

Disabilities Education Act (20 U. S. C., Sec. 1400 and following) category of specific learning disabilities is entitled to special education and related services.

C.C.R. Title 5, Sec. 3030

(j) A pupil has a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an impaired ability to listen, think, speak, read, write, spell, or do mathematical calculations, and has a severe discrepancy between intellectual ability and achievement in one or more of the academic areas specified in Section 56337(a) of the Education Code. For the purpose of Section 3030(j):

- (1) Basic psychological processes include attention, visual processing, auditory processing, sensory-motor skills, and cognitive abilities including association, conceptualization and expression.
- (2) Intellectual ability includes both acquired learning and learning potential and shall be determined by a systematic assessment of intellectual functioning.
- (3) The level of achievement includes the pupil's level of competence in materials and subject matter explicitly taught in school and shall be measured by standardized achievement tests.
- (4) The decision as to whether or not a severe discrepancy exists shall be made by the individualized education program team, including assessment personnel in accordance with Section 56431(d), which takes into account all relevant material which is available on the pupil. No single score or product of scores, test or procedure shall be used as the sole criterion for the decisions of the individualized education program team as to the pupil's eligibility for special education. In determining the existence of a severe discrepancy, the individualized education program team shall use the following procedures:
 - (A) When standardized tests are considered to be valid for a specific pupil a severe discrepancy is demonstrated by: first, converting into common standard scores, using a mean of 100 and a standard deviation of 15, the achievement test score and the ability test score to be compared; second, computing the difference between these common standard scores; and third, comparing this computed difference to the standard criterion which is the product of 1.5 multiplied by the standard deviation of the distribution of computed differences of students taking these achievement and ability tests. A computed difference which equals or exceeds this standard criterion, adjusted by one standard error of measurement, the adjustment not to exceed 4 common standard score points, indicates a severe discrepancy when such discrepancy is corroborated by other assessment data which may include other tests, scales, instruments, observations, and work samples as appropriate.
 - (B) When standardized tests are considered to be invalid for a specific pupil, the discrepancy shall be measured by alternative means as specified on the assessment plan.
 - (C) If the standardized tests do not reveal a severe discrepancy as defined in subparagraphs (A) or (B) above, the individualized education program team may find that a severe discrepancy does exist, provided that the team documents in a written report that the severe discrepancy between ability and achievement exists as a result of a disorder in one or more basic psychological processes. The report shall include a statement of the area, the degree, and the basis and method used in determining the discrepancy. The report shall contain information considered by the team, which shall include, but not be limited to:
 - (1) Data obtained from standardized assessment instruments;
 - (2) Information provided by the parent;
 - (3) Information provided by the pupil's present teacher;

- (4) Evidence of the pupil's performance in the regular and/or special education classroom obtained from observations, work samples, and group test scores;
- (5) Consideration of the pupil's age, particularly for young children;
- (6) Any additional relevant information; and
- (7) The discrepancy shall not be primarily the result of limited school experience or poor school attendance.

C.F.R. 300.7 (10)

Specific learning disability is defined as follows:

(i) *General*. The term means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

(ii) *Disorders not included*. The term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

Method 1: Regression to the mean formula:

Within the regression to the mean formula there are two ways to determine a severe discrepancy.

- The first way is to use co-normed tests. These are tests that were normed together and provide either tables or computer programs that can be used to determine a discrepancy. Examples of co-normed tests include:
 - Wechsler Intelligence Scale for Children III (WISC III) and the
 - Wechsler Individual Achievement Test (WIAT).
 - Woodcock-Johnson Psycho-Educational Battery-Revised (WJ-R).
- The second way is to use regression to the mean formula to compute the difference. This should be used with tests that are not co-normed. The formula is contained in Appendix B-1 and requires a correlation coefficient indicating the degree of relationship between the academic and intelligence tests.

Method 2: Existing State Formula:

The California Department of Education specified a formula for determining a severe discrepancy several years ago. It does not take into consideration regression to the mean. The tables in previous manuals are no longer valid since most of the tests included in the tables have been revised. With the revised editions of tests there are only two ways to determine the discrepancy using this model.

- The first way is to use the computation procedure. This option requires the use of the formula contained in Appendix B-2 and requires a correlation coefficient indicating the degree of relationship between the academic and intelligence test.

- The second way is to use the estimation procedure. This is included in Appendix B-3. It provides a procedure to estimate whether or not a severe discrepancy exists.

NOTE: When standardized tests are considered to be invalid for a specific pupil the discrepancy shall be measured by alternative means as specified on the assessment plan. This determination may be based on such data as the results of informational or criterion- referenced assessments, analysis of pupil work samples, classroom performance and observations.

Additional Considerations:

The psychological processing disorder should be manifested on more than one instrument and be corroborated by an analysis of other test results and observations.

The relationship of the processing disorder to the pupil's academic deficits should be clearly established and become the basis for instructional planning and development of specific objectives for the student's IEP.

The IEP Team shall ensure that neither the documented psychological processing disorder nor the discrepancy is due to factors of environment, cultural differences or economic disadvantage. Also, neither the documented psychological processing disorder nor the discrepancy may be the result of visual, hearing nor motor disabilities, mental retardation, limited school experience or poor attendance.

6.5 K SPEECH OR LANGUAGE IMPAIRMENT (SLI)

Definition:

E.C. 56333. A pupil shall be assessed as having a language or speech disorder which makes him or her eligible for special education and related services when he or she demonstrates difficulty understanding or using spoken language to such an extent that it adversely affects his or her educational performance and cannot be corrected without special education and related services. In order to be eligible for special education and related services, difficulty in understanding or using spoken language shall be assessed by a language, speech and hearing specialist who determines that such difficulty results from any of the following disorders:

- (a) Articulation disorders, such that the pupil's production of speech significantly interferes with communication and attracts adverse attention.
- (b) Abnormal voice, characterized by persistent, defective voice quality, pitch, or loudness. An appropriate medical examination shall be conducted, where appropriate.
- (c) Fluency difficulties which result in an abnormal flow of verbal expression to such a degree that these difficulties adversely affect communication between the pupil and listener.
- (d) Inappropriate or inadequate acquisition, comprehension, or expression of spoken language such that the pupil's language performance level is found to be significantly below the language performance level of his or her peers.
- (e) Hearing loss which results in a language or speech disorder and significantly affects educational performance.

C.F.R. 300.7(11)

Speech or language impairment means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

C.C.R., Title 5, Sec. 3030

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

(1) ARTICULATION

C.C.R., Title 5, Sec. 3030 (c)

(1) Articulation Disorder.

- (A) 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.
- (B) A pupil does not meet the criteria for articulation disorder if the sole assessed disability is an abnormal swallowing pattern.

(2) ABNORMAL VOICE

C.C.R., Title 5, Sec. 3030 (c)

(2) Abnormal Voice. A pupil has an abnormal voice which is characterized by persistent, defective voice quality, pitch, or loudness.

(3) FLUENCY DISORDER

C.C.R., Title 5, Sec. 3030 (c)

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

(4) LANGUAGE DISORDER

C.C.R., Title 5, Sec. 3030 (c)

Language Disorder. The pupil has an expressive or receptive language disorder when he or she meets one of the following criteria:

- (A) The pupil scores at least 1.5 standard deviations below the mean, or below the 7th percentile, for his or her chronological age or developmental level on two or more standardized tests in one or more of the following areas of language development: morphology, syntax, semantics, or pragmatics. When standardized tests are considered

to be invalid for the specific pupil, the expected language performance level shall be determined by alternative means as specified on the assessment plan, or

- (B) The pupil scores at least 1.5 standard deviations below the mean or the score is below the 7th percentile for his or her chronological age or developmental level on one or more standardized tests in one of the areas listed in subsection (A) and displays inappropriate or inadequate usage of expressive or receptive language as measured by a representative spontaneous or elicited language sample of a minimum of fifty utterances. The language sample must be recorded or transcribed and analyzed, and the results included in the assessment report. If the pupil is unable to produce this sample, the language, speech, and hearing specialist shall document why a fifty utterance sample was not obtainable and the contexts in which attempts were made to elicit the sample. When standardized tests are considered to be invalid for the specific pupil, the expected language performance level shall be determined by alternative means as specified in the assessment plan.

6.5 L TRAUMATIC BRAIN INJURY (TBI)

Definition:

C.F.R. 300.7 (C)

"Traumatic brain injury" means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment, problem-solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

6.5 M VISUAL IMPAIRMENT INCLUDING BLINDNESS (VI)

Definition:

C.F.R. 300.7 (13)

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

6.6 GOAL WRITING

Once the IEP Team has found the student eligible for special education and has identified areas of need, measurable annual goals are written (for students taking the CAPA objectives are developed). For students who are English learners the goals must be linguistically appropriate.

C.C.R., Title 5, Sec. 3001 (s) "Linguistically appropriate goals, objectives, and programs" means:

(1)(A) Those activities which lead to the development of English language proficiency;

(1)(B) Instructional activities, whose primary language is other than English, and whose potential for learning a second language, as determined by the individualized education program team, is severely limited, nothing in this section shall preclude the individualized education program team from determining that instruction may be provided through an alternative program pursuant to a waiver under

Education Code Section 311(c), including a program provided in the individual's primary language, provided that the IEP team periodically, but not less than annually, reconsiders the individual's ability to receive instruction in the English language.

6.7 PROGRAM PLANNING

Once a student has been found eligible for special education and related services, placement is based upon the specific needs of the student in the least restrictive environment. Related services are provided only if necessary for the student to benefit from their special education program.

The IEP Team must consider the following:

C.C.R., Title 5, Sec. 3040 (c)

The individualized education program shall show a direct relationship between the present levels of performance, the goals (and objectives if appropriate), and the specific educational services to be provided.

C.C.R., Title 5, Sec. 3042.

PLACEMENT.

- (a) Specific educational placement means that unique combination of facilities, personnel, location or equipment necessary to provide instructional services to an individual with exceptional needs, as specified in the individualized education program, in any one or a combination of public, private, home and hospital, or residential settings.
- (b) The individualized education program team shall document its rationale for placement in other than the pupil's school and classroom in which the pupil would otherwise attend if the pupil were not disabled. The documentation shall indicate why the student's disability his or her needs from being met in a less restrictive environment even with the use of supplementary aids and services.

In determining the educational placement of a child with a disability, the district will ensure that the placement decision is made by a group of

persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.

All placement decisions will be based on the individual need of the student pursuant to the IEP and not on the basis of the disability, configuration of service delivery, availability of staff, curriculum intent or administrative experience. All placements will be made in the least restrictive environment.

The continuum of options include, but are not necessarily limited to all of the following or any combination of the following:

- 1) Regular education classroom.
- 2) Regular education classroom with supplementary aids and services.
- 3) Regular education classroom with resource specialist services

- 4) Regular education classroom with related services.
- 5) Regular education classroom with services from a special day class teacher and supports and/or related services.
- 6) Special Classes and Centers.
- 7) Nonpublic, nonsectarian school services.
- 8) State special schools.
- 9) Residential Schools
- 10) Home/ Hospital

6.8 BETWEEN NINETEEN AND TWENTYTWO YEARS

E.C., Sec. 56026: (c) (4) Between the ages of nineteen and twenty- one, inclusive; enrolled in or eligible for a program under this part or other special education program prior to his or her nineteenth birthday; and has not yet completed his or her prescribed course of study or who has not met proficiency standards prescribed pursuant to Sections 51215 and 51216.

- A) Any person who becomes 22 years of age during the months of January to June, inclusive, while participating in a program under this part may continue his or her participation in the program for the remainder of the current fiscal year, including any extended school year program for individuals with exceptional needs established pursuant to regulations adopted by the State Board of Education, pursuant to Article 1 (commencing with Section 56100) of Chapter 2.

Any person otherwise eligible to participate in a program under this part shall not be allowed to begin a new fiscal year in a program if he or she becomes 22 years of age in September of that new fiscal year. However, if a person is in a year-round school program and is completing his or her individualized education program in a term that extends into the new fiscal year, then the person may complete that term.

- B) Any person who becomes 22 years of age during the months of October, November, or December while participating in a program under this act shall be terminated from the program on December 31 of the current fiscal year, unless the person would otherwise complete his or her individualized education program at the end of the current fiscal year or unless the person has not had an individual transition plan incorporated into his or her individualized education program and implemented from the age of 20 years, in which case the person shall be terminated from the program at the end of the fiscal year.

6.9 SUGGESTED TRANSITION AND EXIT GUIDELINES

Special education and related services is a service that may be short term or long term in duration. It is an intervention designed to remediate deficits and address disabling conditions that prevent success in regular education curriculum. The overall goal of special education is to develop the skills necessary to successfully access the regular education curriculum. This skill development, in conjunction with appropriate supports and accommodations in the regular education program should establish a transition of decreased special education services to increased regular education services. In some cases, there may be a complete dismissal from special education. This transition and dismissal addresses the least restrictive environment principle and practice, as required of the IEP Team, which includes regular education staff when the child is currently in regular education or is being considered for regular education.

6.10 SUMMARY OF PERFORMANCE

The Summary of Performance is a new requirement under IDEA '04. The summary is prepared by the school and provided to the student when he/she leaves school, either by graduating with a general diploma or reaching the age of 22. The summary will offer the student a document that summarizes his or her academic and functional performance with recommendations about what accommodations and supports the student may need to enter post-school activities, such as training, higher education, employment, and independent living.

(ii) Summary of Performance – For a child whose eligibility under this part terminates under circumstances described in clause (i), a local education agency shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's post-secondary goals. Section 614(c)(5)(B)

APPENDIX A ELIGIBILITY SUMMARY FORMS

Eligibility Summary – Autism (AUT)

Eligibility Summary – Deaf-Blindness (DB)

Eligibility Summary – Deafness (D)

Eligibility Summary – Hearing Impairment (HI)

Eligibility Summary – Mental Retardation (MR)

Eligibility Summary – Multiple Disabilities (MH)

Eligibility Summary – Orthopedic Impairment (OI)

Eligibility Summary – Other Health Impairment (OHI)

Eligibility Summary – Emotional Disturbance (ED)

Eligibility Summary – Specific Learning Disability (SLD)

Eligibility Summary – Speech or Language Impairment (SLI) (Articulation Disorder)

Eligibility Summary – Speech or Language Impairment (SLI) (Abnormal Voice)

Eligibility Summary – Speech or Language Impairment (SLI) (Fluency Disorder)

Eligibility Summary – Speech or Language Impairment (SLI) (Language Disorder)

Eligibility Summary – Traumatic Brain Injury (TBI)

Eligibility Summary – Visual Impairment (VI)

Eligibility Summary - Autism (AUT)

Pupil's Name _____ Birth date _____

School _____ Date _____

C.C.R. Title 5, Sec. 3030: A pupil exhibits any combination of the following autistic-like behaviors, to include but not be limited to: (1) an inability to use oral language for appropriate communication; (2) a history of extreme withdrawal or relating to people inappropriately and continued impairment in social interaction from infancy through early childhood; (3) an obsession to maintain sameness; (4) extreme preoccupation with objects or inappropriate use of objects or both; (5) extreme resistance to controls; (6) displays peculiar motoric mannerisms and motility patterns; (7) self-stimulating, ritualistic behavior.

ELEMENTS All four elements listed below must be checked to establish eligibility.

