams shall identify a means of monitoring the continued success of children who are determined to be eligible for less intensive special education programs. (Education Code 56445)

Each district's point of contact for coordinating and completing the transition of a child and family from infant/toddler programs to preschool, may coordinate the reevaluation and monitoring as described above for kindergarten or first grade.

## E10. Exhibit 1 - Eligibility Criteria for Speech or Language Impairment (SLI) in the area of Articulation Disorder

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.

(5 CCR 3030 (b) (11)(A))

To ensure consistency in the application of developmental norms among the SELPA's Local Education Agencies (LEAs) and to facilitate the transfer of students among LEAs, the Solano County SELPA adopts the developmental norms at the 90% criterion level based on the comprehensive review by Crowe and McLeod (2020). (Figure 1)

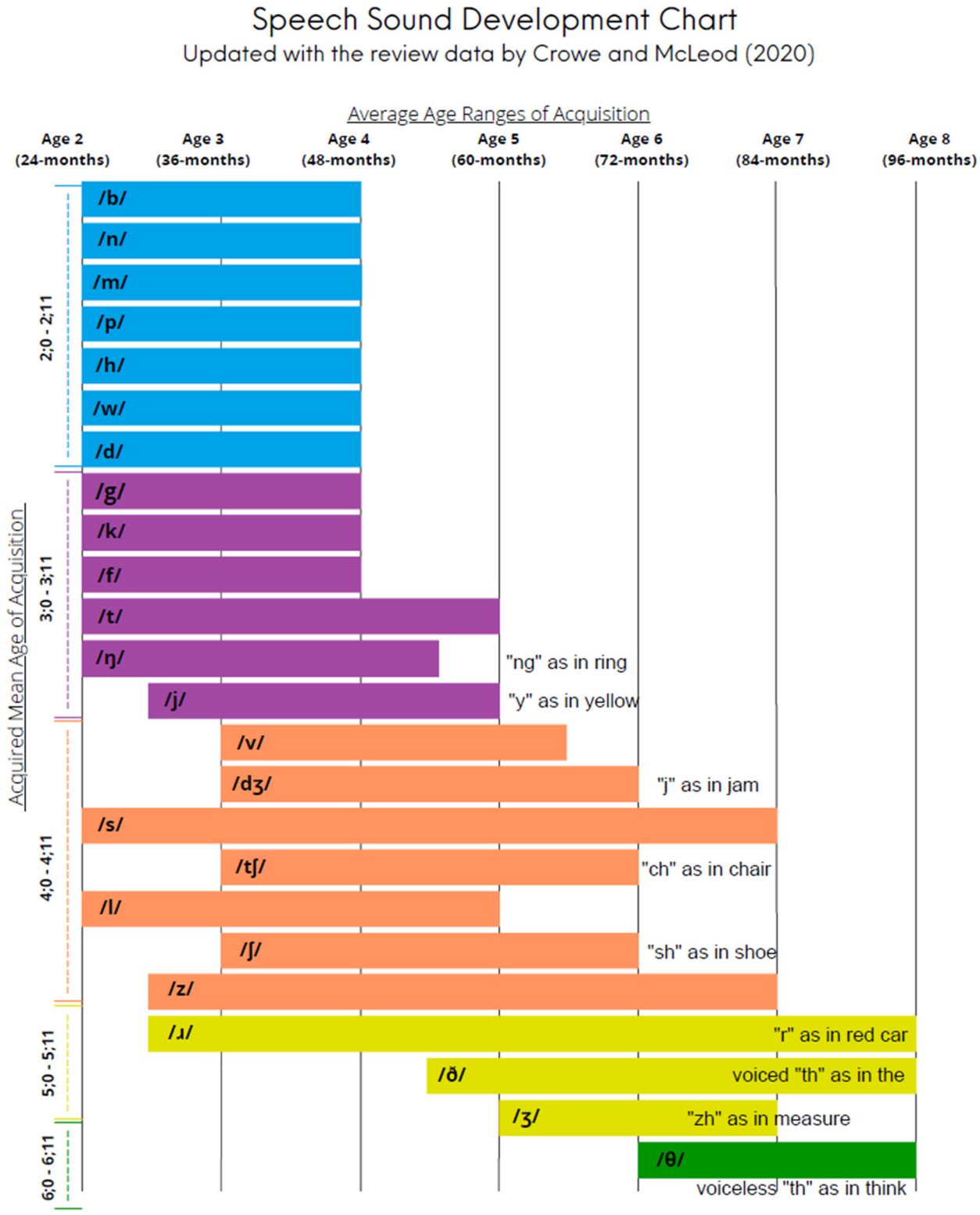



Figure 1 - Crowe, K., & McLeod, S. (2020). Children's English consonant acquisition in the United States: A review. American Journal of Speech-Language Pathology, 29(4), 2155-2169. https://pubs.asha.org/doi/10.1044/2020_AJSLP-19-00168

Additionally, an articulation error must adversely affect educational performance.

Table 1 provides examples of adverse educational impact in relation to speech intelligibility.

| | **Evidence to consider** |
|---|---|
| **Classroom communication** | Ability to answer questions, explain ideas, participate in discussions |
| **Intelligibility** | How well teachers, peers, and unfamiliar listeners understand the student due to speech sound errors |
| **Communication efficiency** | Repetitions, clarification requests, communication breakdowns |
| **Academic participation** | Oral presentations, reading aloud, collaborative work |
| **Peer communication** | Ability to communicate successfully during group work, recess, lunch |
| **Self-advocacy** | Ability to communicate needs and repair misunderstandings |
| **Social participation** | Avoidance of speaking, reduced initiation, withdrawal from communication |
| **Speech-related reactions** | Peers commenting on, misunderstanding, or drawing attention to speech |
| **Literacy, when relevant** | Evidence that speech-sound difficulties are affecting phonological awareness, spelling, decoding, etc. |
| **Student perspective** | Awareness of speech, frustration, participation, perceived communication difficulty |

Table 1 – examples of potential adverse educational impact of articulation errors

Children under age 5 are more likely to have multiple speech sound errors that may still be developmentally appropriate. Some children also demonstrate use of patterns of errors, called phonological processes that can be typical for young children as they develop speech. Examples of phonological processes include deletion of final consonants (duck→"du"), reducing clusters (blue→"bue"), and stopping (fun→"pun"). Phonological processes that impact overall speech intelligibility should be evaluated by a speech-language pathologist.

## E11. Exhibit 2 - Criteria for Determination of Specific Learning Disability

To ensure consistency among the SELPA's Local Education Agencies (LEAs) and to facilitate the transfer of students among LEAs, the Solano County SELPA adopts the exclusive use of the discrepancy model for the identification of Specific Learning Disabilities, as described in 5 CCR 3030 (a)(10)(B)(3).

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

The Governing Board recognizes the need to actively seek out and evaluate district residents from birth to ~~age~~ 21 years of age who have disabilities in order to provide them with appropriate educational opportunities in accordance with state and federal law.[4]

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

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

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

### E1. Referrals for Special Education Services

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

However, the district shall ensure that evaluations of children suspected of having a disability are not delayed or denied because of the implementation of response to intervention strategies.