- 1. A written report from a school psychologist or other person with experience and training in working with autistic children.
- 2. A written report from a speech/language specialist addressing verbal and non-verbal communication skills.
- 3. The following behaviors were documented in the above written reports:
 - _____ 1. An inability to use oral language for appropriate communication.
 - _____ 2. A history of extreme withdrawal, relating, or other impairment of social interaction.
 - _____ 3. An obsession to maintain sameness.
 - _____ 4. Extreme preoccupation or inappropriate use of objects.
 - _____ 5. Extreme resistance to controls.
 - _____ 6. Displays peculiar motoric mannerisms or motility patterns.
 - _____ 7. Self-stimulating, ritualistic behavior.
 - _____ 8. _____
- 4. Assessment/observation which indicates that the pupil's educational needs cannot be met with modification and/or resources of the regular education program."

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 " 'A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having . . . autism . . . and who because of those impairments need special education and related services. "

Parent/Guardian/Surrogate Signature _____ Date _____

Eligibility Summary - Deaf-Blindness (DB)

Pupil's Name _____ Birth date _____

School _____ Date _____

C.C.R. Title 5, Sec. 3030: A pupil has concomitant hearing and visual impairments, the combination of which causes severe communication, developmental, and educational problems.

ELEMENTS All five elements listed below must be checked to establish eligibility.

- 1 Hearing loss, with or without amplification, as determined by a qualified audiologist.
- 2 A written report by either a physician or an optometrist which states:
 - ___ Central visual acuity is 20/200 or less in the better eye after best correction with conventional spectacle lenses.
 - ___ Visual acuity is better than 20/200 if there is a field defect in which the widest diameter of the visual field is not greater than 20 degrees.
- 3 Delays in communication, social, emotional, physical, and educational performance are directly related to the hearing and visual impairment.
- 4 These deficits adversely affect the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.
- 5 Needs cannot be accommodated in special education programs solely for children with deafness or children with blindness.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 " 'A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having . . . deaf-blindness . . . and who because of those impairments need special education and related services."

Parent/Guardian/Surrogate Signature _____ Date _____

Eligibility Summary - Deafness (D)

Pupil's Name _____ Birth date _____

School _____ Date _____

C.C.R. Title 5, Sec. 3030: A pupil has a hearing impairment whether permanent or fluctuating, which impairs the processing of linguistic information through hearing even with amplification, and which adversely affects educational performance. Processing linguistic information includes speech and language reception and speech and language discrimination.

ELEMENTS All four elements listed below must be checked to establish eligibility.

- 1 Current audiological evaluation, with and without amplification, as determined by a qualified audiologist.
- 2 The hearing impairment is so severe that there is an impairment in the processing of linguistic information through hearing with or without amplification.
- 3 This condition affects the development of expressive or receptive communication, or both, developmental growth and/or educational performance.
- 4 These deficits adversely affect the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 "A child with a disability" means a child evaluated in accordance with Sec. 300.530-300.536 as having . . . deafness . . . and who because of those impairments need special education and related services."

Parent/Guardian/Surrogate Signature _____ Date _____

Eligibility Summary - Hearing Impairment (HI)

Pupil's Name _____ Birth date _____

School _____ Date _____

C.C.R. Title 5, Sec. 3030: A pupil has a hearing impairment whether permanent or fluctuating, which impairs the processing of linguistic information through hearing even with amplification, and which adversely affects educational performance. Processing linguistic information includes speech and language reception and speech and language discrimination.

ELEMENTS *All five elements listed below must be checked to establish eligibility.*

- 1 Current audiological evaluation, with and without amplification, as determined by a qualified audiologist.
- 2 The hearing impairment, whether permanent or fluctuating, adversely affects:
 - ___ expressive and/or receptive communication
 - ___ developmental growth
 - ___ educational performance
- 3 The hearing impairment, with or without amplification, makes it difficult for the pupil to process linguistic information through hearing.
- 4 These deficits adversely affect the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.
- 5 Hearing impairment is not included under the definition of deafness.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 " 'A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having . . . hearing impairment . . . and who because of those impairments need special education and related services."

Parent/Guardian/Surrogate Signature _____ Date _____

Eligibility Summary - Mental Retardation (MR)

Pupil's Name _____ Birth date _____

School _____ Date _____

C.C.R. Title 5, Sec. 3030: A pupil has significantly below average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affect a pupil's educational performance.

ELEMENTS *All four elements listed below must be checked to establish eligibility.*

1 The pupil demonstrates significantly below average intellectual ability.

2 The pupil demonstrates concurrent deficits in adaptive behavior.

Identified areas of weakness include:

1.

2.

3.

4.

3 These deficits were manifested during the developmental period.

4 These deficits adversely affect the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 "A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having . . . mental retardation. . . and who because of those impairments need special education and related services."

Parent/Guardian/Surrogate Signature _____ Date _____

Eligibility Summary - Multiple Disabilities (MH)

Pupil's Name _____ Birth date _____

School _____ Date _____

C.F.R. 300.7(c)(7): A pupil has concomitant impairments, the combination of which causes such severe educational problems that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness.

ELEMENTS *Pupil must have at least two severe impairments to establish eligibility within this classification.*

1 Severe Impairment: _____
Federal Classification

2 Severe Impairment: _____
Federal Classification

3 Additional Impairments: _____
Federal Classification

4 The combination of these impairments requires unique modifications and support not available in programs designed solely for one of these impairments.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 " 'A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having . . . multiple disabilities . . . and who because of those impairments need special education and related services."

Parent/Guardian/Surrogate Signature _____ Date _____

Eligibility Summary - Orthopedic Impairment (OI)

Pupil's Name _____ Birth date _____

School _____ Date _____

C.C.R. Title 5, Sec. 3030: A pupil has a severe orthopedic impairment which adversely affects the pupil's educational performance. Such orthopedic impairments include impairments caused by congenital anomaly, impairments caused by disease, and impairments from other causes.

ELEMENTS Both elements listed below must be checked to establish eligibility.

1 This pupil has a documented diagnosis of physical impairment:

Cerebral Palsy

Poliomyelitis

Infections (bone and joint tuberculosis)

Osteomyelitis

Congenital anomalies (amputation, clubfoot, dislocations, or spinal bifida)

Birth injury (Erb's palsy and fractures)

Trauma (amputations, burns or fractures)

Tumors (bone tumors or bone cysts)

Developmental diseases (coxaplane or spinal osteochondritis)

Other conditions (fragile bones, muscular atrophy, muscular dystrophy, Perthe's disease, juvenile rheumatoid arthritis)

2 It has been determined by the assessment team that the above-diagnosed physical impairment adversely affects the pupil's educational performance, and the pupil's need's cannot be solely met within the regular classroom setting.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 " 'A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having . . . orthopedic impairment . . . and who because of those impairments need special education and related services."

Parent/Guardian/Surrogate Signature _____ Date _____

Eligibility Summary - Other Health Impairment (OHI)

Pupil's Name _____ Birth date _____

School _____ Date _____

C.C.R. Title 5, Sec. 3030: A pupil has limited strength, vitality, or alertness, due to chronic or acute health problems . . . which adversely affect his/her educational performance. This health problem is not temporary in nature as defined by Section 3001 (v) of the Education Code.

C.F.R. 300.7 (c)(9): Other health impairment means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that – (i) is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia; and (ii) Adversely affects a child's educational performance.

ELEMENTS *All four elements listed below must be checked to establish eligibility.*

- 1 Documented health impairment due to _____
(may include, but not be limited to: heart condition, cancer, leukemia, rheumatic fever, chronic kidney disease, cystic fibrosis, severe asthma, attention deficit disorder, attention deficit hyperactivity disorder, epilepsy, lead poisoning, diabetes, tuberculosis, an infectious disease, a hematological disorder, such as sickle cell anemia, hemophilia.)
- 2 This health problem adversely affects the pupil's educational performance.
- 3 It has been observed and documented that this pupil cannot be adequately served through other regular or categorical services offered within the regular instructional program. (E. C. Sec. 56337)
- 4 These deficits adversely affect the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 " 'A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having . . . other health impairment . . . and who because of those impairments need special education and related services."

Parent/Guardian/Surrogate Signature _____ Date _____

Eligibility Summary - Emotional Disturbance (ED)

Pupil's Name _____ Birth date _____

School _____ Date _____

C.C.R. Title 5, Sec. 3030: Because of a serious emotional disturbance, a pupil exhibits one or more of the following characteristics over a long period of time and to a marked degree, which adversely affect educational performance:

One or more must be checked:

- An inability to learn which cannot be explained by intellectual, sensory, or health factors.
- An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- Inappropriate types of behavior or feelings under normal circumstances exhibited in several situations.
- A general pervasive mood of unhappiness or depression.
- A tendency to develop physical symptoms or fears associated with personal or school problems.

ELEMENTS *All elements listed below must be checked to establish eligibility.*

- 1 The disturbance is of such severity that the pupil's educational needs cannot be met in the regular classroom.
- 2 The presenting educational difficulties are not due primarily to the social maladjustments. (E.C. Sec. 56026 (e)).
- 3 The presenting educational difficulties are not primarily the result of behavior disorder.
- 4 The behavior has been observed for a period of time longer than six months, and to a marked degree.
- 5 The inability to learn cannot be explained by intellectual or sensory factors or by limited school experience or poor attendance.
- 6 These deficits adversely affect the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 "A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having . . . serious emotional disturbance . . . and who because of those impairments need special education and related services."

Parent/Guardian/Surrogate Signature _____ Date _____

Eligibility Summary - Specific Learning Disability (SLD)

Pupil's Name _____ Birth date _____

School _____ Date _____

Title 5, Sec. 3030: A pupil has a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an impaired ability to listen, think, speak, read, write, spell, or do mathematical calculations, and has a severe discrepancy between intellectual ability and achievement in one or more of the academic areas specified in Section 56337 (a) of the Education Code.

ELEMENTS *All four elements listed below must be checked to establish eligibility*

1 This student has demonstrated a severe discrepancy between intellectual ability and achievement in one or more of the following academic areas specified in Sec. 56337 (a) of the Education Code:

- _____ Oral Expression
- _____ Reading comprehension
- _____ Listening comprehension
- _____ Mathematics calculation
- _____ Written expression
- _____ Mathematics reasoning
- _____ Basic reading skills

2 The discrepancy is due to a disorder in one or more of the basic psychological processes:

- _____ attention
- _____ sensory motor skills
- _____ visual processing
- _____ cognitive abilities including:
 - _____ auditory processing
 - _____ association
 - _____ conceptualization
 - _____ expression

3 The discrepancy cannot be corrected through other regular or categorical services offered within the regular instructional program (E.C. Sec. 56337).

4 It has been determined by the assessment team that the learning problems are not primarily the result of visual, hearing, or motor disabilities; of mental retardation; of emotional disturbance; or, of environmental, cultural, or economic disadvantage (C.F.R. Sec. 300.7(b)(10). The discrepancy is not primarily the result of limited school experience or poor school attendance (E.C. Sec. 56341).

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 "A child with a disability" means a child evaluated in accordance with Sec. 300.530-300.536 as having . . . specific learning disability . . . and who because of those impairments need special education and related services."

Parent/Guardian/Surrogate Signature _____ Date _____

Eligibility Summary - Speech or Language Impairment (SLI)

Pupil's Name _____ Birth date _____

School _____ Date _____

C.C.R. Title 5, Sec. 3030: A pupil has a language or speech disorder as defined in Section 56333 of the Education Code, and it is determined that pupil's disorder meets one or more of the following criteria:

Articulation Disorder:

C.C. R. Title 5, Sec. 3030 (c) (1):

ELEMENTS

(A) 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. (B) A pupil does not meet the criteria for articulation disorder if the sole assessed disability is an abnormal swallowing pattern. *Student demonstrates a developmental delay in production of one or more phonemes. Check one of the following:*

- 1 Preschool child between ages three and five:** One or more sound articulation errors delayed by at least six months.
- 2 Kindergarten to age eight:** One or more sound articulation errors delayed by a minimum of one year. Exception: Production of lateralized s, z, sh, ch, or j should receive therapy as soon as the sound in error goes beyond the development scale.

- 3 School age student age eight and above:**

(A) One or more misarticulations **and** demonstrates one or more of the following:

- ___ Lack of stimulability in syllables/words
- ___ Consistency or error in two more speaking situations
- ___ Reduced intelligibility in conversational speech

(B) The two elements below must be checked to determine eligibility:

- 1 Disorder significantly interferes with communication
- 2 Disorder attracts averse attention

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 "A child with a disability" means a child evaluated in accordance with Sec. 300.530-300.536 as having . . . speech or language impairment . . . and who because of those impairments need special education and related services."

Parent/Guardian/Surrogate Signature _____ Date _____

Eligibility Summary - Speech or Language Impairment (SLI)

Pupil's Name _____ Birth date _____

School _____ Date _____

C.C.R. Title 5, Sec. 3030: A pupil has a language or speech disorder as defined in Section 56333 of the Education Code, and it is determined that pupil's disorder meets one or more of the following criteria:

Abnormal Voice:

C.C. R. Title 5, Sec. 3030 (c) (2): A pupil has an abnormal voice which is characterized by persistent, defective voice quality, pitch or loudness.

ELEMENTS All of the following must be documented:

(When indicated, vocal assessment shall include a medical laryngeal examination.)

- 1 The disorder adversely affects educational performance.
- 2 The abnormal voice is noticeable to both familiar and unfamiliar listeners.
- 3 The abnormal voice interferes with communicating.
- 4 The abnormal voice is noticeable over a long period of time.
- 5 The abnormal voice is inappropriate for the student's age and/or sex.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 " 'A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having . . . speech or language impairment . . . and who because of those impairments need special education and related services."

Parent/Guardian/Surrogate Signature _____ Date _____

Eligibility Summary - Speech or Language Impairment (SLI)

Pupil's Name _____ Birth date _____

School _____ Date _____

C.C.R. Title 5, Sec. 3030: A pupil has a language or speech disorder as defined in Section 56333 of the Education Code, and it is determined that pupil's disorder meets one or more of the following criteria:

Fluency Disorder:

C.C. R. Title 5, Sec. 3030 (c) (3): A pupil has a fluency disorder when the flow of verbal expression including rate and rhythm adversely affects communication between the pupil and listener.

ELEMENTS At least one of the following must be documented:

- 1 The student exhibits inappropriate rate or rhythm of speech.
- 2 The student exhibits excessive repetition, revision, interjection, pauses, and other breaks in the flow of speech that does not enhance meaning.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 " 'A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having . . . speech or language impairment . . . and who because of those impairments need special education and related services."

Parent/Guardian/Surrogate Signature _____ Date _____

Eligibility Summary - Speech or Language Impairment (SLI)

Pupil's Name _____ Birth date _____

School _____ Date _____

C.C.R. Title 5, Sec. 3030: A pupil has a language or speech disorder as defined in Section 56333 of the Education Code, and it is determined that pupil's disorder meets one or more of the following criteria:

Language Disorder:

C.C.R. Title 5, Sec. 3030 (c) (4): The pupil has an expressive or receptive language disorder when he or she meets criteria A or B listed below.

ELEMENTS A or B below must be checked.

- A The pupil scores at least 1.5 standard deviations below the mean, or below the 7th percentile, for his or her chronological age or development level on **two** or more standardized tests in one or more of the following areas of language development: morphology, syntax, semantics, or pragmatics.

- B The pupil scores at least 1.5 standard deviations below the mean or the score is below the 7th percentile for his or her chronological age or developmental level on **one** or more standardized tests in one of the following areas: morphology, syntax, semantics, or pragmatics **and** displays inappropriate or inadequate usage of expressive or receptive language as measured by a representative spontaneous or elicited language sample of a minimum of fifty utterances.

Language sample: Check one.

___ The language sample is recorded or transcribed and analyzed in the assessment report.

___ There is documentation in the report of why a fifty utterance sample was not obtainable and the context in which attempts were made to elicit the sample.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 " 'A child with a disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having . . . speech or language impairment . . . and who because of those impairments need special education and related services."

Parent/Guardian/Surrogate Signature _____ Date _____

Eligibility Summary - Traumatic Brain Injury (TBI)

Pupil's Name _____ Birth date _____

School _____ Date _____

C.F.R. 300.7(c)(12): Traumatic Brain Injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

ELEMENTS *All three elements listed below must be checked to establish eligibility.*

1. The pupil has had an open or closed head injury that has affected the following: (Check all that apply.)

- cognitive
- language
- memory
- attention
- reasoning
- abstract thinking judgment
- problem solving

2 The injury has resulted in total or partial functional disability or psychosocial impairment.

3 The injury adversely affects educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 "A child with disability' means a child evaluated in accordance with Sec. 300.530-300.536 as having . . . traumatic brain injury . . . and who because of those impairments need special education and related services."

Parent/Guardian/Surrogate Signature _____ Date: _____

Eligibility Summary - Visual Impairment (VI)

Pupil's Name _____ Birth date _____

School _____ Date _____

C.C.R. Title 5, Sec. 3030: A pupil has a visual impairment which, even with correction, adversely affects a pupil's educational performance.

ELEMENTS *Both elements listed below must be checked to establish eligibility.*

- 1 This pupil has a documented visual impairment:

___ with acuity in the better eye, after the best correction, between 20/70 and 20/200 (partially sighted).

___ with central visual acuity of 20/200 or less in the better eye after best correction with conventional spectacle lenses (legally blind).

___ with visual acuity better than 20/200 if there is a field defect in which the widest diameter of the visual field is not greater than 20 degrees (legally blind).

___ Vision cannot be used as a major channel of learning (blind).

- 2 It has been determined by the assessment team that the above-diagnosed visual impairment adversely affects the pupil's educational performance, and the pupil's needs cannot be solely met within the regular classroom setting.

Note: As used in 34 C.F.R. Part 300 Sec. 300.7 " 'A children with a disability' means a child evaluated in accordance with Sec. 300.530-30 0.536 as having . . . visual impairment . . . and who because of those impairments need special education and related services."

Parent/Guardian/Surrogate Signature _____ Date _____

CHAPTER 7 – INDIVIDUALIZED EDUCATION PROGRAM

7.1 PURPOSE AND SCOPE

The Individualized Education Program (IEP) is a written statement determined in a meeting of the IEP team, including the parent, and developed for each child with a disability.

The IEP will show a direct relationship between the present levels of academic achievement and functional performance, any assessments, the student's goals and benchmarks, and the educational services to be provided.

7.2 INDIVIDUALIZED EDUCATION PROGRAM: PROCESS

7.2 A DEVELOPMENT OF THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

An IEP shall be developed within a total time not to exceed 60 calendar days, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five school days, from the date of receipt of the parent's written consent for assessment, unless the parent agrees, in writing, to an extension.

A district administrator or designee will initiate and conduct the meeting for the purpose of developing, reviewing, and revising the IEP of a child with a disability.

All efforts will be made to ensure that one or both of the parents of a child, with a disability, are present at each IEP meeting or are afforded the opportunity to participate. The parent will be notified of the meeting early enough to ensure that they will have an opportunity to attend. The meeting will be scheduled at a mutually agreed upon time and place.

When developing each student's IEP, the IEP Team shall consider the strengths of the child and the concerns of the parents for enhancing the education of their child. The IEP Team will consider the results of the initial or most recent evaluation of the child, and as appropriate, the results of the child's performance on any general State or district wide assessment program.

(EC 56342)

The individualized education program team shall review the pupil's individualized education program periodically, but not less frequently than annually.

A meeting to develop an initial individualized education program for the pupil shall be conducted within 30 days of a determination that the child needs special education and related services. A pupil's individualized education program shall be implemented as soon as possible following the individualized education program team meeting.

An individualized education program team shall meet at least annually to review a pupil's progress, the individualized education program, including whether the annual goals for the pupil are being achieved, the appropriateness of the placement, and to make any necessary revisions.

The local educational agency shall maintain procedures to ensure that the individualized education program team reviews the pupil's individualized education program periodically, but not less frequently than annually, to determine whether the annual goals for the pupil are being achieved, and revises the individualized education program as appropriate to address, among other matters,

A meeting of an individualized education program team requested by a parent or guardian to review an individualized education program shall be held within 30 calendar days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's or guardian's written request,

When an individualized education program calls for a residential placement as a result of a review by an expanded individualized education program team, the individualized education program shall include a provision for a review, at least every six months, by the full-individualized education program team of all of the following:

- (1) The case progress.
- (2) The continuing need for out-of-home placement.
- (3) The extent of compliance with the individualized education program.
- (4) Progress toward alleviating the need for out-of-home care.

(30 EC 56043)

7.2 B IEP TEAM MEMBERS

Each meeting to develop, review, or revise the individualized education program of a child with special needs shall be conducted by an IEP Team.

The IEP Team shall include all of the following:

- (1) One or both of the student's parents, a representative selected by a parent, or both
- (2) Not less than one regular education teacher of the student, if the student is, or may be, participating in the regular education environment. If more than one regular education teacher is providing instructional services to the student, one regular education teacher may be designated by the local educational agency to represent the others. The regular education teacher of a student shall, to the extent appropriate, participate in the development, review, and revision of the student's individualized education program, including assisting in the determination of appropriate positive behavioral interventions and supports, and other strategies for the student, and the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student.
- (3) Not less than one special education teacher of the student, or if appropriate, not less than one special education provider of the student.

- (4) A representative of the local educational agency who meets all of the following:
 - (a) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of individuals with exceptional needs.
 - (b) is knowledgeable about the general curriculum.
 - (c) is knowledgeable about the availability of resources of the local educational agency.
- (5) An individual who can interpret the instructional implications of the assessment results. The individual may be a member of the team.
- (6) At the discretion of the parent, guardian, or the local educational agency, 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 individualized education program team.
- (7) For a pupil suspected of having a specific learning disability, at least one member of the individualized education program team shall be qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher. In accordance with Section 300.310 of Title 34 of the Code of Federal Regulations, at least one team member shall observe the pupil's academic performance and behavior in the areas of difficulty in the pupil's learning environment, including in the regular classroom setting. In the case of a child who is less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.
- (8) Whenever appropriate, the individual with exceptional needs. If the IEP is for a transition – aged student, he or she is required to be a part of the IEP team. IDEA provides that the public agency must include the child with a disability at the IEP meeting “whenever appropriate”, and requires that the child be invited to attend the meeting if the purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals. *Section 300.320(b)*

7.3 CHILDREN TRANSITIONING FROM EARLY START PROGRAM

An invitation to the initial individualized education program team meeting shall, at the request of the parent, be sent to the infants and toddlers with disabilities coordinator or other representatives of the early education or early intervention system to assist with the smooth transition of services.

- (a) For a student suspected of having a specific learning disability, at least one member of the individualized education program team shall be qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher. At least one team member other than the student's regular teacher shall observe the student's academic performance in the regular classroom setting. In the case of a child who is less than school- age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

- (b) (1) In the case of transition services, the local educational agency shall invite an individual with exceptional needs to attend his or her individualized education program meeting if a purpose of the meeting will be the consideration of the needed transition services for the individual.
- (2) If the individual with exceptional needs does not attend the individualized education program meeting, the local educational agency shall take steps to ensure that the individual's preferences and interests are considered.
- (3) The local educational agency also shall invite to the individualized education program team meetings a representative that is likely to be responsible for providing or paying for transition services. If an agency invited to send a representative to a meeting does not do so, the local educational agency shall take other steps to obtain participation of the other agency in the planning of any transition services.
- (4) Early education services shall be provided by the district, special education local plan area, or county office through a transdisciplinary team consisting of a group of professionals from various disciplines, agencies, and parents who shall share their expertise and services to provide appropriate services for infants and their families. Each team member shall be responsible for providing and coordinating early education services for one or more infants and their families, and shall serve as a consultant to other team members and as a provider of appropriate related services to other infants in the program.

(b) Credentialed personnel with expertise in vision or hearing impairments shall be made available by the district, special education local plan area, or county office to early education programs serving infants identified in accordance with subdivision (a), (b), or (d) of Section 3030 of Title 5 of the California Code of Regulations, and shall be the primary providers of services under those programs whenever possible.

(c) Transdisciplinary teams may include, but need not be limited to, qualified persons from the following disciplines:

- (1) Early childhood special education.
- (2) Speech and language therapy.
- (3) Nursing, with a skill level not less than that of a registered nurse.
- (4) Social work, psychology, or mental health.
- (5) Occupational therapy.
- (6) Physical therapy.
- (7) Audiology.
- (8) Parent to parent support.

(d) Any person who is authorized by the district, special education local plan area, or county office to provide early education or related services to infants shall have appropriate experience in normal and atypical infant development and an understanding of the unique needs of families of infants with exceptional needs, or, absent that experience and understanding, shall undergo a comprehensive training plan for that purpose, which

plan shall be developed and implemented as part of the staff development component of the local plan for early education services.

7.4 IEP TEAM MEMBER EXCUSAL

7.4 A IEP TEAM AREA OF CURRICULUM NOT BEING DISCUSSED

A member of the individualized education program team shall not be required to attend an individualized education program meeting, in whole or in part, if the parent of the individual with exceptional needs and the local educational agency agree 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 in the meeting.

7.4 B IEP TEAM MEMBER AREA OF CURRICULUM OR RELATED SERVICES BEING DISCUSSED

A member of the individualized education program team may be excused from attending an individualized education program meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if both of the following occur:

- (1) The parent and the local educational agency consent to the excusal after conferring with the member.
- (2) The member submits in writing to the parent and the individualized education program team, input into the development of the individualized education program prior to the meeting. A parent's agreement shall be in writing.

7.5 IF PARENTS CANNOT ATTEND IEP MEETING

If neither parent can attend, other methods will be used to ensure parent participation, including individual or conference telephone calls.

If the parent cannot be contacted or if the district is unable to convince the parents that they should attend, the IEP meeting may be conducted without a parent in attendance. The district will keep a record of its attempts to arrange a mutually agreed on time and place, such as:

1. A detailed record of phone calls made or attempted and the result of those calls;
2. Copies of correspondence sent to the parents and any responses received; or
3. Detailed records of visits made to the parent's home or place of employment and the results of those visits.

When no parent can be located or if the court has specifically limited the rights of the parent or guardian to make educational decisions for the child, a surrogate parent will be appointed.

7.6 INDIVIDUALIZED EDUCATION PROGRAM: CONTENT

The term “individualized education program” (IEP) means a written statement for each child with a disability that is developed, reviewed, and revised and includes:

- (1) a statement of the child’s present levels of academic achievement and functional performance, including:
 - (a) how the disability affects the child’s involvement and progress in the general education curriculum;
 - (b) for preschool children, as appropriate, how the disability affects the child’s participation in appropriate activities; and
 - (c) for children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.
- (2) a statement of measurable annual goals, including academic and functional goals designed to:
 - (a) meet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum; and
 - (b) meet each of the child’s other educational needs that result from the child’s disability.
- (3) a description of how the child’s progress toward meeting the annual goals will be measured, and when periodic reports on progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with issuance of report cards) will be provided;
- (4) a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child:
 - (a) to advance appropriately toward attaining the annual goals;
 - (b) to be involved in and make progress in the general curriculum and to participate in extracurricular and other nonacademic activities; and
 - (c) to be educated and participate with other children with disabilities and typically developing peers in the activities described above.
- (5) an explanation of the extent, if any, to which the child will not participate with typically developing peers in the regular class and extracurricular and nonacademic activities;

- (6) a statement of any individual appropriate accommodations that is necessary to measure the academic achievement and functional performance of the child on State and district-wide assessments.

If the IEP Team determines that the child shall take an alternate assessment on a particular State or district-wide assessment of student achievement, a statement of why:

- (a) the child cannot participate in the regular assessment; and
 - (b) the particular alternate assessment selected is appropriate for the child;
- (7) the projected date for the beginning of services and modifications, and the anticipated frequency, location and durations of those services and modifications.
- (8) Beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter:
- (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 course of study) needed to assist the child in reaching those goals; and
 - (c) beginning not later than 1 year before the child reaches the age majority (age 18), a statement that the child has been informed of the child's rights that will transfer to the child when reached age 18.

When appropriate, the IEP will also include other necessary services, such as extended school year, transportation, type of physical education, prevocational, vocational and career education.

All service providers, the school site and any outside agencies that will provide services will be given a copy of the IEP or be knowledgeable of its content.

7.7 REVIEW AND REVISION OF THE IEP

The IEP will be reviewed periodically, but not less than annually to determine whether the annual goals for the child are being achieved. The IEP will be revised as appropriate to address any lack of expected progress toward the annual goals and in the general curriculum, where appropriate.

In addition, the IEP team will meet when the parent or teacher requests a meeting to develop, review or revise the IEP. An IEP meeting must be held within 30 days of receipt of a written request from a parent.

The following should be included in a review

1. The results of any reevaluation,
2. Information about the child provided to, and by, the parent as required in the evaluation process;
3. The child's anticipated needs; and
4. Other matters.

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

The IEP team will review progress toward previous annual goals, benchmarks (short term objectives) if appropriate and progress in the general curriculum when developing new goals, and benchmarks if appropriate.

The regular education teacher of the child as a member of the IEP shall, to the extent appropriate, participate in reviews or revisions of the IEP.

7.7 A MAKING CHANGES AND AMENDMENTS TO THE IEP

In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of the individual with exceptional needs and the local educational agency may agree, not to convene an IEP meeting for the purposes of making those changes, and instead may develop a written document, signed by the parent and by a representative of the local educational agency, to amend or modify the student's existing IEP.

Changes to the IEP may be made by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent shall be provided with a revised copy of the IEP with the *amendments* incorporated.

7.7 B IEP TEAM MEETINGS REQUIRED

An individualized education program team shall meet whenever any of the following occurs:

- (a) A student has received an initial formal assessment. The team may meet when a student receives any subsequent formal assessment.
- (b) The student demonstrates a lack of anticipated progress.
- (c) The parent or teacher requests a meeting to develop, review, or revise the individualized education program.
- (d) At least annually, to review the student's progress, the individualized education program, including whether the annual goals for the student are being achieved, and the appropriateness of placement, and to make any necessary revisions. The individualized education program team conducting the annual review shall consist of the required members noted under the IEP team members section (7.2.B). Other individuals may participate in the annual review if they possess expertise or knowledge essential for the review.