A parent/guardian or the district may initiate a request for an initial evaluation to determine if the student is a student with a disability. (34 CFR 300.301)

When a verbal referral is made, staff shall offer assistance to the individual to make the request in writing and shall assist the individual if the individual requests such assistance. (5 CCR 3021)

All referrals from school staff for an initial evaluation ~~special education and related services~~ shall include a brief reason for the referral and description of the regular program resources that were considered and/or modified for use with the student and~~,~~ , when appropriate, the results of intervention. This documentation shall not delay the timelines for completing the assessment plan or assessment. ~~their effect~~. (5 CCR 3021)

[4] See corresponding member LEA board policy and administrative regulation 6164.4

## E2. Initial Evaluation for Special Education Services

Before the initial provision of special education and related services to a student with a disability, the district shall conduct ~~a full and~~an individual initial evaluation of the student's educational needs related to all areas of suspected disability. (Education Code 56320; 34 CFR 300.301)

Upon receipt of a referral of any student for special education and related services, a proposed evaluation plan shall be developed within 15 calendar days, not counting days between the student's regular school sessions or terms or calendar days of school vacation in excess of five school days, unless the parent/guardian agrees, in writing, to an extension. If the referral is made with~~in~~ 10 or fewer days ~~or less prior to~~remaining before the end of the student's regular school year or term, the proposed evaluation plan shall be developed within 10 days after the beginning of the next regular school year or term. (Education Code 56043, 56321)

The proposed evaluation plan shall meet all of the following requirements: (Education Code 56321)

1. Be in a language easily understood by the general public

2. Be provided in the native language of the parent/guardian or other mode of communication used by the parent/guardian unless it is clearly not feasible. 34 CFR 300.29 defines "native language" as the language normally used by the individual and, for a child, the language regularly used in the home environment

3. Explain the type(s) of evaluation(s) to be conducted

4. State that no individualized education program (IEP) will result from the evaluation without parent/guardian consent

A copy of the notice of a parent/guardian's rights and procedural safeguards shall be attached to the evaluation plan. (Education Code 56321)

The proposed written evaluation plan shall include a description of recent assessments conducted, including available independent assessments and assessment information requested by the parent/guardian to be considered, as well as information indicating the student's primary language and the student's primary language proficiency as determined by Education Code 52164.1. (5 CCR 3022)

Before conducting an initial evaluation, the district shall provide the parent/guardian with prior written notice in accordance with 34 CFR 300.503. ~~In a~~Additionally, as part of the evaluation plan, the parent/guardian shall receive written notice that includes all of the following information: (Education Code 56329; 34 CFR 300.304, 300.502, 300.504)

1. Upon completion of the administration of tests and other evaluation materials, an IEP team meeting that includes the parent/guardian or the parent/guardian's ~~his/her~~ representative shall be scheduled pursuant to Education Code 56341. At this meeting, the team shall determine whether or not the student is a student with disabilities, as defined in Education Code 56026, and shall discuss the evaluation, the educational recommendations, and the reasons for the recommendations.

2. When making a determination of eligibility for special education, the district shall not determine that the student is disabled if the primary factor for such determination is lack of appropriate instruction in reading, including the essential components of reading instruction as defined in 20 USC 6368, lack of appropriate instruction in mathematics, or limited English proficiency, if the student does not otherwise meet the eligibility criteria under 34 CFR 300.8.

3. A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent/guardian.

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

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

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

   If the parent/guardian obtains an IEE at private expense, the results of the IEE shall be considered by the district with respect to the provision of a free appropriate public education (FAPE) to the student, and may be presented as evidence at a due process hearing regarding the student. If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of a student, an equivalent opportunity shall apply to an IEE of the student in the student's current educational placement and setting and in any educational placement and setting proposed by the district, regardless of whether the IEE is initiated before or after the filing of a due process hearing.

6. If the parent/guardian proposes a publicly financed placement of the student in a nonpublic school, the district shall have an opportunity to observe the proposed placement and, if the student has already been unilaterally placed in the nonpublic school by ~~his/her~~the student's parent/guardian, the student in that proposed placement. Any such observation shall only be of the student who is the subject of the observation and shall not include the observation or evaluation of any other student in the proposed placement unless that other student's parent/guardian consents to the observation or evaluation. The results of any observation or evaluation of another student in violation of Education Code 56329(d) shall be inadmissible in any due process or judicial proceeding regarding FAPE of that other student.

## E3. Parent/Guardian Consent for Evaluations

Consent means that the parent/guardian: (Education Code 56021.1; 34 CFR 300.9)

1. Has been fully informed, in the parent/guardian's native language or other mode of communication, of all information relevant to the activity for which consent is sought

2. Understands and agrees, in writing, to the carrying out of the activity for which parent/guardian consent is sought and the consent describes that activity and lists the records (if any) that will be released and to whom

3. Understands that the granting of consent is voluntary on the parent/guardian's part and may be revoked at any time

4. Understands that if the parent/guardian revokes consent, that revocation is not retroactive, such that it does not negate an action that has occurred after the consent was given and before the consent was revoked

The district is not required to amend the education records of a student to remove any reference to the student's receipt of special education and services if the student's parent/guardian submits a written revocation of consent after the initial provision of special education and related services to the student.

Upon receiving the proposed evaluation plan, the parent/guardian shall have at least 15 days to decide whether to consent to the initial evaluation. The district shall not interpret parent/guardian consent for initial evaluation as consent for initial placement or initial provision of special education services. (Education Code 56321; 34 CFR 300.300)

The district shall make reasonable efforts to obtain the consent of the parent/guardian for an initial evaluation or reevaluation of a student. (Education Code 56321; 34 CFR 300.300, 300.322)

The district shall maintain a record of its attempts to obtain consent, such as: (Education Code 56341.5)

~~Informed parental consent means that the parent/guardian: (Education Code 56021.1; 34 CFR 300.9)~~

~~1. Has been fully informed, in his/her native language or other mode of communication, of all information relevant to the activity for which consent is sought~~

~~2. Understands and agrees, in writing, to the carrying out of the activity for which his/her consent is sought and the consent describes that activity and lists the records (if any) that will be released and to whom~~

~~3. Understands that the granting of consent is voluntary on his/her part and may be revoked at any time~~

~~4. Understands that if he/she revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked)~~

~~The district shall make reasonable efforts to obtain the informed consent of the parent/guardian for an initial evaluation or reevaluation of a student. The district shall maintain a record of its attempts to obtain consent, including: (Education Code 56321, 56341.5; 34 CFR 300.300, 300.322)~~

1. Detailed records of telephone calls made or attempted and the results of those calls

2. Copies of correspondence sent to the parent/guardian and any responses received

3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits

If a parent/guardian refuses to consent to the initial evaluation or fails to respond to a request to provide consent, the district may, but is not required to, pursue an evaluation by utilizing the procedural safeguards, including the mediation and due process procedures pursuant to 20 USC 1415 and 34 CFR 300.506-300.516. (Education Code 56321; 34 CFR 300.300)

For a student who is a ward of the state and not residing with the student's ~~his/her~~ parent/guardian, the district shall make reasonable efforts to obtain the consent from the parent/guardian of the student for an initial evaluation to determine whether the student is a student with a disability. The district may conduct an initial evaluation without obtaining consent of the parent/guardian if any of the following situations exists: (Education Code 56321.1; 20 USC 1414; 34 CFR 300.300) ~~may conduct an initial evaluation without obtaining informed consent if any of the following situations exists: (Education Code 56321.1; 20 USC 1414; 34 CFR 300.300)~~

1. Despite reasonable efforts to do so, the district cannot discover the whereabouts of the parent/guardian of the student.

2. The rights of the parent/guardian of the student have been terminated in accordance with ~~California~~ state law.

3. The rights of the parent/guardian to make educational decisions have been subrogated by a judge in accordance with ~~California~~ state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student.

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

### E4. Conduct of the Evaluation

Within 60 calendar days of receiving parent/guardian consent for the initial assessment of a student, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five schooldays, a determination of whether the student is eligible for special education and the educational needs of the student shall be made, an IEP team meeting shall occur, and an IEP shall be developed, unless the parent/guardian agrees in writing to an extension, pursuant to Education Code 56344. If the 60-day time is interrupted by a student school vacation, the 60-day time shall recommence

on the date that student school days reconvene. A meeting to develop an initial IEP for the student shall be conducted within 30 days of a determination that the student needs special education and related services. (Education Code 56043, 56344)

However, when a referral has been made for a student 30 days or less prior to the end of the regular school year, an IEP required as a result of an assessment of the student shall be developed within 30 days after the commencement of the subsequent regular school year. (Education Code 56043, 56344; 34 CFR 300.301, 300.323)~~The district shall complete the determination as to whether the student is a student with a disability, conduct the initial evaluation to determine his/her educational needs, and develop an IEP within 60 days of receiving informed parent/guardian consent for the evaluation. (Education Code 56344; 34 CFR 300.300, 300.301)~~

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

Additionally, evaluations and reevaluations shall be administered by qualified personnel who are competent in the oral or sign language skills and written skills of the student's primary language or mode of communication and have a knowledge and understanding of the cultural and ethnic background of the student. If it is clearly not feasible to do so, an interpreter shall be used, and the assessment report shall document this condition and note that the validity of the assessment may have been affected. The normal process of second-language acquisition, as well as manifestations of dialect and sociolinguistic variance shall not be diagnosed as a disabling condition. (5 CCR 3023)

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. (Education Code 56321; 20 USC 1414; (34 CFR 300.302)

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

The district's evaluation shall not use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability and for determining the appropriate educational program for the student. The assessment shall use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors. (Education Code 56320; 34 CFR 300.304)

Additionally, t~~T~~he district shall ~~also~~ ensure that assessments and other evaluation materials provide relevant information that assists in determining the student's educational needs and are: (Education Code 56320; 34 CFR 300.304)

1. Selected and administered so as not to be discriminatory on ~~a racial, cultural, or sexual~~ the basis of race, culture, or sex.

2. Provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer

3. Used for the purposes for which the assessments or measures are valid and reliable

4. Administered by trained and knowledgeable personnel, ensuring that any individually administered tests of intellectual or emotional functioning are administered by a credentialed school psychologist

5. Administered in accordance with any instructions provided by the producer of the assessments

6. Tailored to assess specific areas of educational need and not merely designed to provide a single general intelligence quotient

7. If administered to a student with impaired sensory, manual, or speaking skills, selected and administered to best ensure that the results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills, unless those skills are the factors that the test purports to measure

Students shall be assessed in all areas related to the suspected disability, including, if appropriate, health and development, vision (including low vision), hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. When appropriate, a developmental history shall be obtained. For students with residual vision, a low vision assessment shall be provided in accordance with guidelines established pursuant to Education Code 56136. The district shall ensure that the evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs, regardless of whether ~~or not~~ commonly linked to the disability category in which the student has been classified. (Education Code 56320; 34 CFR 300.304)

As part of the initial evaluation and any reevaluation, the IEP team and other qualified professionals shall, if appropriate, review existing evaluation data on the student, including evaluations and information provided by the parents/guardians, current classroom-based local or state assessments and classroom-based observations, and observations by teachers and related services providers. On the basis of that review and input from the student's parent/guardian, the team shall identify what additional data, if any, are needed to determine: (Education Code 56381; 34 CFR 300.305)

1. Whether the student is a student with a disability, or in the case of a reevaluation, whether the student continues to have a disability, and the educational needs of the student

2. The present levels of academic achievement and related developmental needs of the student

3. Whether the student needs, or continues to need, special education and related services

4. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in ~~his/her~~the student's IEP and to participate, as appropriate, in the general education curriculum

If a student has transferred from another district in the same school year or leaves this district, the district shall coordinate with the student's prior or subsequent district as necessary and as expeditiously as possible to ensure prompt completion of full evaluations. Education Code 56320; (34 CFR 300.304)

### E5. Evaluation Report

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

1. Whether the student may need special education and related services
2. The basis for making the determination
3. The relevant behavior noted during the observation of the student in an appropriate setting
4. The relationship of that behavior to the student's academic and social functioning
5. The educationally relevant health, developmental, and medical findings, if any
6. For students with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services
7. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate
8. The need for specialized services, materials, and equipment for students with low incidence disabilities, consistent with Education Code 56136

### ~~E5.~~E6. Eligibility Determination

Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent/guardian shall determine whether the student is a student with a disability as defined in 5 CCR 3030 and 34 CFR 300.8 and, if so, the student's~~his/her~~ educational needs. In interpreting the data, the group shall draw information from a variety of sources, including aptitude and achievement tests, parent/guardian input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior. The group shall ensure that the information obtained from these sources is documented and carefully considered. (34 CFR 300.306)

If the student is eligible under the criteria for "emotional disturbance," as defined in 5 CCR 3030 and 34 CFR 300.8, the student may be identified as having an "emotional disability" pursuant to Education Code 97.

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

~~1. Whether the student may need special education and related services~~

~~2.1.The basis for making the determination~~

~~3.1.The relevant behavior noted during the observation of the student in an appropriate setting~~

~~4.1.The relationship of that behavior to the student's academic and social functioning~~

~~5.1.The educationally relevant health, developmental, and medical findings, if any~~

~~6.1.For students with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services~~

~~7.1.A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate~~

~~8.1.The need for specialized services, materials, and equipment for students with low incidence disabilities, consistent with Education Code 56136~~

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

The normal process of second-language acquisition, as well as manifestations of dialect and sociolinguistic variance, shall not be diagnosed as a disabling condition. (5 CCR 3023)

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

### ~~E6.~~E7. Independent Educational Evaluation

An independent educational evaluation is defined as an evaluation conducted by a qualified examiner who is not employed by the district. (34 CFR 300.502)

Public expense means that the district either pays for the full cost of the IEE or ensures that the evaluation is otherwise provided at no cost to the parent/guardian. (34 CFR 300.502)

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

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

If a parent/guardian has requested an IEE, the district may ask for the reason that ~~he/she~~the parent/guardian objects to the district's evaluation. However, the parent/guardian is not required to provide~~.~~ an explanation and the district may not unreasonably delay either providing the IEE at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation. ~~the reason to the district.~~ (34 CFR 300.502)

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

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

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

If a due process hearing decision determines that the district's evaluation is appropriate, then the parent/guardian may obtain an IEE but not at public expense. (Education Code 56329; 34 CFR 300.502)

In any decision made with respect to providing FAPE to a student with a disability, the result of any IEE obtained by the student's parent/guardian shall be considered by the district if it meets district criteria. ~~Any such result also may be presented as evidence at a hearing on a due process complaint.~~ (34 CFR 300.502)

~~(c.f. Section F – Independent Educational Evaluations)~~

## E8. Coordinating Transitions

Each district shall designate an individual as the main point of contact for coordinating and completing, with other agencies and persons, the transition of a child and family from infant/toddler programs to preschool (Part C to Part B of the federal Individuals with Disabilities Education Act), including establishing practices to educate and support families during the transition. (Government Code 95013.1)

## ~~E7.~~E9. Reevaluation

A reevaluation shall be conducted when the district determines that the educational or related service needs of the student, including improved academic achievement and functional performance, warrant a reevaluation or if the student's parent/guardian or teacher requests reevaluation. Such reevaluations shall occur every three years, unless the parent/guardian and district agree in writing that a reevaluation

is unnecessary. A reevaluation may not occur more than once a year, unless the parent/guardian and the district agree otherwise. (Education Code 56043, 56381; 34 CFR 300.303)

The district shall ensure that any reevaluations of the student are conducted in accordance with the evaluation procedures pursuant to 34 CFR 300.304-300.311. (34 CFR 300.303)

Before entering kindergarten or first grade, children with disabilities who are in a preschool program shall be reevaluated to determine if they still need special education and services. IEP teams shall identify a means of monitoring the continued success of children who are determined to be eligible for less intensive special education programs. ~~to ensure that gains made are not lost by a rapid removal of individualized programs and supports for these children.~~ (Education Code 56445)

Each district's point of contact for coordinating and completing the transition of a child and family from infant/toddler programs to preschool, may coordinate the reevaluation and monitoring as described above for kindergarten or first grade.