7.7 C CONSOLIDATION OF IEP MEETINGS

To the extent possible, the LEA shall encourage consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.

7.7 D ALTERNATIVE MEANS OF MEETING PARTICIPATION

When conducting IEP Team meetings, the parent of the child with a disability and the LEA may agree to use alternative means of meeting participation, such as video conferences for conference calls.

7.8 INDIVIDUALIZED EDUCATIONAL PROGRAM: CONSIDERATION OF SPECIAL FACTORS

7.8 A POSITIVE BEHAVIORAL INTERVENTIONS

In the case of a child whose behavior impedes his or her learning or that of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior.

7.8 B STUDENTS WITH LIMITED ENGLISH PROFICIENCY

In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP.

For individuals whose primary language is other than English, linguistically appropriate goals, objectives, programs and services.

7.8 C BLIND AND VISUALLY IMPAIRED

In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines that the use of Braille is not appropriate for the child.

The IEP team will make this decision after an evaluation of the child's reading and writing skills, needs and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille) is conducted.

7.8 D DEAF AND HEARING IMPAIRED

Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs. The IEP team will consider opportunities for direct communication with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode.

7.8 E ASSISTIVE TECHNOLOGY

Consider whether a child requires assistive technology devices and services.

If, in considering the above special factors, the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the child to receive a free and appropriate public education, the IEP team must include a statement to that effect in the child's IEP. The regular education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development, review, and revision of the child's IEP. The teachers will assist in the determination of appropriate positive behavioral interventions and strategies for the child, and supplementary aids and services, program modifications or supports for school personnel that will be provided for the child.

7.9 INDIVIDUALIZED EDUCATION PROGRAM: TRANSITIONS

7.9 A TRANSITION FROM PRESCHOOL TO ELEMENTARY SCHOOL

Prior to transitioning a child with disabilities from a preschool program to kindergarten, or first grade as the case may be, an appropriate reassessment of the child shall be conducted to determine if the child is still in need of special education and services.

As part of the transition process, a means of monitoring the continued success of the child who is determined to be eligible for less intensive special education programs.

As part of the exit process from special education, the present performance levels and learning style shall be noted by the IEP Team. This information shall be made available to the assigned regular education teacher upon the child's enrollment in Kindergarten or first grade as the case may be.

7.9 B TRANSITION FROM SPECIAL CLASS OR CENTER OR FROM NONPUBLIC, NONSECTARIAN SCHOOL TO THE GENERAL EDUCATION CLASSROOM IN THE PUBLIC SCHOOL

When students transfer into the general education classroom from special classes or centers, or from nonpublic, nonsectarian school to the general education in the public school the IEP will include the following:

1. A description of activities provided to integrate the child into the regular education program indicating the nature of each activity and the time spent on the activity each day or week; and
2. A description of the activities provided to support the transition of students from the special education program into the regular education program.

7.9. C TRANSITION FROM SECONDARY TO POST-SECONDARY EDUCATION

Beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter:

- Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills; to assist the child in reaching those goals; and
- The transition services (including course of study) needed to assist the child in reaching these goals; and
- Beginning not later than 1 year before the child reaches the age majority (age 18), a statement that the child has been informed of the child's rights that will transfer to the child when reached age 18.

If a participating agency, other than the LEA, fails to provide transition services described in the IEP, the LEA shall convene the IEP Team to identify strategies to meet the transition objectives for the child set out in the IEP.

If an invited agency representative cannot attend the IEP meeting to develop transition services, the district will obtain agency participation in planning for these services.

(EC 56345.1; CFR 300.347, 300.348)

7.10 INTERIM PLACEMENTS

7.10 A TRANSFERS FROM DISTRICT TO DISTRICT WITHIN THE STATE

If the child has an IEP and transfers into a district from district not operating programs under the same local plan in which he or she was last enrolled in a special education program within the same academic year, the LEA shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved IEP, in consultation with the parents, for a period not to exceed 30 days, by which time the LEA shall adopt the previously approved IEP or shall develop, adopt, and implement a new IEP that is consistent with federal and state law.

7.10 B TRANSFERS FROM DISTRICT TO DISTRICT WITHIN THE SAME SELPA

If the child has an IEP and transfers into a district from a district operating under the same special education local plan area of the district in which he or she was last enrolled in a special education program within the same academic year, the new district shall continue, without delay, to provide services comparable to those described in the existing approved IEP, unless the parent and the LEA agree to develop, adopt and implement a new IEP that is consistent with federal and state law.

7.10 C TRANSFERS FROM DISTRICT TO DISTRICT FROM OUTSIDE OF STATE

If the child has an IEP and transfers from an educational agency outside the state to a district within the state within the same academic year, the LEA shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved IEP, in consultation with the parents, until the LEA conducts an assessment.

In order to facilitate the transition of an individual with exceptional needs, the new school in which the pupil enrolls shall take reasonable steps to promptly obtain the pupil's records.

Upon receipt of a request from an educational agency where an individual with exceptional needs has enrolled, a former educational agency shall send the pupil's special education records, or a copy thereof, to the new educational agency with five working days.

(EC 56325)

CHAPTER 8 – SPECIAL EDUCATION PROGRAMS AND SERVICES

8.1 PURPOSE AND SCOPE

The SELPA, or school district, will provide a continuum of program options to meet the needs of students with disabilities to ensure a free appropriate public education (FAPE).

The IEP Team will select the program or combinations of programs that can meet the student's needs in the least restrictive environment (LRE), allowing for maximum interaction with typically developing peers

8.2 LEAST RESTRICTIVE ENVIRONMENT

8.2 A DEFINITION

To the maximum extent appropriate, children with disabilities are educated with typically developing peers. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature of severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

8.2 B LEAST RESTRICTIVE ENVIRONMENT REQUIREMENTS

Least restrictive environment (LRE) requirements include the following:

- (1) The child's placement will be as close as possible to the child's home.
- (2) Unless the IEP requires some other arrangement, the child will be educated in the school that he or she would attend if non-disabled.
- (3) In selecting the least restrictive environment, consideration will be given to any potential harmful effect on the child or on the quality of services that she or he needs.
- (4) A child with a disability will not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.
- (5) In providing or arranging for the provision of nonacademic and extracurricular services and activities, the district will ensure that the child with the disability participates with non-disabled children in those services and activities to the maximum extent appropriate to the needs of that child.
- (6) Special classes may enroll a student only when the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services, including curriculum modifications and behavioral support, cannot be achieved satisfactorily. These requirements also apply to separate schooling or other removal of students from the regular education environment.

(EC 56364, 56364.2; 5 CCR 3042; CFR 3 00.550)

In determining the educational placement of a child with a disability, including a preschool child, the district will ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.

All placement decisions will be based on the individual need of the student pursuant to the IEP and not on the basis of the disability, configuration of service delivery, availability of staff, curriculum intent or administrative experience. All placements will be made in the least restrictive environment.

(EC 56360, 56361; CFR 300.551, 300.26)

8.3 CONTINUUM OF PROGRAM OPTIONS

The continuum of options includes, but is not necessarily limited to, all of the following or any combination of the following:

- (a) Regular education programs with specially designed modifications.
- (b) Regular education classroom with resource specialist services.
- (c) Regular education classroom with related services.
- (d) Regular education classroom with services from a special day class teacher and supports and/or related services.

8.3 A SPECIAL CLASSES AND CENTERS

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

Itinerant instruction in classrooms, resource rooms, and settings other than classrooms where specially designed.

Instruction using telecommunication and instruction in the home, in hospitals, and in other institutions.

8.3 B NONPUBLIC, NONSECTARIAN SCHOOL SERVICES

Nonpublic, nonsectarian school" means a private, nonsectarian school that enrolls individuals with exceptional needs pursuant to an individualized education program and is certified by the CDE.

8.3 C STATE SPECIAL SCHOOLS

Placements in state special schools pursuant shall be made only as a result of recommendations from the individualized education program team, upon a finding that no appropriate placement is available in the local plan area.

8.3 D RELATED SERVICES

Related services as specified in the IEP shall be available, when the instruction and services are necessary for the student to benefit educationally from his or her special education program. These services may include, but are not limited to, the following:

LANGUAGE AND SPEECH DEVELOPMENT AND REMEDIATION

The related service in language speech and hearing may include:

- (1) Specialized instruction and services for students with disorders of language, speech and/or hearing, including monitoring of student progress on a regular basis, providing information for the review, and when necessary participating in the review and revision of IEPs of students.
- (2) Consultative services to students, parents, teachers, or other school personnel in the management of a student's language, speech development, or hearing needs.
- (3) Coordination of speech and language services with a student's regular and special education program.
- (4) The person providing instruction and services shall hold an appropriate credential with specialization in language, speech and hearing

Caseloads of full-time equivalent speech/language pathologist shall not exceed a district-wide or SELPA-wide average of (55) fifty-five students unless prior written approval has been granted by the State Superintendent of Public Instruction.

EC 56363.3

The maximum caseload for a speech and language specialist providing services exclusively to individuals with exceptional needs, between the ages of three and five years, inclusive, as defined in section 56441.11 or 56206, shall not exceed a count of 40. EC 46441.7 (a)

Services may be provided by a speech/language pathology assistant working under the direct supervision of a credentialed speech/language pathologist if specified in the IEP.

EC 56363

AUDIOLOGICAL SERVICES

Audiological instruction and services, aural rehabilitation, including auditory training and speech reading, may include the following:

- (1) Aural rehabilitation (auditory training, speech reading, language habilitation and speech conservation) and habilitation with individual students or groups and support for the hearing-impaired students in the regular classroom.
- (2) Monitoring hearing levels, auditory behavior, and amplification for all students requiring personal or group amplification in the instructional setting.
- (3) Planning, designing, organizing and implementing an audiology program for individuals with auditory dysfunction, as specified in the IEP.
- (4) Consultative services regarding test findings, amplification needs and equipment, ontological referrals, home training programs, acoustic treatment of rooms, and educational management of the hearing-impaired individuals.
- (5) The person providing audiological services shall hold a valid credential with a specialization in clinical or rehabilitative services in audiology.

ORIENTATION AND MOBILITY INSTRUCTION

Related services in orientation and mobility may include the following:

- (1) Specialized instruction for individuals in orientation and mobility techniques.
- (2) Consultative services to other educators and parents regarding instructional planning and implementation of the IEP.
- (3) Counseling services to parents of individuals with disabilities relative to the development of orientation and mobility skills and independent living skills of their children.
- (4) The person providing mobility instruction and services shall hold a credential as an orientation and mobility specialist.

INSTRUCTION IN THE HOME AND HOSPITAL

Related services in the home or hospital may include the following:

- (1) Instruction and services for individuals with disabilities whose physical condition requires their confinement for prolonged periods of time and who require long-term instruction at home or in a hospital. The IEP team must recommend this service.
- (2) Instruction and service for individuals with disabilities, whose disability restricts their capability to attend school, and whose instructional goals include both academic and rehabilitative services. This service must be recommended by the IEP team and is regarded as an interim placement.
- (3) An individual with disabilities who is enrolled in home or hospital instruction shall receive 300 minutes per week of individual instruction or small group instruction of not more than four individuals, as specified in the IEP by the IEP team. Instruction of less than 300 minutes per week may be permitted if the IEP team feels that the individual's health prevents a full 300 minutes.

Instruction in the home or hospital shall be provided by a regular class teacher, the special class teacher or the resource specialist, if the teacher or specialist is competent to provide such instruction.

ADAPTED PHYSICAL EDUCATION (APE)

Adapted physical education is designed for students with disabilities who require developmental or corrective instruction and which preclude the individual's participation in the activities of the general physical education program, modified regular physical education program, or in a specially designed physical education program in a special class.

Consultative services may be provided to students, parents, teachers, or other school personnel for the purpose of identifying supplementary aids and services or modifications necessary for successful participation in the regular physical education program or specially designed physical education programs.

Teachers instructing adapted physical education shall have a credential authorizing the teaching of adapted physical education as established by the Commission on Teacher Credentialing.

PHYSICAL AND OCCUPATIONAL THERAPY

When the district, SELPA or county office contracts for the services of a physical therapist or an occupational therapist, the following standards shall apply:

- (1) Occupational or physical therapists shall provide services based upon recommendation of the IEP Team. Physical therapy services may not exceed the services specified in the Business and Professions Code at Section 2620.
- (2) The district, SELPA, or county office shall assure that the therapist has available safe and appropriate equipment.
- (3) A physical therapist shall be currently licensed by the Board of Medical Quality Assurance of the State of California and meet the educational standards of the Physical Therapy Examining Committee.
- (4) An occupational therapist shall be currently registered with the American Occupational Therapy Association.

VISION SERVICES

Related services for the students with visual disabilities may include the following:

- (1) Adaptations in curriculum, media, and the environment, as well as instruction in special skills.
- (2) Consultative services to students, parents, teachers, and other school personnel.
- (3) The person providing services shall hold an appropriate credential with specialization in the area of the visually impaired.

SPECIALIZED DRIVER TRAINING INSTRUCTION

Specialized driver training instruction may be given to any individual with a disability that requires additional driver training to supplement the regular driver-training program. The IEP team shall determine the need for supplemental driver training.

The need to supplement the regular program shall be based on an assessment of the student's health, physical, and/or educational needs that require modifications, which cannot be met through a regular driver-training program.

Qualified teachers as defined by Education Code Sections 41906 and 41907 must provide driver training.

COUNSELING AND GUIDANCE

Counseling and guidance services may be provided to an individual with a disability that requires additional counseling and guidance services to supplement the regular guidance and counseling program. The IEP team shall determine the need for additional guidance and counseling services. Services may include:

- (1) Educational counseling in which the student is assisted in planning and implementing his or her immediate and long-range educational program.
- (2) Career counseling in which the student is assisted in assessing his or her aptitudes, abilities, and interests in order to make realistic career decisions.
- (3) Personal counseling in which the student is helped to develop his or her ability to function with social and personal responsibility.
- (4) Counseling and consultation with parents and staff members on learning problems and guidance programs for students.
- (5) The individual performing counseling services to students shall be qualified.

PSYCHOLOGICAL SERVICES

Related psychological services other than assessment and development of the IEP may include:

- (1) Counseling provided to an individual with disabilities by a credentialed or licensed psychologist or other qualified personnel.
- (2) Consultative services to parents, students, teachers and other school personnel.
- (3) Planning, managing and implementing a program of psychological counseling for eligible children and parents as specified in the IEP.

PARENT COUNSELING AND TRAINING

Parent counseling and training may include:

- (1) Assisting parents in understanding the special needs of their child, and
- (2) Providing parents with information about child development.

HEALTH AND NURSING SERVICES

Related health and nursing services are designed to assist those individuals with disabilities who have health problems. Qualified personnel will provide services. Services may include the following:

- (1) Managing the individual's health problems on the school site;
- (2) Consulting with staff members regarding management of the individual's health problems;
- (3) Providing group and individual counseling with the individuals and parents regarding health problems; and
- (4) Making appropriate referrals and maintaining communication with health agencies providing care to individuals.

SOCIAL WORK SERVICES

Personnel providing social worker services shall be qualified. Social work services may include:

- (1) Individual and group counseling with the individual and his or her immediate family;

- (2) Consultation with students, parents, teachers, and other personnel regarding the effects of family and other social factors on the learning and developmental requirements of individuals with disabilities; and
- (3) Developing a network of community resources, making appropriate referral and maintaining liaison relationships among the school, the student, the family, and the various agencies providing social, income maintenance, employment development, mental health, or other developmental services.