## E10. Exhibit 1 - Eligibility Criteria for Speech or Language Impairment (SLI) in the area of Articulation Disorder

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.

(5 CCR 3030 (b) (11)(A))

To ensure consistency in the application of developmental norms among the SELPA's Local Education Agencies (LEAs) and to facilitate the transfer of students among LEAs, the Solano County SELPA adopts the developmental norms at the 90% criterion level based on the comprehensive review by Crowe and McLeod (2020). (Figure 1)

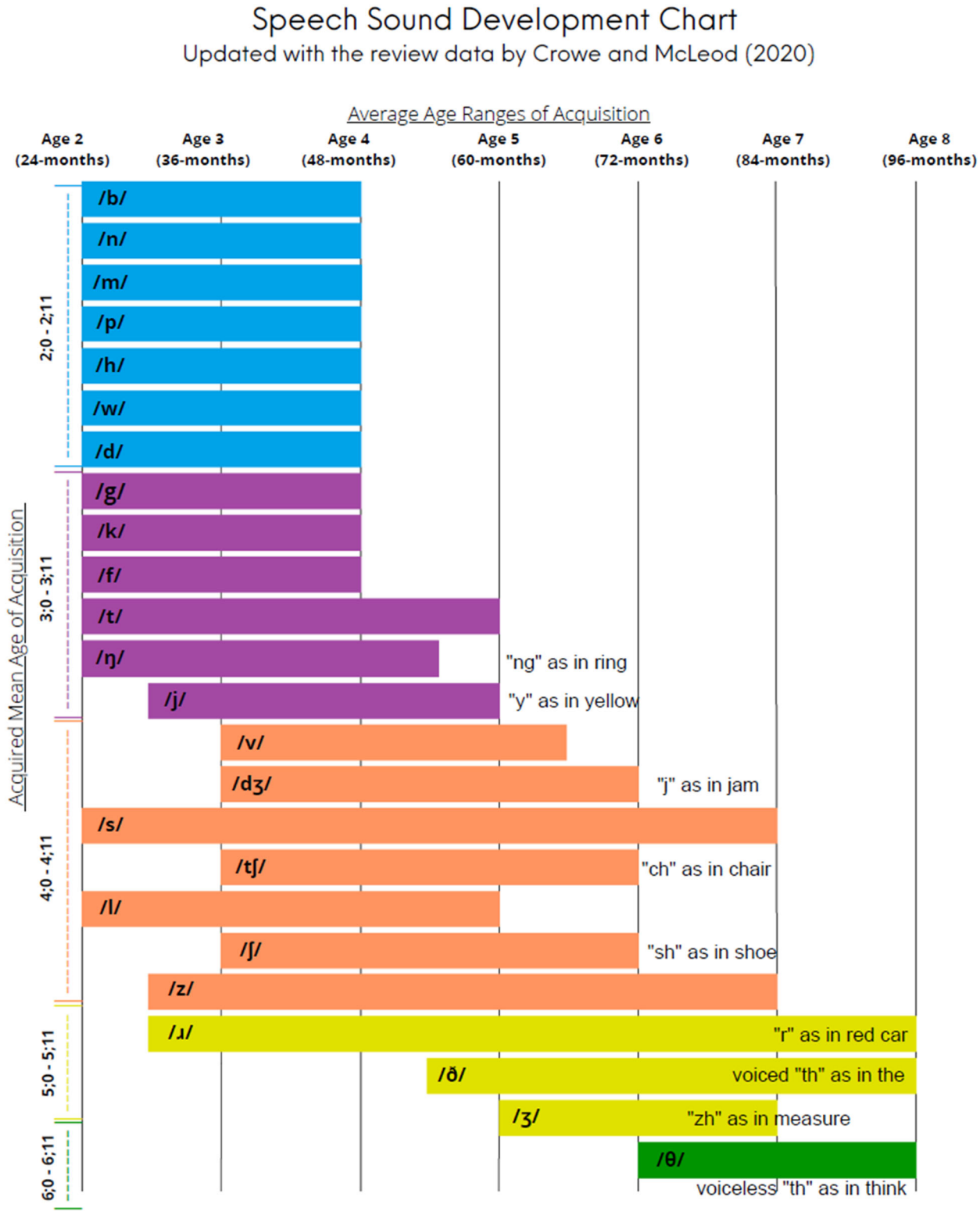



Figure 1 - Crowe, K., & McLeod, S. (2020). Children's English consonant acquisition in the United States: A review. American Journal of Speech-Language Pathology, 29(4), 2155-2169. https://pubs.asha.org/doi/10.1044/2020_AJSLP-19-00168

Additionally, an articulation error must adversely affect educational performance.

~~**E8. Developmental Scale of Articulation Competency**~~

Table 1 provides examples of adverse educational impact in relation to speech intelligibility.

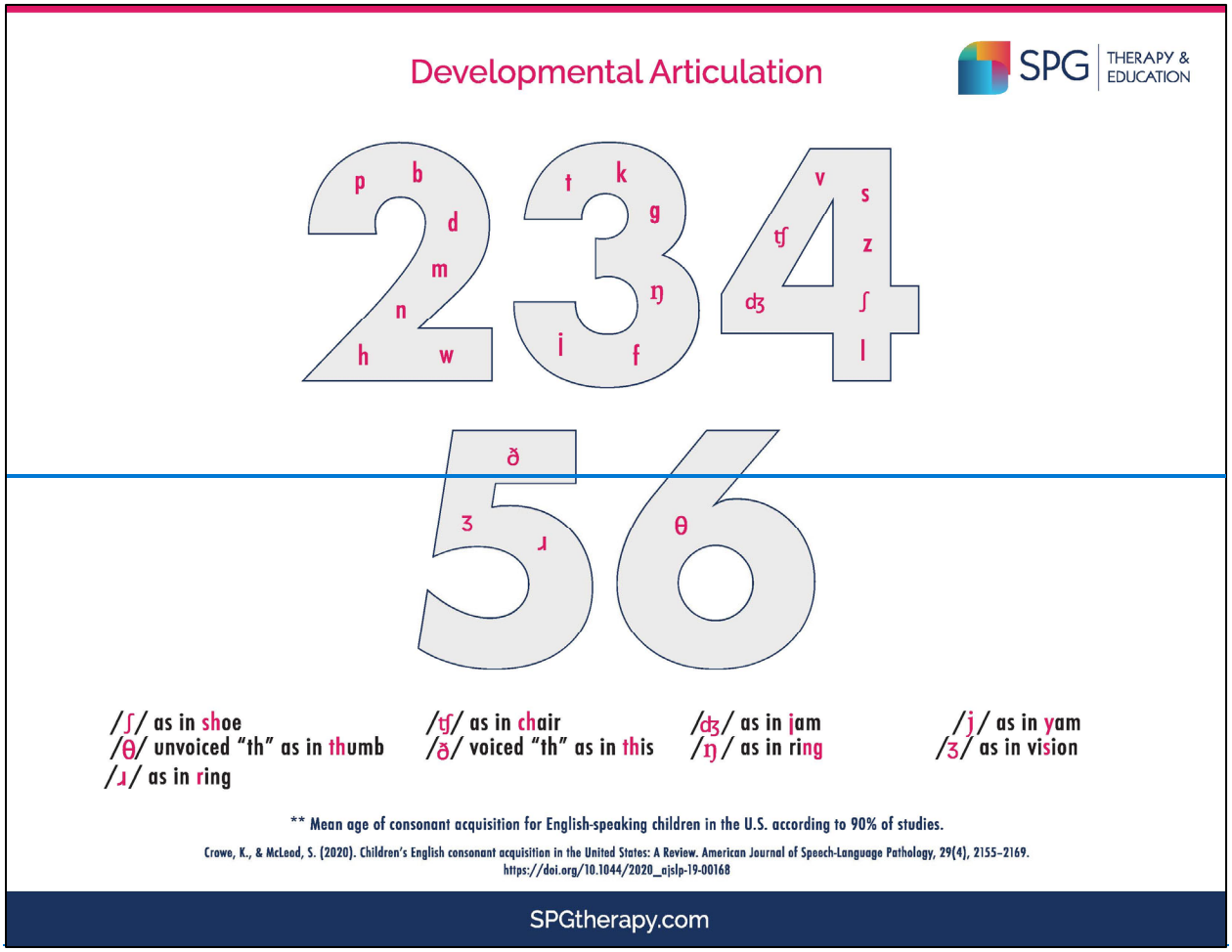
| | **Evidence to consider** |
|---|---|
| **Classroom communication** | Ability to answer questions, explain ideas, participate in discussions |
| **Intelligibility** | How well teachers, peers, and unfamiliar listeners understand the student due to speech sound errors |
| **Communication efficiency** | Repetitions, clarification requests, communication breakdowns |
| **Academic participation** | Oral presentations, reading aloud, collaborative work |
| **Peer communication** | Ability to communicate successfully during group work, recess, lunch |
| **Self-advocacy** | Ability to communicate needs and repair misunderstandings |
| **Social participation** | Avoidance of speaking, reduced initiation, withdrawal from communication |
| **Speech-related reactions** | Peers commenting on, misunderstanding, or drawing attention to speech |
| **Literacy, when relevant** | Evidence that speech-sound difficulties are affecting phonological awareness, spelling, decoding, etc. |
| **Student perspective** | Awareness of speech, frustration, participation, perceived communication difficulty |

Table 1 – examples of potential adverse educational impact of articulation errors

Children under age 5 are more likely to have multiple speech sound errors that may still be developmentally appropriate. Some children also demonstrate use of patterns of errors, called phonological processes that can be typical for young children as they develop speech. Examples of phonological processes include deletion of final consonants (duck→"du"), reducing clusters (blue→"bue"),

and stopping (fun→"pun"). Phonological processes that impact overall speech intelligibility should be evaluated by a speech-language pathologist.

~~To ensure appropriate identification of articulation disorders, the Solano County SELPA adopts the following research-based set of developmental articulation competencies. as published by Crowe, K., & McLeod, S. (2020). Children's English consonant acquisition in the United States: A Review. American Journal of Speech-Language Pathology, 29(4), 2155–2169.~~




~~Graphic representation of developmental articulation competencies.~~

## ~~E9.~~E11. Exhibit 2 - Criteria~~-~~ for Determination of Specific Learning Disability

To ensure consistency among the SELPA's Local Education Agencies (LEAs) and to facilitate the transfer of students among LEAs, the Solano County SELPA adopts the exclusive use of the discrepancy model for the identification of Specific Learning Disabilities, as described in 5 CCR 3030 (a)(10)(B)(3).

# F. Independent Educational Evaluations

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

## F1. Notice to Parents

1. Please read this document before obtaining or paying for an IEE. This policy delineates your right to, and limitations regarding, reimbursement.

2. Before obtaining an IEE, please contact the special education administrator to discuss your child's assessment and related questions and options.

3. The district will not automatically reimburse parents who unilaterally obtain IEEs.

4. Parents may only request one publicly funded IEE for each evaluation completed by the district. A request for an IEE must be made within two years of the date of the district's evaluation report.

## F2. Definitions

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

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

## F3. Parameters for Seeking IEE

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

1. Disagrees with a district's evaluation and

2. Is requesting an IEE at public expense.

## F4. Explanation of Disagreement

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

### F5. Solano County SELPA's Response to a Request for an IEE

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

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

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

If the Parent requests an examiner who is not qualified in accordance with the criteria set forth in this policy, the district will attempt to confer with the parent to determine the unique circumstances justifying the use of an examiner who is not qualified.

1. If the district agrees that the unique circumstances justify utilizing an examiner who does not meet the criteria set forth in this policy, then the district and parent may proceed with obtaining the IEE from that examiner.

2. If the district does not agree that unique circumstances justify the use of an examiner who does not meet the criteria set forth in this policy, and the parent does not agree to use an examiner meeting those criteria, the district shall initiate a due process request to resolve the dispute.

### F6. Timeline Regarding IEEs

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

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

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

### F7. Information Provided to Parents

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

### F8. Parent Initiated Evaluations

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

1. Must be considered by the District; and

2. May be presented as evidence at a due process hearing regarding that student.

### F9. Evaluations Ordered by Hearing Officers

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

### F10. Solano County SELPA's Criteria

1. If an IEE is at the district's expense, the criteria under which the evaluation is obtained, including the location limitations for the evaluation, the minimum qualifications of the examiner, cost limits, and use of approved instruments must be the same as the criteria that the district uses when it initiates an evaluation.

2. Except for the criteria described in the SELPA Policy and Procedures and Criteria, the SELPA imposes no other conditions related to obtaining an IEE at the district's expense.

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

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

### F12. Circumstances Resulting in a Privately Obtained Evaluation Reimbursed by the Solano County SELPA

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

1. All the following conditions have been met:

   a) The parent disagreed with the district's evaluation,

   b) The parentally obtained evaluation meets the SELPA criteria,

   c) The parent upon request provides the district with timely, written consent to exchange information with the examiner,

   d) The parent provides a copy of the written evaluation report and all other documents / tests related to the report, and

   e) The examiner attends the relevant IEP team meeting by phone or in person to discuss his or her findings and provides protocols of all evaluations to the district.

2. The district's evaluation has not been provided in compliance with the law.

3. The privately obtained evaluation assessed the student in an area of suspected disability that was not previously assessed by the district.

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

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

### F13. Criteria

Minimum Qualifications for Evaluators

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

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

| **Type of Evaluation** | **Qualifications** |
|---|---|
| | |
| Adaptive Behavior | Licensed Educational Psychologist<br>Credentialed Special Education Teacher<br>Credentialed School Psychologist |
| Assistive Technology | Credentialed or Licensed Speech/Language Pathologist<br>Credentialed Special Education Teacher |
| Auditory Acuity / Perception | Licensed or Credentialed Audiologist |
| Psycho-Educational | Licensed Educational Psychologist<br>Credentialed School Psychologist |
| Motor | Licensed Physical Therapist<br>Registered Occupational Therapist<br>Credentialed Adaptive Physical Education Specialist |
| Speech and Language | Credentialed or Licensed Speech/Language Pathologist |
| Social / Emotional / Behavioral | Credentialed School Psychologist<br>Licensed Educational Psychologist |
| Functional Vision | Credentialed Teacher of the Visually Impaired |
| Vision-Motor Integration | Credentialed School Psychologist<br>Licensed Educational Psychologist |

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

### F14. Cost Containment

The cost of an IEE shall be comparable to those costs that the District incurs when it uses its own employees or contractors to perform a similar evaluation. Costs include observations, administration and scoring of tests, report writing, and attendance in person or by phone at the IEP team meeting where the IEE is presented. Reimbursement will be in an amount no greater than the actual cost to the parent and will be subject to proof of payment.

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

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

1. a decrease in available lifetime coverage or any other benefit under an insurance policy,

2. an increase in premiums or the discontinuance of the policy, or

3. an out-of-pocket expense such as payment of a deductible amount incurred in filing a claim unless the parent is willing to have the District reimburse them for the amount of the deductible.