SPECIALLY DESIGNED VOCATIONAL EDUCATION AND CAREER DEVELOPMENT

Personnel providing vocational education services shall be qualified.

Specially designed vocational education and career development for individuals with disabilities regardless of severity of disability may include:

- (1) Providing prevocational programs and assessing work-related skills, interest aptitudes, and attitudes;
- (2) Coordinating and modifying the regular vocational education program;
- (3) Assisting individuals in developing attitudes, self-confidence, and vocational competencies to locate, secure, and retain employment in the community or sheltered environment, and to enable such individuals to become participating members of the community;
- (4) Establishing work training programs within the school and community;
- (5) Assisting in job placement;
- (6) Instructing job trainers and employers as to the unique needs of the individuals;
- (7) Maintaining regularly scheduled contact with all workstations and job-site trainers; and
- (8) Coordinating services with the Department of Rehabilitation, the Department of Employment Development and other agencies as designated in the IEP.

TRANSITION SERVICES

The term "transition services" means a coordinated set of activities for a child with a disability that:

- is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
- is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and

- includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional evaluation.

RECREATION SERVICES

Recreation services include but are not limited to the following:

- (1) Therapeutic recreation services which are those specialized instructional programs designed to assist students in becoming as independent as possible in leisure activities, and when possible and appropriate, facilitate the student's integration into regular recreation programs;
- (2) Recreation programs in schools and the community which are those programs that emphasize the use of leisure activity in the teaching of academic, social, and daily living skills; and, the provision of nonacademic and extracurricular leisure activities and the utilization of community recreation programs and facilities; and
- (3) Leisure education programs which are those specific programs designed to prepare the student for optimum independent participation in appropriate leisure activities, including teaching social skills necessary to engage in leisure activities, and developing awareness of personal and community leisure resources.

SPECIALIZED SERVICES FOR LOW INCIDENCE DISABILITIES

Specialized services for low incidence disabilities may include:

- (1) Specially designed instruction related to the unique needs of students with low-incidence disabilities.
- (2) Specialized services related to the unique needs of students with low-incidence disabilities provided by qualified individuals such as interpreters, note-takers, readers, transcribers, and other individuals who provide specialized materials and equipment.
- (3) Services will be provided by appropriately credentialed teachers.

SERVICES FOR PUPILS WITH CHRONIC ILLNESSES OR ACCUTE HEALTH PROBLEMS

Specialized services for students with chronic illnesses or acute health problems include but are not limited to:

- (1) Individual consultation;
- (2) Home or hospital instruction; and
- (3) Other instructional methods using advanced communication technology.

SERVICES FOR DEAF AND HARD OF HEARING STUDENTS

Related services for deaf and hard of hearing students may include but need not be limited to:

- (1) Speech, speech reading and auditory training;
- (2) Instruction in oral, sign, and written language development;
- (3) Rehabilitative and educational services for hearing impaired individuals to include monitoring amplification, coordinating information for the annual review, and recommending additional services;
- (4) Adapting curricula, methods, media, and the environment to facilitate the learning process; and
- (5) Consultation to students, parents, teachers, and other school personnel as necessary to maximize the student's experience in the regular education program.

A specially trained instructional aide, working with and under the direct supervision of the credentialed teacher of the deaf and hard-of-hearing, may assist in the implementation of the student's educational program.

Services will be provided by an individual holding an appropriate credential to provide services to the hearing impaired and who has training, experience and proficient communication skills for educating students with hearing impairments.

INDIVIDUAL AND SMALL GROUP INSTRUCTION

Instruction delivered one-to-one or in a small group as specified in an IEP enabling the student(s) to participate effectively in the total school program.

8.3 E RESOURCE SPECIALIST PROGRAM/NON INTENSIVE SERVICES

PROGRAM DESCRIPTION

The resource specialist program/non-intensive services shall provide, but not be limited to, all of the following:

- (1) Provision for a resource specialist or specialists who shall provide instruction and services for those students whose needs have been identified in an IEP, developed by the IEP Team, and who are assigned to regular classroom teachers for a majority of a school day;
- (2) Provision of information and assistance to students with disabilities and their parent;
- (3) Provision of consultation, resource information, and material regarding students with disabilities to their parents and to regular staff members;
- (4) Coordination of special education services with the regular school programs for each student enrolled in the resource specialist program;
- (5) Monitoring of student progress on a regular basis, participation in the review and revision of individualized education programs, as appropriate, and referral of students who do not demonstrate appropriate progress to the IEP Team; and
- (6) Emphasis at the secondary school level on academic achievement, career and vocational development, and preparation for adult life.

PROGRAM STAFFING

The resource specialist program/non-intensive program shall be under the direction of a resource specialist/mild to moderate specialist, who is a credentialed special education specialist, or who has a clinical services credential, with a special class authorization, who has had three or more years of teaching experience, including both regular and special education teaching experience, and who has demonstrated the competencies for a resource specialist, as established by the Commission on Teacher Credentialing.

At least 80 percent of the *resource specialists* within a local plan shall be provided with an instructional aide.

No resource specialist shall have a caseload that exceeds 28 students without a waiver.

Resource specialists shall not simultaneously be assigned to serve as resource specialists and to teach regular classes.

Provision for a resource specialist or specialists who shall provide instruction and services for those pupils whose needs have been identified in an individualized education program developed by the individualized education program team and who are assigned to regular classroom teachers for a majority of a school day.

(EC 56362)

8.3 F SPECIAL CLASSES/INTENSIVE SERVICES

PROGRAM DESCRIPTION

Placement in a special day class/intensive services shall not limit or restrict the consideration of other options, including services provided in a vocational education program or any combination of programs and placements as may be required to provide the services specified in a student's IEP.

The following standards for special classes shall be met:

- (a) Special classes may enroll students only when the nature or severity of the disability of the student is such that education in the regular classes with the use of supplementary aids and services including curriculum modification and behavioral support cannot be achieved satisfactorily. These requirements also apply to separate schooling or other removal of individuals with disabilities from the regular educational environment;
- (b) A special class shall be composed of students whose needs as specified in the IEPs can be appropriately met within the class; Students in a special class shall be provided with an educational program in accordance with their individualized education programs for at least the same length of time as the regular school day for that chronological peer group;
- (c) When a student can benefit by attending a regular program for part of the day, the amount of time shall be written in the IEP;

- (d) Students with low incidence disabilities may receive all or a portion of their instruction in the regular classroom, while being enrolled in special classes taught by an appropriately credentialed teacher, who serves these students at one or more school sites, with instruction provided consistent with state guidelines; and
- (e) When the IEP team determines that a student cannot function for the period of time of a regular school day, and when it is so specified in the IEP, a student may be permitted to attend a special class for less time than the regular school day for that chronological peer group.

PROGRAM STAFFING

The special class shall be taught by a teacher, whose responsibility is the instruction, supervision, and coordination of the educational program for those students enrolled in the special class.

The special class teacher must hold an appropriate special education credential and possess the necessary competencies to teach students assigned to the class.

The procedure for allocation of aides for special classes shall be specified in the local plan. Additional aide time may be provided when the severity of the handicapping conditions of the pupils or the age of the pupils justifies it, based on the individualized education programs.

5CCR3053

8.3G NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCIES

When a student with disability's educational needs cannot be met in a public educational program, nonpublic nonsectarian school services shall be made available.

These services shall be provided under contract with the district, SELPA, or county office to provide the appropriate special educational facilities, special education, or related services required by the individual with disabilities, when no appropriate public education program is available.

Refer to Chapter 11 for complete information about nonpublic nonsectarian schools and agencies.

CHAPTER 9 – SUSPENSION AND EXPULSION/BEHAVIORAL INTERVENTIONS

9.1 DISCIPLINE

A student identified as an individual with disabilities pursuant to the IDEA is subject to the same grounds for suspension and expulsion which apply to students without disabilities. However, an LEA may change the placement of a student with a disability for violation of school conduct codes only when certain procedural safeguards are followed.

If an action is contemplated that would potentially result in a change in placement (e.g. expulsion or a suspension for more than ten consecutive school days), the parents must be notified of that decision no later than the date on which the decision to take that action is made.

Immediately, if possible, but in no case later than 10 school days after the date on which the decision to take that action is made, the IEP team must meet to review the relationship between the child's disability and the behavior subject to the disciplinary action.

9.2 SUSPENSION

An LEA may suspend a student with a disability for up to **10 consecutive school days** without causing a change in placement.

9.3 SERVICES DURING SUSPENSION

Students suspended for more than 10 school days in a school year shall continue to receive services, during the period of suspension, to enable the child to participate in the general curriculum and to progress toward meeting the goals in the student's IEP, as determined by appropriate school personnel, in consultation with the teacher.

9.4 TRANSPORTATION DURING SUSPENSION

If the student with disabilities is excluded from school bus transportation for a length of time that constitutes a change of placement, the student is entitled to be provided with an alternative form of transportation at no cost to the student or parent/guardian, provided that transportation is specified on the IEP.

9.5 PROCEDURAL SAFEGUARDS

Procedural safeguards shall be applied when a student is suspended for more than 10 consecutive school days or when a change of placement is otherwise contemplated and when a student is placed in an interim alternative educational setting (IAES), or when a change of placement is contemplated.

Not later than the date on which the decision to take action is made, the parents/guardians of the student shall be notified of the decision and provided the procedural safeguards notice.

9.6 MANIFESTATION DETERMINATION

Within 10 school days of any decision to change the placement of a child with a disability, because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the IEP Team (as determined by the parent and the LEA) shall review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

- (1) if the conduct in question was caused by, or had a direct and substantial relationship to the child's disability; or
- (2) if the conduct in question was the direct result of the LEA's failure to implement the IEP.

If the LEA, the parent, and relevant members of the IEP Team determine that either of the above is applicable for the child, the conduct shall be determined to be a manifestation of the child's disability.

9.6 A DETERMINATION THAT BEHAVIOR WAS A MANIFESTATION

In determining that the behavior was a manifestation of the child's disability, the IEP Team must:

- (1) Conduct a functional behavioral assessment, and implement a behavioral intervention plan for such child, provided that the LEA had not conducted such assessment prior to such determination before the behavior resulted in change of placement.
- (2) In the situation where a behavioral intervention plan has been developed, review behavioral intervention plan if the child already has such a behavioral plan, and modify it, as necessary, to address the behavior; and
- (3) Except under special circumstances, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

9.6 B DETERMINATION THAT BEHAVIOR WAS NOT A MANIFESTATION OF THE DISABILITY

If the team determines that the behavior was not a manifestation of the disability:

- (1) Student must continue to receive services to enable the student to participate in the general curriculum and to progress toward meeting the goals in the student's IEP.
- (2) Receive, *as appropriate*, a functional behavioral assessment, behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur.
- (3) The LEA may take the proposed disciplinary action.

9.7 45 DAY REMOVAL TO IAES (SPECIAL CIRCUMSTANCES)

School personnel may remove a student to an interim alternative educational setting (IAES) for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, in cases where a child:

- (1) Carries or possesses a weapon to or at school, on school premises, or at a school function under the jurisdiction of the LEA.
- (2) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the LEA; or
- (3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at school function under the jurisdiction of a State or LEA.

The IAES shall be determined by the IEP Team.

DEFINITION OF SERIOUS BODILY INJURY

Serious bodily injury means bodily injury which involves:

- (1) A substantial risk of death
- (2) Extreme physical pain
- (3) Protracted and obvious disfigurement; or
- (4) Protracted loss or impairment of the function of a bodily member, organ, or mental faculty. 18-U.S.C. 1365(h) (3)

9.8 SERVICES DURING 45 DAY PLACEMENT

A student who is removed from current placement to 45-day placement must:

- (1) Continue to receive services to enable the student to participate in the general curriculum and to progress toward meeting the goals in the student's IEP.
- (2) Receive, *as appropriate*, a functional behavioral assessment, behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur.

9.9 DISCIPLINARY APPEAL PROCESS

The parent of a child with a disability who disagrees with any decision regarding placement, or the manifestation determination, or the LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others may request a hearing.

9.10 PLACEMENT DURING APPEAL PROCESS

When an appeal has been requested by either the parent or the LEA:

The child shall remain in the interim alternative educational setting pending the decision of the hearing officer until the expiration of the 45-day placement provided whichever occurs first, unless the State or LEA agree otherwise

9.11 EXPEDITED HEARING

The State or LEA shall arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing.

9.12 AUTHORITY OF ADMINISTRATIVE LAW JUDGE (ALJ)

The ALJ shall hear, and make determination regarding an appeal request. In making the determination, the AL may order a change in placement of a child with a disability. In such situations, the AL may:

- (1) Return the child with a disability to the placement from which the child was removed; or
- (2) Order a change in placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 days, if the hearing officer determines that maintaining the current placement of such child is substantially likely to result in injury to the child or to others.

9.13 PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES

A child who has not been determined to be eligible for special education and related services and who has engaged in behavior that violates a code of student conduct, may assert any of the protections provided for in this part if the LEA had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

9.13 A BASIS OF KNOWLEDGE

A LEA shall be deemed to have knowledge that a child is a child with a disability if, before the behavior precipitated the disciplinary action occurred:

- (1) The parent of the child has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services.
- (2) The parent of the child has requested an evaluation of the child.
- (3) The teacher of the child, or other personnel of the LEA, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education of such agency or to other supervisory personnel of the agency.

9.13 B EXCEPTION

A LEA shall not have been deemed to have knowledge that the child is a child with a disability if the parent of the child has not allowed an evaluation of the child or has refused services if the child has been evaluated and it was determined that the child was not a child with a disability.

9.14 CONDITIONS THAT APPLY IF NO BASIS OF KNOWLEDGE

- (1) If a LEA does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to disciplinary measures applied to children without disabilities, who engage in comparable behaviors.
- (2) If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the LEA and information provided by the parents, the LEA shall provide special education and related services. Pending the results, the child shall remain in the educational placement determined by school authorities.

9.15 PROCEDURES REGARDING POSITIVE BEHAVIORAL INTERVENTIONS

In California there is an education code provision that mandates that students with serious behavioral issues be provided a functional analysis assessment and a development of behavior intervention plan (BIP).

A functional analysis assessment (FAA) request may be made when there is a serious concern about a special education student's behavior. These serious behavior problems include those that are deemed self-injurious, assaultive or cause property damage which could lead to a suspension or expulsion according to Education Code §48900

These behaviors also include those that are pervasive and maladaptive and require systematic and frequent application of behavior interventions. A Behavior Intervention Plan must be developed by the IEP team and a case manager identified prior to the implementation of the plan. Emergency interventions approved by the SELPA may be required to control unpredictable, spontaneous behaviors which pose a clear and current danger of serious physical harm to the student, others, or serious property damage which cannot be prevented without temporary application of safe emergency techniques to contain the behavior. The following are descriptions of the major components necessary to develop an appropriate Behavioral Intervention Plan. The Behavioral Intervention Plan is included as part of the student's IEP.