As part of the contracted evaluation, independent evaluators must:

1. provide original protocols of all the evaluations, and

2. provide a written report prior to the IEP team meeting

Independent evaluators must agree to release their evaluation information and results to the school district prior to receipt of payment for services. The results of the IEE will be considered in the determination of eligibility, program decisions, and placement of the student with disabilities as required by the Individuals with Disabilities Education Act.

### F15. Fingerprinting and TB Clearance

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

## F16. 2026-2027 Cost Containment for Independent Educational Evaluations

# 2026-2027 Cost Containment for Independent Educational Evaluations (IEE)

As stated in the Solano SELPA IEE Policy:

> The cost of an IEE shall be comparable to those costs that the District incurs when it uses its own employees or contractors to perform a similar evaluation. Costs include observations, administration and scoring of tests, report writing, and attendance in person or by phone at the IEP team meeting where the IEE is presented. Reimbursement will be in an amount no greater than the actual cost to the parent and will be subject to proof of payment.
>
> Costs above these amounts will not be approved unless the parent can demonstrate that such costs reflect unique circumstances justifying the selection of an evaluator whose fees fall outside these criteria.

The following table provides cost limitations based upon the types of assessment being conducted for the 2026-27 school year. Rates are reviewed and adjusted, as appropriate, annually.

| Type of Assessment | Maximum Allowable Rate |
|---|---|
| Adapted Physical Education (APE) | * |
| Assistive Technology (AT) | $ 4,750 |
| Audiological Services | * |
| Educationally Related Mental Health Services (ERMHS) | $ 4,750 |
| Functional Behavioral Assessment (FBA) | $ 4,750 |
| Health and Nursing | * |
| Music Therapy (MT) | * |
| Occupational Therapy (OT) | $ 4,750 |
| Orientation and Mobility (OM) | $ 4,750 |
| Physical Therapy (PT) | $ 4,750 |
| Psycho-Educational (Psychological Assessment with Academic Achievement) | $ 6,000 |
| Speech & Language | $ 4,750 |
| Transition | $3,500 |

# F. Independent Educational Evaluations

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## F1. Notice to Parents

1. Please read this document before obtaining or paying for an IEE. This policy delineates your right to, and limitations regarding, reimbursement.

2. Before obtaining an IEE, please contact the special education administrator to discuss your child's assessment and related questions and options.

3. The district will not automatically reimburse parents who unilaterally obtain IEEs.

4. Parents may only request one publicly funded IEE for each evaluation completed by the district. A request for an IEE must be made within two years of the date of the district's evaluation report.

## F2. Definitions

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

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## F3. Parameters for Seeking IEE

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

1. Disagrees with a district's evaluation and

2. Is requesting an IEE at public expense.

## F4. Explanation of Disagreement

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

### F5. Solano County SELPA's Response to a Request for an IEE

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

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

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

If the Parent requests an examiner who is not qualified in accordance with the criteria set forth in this policy, the district will attempt to confer with the parent to determine the unique circumstances justifying the use of an examiner who is not qualified.

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### F9. Evaluations Ordered by Hearing Officers

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

### F10. Solano County SELPA's Criteria

1. If an IEE is at the district's expense, the criteria under which the evaluation is obtained, including the location limitations for the evaluation, the minimum qualifications of the examiner, cost limits, and use of approved instruments must be the same as the criteria that the district uses when it initiates an evaluation.

2. Except for the criteria described in the SELPA Policy and Procedures and Criteria, the SELPA imposes no other conditions related to obtaining an IEE at the district's expense.

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

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

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   d) The parent provides a copy of the written evaluation report and all other documents / tests related to the report, and

   e) The examiner attends the relevant IEP team meeting by phone or in person to discuss his or her findings and provides protocols of all evaluations to the district.

2. The district's evaluation has not been provided in compliance with the law.

3. The privately obtained evaluation assessed the student in an area of suspected disability that was not previously assessed by the district.

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

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

### F13. Criteria

Minimum Qualifications for Evaluators

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

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

| **Type of Evaluation** | **Qualifications** |
|---|---|
| ~~Academic Achievement~~ | ~~Credentialed Special Education Teacher~~<br>~~Licensed Educational Psychologist~~<br>~~Credentialed School Psychologist~~ |
| Adaptive Behavior | Licensed Educational Psychologist<br>Credentialed Special Education Teacher<br>Credentialed School Psychologist |
| Assistive Technology | Credentialed or Licensed Speech/Language Pathologist<br>Credentialed Special Education Teacher |
| Auditory Acuity / Perception | Licensed or Credentialed Audiologist |
| ~~Cognitive or~~ Psycho-Educational | Licensed Educational Psychologist<br>Credentialed School Psychologist |
| Motor | Licensed Physical Therapist<br>Registered Occupational Therapist<br>Credentialed Adaptive Physical Education Specialist |
| Speech and Language | Credentialed or Licensed Speech/Language Pathologist |
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| Functional Vision | Credentialed Teacher of the Visually Impaired |
| Vision-Motor Integration | Credentialed School Psychologist |

| | |
|---|---|
| | Licensed Educational Psychologist |

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

### F14. Cost Containment

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

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

1. a decrease in available lifetime coverage or any other benefit under an insurance policy,

2. an increase in premiums or the discontinuance of the policy, or

3. an out-of-pocket expense such as payment of a deductible amount incurred in filing a claim unless the parent is willing to have the District reimburse them for the amount of the deductible.

As part of the contracted evaluation, independent evaluators must:

1. provide original protocols of all the evaluations, and

2. provide a written report prior to the IEP team meeting

Independent evaluators must agree to release their evaluation information and results to the school district prior to receipt of payment for services. The results of the IEE will be considered in the determination of eligibility, program decisions, and placement of the student with disabilities as required by the Individuals with Disabilities Education Act.

### F15. Fingerprinting and TB Clearance

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

## F16. 2026-2027 Cost Containment for Independent Educational Evaluations

# 2026-2027 Cost Containment for Independent Educational Evaluations (IEE)

As stated in the Solano SELPA IEE Policy:

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

The following table provides cost limitations based upon the types of assessment being conducted for the 2026-27 school year. Rates are reviewed and adjusted, as appropriate, annually.

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| Health and Nursing | * |
| Music Therapy (MT) | * |
| Occupational Therapy (OT) | $ 4,750 |
| Orientation and Mobility (OM) | $ 4,750 |
| Physical Therapy (PT) | $ 4,750 |
| Psycho-Educational (Psychological Assessment with Academic Achievement) | $ 6,000 |
| Speech & Language | $ 4,750 |
| Transition | $3,500 |

## N. Nonpublic School and Agency Policy

The Solano County SELPA and member LEAs recognizes its responsibility to provide a free appropriate public education to students with disabilities in accordance with law. When the district is unable to provide direct special education and/or related services to students with disabilities, the Solano County SELPA may, on behalf of the member LEA, enter into a contract with a nonpublic school (NPS) or agency (NPA) (collectively NPS/A) to meet student needs consistent with the comprehensive local plan of the Special Education Local Plan Area.[7]

Prior to entering into a contract to place any student in an NPS/A, the Assistant Superintendent, SELPA, or designee shall verify that the school or agency is certified to provide special education and related services to individuals with disabilities and complies with staff training requirements in accordance with Education Code 56366 and 56366.1. In accordance with Education Code 56026.3, a special education local plan area is considered a local education agency. When the Solano County SELPA is the contracting local education agency for NPS/A Master Contracts on behalf of its member districts, the Solano County SELPA must verify all contracted NPS/A compliance with the mandatory behavior training. In addition, the Assistant Superintendent, SELPA, or designee, shall monitor, on an ongoing basis, the certification of any NPS/A with which the Solano County SELPA has a contract to ensure that the school or agency's certification has not expired.