9.15 A DEFINITIONS OF MAJOR COMPONENTS OF THE BEHAVIOR INTERVENTION PLAN

a) "**Behavioral emergency**" is the demonstration of a serious behavior problem:

- (1) which has not previously been observed and for which a behavioral intervention plan has not been developed; or
- (2) for which a previously designed behavioral intervention is not effective. Approved behavioral emergency procedures must be outlined in the special education local planning area (SELPA) local plan.

b) **"Behavioral intervention"** means the systematic implementation of procedures that result in lasting positive changes in the individual's behavior. "Behavioral intervention" means the design, implementation, and evaluation of individual or group instructional and environmental modifications, including programs of behavioral instruction, to produce significant improvements in human behavior through skill acquisition and the reduction of problematic behavior. "Behavioral interventions" are designed to provide the individual with greater access to a variety of community settings, social contacts and public events; and ensure the individual's right to placement in the least restrictive educational environment as outlined in the individual's IEP. "Behavioral interventions" do not include procedures which cause pain or trauma. "Behavioral interventions" respect the individual's human dignity and personal privacy. Such interventions shall assure the individual's physical freedom, social interaction, and individual choice.

c) **"Behavioral Intervention Case Manager (BICM)"** means a designated certificated school/district/county staff member(s) or other qualified contract person who has been trained in behavior analysis with an emphasis on positive behavioral interventions. The case manager may be any staff member trained in behavioral analysis with an emphasis on positive behavioral interventions, including, but not limited to, a teacher, resource specialist, school psychologist, or program specialist. The Behavioral Intervention Case Manager (BICM) must be certified by the SELPA as meeting the requirements for a BICM.

d) **"Behavioral intervention plan"** is a written document which is developed following a functional analysis assessment for an individual who exhibits a serious behavior problem that significantly interferes with learning and the implementation of the goals and objectives of the individual's IEP. The "behavioral intervention plan" shall become part of the IEP. The plan shall describe the frequency of the consultation to be provided by the behavioral intervention case manager to the staff members and parents who are responsible for implementing the plan. A copy of the plan shall be provided to the person or agency responsible for implementation in non-educational settings. The plan shall include the following:

- (1) a summary of relevant and determinative information gathered from the functional analysis assessment;
- (2) an objective and measurable description of the targeted maladaptive behavior(s) and replacement positive behavior(s);
- (3) the individual's goals and objectives specific to the behavioral intervention plan;
- (4) a detailed description of the behavioral interventions to be used and the circumstances for their use;
- (5) specific schedules for recording the frequency of the use of the interventions and the frequency of the targeted and replacement behaviors; including specific criteria for discontinuing the use of the intervention for lack of effectiveness or replacing it with an identified and specified alternative;
- (6) criteria by which the procedure will be faded or phased out, or less intense/frequent restrictive behavioral intervention schedules or techniques will be used;

- (7) those behavioral interventions which will be used in the home, residential facility, work site or other non-educational settings; and
- (8) specific dates for periodic review by the IEP team of the efficacy of the program.

9.15 B PROCEDURES FOR DEVELOPING BEHAVIORAL INTERVENTION PLANS

GENERAL PROVISIONS

- (1) An IEP team shall facilitate and supervise all assessment, intervention, and evaluation activities related to an individual's behavioral intervention plan. When the behavioral intervention plan is being developed, the IEP team shall be expanded to include the behavioral intervention case manager with documented training in behavior analysis including positive behavioral intervention(s), qualified personnel knowledgeable of the student's health needs, and others as described in Education Code Section 56341 (c)(2). The behavioral intervention case manager is not intended to be a new staff person and may be an existing staff member trained in behavior analysis with an emphasis on positive behavioral interventions.
- (2) Behavioral intervention plans shall only be implemented by, or be under the supervision of, staff with documented training in behavior analysis, including the use of positive behavioral interventions. Such interventions shall only be used to replace specified maladaptive behavior(s) with alternative acceptable behavior(s) and shall never be used solely to eliminate maladaptive behavior(s).
- (3) Behavioral intervention plans shall be based upon a functional analysis assessment, shall be specified in the individualized education program, and shall be used only in a systematic manner in accordance with the provisions of this section.
- (4) Behavioral emergency interventions shall not be used as a substitute for behavioral intervention plans.
- (5) The elimination of any maladaptive behavior does not require the use of intrusive behavioral interventions that cause pain or trauma.
- (6) To the extent possible, behavioral intervention plans shall be developed and implemented in a consistent manner appropriate to each of the individual's life settings.

FUNCTIONAL ANALYSIS ASSESSMENTS

A functional analysis assessment must be conducted by, or be under the supervision of a person who has documented training in behavior analysis with an emphasis on positive behavioral interventions. A functional analysis assessment shall occur after the individualized education program team finds that instructional/behavioral approaches specified in the student's IEP have been ineffective. Nothing in this section shall preclude a parent or legal guardian from requesting a functional analysis assessment.

Functional analysis assessment personnel shall gather information from three sources: direct observation, interviews with significant others, and review of available data such as assessment reports prepared by other professionals and other individual records. Prior to conducting the assessment, parent notice and consent shall be given and obtained pursuant to Education Code Section 56321.

- (1) A functional analysis assessment procedure shall include all of the following:

- (A) Systematic observation of the occurrence of the targeted behavior for an accurate definition and description of the frequency, duration, and intensity;
- (B) Systematic observation of the immediate antecedent events associated with each instance of the display of the targeted inappropriate behavior;
- (C) Systematic observation and analysis of the consequences following the display of the behavior to determine the function the behavior serves for the individual, i.e., to identify the specific environmental or physiological outcomes produced by the behavior. The communicative intent of the behavior is identified in terms of what the individual is either requesting or protesting through the display of the behavior;
- (D) Ecological analysis of the settings in which the behavior occurs most frequently. Factors to consider should include the physical setting, the social setting, the activities and the nature of instruction, scheduling, the quality of communication between the individual and staff and other students, the degree of independence, the degree of participation, the amount and quality of social interaction, the degree of choice, and the variety of activities;
- (E) Review of records for health and medical factors which may influence behaviors (e.g. medication levels, sleep cycles, health, diet); and
- (F) Review of the history of the behavior to include the effectiveness of previously used behavioral interventions.

(2) Following the assessment, a written report of the assessment results shall be prepared and a copy shall be provided to the parent. The report shall include all of the following:

- (A) A description of the nature and severity of the targeted behavior(s) in objective and measurable terms;
- (B) A description of the targeted behavior(s) that includes baseline data and an analysis of the antecedents and consequences that maintain the targeted behavior, and a functional analysis of the behavior across all appropriate settings in which it occurs;
- (C) A description of the rate of alternative behaviors, their antecedents and consequences; and
- (D) Recommendations for consideration by the IEP team which may include a proposed Behavior Intervention plan as specified in Section 3001(f).

IEP TEAM MEETING

Upon completion of the functional analysis assessment, an IEP team meeting shall be held to review results and, if necessary, to develop a behavioral intervention plan, as defined in Article 1, Section 3001(f) of these regulations. The IEP team shall include the behavioral intervention case manager. The behavioral intervention plan shall become a part of the IEP and shall be written with sufficient detail so as to direct the implementation of the plan.

INTERVENTION

Based upon the results of the functional analysis assessment, positive programming for behavioral intervention may include the following:

- (1) Altering the identified antecedent event to prevent the occurrence of the behavior (e.g., providing choice, changing the setting, offering variety and a meaningful curriculum,

removing environmental pollutants such as excessive noise or crowding, establishing a predictable routine for the individual);

(2) Teaching the individual alternative behaviors that produce the same consequences as the inappropriate behavior (e.g., teaching the individual to make requests or protests using socially acceptable behaviors, teaching the individual to participate with alternative communication modes as a substitute for socially unacceptable attention-getting behaviors, providing the individual with activities that are physically stimulating as alternatives for stereotypic, self-stimulatory behaviors);

(3) Teaching the individual adaptive behaviors (e.g., choice-making, self-management, relaxation techniques, and general skill development) which ameliorate negative conditions that promote the display of inappropriate behaviors; and

(4) Manipulating the consequences for the display of targeted inappropriate behaviors and alternative, acceptable behaviors so that it is the alternative behaviors that more effectively produce desired outcomes (i.e., positively reinforcing alternative and other acceptable behaviors and ignoring or redirecting unacceptable behaviors).

ACCEPTABLE RESPONSES

When the targeted behavior(s) occurs, positive response options shall include, but are not limited to one or more of the following:

- (1) the behavior is ignored, but not the individual;
- (2) the individual is verbally or verbally and physically redirected to an activity;
- (3) the individual is provided with feedback (e.g., "You are talking too loudly");
- (4) the message of the behavior is acknowledged (e.g., "You are having a hard time with your work"); or
- (5) a brief, physical prompt is provided to interrupt or prevent aggression, self-abuse, or property destruction.

EVALUATION OF THE BEHAVIORAL INTERVENTION PLAN EFFECTIVENESS

Evaluation of the effectiveness of the behavioral intervention plan shall be determined through the following procedures:

- (1) Baseline measure of the frequency, duration, and intensity of the targeted behavior, taken during the functional analysis assessment. Baseline data shall be taken across activities, settings, people, and times of the day. The baseline data shall be used as a standard against which to evaluate intervention effectiveness;
- (2) Measures of the frequency, duration, and intensity of the targeted behavior shall be taken after the behavioral intervention plan is implemented at scheduled intervals determined by the IEP team. These measures shall also be taken across activities, settings, people, and times of the day, and may record the data in terms of time spent acting appropriately rather than time spent engaging in the inappropriate behavior;
- (3) Documentation of program implementation as specified in the behavioral intervention plan (e.g., written instructional programs and data, descriptions of environmental changes); and

- (4) Measures of program effectiveness will be reviewed by the teacher, the behavioral intervention case manager, parent or care provider, and others as appropriate at scheduled intervals determined by the IEP team. This review may be conducted in meetings, by telephone conference, or by other means, as agreed upon by the IEP team.
- (5) If the IEP team determines that changes are necessary to increase program effectiveness, the teacher and behavioral intervention case manager shall conduct additional functional analysis assessments and, based on the outcomes, shall propose changes to the behavioral intervention plan.

MODIFICATIONS WITHOUT IEP TEAM MEETING

Minor modifications to the behavioral intervention plan can be made by the behavioral intervention case manager and the parent or parent representative. If the case manager is unavailable, a qualified designee who meets the training requirements of subsection (a) (1) shall participate in such modifications. Each modification or change shall be addressed in the behavioral intervention plan provided that the parent, or parent representative, is notified of the need and is able to review the existing program evaluation data prior to implementing the modification or change. Parents shall be informed of their right to question any modification to the plan through the IEP procedures.

CONTINGENCY BEHAVIORAL INTERVENTION PLANS

Nothing in this section is intended to preclude the IEP team from initially developing the behavioral intervention plan in sufficient detail to include schedules for altering specified procedures, or the frequency or duration of the procedures, without the necessity for reconvening the IEP team. Where the intervention is to be used in multiple settings, such as the classroom, home and job sites, those personnel responsible for implementation in the other sites must also be notified and consulted prior to the change.

EMERGENCY INTERVENTIONS

Emergency interventions may only be used to control unpredictable, spontaneous behavior which poses clear and present danger of serious physical harm to the individual or others and which cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior. Procedures taught by, including but not limited to programs that teach the safe prevention and management of assaultive behavior such as the Crisis Prevention Institute (CPI), the Professional Assault Crisis Training (ProACT) are permitted.

Because emergency interventions pose risk of injury to students and others involved, only procedures that are designed to provide maximum 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.

- (1) 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.

Ø Whenever a behavioral emergency occurs, only behavioral emergency interventions approved by the special education local planning area (SELPA) may be used.

APPROVED EMERGENCY INTERVENTIONS

Trained staff can utilize approved emergency interventions that are included in training on safe management of assaultive behavior when a behavior emergency arises. There must exist a clear and present danger of serious physical harm to the student or others or serious property destruction and the behavior cannot be prevented by a response less restrictive than the temporary application of an intervention specifically designed to contain such behavior. Approved emergency interventions include:

- Two-person capture
 - *Two-person standing restraint
 - *Two-person escort
 - *Two-person wall assisted restraint
- *(additional trained people added as needed to achieve 100% height and weight ratio)

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

(4) EMERGENCY INTERVENTIONS THAT ARE NOT APPROVED

(A) Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room;

(B) Employment of a device or material or objects which simultaneously immobilize all four extremities, except that techniques such as prone containment may be used as an emergency intervention by staff trained in such procedures; and

(C) An amount of force that exceeds that which is reasonable and necessary under the circumstances.

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

BEHAVIORAL EMERGENCY REPORT REQUIREMENTS

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

- (A) The name and age of the individual;
- (B) The setting and location of the incident;
- (C) The name of the staff or other persons involved;
- (D) A description of the incident and the emergency intervention used, and whether the individual is currently engaged in any systematic behavioral intervention plan; and

(E) Details of any injuries sustained by the individual or others, including staff, as a result of the incident.

- (6) All "Behavioral Emergency Reports" shall immediately be forwarded to, and reviewed by, a designated responsible administrator.
- (7) Anytime a "Behavioral Emergency Report" is written regarding an individual who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an IEP team meeting to review the emergency report, to determine the necessity for a functional analysis assessment, and to determine the necessity for an interim behavioral intervention plan. The IEP team shall document the reasons for not conducting the assessment and/or not developing an interim plan.
- (8) Anytime a "Behavioral Emergency Report" is written regarding an individual who has a behavioral intervention plan, any incident involving a previously unseen serious behavior problem or where a previously designed intervention is not effective should be referred to the IEP team to review and determine if the incident constitutes a need to modify the plan.
- (9) "Behavioral Emergency Report" data shall be collected by SELPAs which shall report annually the number of Behavioral Emergency Reports to the California Department of Education and the Advisory Commission on Special Education.

SELPA PLAN REQUIREMENTS

The local plan of each SELPA shall include procedures governing the systematic use of behavioral interventions and emergency interventions. These procedures shall be part of the SELPA local plan (see section 19b(i)A. Approved Emergency Interventions).

- (1) Upon adoption, these procedures shall be available to all staff members and parents whenever a behavioral intervention plan is proposed (See "Publications: Positive Behavior Intervention Handbook).
- (2) At a minimum, the plan shall include:
- (A) The qualifications and training of personnel to be designated as behavioral intervention case managers, which shall include training in behavior analysis with an emphasis on positive behavioral interventions, who will coordinate and assist in conducting the functional analysis assessments and the development of the behavioral intervention plans;
 - (B) The qualifications and training required of personnel who will participate in the implementation of the behavioral intervention plans; which shall include training in positive behavioral interventions;
 - (C) Special training that will be required for the use of emergency behavioral interventions and the types of interventions requiring such training; and
 - (D) Approved behavioral emergency procedures.

NONPUBLIC SCHOOL POLICY

Nonpublic schools and agencies, serving individuals pursuant to Education Code Section 56365 et seq., shall develop policies consistent with those specified in subsection (i) of this section.