Within 14 days of becoming aware of any change to the certification status of an NPS/A, including, but not limited to, receiving notification of a determination to suspend or revoke the certification of the NPS/A pursuant to Education Code 56366.4, the district shall notify, through email or regular mail, the parents/guardians of any district student who attends the NPS/A of the change in certification status, which includes a copy of procedural safeguards. The district shall maintain a record of such notice and make the notice available for inspection upon request by the California Department of Education. (Education Code 56366.45)

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

The Solano County SELPA shall pay to the NPS/A the full amount of the tuition or fees, as applicable, for students with disabilities who are enrolled in programs or receiving services provided by the NPS/A pursuant to the contract. (Education Code 56365)

In accordance with law, any student with disabilities placed in an NPS/A shall have all the rights and protections to which students with disabilities are generally entitled, including, but not limited to, procedural safeguards, due process rights, and periodic review of the student's IEP.

[7] See corresponding member LEA board policy and administrative regulation 6159.2

During the period when any student with disabilities is placed in an NPS/A, the student's IEP team shall retain responsibility for monitoring the student's progress towards meeting the goals identified in the IEP.

The Assistant Superintendent, SELPA, or designee may apply to the Superintendent of Public Instruction to waive any of the requirements of Education Code 56365, 56366, and 56366.6. (Education Code 56366.2)

### N1. Master Contract

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

1. Student-teacher ratios
2. Transportation specified in a student's individualized education program (IEP)

   The contract shall not include special education transportation provided through the use of services or equipment owned, leased, or contracted by the district for students enrolled in the NPS/A unless provided directly or subcontracted by that NPS/A.
3. Procedures for recordkeeping and documentation
4. The maintenance of school records by the district to ensure that appropriate high school graduation credit is received by any participating student
5. An Individual Services Agreement (ISA) for each student, which will be negotiated for the length of time for which NPS/A special education and designated instruction and services are specified in the student's IEP
6. A description of the process to be utilized by the district to oversee and evaluate placements in the NPS/A, including a method for evaluating whether each student is making appropriate educational progress
7. Procedures and responsibilities for attendance and unexcused absences
8. General provisions related to modifications and amendments to the contract, waivers, disputes, contractor's status, conflicts of interest, termination, inspection and audits, compliance with applicable state and federal laws and regulations, and indemnification and insurance requirements
9. Payment schedules, including, but not limited to, payment amounts, payment demand, right to withhold, and audit exceptions

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

With mutual agreement of the Solano County SELPA and NPS/A, changes may be made to the administrative and financial agreements in the master contract at any time, provided the change does not alter a student's educational instruction, services, or placement as outlined in the student's ISA. (Education Code 56366)

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

### N2. Placement and Services

For any student to be placed in an NPS/A, the Assistant Superintendent, SELPA, or designee shall develop an individual services agreement based on the student's IEP. Each individual services agreement shall specify the length of time authorized in the student's IEP for the NPS/A services, not to exceed one year. Changes in a student's educational instruction, services, or placement shall be made only on the basis of revisions to the student's IEP. (Education Code 56366)

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

1. Evaluate the educational progress of each student placed in an NPS/A, including a review of state assessment results
2. During the annual meeting held to review the student's IEP pursuant to Education Code 56343, consider whether the student's needs continue to be best met at the NPS/A and whether changes to the student's IEP are necessary, including whether the student may be transitioned to a public-school setting

When a special education student meets the district requirements for completion of the prescribed course of study as designated in the student's IEP, the district shall award the student a diploma of graduation. (5 CCR 3070)

However, a student with disabilities who entered the ninth grade in the 2022-23 school year or later shall be exempted from all coursework and other requirements adopted by the Governing Board that are in addition to the statewide course requirements for high school graduation, if the student's IEP meets the criteria specified in law and Board Policy 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities. (Education Code 51225.31)

Additionally, the Superintendent or designee may, until July 1, 2031, exempt a student with disabilities who was enrolled in grade 10 or higher in the 2022-23 school year from all coursework and other requirements adopted by the Board that are in addition to the statewide course requirements for high school graduation if the student meets the eligibility criteria specified in Education Code 51225.32.

### N3. Out-of-State Placements

Before contracting with an NPS outside California, the Assistant Superintendent, SELPA, or designee shall document the Solano County SELPA's efforts to find an appropriate program offered by an NPS within California. (Education Code 56365)

Within 15 days of any decision for an out-of-state placement, the student's IEP team shall submit to the Superintendent of Public Instruction a report with information about the services provided by the out-of-state program, the costs of the special education and related services provided, and the district's efforts to locate an appropriate public school or NPS within California. (Education Code 56365)

If the district decides to place a student with an NPS out-of-state, the district shall indicate the anticipated date of the student's return to a placement within California and shall document efforts during the previous year to return the student to California. (Education Code 56365)

For an NPS/A located outside of California, the district may request the SPI to make available information and documentation relating to the NPS' certification status, if available. The district shall disclose the information received, if available, to parent(s)/guardian(s) at the time the IEP considers placement of the student in an out-of-state NPS. (Education Code 56366.1)

### N4. On-Site Visits

The Superintendent or designee shall conduct an on-site visit to an NPS before the placement of a student at the school or agency, if the district does not have any other students currently enrolled at the NPS. (Education Code 56366.1)

At least once per year, the Assistant Superintendent, SELPA, or designee shall conduct an on-site monitoring visit to each NPS/A at which the district has a student attending and with which it maintains a master contract. The monitoring visit shall include, but is not limited to: (Education Code 56366.1)

1. A review of services provided to the student through the individual services agreement
2. A review of progress the student is making toward the goals set forth in the student's IEP
3. A review of progress the student is making toward the goals set forth in the student's behavioral intervention plan, if applicable
4. An observation of the student during instruction
5. A walkthrough of the facility
6. For a student placed in an NPS/A located outside of California, an in-person interview with the student to evaluate the student's health and safety.

The Solano County SELPA shall report the findings resulting from the monitoring visit to CDE, using the "Local Educational Agency Onsite Visit for Nonpublic School" form, within 60 calendar days of the on-site visit. (Education Code 56366.1)

Additionally, the district shall conduct quarterly check-ins with any student attending an out-of-state NPS/A through an unmonitored telephone call in a manner consistent with the student's IEP. (Education Code 56366.1)

### N5. Participation in the Bay Area Collaborative

The Solano County SELPA is a member SELPA of the Bay Area Collaborative. As a member of the Bay Area Collaborative, master contract with an NPS/A shall follow the Bay Area Collaborative Master Contract Template.

### N6. SELPA Notification of Placement

Within seventy-two (72) hours of an IEP meeting that places a student in an NPS, the district administrator shall complete the NPS Placement Form and submit it to the Solano County SELPA office. The district must provide access to the documents authorizing the placement (e.g., upload the IEP in special education database or provide a copy of pertinent portions of a settlement agreement).

For each student enrolled in an NPS, the Solano SELPA will develop an ISA based upon the NPS Placement Form and the current, consented to signed IEP; an interim placement form for transfer students; or pertinent documentation from a settlement agreement.

Information from the NPS Placement Form is consolidated into a report and presented to the COS for ratification on a regular basis.

### N7. SELPA Assistance with NPS Placements

Member districts may place students in an NPS without assistance from the Solano County SELPA, however, the Solano County SELPA is available to assist member districts. Member districts may request assistance by submitting a Request for SELPA Program Assistance. Solano County SELPA program staff are available to assist member districts by:

1. Locating an appropriate NPS based upon the unique needs of a student
2. Conducting a case review to ensure that an NPS is the least restrictive environment for the student
3. Assist parents with arranging a site visit to proposed NPS placements with or without district staff

In addition to the monitoring requirements and reporting required under Education Code 56366.1, the Solano County SELPA provides assistance to member districts through ongoing monitoring as follows:

1. Conducting eight (8) site visits per school year; site visits may be unannounced or scheduled
2. Observe Solano County SELPA students during NPS sites
3. Review attendance and service logs of Solano County SELPA students to ensure all services necessary are being provided
4. Monitor/review teacher credentials of NPS staff at least 3 times a year
5. Review Solano County SELPA student files stored at NPS during site visits
6. Participating in CDE NPS monitoring

Member LEA special education directors and the COS will be provided a summary of NPS monitoring visits.