Prohibitions. No public education agency, or nonpublic school or agency serving individuals pursuant to Education Code Section 56365 et seq., may authorize, order, consent to, or pay for any of the following interventions, or any other interventions similar to or like the following:

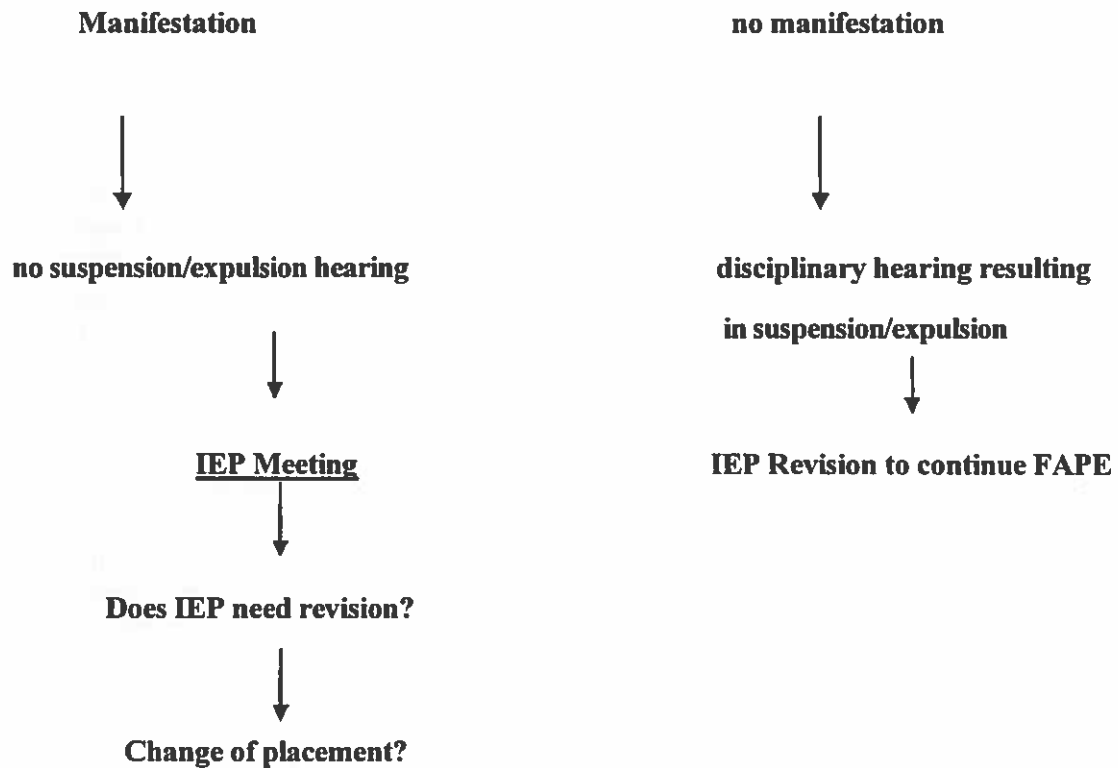
- (1) Any intervention that is designed to, or likely to, cause physical pain;
- (2) Releasing noxious, toxic or otherwise unpleasant sprays, mists, or substances in proximity to the individual's face;
- (3) Any intervention which denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities;
- (4) Any intervention which is designed to subject, used to subject, or likely to subject the individual to verbal abuse, ridicule or humiliation, or which can be expected to cause excessive emotional trauma;
- (5) Restrictive interventions which employ a device or material or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained personnel as a limited emergency intervention pursuant to subsection (i);
- (6) Locked seclusion, except pursuant to subsection (i)(4)(A);
- (7) Any intervention that precludes adequate supervision of the individual; and
- (8) Any intervention which deprives the individual of one or more of his or her senses

Disciplinary Steps

(More than 10 school days of removal from current placement in a school year when a change of placement occurs)

IEP Team Meeting

1. Functional behavioral assessment/review behavior plan
2. Provide parents notice of rights
3. Manifestation issue



CHAPTER 10 – MENDOCINO COUNTY OFFICE OF EDUCATION

10.1 SPECIAL EDUCATION PROGRAM DESCRIPTIONS

EARLY START PROGRAM FOR INFANTS AND TODDLERS

The Mendocino County Office of Education (MCOE), Early Start Program for Infants and Toddlers provides early educational intervention for infants all eligible disabilities included by not limited to toddlers with hearing, vision and/or orthopedic impairments.

The program is a family focused program based on the premise that parents and caregivers are the most important teachers in a young child's life. We believe that all children have the ability to grow and to learn and that learning is optimal in natural environments when care-givers and professionals collaborate as a team.

EARLY CHILDHOOD EDUCATION SERVICES

Early Childhood Education (ECE) services (for children three through five years) are provided by district programs for preschool children with intensive special education needs.

DESIGNATED INSTRUCTIONAL SERVICES

- **Assistive Technology/Augmentative and Alternative Communication** – Assistive Technology (AT) is a device or software designed to assist a person with a disability. Augmentative and Alternative Communication (AAC) teaches non-speech modes of communication. Mendocino County Office of Education ACCESS Team provides assessment and consultation to districts by assisting school personnel in determining equipment, software, hardware and/or strategies that will enable their students to successfully achieve IEP goals and objectives. Services are determined through screening and assessment and include training of student, staff and family in the use of AT and AAC devices.
- **Integrated Services for Students with Hearing Impairments** - The purpose of the Integrated Hearing Impairment Services of the Mendocino County Office of Education (MCOE) is to maximize a student's participation in the most appropriate learning environment by providing academic support, auditory training, and language expansion for students whose hearing loss adversely affects educational performance. These services are provided in the resident school district setting in which the student receives his/her educational services.
- **Integrated Services for Students with Visual Impairments** - Integrated Visual Impairment Services of the Mendocino County Office of Education (MCOE) are provided to maximize the individual student's participation in the most appropriate learning environment utilizing a team approach. The primary goal is to provide services to students with visual impairments and assist them in realizing their potential to become capable adults and function as independently as possible in the community. Services include provision of learning materials in an appropriate medium such as Braille, large print and/or audio materials, training in adaptive technology, consultation with the classroom teacher, academic support

and instruction in daily living, recreational and social skills. Integrated Visual Impairment Services are provided at school sites and/or in the community.

- **Orientation and Mobility Services** – Orientation and Mobility Services are available for students with visual impairments who may require special instruction in order to maximize their ability to travel safely and independently. Services are provided on an individual basis. In addition to teaching safe and efficient travel, the Orientation and Mobility Specialist may teach a variety of prerequisite skills such as concept development, sensory training, orientation to the environment, motor development.
- **Speech and Language Services** – Mendocino County Office of Education speech therapists provide support to small district students, to classroom staff, and to parents in implementing student communication programs. Speech and language specialists may work with students individually or in groups in a variety of settings.

Areas of instruction may include voice, fluency, articulation and receptive and expressive language.

- **WorkAbility** – The WorkAbility Program provides a transitional program for students with disabilities. It integrates school-based and work-based learning for transition to “life after high school.” WorkAbility assists students in finding vocational opportunities, developing an awareness of various vocational programs for adults and transitional activities such as day programs and work opportunities. The WorkAbility staff work cooperatively with local adult agencies and employers, Redwood Coast Regional Center, the Department of Rehabilitation and, when appropriate, college programs.

CHAPTER 11: NON-PUBLIC SCHOOLS/AGENCIES/PRIVATE SCHOOLS

11.1 SCHOOL/AGENCY PLACEMENT PROCESS

Before a district, special education local plan area, or county office places a student with a disability in, or refers a student to, a NON-PUBLIC, nonsectarian school, the district, special education local plan area, or county office shall initiate and conduct a meeting to develop an individualized education program.

The IEP Team may recommend a NON-PUBLIC school placement when a public school placement cannot be identified, which will appropriately implement the IEP. The IEP Team shall take steps to find an appropriate special education and/or related service placement in a public program operated by another local public education agency or the county superintendent of schools. Following determination by the IEP Team that the student requires NON-PUBLIC school placement, the school district shall, in consultation with the parents and other public agencies, which may have financial responsibilities for the placement of the individual, select one or more NON-PUBLIC schools to determine which can implement the student's IEP.

(EC 56342)

11.2 OUT OF STATE NON-PUBLIC SCHOOL PLACEMENTS

Before contracting with a NON-PUBLIC, nonsectarian school or agency outside of this state, the district, special education local plan area, or county office shall document its efforts to utilize public schools or to locate an appropriate NON-PUBLIC, nonsectarian school or agency program, or both, within the state.

If a school district, special education local plan area, or county office of education decides to place a student with a NON-PUBLIC, nonsectarian school or agency outside of this state, the LEA shall indicate the anticipated date for the return of the student to a public or NON-PUBLIC, nonsectarian school or agency placement, or a combination thereof, located in the state and shall document efforts during the previous placement year to return the student.

If a district, special education local plan area, or county office places a pupil with a NON-PUBLIC, nonsectarian school or agency outside of this state, the pupil's individualized education program team shall submit a report to the superintendent within 15 days of the placement decision. The report shall include information about the special education and related services provided by the out-of-state program placement and the costs of the special education and related services provided, and shall indicate the efforts of the local educational agency to locate an appropriate public school or NON-PUBLIC, nonsectarian school or agency, or a combination thereof, within the state. The superintendent shall submit a report to the State Board of Education on all placements made outside of this state. E.C. 56365(a)

11.3 TRANSITION OF STUDENTS FROM ELEMENTARY DISTRICT TO HIGH SCHOOL DISTRICT

An elementary school district shall notify a high school district of all students placed in NON-PUBLIC school or agency programs prior to the annual review of the IEP for each pupil, who may transfer to the high school district.

When a student with a disability meets local educational agency requirements for completion of a prescribed course of study and adopted differential proficiency standards, as designated in the student's IEP, the LEA, which developed the IEP, shall award the diploma.

11.4 INITIATION OF SERVICE CONTRACT/INDIVIDUAL SERVICE AGREEMENT

The Master Contract shall specify the general administrative and financial agreements, including teacher-to-pupil ratios, between the NPS and the LEA to provide the special education and related services, as well as transportation specified in each student's IEP. The administrative provisions of the contract also shall include procedures for recordkeeping and documentation, and the maintenance of school records by the contracting local educational agency to ensure that appropriate high school graduation credit is received by each pupil. The contract may allow for partial or full-time attendance at the NPS.

The master contract shall include an individual services agreement for each student placed by a LEA that will be negotiated for the length of time for which the NPS special education and designated instruction and services are specified in the student's IEP.

The master contract shall include a description of the process being utilized by the LEA to oversee and evaluate placements in NON-PUBLIC schools, as required by federal law. This description shall include a method for evaluating whether each student is making appropriate educational progress. At least once every year, the LEA shall do all of the following and, to the extent possible, the following shall be conducted as part of the development and provision of an IEP:

- (a) Evaluate the educational progress of each student placed in a NPS including all state assessment results;
- (b) Consider whether or not the needs of the student continue to be best met at the NPS and whether changes to the IEP of the student are necessary, including whether the student may be transitioned to a public school setting. This consideration shall be made at an IEP Team meeting;
- (c) Changes in educational instruction, services, or placement provided under contract may only be made on the basis of revisions to a student's IEP. At any time during the term of the contract or individual services agreement, the parent, the NPS, or the LEA may request a review of a student's IEP by the individualized education program team;
- (d) Changes in the administrative or financial agreements of the master contract that do not alter the individual services agreement that outlines each student's

- educational instruction, services, or placement may be made at any time during the term of the contract as mutually agreed by the NPS and the LEA.
- (e) The master contract or individual services agreement may be terminated for cause. The cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the student to a public school program. To terminate the contract either party shall give 20 days' notice;
 - (f) The NPS shall provide all services specified in an IEP, unless the NPS, and the LEA agree otherwise in the contract or individual services agreement;
 - (g) Related services provided pursuant to a NPS master contract shall only be provided during the period of a student's regular or extended school year program, or both, unless otherwise specified by the student's IEP;
 - (h) The NPS shall report attendance of students receiving special education and related services;
 - (i) A NPS is subject to the alternative accountability system in the same manner as public schools and each student placed in the NPS shall be tested by qualified staff of the NPS in accordance with that accountability program. The test results shall be reported by the NPS to the department;
 - (j) Beginning with the 2006-07 school year testing cycle, each NPS shall determine its STAR testing period. The NPS shall determine this period based on completion of 85 percent of the instructional year at that NPS, plus and minus 10 days, resulting in a 21-day period. Each NPS shall notify the district of residence of a student enrolled in the school of its testing period. Staff at the NPS who administer the assessments shall attend the regular testing training sessions provided by the district of residence. If staff from a NPS have received training from one LEA, that training will be sufficient for all LEAs that send student to the NPS. The district of residence shall order testing materials for its students that have been placed in the NPS. The board shall adopt regulations to facilitate the distribution of and collection of testing materials;
 - (k) The NPS shall prepare a school accountability report card;
 - (l) The master contract or individual services agreement shall not include special education transportation provided through the use of services or equipment owned, leased, or contracted by a LEA for students enrolled in the NPS unless provided directly or subcontracted by that NPS. If a student is enrolled in a NPS, the approval of the LEA prior to agreement to a contract or individual services agreement, the LEA shall issue a warrant, upon submission of an attendance report and claim, for an amount equal to the number of creditable days of attendance at the per diem tuition rate agreed upon prior to the enrollment of the pupil. This provision shall be allowed for 90 days during which time the contract shall be consummated.

If after 60 days the master contract or individual services agreement has not been finalized either party may appeal to the county superintendent of schools, if the county superintendent is not participating in the local plan involved in the NON-PUBLIC, nonsectarian school or agency contract, or the superintendent, if the county superintendent is participating in the local plan involved in the contract, to negotiate the contract. Within 30 days of receipt of this

appeal, the county superintendent or the superintendent, or his or her designee, shall mediate the formulation of a contract, which shall be binding upon both parties.

A master contract for special education and related services provided by a NON-PUBLIC, nonsectarian school or agency may not be authorized under this part, unless the school or agency has been certified as meeting those standards relating to the required special education and specified related services and facilities for individuals with exceptional needs. The certification shall result in the school or agency receiving approval to educate pupils under this part for a period no longer than 18 months from the date of the initial approval.

When written parental consent to the placement has been obtained, the authorized representative of the student's district of residence is responsible for initiating contract negotiations with the NON-PUBLIC school, agency or institution. The following provisions appear in Education Code 56366:

The contract shall specify the administrative and financial agreements between the NON-PUBLIC school and the district, SELPA or county office to provide the services included in the pupil's IEP. The rates determined at that time shall not be increased for the duration of the contract unless mutually agreed upon by both parties. The contract may allow for partial or full-time attendance at the NON-PUBLIC school. The administrative provisions shall include procedures for record keeping and documentation and the maintenance of school records by the contracting district, SELPA, or county office to insure that appropriate high school graduation credit is received by the pupil.

- The contract shall be negotiated for the length of time for which NON-PUBLIC school services are specified in the pupil's IEP.
- Changes in educational instruction, services or placement provided under contract may only be made on the basis of revisions to the student's IEP.
- The contract may be terminated for cause. Such cause shall not be the availability of a public class initiated during the period of the contract, unless the parent agrees to the transfer of the pupil to a public school program. To terminate the contract, either party shall give 20 days notice.
- The NON-PUBLIC school shall provide all services specified in the IEP, unless the NON-PUBLIC school and the district, SELPA, or county office agrees otherwise in the contract.
- All districts, SELPAs, and county office will use an "Individual Agreement for NON-PUBLIC, Nonsectarian School Agency Services" that has been approved by the State.