### N8. Residential Placements

Solano County SELPA staff shall co-case manage all placements in residential settings act as a liaison between the NPS and the other agencies. The Solano County SELPA maintains a residential placement risk pool for the purpose of funding the board and care portion of residential placements. To access this pool, the placing district must coordinate the placement with the Solano County SELPA. The failure to include the Solano County SELPA in residential placement decisions precludes the member LEA from accessing the residential placement risk pool.

### N9. Case management

LEA case manager responsibilities include the following:

1. Monitor and supervise the student's IEP, including scheduling and conducting IEP review meetings.
2. Monitor student academic achievement testing and progress towards either graduation or a certificate of completion.
3. Inform the Solano County SELPA Office within 72 hours of any IEP meeting to allow for development of updated ISAs.
4. During the period when any student with disabilities is placed in an NPS, the student's IEP team shall retain responsibility for monitoring the student's progress towards meeting the goals identified in his/her IEP.

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Member LEA special education directors and the COS will be provided a summary of NPS monitoring visits.

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### N9. Case management

LEA case manager responsibilities include the following:

1. Monitor and supervise the student's IEP, including scheduling and conducting IEP review meetings.
2. Monitor student academic achievement testing and progress towards either graduation or a certificate of completion.
3. Inform the Solano County SELPA Office within 72 hours of any IEP meeting to allow for development of updated ISAs.
4. During the period when any student with disabilities is placed in an NPS, the student's IEP team shall retain responsibility for monitoring the student's progress towards meeting the goals identified in his/her IEP.

# O. Positive Behavioral Interventions

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

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

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

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

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

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

1. are under the supervision of personnel qualified to design or plan behavior interventions; and
2. possess a high school diploma or its equivalent; and
3. receive the specific level of supervision required in the pupil's IEP.

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

## O2. Functional Behavioral Assessment and Behavior Intervention Plan

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

1. school authorities seek to change the placement of an individual with exceptional needs because of a violation of a code of student conduct,

2. the IEP team determines that the conduct was a manifestation of the child's disability, and

3. the LEA had not conducted an FBA prior to such determination before the behavior that resulted in the change of placement.

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

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

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

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

## O3. Emergency Interventions

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

The procedures taught by the Crisis Prevention Institute (CPI), the procedures taught as a component of Professional Assault Crisis Training (PRO-ACT), shall be permitted.

## O4. Emergency Interventions (Education Code 56521.1)

Emergency interventions may only be used to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the individual with exceptional needs, or others, and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior.

Emergency interventions shall not be used as a substitute for the systematic behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior.

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

Emergency interventions shall not include:

1. Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.

2. Employment of a device, material, or objects that simultaneously immobilize all four extremities.

3. Prone restraint.

4. An amount of force that exceeds that which is reasonable and necessary under the circumstances.

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

1. The name and age of the individual with exceptional needs.

2. The setting and location of the incident.

3. The name of the staff or other persons involved.

4. A description of the incident and the emergency intervention used, and whether the individual with exceptional needs is currently engaged in any systematic behavioral intervention plan.

5. Details of any injuries sustained by the individual with exceptional needs, or others, including staff, as a result of the incident.

All behavioral emergency reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator.

If a behavioral emergency report is written regarding an individual with exceptional needs who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an individualized education program (IEP) team meeting to review the emergency report, to determine the necessity for a functional behavioral assessment, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the functional behavioral assessment, not developing an interim plan, or both.

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

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

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

1. Any intervention that is designed to, or likely to, cause physical pain, including, but not limited to, electric shock.

2. An intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the face of the individual.

3. An intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities.

4. An intervention that is designed to subject, used to subject, or likely to subject, the individual to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma.

5. Restrictive interventions that employ a device, material, or objects that simultaneously immobilize all four extremities.

6. Prone restraint

7. Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.
8. An intervention that precludes adequate supervision of the individual.

9. An intervention that deprives the individual of one or more of the individual's senses.

## O6. Seclusion and Restraint

Staff shall enforce standards of appropriate student conduct in order to provide a safe and secure environment for students and staff on campus, but are prohibited from using seclusion and behavioral restraint to control student behavior except to the limited extent authorized by law.

Definitions

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

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

not include the use of devices by peace officers or security personnel for detention or for public safety purposes. (Education Code 49005.1)

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

Prone restraint means the application of a behavioral restraint on a student in a facedown position *for any period of time and includes the procedure known as prone containment.* . (Education Code 49005.1)

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

Prohibitions

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

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

1. Administer a drug that is not a standard treatment for a student's medical or psychiatric condition in order to control the student's behavior or restrict the student's freedom of movement

2. Use locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use as a locked room

3. Use a physical restraint technique that obstructs a student's respiratory airway or impairs a student's breathing or respiratory capacity, including a technique in which a staff member places pressure on the student's back or places the staff member’s body weight against the student's torso or back

4. Use a behavioral restraint technique that restricts breathing, including, but not limited to, the use of a pillow, blanket, carpet, mat, or other item to cover a student's face

5. Use prone restraint.

6. Use a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the student or others

Limited Use of Seclusion or Restraint

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

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

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

# O. Positive Behavioral Interventions

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

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

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

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

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

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

1. are under the supervision of personnel qualified to design or plan behavior interventions; and
2. possess a high school diploma or its equivalent; and
3. receive the specific level of supervision required in the pupil's IEP.

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

## O2. Functional Behavioral Assessment and Behavior Intervention Plan

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

1. school authorities seek to change the placement of an individual with exceptional needs because of a violation of a code of student conduct,

2. the IEP team determines that the conduct was a manifestation of the child's disability, and

3. the LEA had not conducted an FBA prior to such determination before the behavior that resulted in the change of placement.

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

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

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

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

## O3. Emergency Interventions

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

The procedures taught by the Crisis Prevention Institute (CPI), the procedures taught as a component of Professional Assault Crisis Training (PRO-ACT), shall be permitted.

## O4. Emergency Interventions (Education Code 56521.1)

Emergency interventions may only be used to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the individual with exceptional needs, or others, and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior.

Emergency interventions shall not be used as a substitute for the systematic behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior.

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

Emergency interventions shall not include:

1. Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.

2. Employment of a device, material, or objects that simultaneously immobilize all four extremities.

3. Prone restraint.

4. An amount of force that exceeds that which is reasonable and necessary under the circumstances.

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

1. The name and age of the individual with exceptional needs.

2. The setting and location of the incident.

3. The name of the staff or other persons involved.

4. A description of the incident and the emergency intervention used, and whether the individual with exceptional needs is currently engaged in any systematic behavioral intervention plan.

5. Details of any injuries sustained by the individual with exceptional needs, or others, including staff, as a result of the incident.

All behavioral emergency reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator.

If a behavioral emergency report is written regarding an individual with exceptional needs who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an individualized education program (IEP) team meeting to review the emergency report, to determine the necessity for a functional behavioral assessment, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the functional behavioral assessment, not developing an interim plan, or both.

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

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

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

1. Any intervention that is designed to, or likely to, cause physical pain, including, but not limited to, electric shock.

2. An intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the face of the individual.

3. An intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities.

4. An intervention that is designed to subject, used to subject, or likely to subject, the individual to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma.

5. Restrictive interventions that employ a device, material, or objects that simultaneously immobilize all four extremities.

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Return to Agenda

# Advance Planning:

- Monday, November 16, 2026
  - Regular meeting