(EC 56366)

11.5 PROGRESS REPORTS

As specified in the original contract agreement, the NON-PUBLIC school shall provide written reports of the educational progress of individuals placed in the school.

The contractual services agreement between the educational agency and the NON-PUBLIC school agency follows the State Master Contract form (Mendocino County Approved Format) and includes the following terms and conditions pertaining to pupil progress evaluation:

- The NON-PUBLIC school is required to comply with all elements of the student's IEP.
- The NON-PUBLIC school is required to provide the IEP Team with written behaviorally specific and/or performance-based documentation of its compliance with all elements of the IEP.
- The local district is required to review, at least annually, the student's IEP and to assess and evaluate the educational progress of each student placed in NON-PUBLIC school.
- The NON-PUBLIC school shall comply with Education Code section 48911.5, which requires the NPS site principal to have the same duties and responsibilities with respect to the suspension of pupils with previously identified exceptional needs as set forth in section 48911.
- The NON-PUBLIC school is required to allow representatives of the contracting educational agency to monitor, assess, and verify pupil progress through site visits conducted at reasonable intervals.

11.6 TRANSPORTATION OF PUPILS

The IEP Team determines whether transportation to and from the NONPUBLIC school is required as part of the student's IEP. The local district may provide transportation or may reimburse the parent or NON-PUBLIC school subject to a written agreement or contract for cost of actual and necessary travel incurred in transporting the individual with special needs at a rate to be determined by the public education agency governing board. The rate shall be no less than the rate allowed for travel by the public education agency employees.

Special education transportation services included in the NPS contract may not be provided through the use of equipment owned or leased by a district, SELPA, or county office unless provided directly or subcontracted by that nonpublic, nonsectarian school or agency under Education Code Section 56366.

11.7 CHANGE OF PUPIL RESIDENCE

11.7.A Transfer of Student Receiving Services in NON-PUBLIC School

When an individual, receiving services in a NON-PUBLIC school, moves outside of the boundaries of the district of residence, the parent shall immediately report the change of residence to the administrator of the NON-PUBLIC school. As agreed by the terms of the contract, the contracting NON-PUBLIC school administrator shall then notify the superintendent of the public education agencies in both the former and new residence areas and the SELPA Administrator within five (5) school days. The superintendent (or designee) of the local district making payment to the NON-PUBLIC school must immediately notify the new local district of the transfer and provide a copy of the student's records, including the IEP, and the contract for services with the NON-PUBLIC school. The fiscal responsibility of the former local district shall terminate on the last day of the individual's residence in that district. Disputes regarding or relating to the residency of a special education student and corresponding financial responsibility, shall be addressed through the Dispute Resolution Process contained in the Mendocino County SELPA Local Plan for Special Education. In order to ensure the continuity of special education services pending resolution of any dispute regarding fiscal responsibility for a special education student, the local education agency with fiscal responsibility for the student's special education services prior to the dispute having arisen shall continue to pay for such services until the dispute resolution process has been completed. A local education agency required to continue paying for special education services pending dispute resolution may recover such expenses from the responsible district if it is determined, in the course of the dispute resolution process, that that the local education agency was not responsible for such expenses.

Within (15) working days of receiving the student's records, the receiving district in the SELPA shall conduct a review of the pupil's IEP to determine whether or not the NON-PUBLIC school placement is still appropriate. The following factors shall be considered in determining the appropriateness of the pupil's current placement:

- No appropriate public education program is available.
- To move the individual at the time of change of residence would be harmful to the health, welfare or educational progress of the individual.
- The NON-PUBLIC school continues to be within a reasonable distance and/or travel time from the home of the individual.
- Other contingencies that necessitate the individual remaining at the NON-PUBLIC school as determined by the IEP team.

If the student's NON-PUBLIC school placement is considered appropriate in keeping with the federal mandate of the least restrictive environment, the receiving local district shall negotiate a new contract for services with the NON-PUBLIC school. If the placement is considered inappropriate, the new local district shall,

after a review of the IEP and with the consent of the parent/guardian, provide the needed special education services and facilities.

11.7.B Transfer of Student in a Residential NON-PUBLIC School

When a student was placed and residing in a residential NONPUBLIC, nonsectarian school prior to transferring to a school district in another special education local plan area, and this placement is not eligible for funding pursuant to Section 56836.16, the special education local plan area that contains the district that made the residential NON-PUBLIC, nonsectarian school placement shall continue to be responsible for the funding of the placement, including related services, for the remainder of the school year. An extended year session is included in the school year in which the session ends.

(EC 56324(c))

11.8 OUT- OF- HOME PLACEMENTS

Determining the responsibility for payment for NON-PUBLIC school costs for students in out-of-home placements requires consideration of two factors:

- (1) which agency placed the student (i.e., the purpose of the placement); and
- (2) where the student was placed.

11.8.A Students Placed Jointly by Department of Mental Health and the LEA

The "Interagency Agreement between the Mendocino County Special Education Local Plan Area and the Mendocino County Mental Health Division" specifies the responsibilities for services and financial costs for students placed residentially.

Residential Placement:

When a student found eligible for special education as having an emotional disturbance (ED) is placed residentially under Chapter 26.5, the district in which the IEP was developed will be responsible for the monitoring of the education portion of the IEP. CMH will be responsible for assessment and provision of mental health services as delineated in the IEP.

CMH will also be responsible for case management. Mental Health will conduct quarterly face-to-face contacts at the residential facility. CMH will coordinate the scheduling of expanded IEP team meetings within six (6) months of the placement and every six (6) months thereafter.

CMH shall be responsible for authorizing payment for room and board costs to the residential facility by the Department of Social Services. Upon receipt of authorization from CMH, including documentation that the pupil is eligible for residential placement as an ED student, the County Welfare Department shall issue payments in accordance with Welfare and Institutions Code to the provider of the residential placement.

When a student with special needs is placed residentially by County Social Services or Juvenile Probation, the school district of residence is determined by the location of the residential placement. If the

legal guardians are residents of Mendocino County, Mendocino County Mental Health remains responsible for provision of mental health services under Chapter 26.5 as delineated in the IEP. Social Services or Juvenile Probation is responsible for case management and residential program costs.

If, however, a school district recommending residential placement pursuant to an IEP, will be solely responsible for the provision of a service when that service is included in an IEP by an IEP team without the recommendation of a qualified mental health professional.

(2 CCR 60600(c).)

11.8.B Residential Placements by Courts, Social Services, Regional Center and Other Public Agencies.

1. Residential Costs

Placements made by courts, social services and regional centers are not made by LEAs and are not necessary for the student to receive a free appropriate public education. In most of these cases, the child's district of residence (i.e. the district in which their parents or legal guardians reside) is not financially responsible for the costs associated with the residential placement.

In those cases where an educational agency did not make the placement decision, the court, regional center for the developmentally disabled, or public agency (other than an educational agency) placing the individual in the institution or home will be responsible for the residential and other non-educational costs. (*EC 56159, EC 56155*)

2. Educational Costs for NON-PUBLIC School Placement Students placed in LCI/Foster Family Homes

Education Code section 56156.4 authorizes local plan areas to develop local written agreements to identify the public education entities that will provide special education and related services to eligible children in LCIs and FFHs. In accordance therewith, the members of the Mendocino County SELPA developed a policy (LCI/FFH Policy) which states that the Mendocino County Office of Education (MCOE) shall be the responsible Local Education Agency (LEA) for students (where all three of these conditions apply): (1) with educational placements in MCOE special day classes and/or NPS/NPA and *(2) whose parents reside outside of Mendocino County SELPA, and (3) who are placed by a non-educational public agency in an LCI or FFH within the County of Mendocino. For students who are placed in LCIs or FFH and whose parents reside within Mendocino County SELPA, the LEA of residence of the parent will be the responsible LEA. The district of residence may enter into an agreement with the MCOE or the LEA where the LCI or FFH is located for the provision of special education services to such student pursuant to the SELPA Policy, Student Movement between Districts.

*Local district procedures for obtaining proof of residency must be followed. Copies of proofs of residency should be forwarded to the LCI/FFH placement specialist.

In the event of a dispute regarding the residency of a parent or parents of a special education student who is placed in an LCI or FFH, an LEA may refer the matter for dispute resolution pursuant to the Mendocino County SELPA Local Plan for Special Education. In order to ensure the continuity of special education services pending resolution of any dispute regarding fiscal responsibility for a special education student, the LEA with fiscal responsibility for the student's special education services prior to the dispute having arisen shall continue to pay for such services until the dispute resolution process has been completed. That local education agency will also retain responsibility for procedural compliance with federal and state special education laws and regulations (such as by, for example, noticing and presiding at required IEP team meetings). An LEA required to continue paying for special education services pending dispute resolution may recover such expenses from the responsible LEA if it is determined, in the course of the dispute resolution process, that that the LEA was not responsible for such expenses.

For students whose parents reside outside the SELPA with IEP placement/services other than MCOE special day class or NPS/NPA then the district where the LCI or FFH is located shall be the responsible LEA.

If a student is placed in an LCI/NPS by an educational public agency, then the LEA that made the placement in the LCI/NPS, not the MCOE, will be the responsible LEA for providing special education and related services to that student.

If a student who is placed in a LCI by a non-educational public agency is subsequently placed by the special education hearing office in a non-certified private school then the MCOE shall be the responsible LEA.

When a student who has been identified eligible for special education services is initially placed in a LCI/FFH, the contact shall first be made to the LEA administrator where the LCI/FFH is located. Upon review of the IEP the LEA Administrator shall determine whether an administrative placement is likely in an MCOE/SDC or NPS/NPA. In such a case the LEA Administrator shall contact the SELPA Program Specialist who shall work collaboratively with the LEA Administrator to affect implementation of the student's IEP. If upon review of the IEP, the LEA Administrator determines placement other than MCOE/SDC or NPS/NPA is appropriate; the LEA shall implement the IEP as the responsible LEA. A flowchart illustrating the assessment process pursuant to this policy is attached as Exhibit A.

For students who are deemed to be the educational responsibility of the MCOE under this policy, funding for the cost of providing special education and related services for all students SELPA-wide will be projected at the beginning of each school year and such costs will be allocated to MCOE from the SELPA funding allocation that is received from state and federal sources for that school year. Any additional funding that is received for these students from state or federal sources or from SELPA pools such as the NPS/NPA or extraordinary cost pool will also be allocated to the MCOE to offset the cost of special education and related services under this policy. Such additional

funding would include LCI impaction grant funds that would be applied for individually by each LEA where the LCI is located.

At the close of the fiscal year, appropriate adjustments will be made as needed to fully fund the costs of services under this policy. If funding for LCIs, including LCI/NPSs, is changed to a bed count allocation, all such funding will be allocated to MCOE to offset the cost of special education and related services provided under this policy, with appropriate adjustments to be made at the close of the fiscal year to fully fund the cost of such services.

If a student is unilaterally placed in an LCI by his or her parents, this placement will be treated as a private school placement pursuant to the SELPA Policy Students Enrolled in Private Schools by their parents.

11.9 HOMELESS STUDENTS: McKINNEY-VENTO ACT

SCHOOL SELECTION

According to a child or youth's best interest, Local Educational Agencies (LEAs) must either continue the child/youth's education in the school of origin, or enroll the child/youth in school in any public school that nonhomeless students who live in the attendance area where the child/youth is actually living are eligible to attend.

"School of origin" is defined as the school the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.

In determining best interest, LEAs must, to the extent feasible, keep children/youth in the school of origin, unless it is against the wishes of the parent/guardian. A homeless child or youth's right to attend their school of origin extends for the duration of homelessness.

If a child or youth becomes permanently housed during the academic year, he or she is entitled to stay in the school of origin for the remainder of the academic year.

Children and youth who become homeless in between academic years are entitled to attend their school of origin for the following academic year.

If the LEA sends the child/youth to a school other than the school of origin or the school requested by the parent or guardian, the LEA must provide written explanation to the parent or guardian; including the right to appeal under the enrollment disputes provision (see below).

In the case of an unaccompanied youth, the LEA homeless liaison must assist in placement/enrollment decisions, consider the youth's wishes, and provide notice to the youth of the right to appeal under the enrollment disputes provisions (see below).

The choice regarding placement must be made regardless of whether the child or youth resides with the homeless parent or has been temporarily placed elsewhere.

ENROLLMENT

The school selected shall immediately enroll the child/youth in school, even if the child or youth lacks records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.

The terms "enroll" and "enrollment" are defined to include attending classes and participating fully in school activities. The enrolling school must immediately contact the last school attended to obtain relevant academic and other records.

If a child or youth lacks immunizations or immunization or medical records, the enrolling school must refer parent/guardian to the liaison, who shall help obtain necessary immunizations or immunization or medical records (See Records, below).

The Act does not prohibit LEAs from requiring parents or guardians to submit contact information.

DISPUTE RESOLUTION

The McKinney-Vento plan submitted by the State must include a description of procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youth.

If a dispute arises over school selection or enrollment, the child/youth must be immediately admitted to the school in which he/she is seeking enrollment, pending resolution of the dispute.

The parent or guardian must be provided with a written explanation of the school's decision on the dispute, including the right to appeal.

The parent/guardian/youth must be referred to the liaison, who will carry out the state's grievance procedure as expeditiously as possible after receiving notice of the dispute.

In the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute.

RECORDS

Any record ordinarily kept by the school, including immunization or medical records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, of each homeless child or youth must be maintained so that the records are available, in a timely fashion, when a child or youth enters a new school or school district, and in a manner consistent with section 444 of the General Education Provisions Act

TRANSPORTATION

The State and its (LEAs) are required to adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin.

If the homeless student continues to live in the area served by the LEA in which the school of origin is located, that LEA must provide or arrange transportation. If the homeless student moves to an area served by another LEA, though continuing his or her education at the school of origin, the LEA of origin and the LEA in which the student is living must agree upon a method to apportion responsibility and costs for transportation to the school of origin. If the LEAs cannot agree upon such a method, the responsibility and costs must be shared equally.

In addition, LEAs must provide services to homeless children and youth that are comparable to those received by other students in the school selected; including transportation (see comparable services, below).

ACCESS TO COMPARABLE SERVICES

Children and youth are to be provided services comparable to those received by other students in the school selected, including transportation services, and education programs for which students meet eligibility criteria, such as services provided under Title I or similar state or local programs; programs for students with disabilities; programs for students with limited English proficiency; vocational or technical programs; gifted and talented programs; and school nutrition programs.

11.10 Children with Disabilities Enrolled by Their Parents in Private Schools

11.10.A Definition of parentally-placed private school children with disabilities.

Parentally-placed private school children with disabilities means children with disabilities enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary school in §300.13 or secondary school in §300.36, other than children with disabilities covered under §§300.145 through 300.147.

11.10. B Child find for parentally-placed private school children with disabilities.

(a) General. Each LEA must locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, in accordance with paragraphs (b) through (e) of this section, and §§300.111 and 300.201.

(b) Child find design. The child find process must be designed to ensure:

- (1) The equitable participation of parentally-placed private school children; and
- (2) An accurate count of those children.

(c) **Activities.** In carrying out the requirements of this section, the LEA, or, if applicable, the SEA, must undertake activities similar to the activities undertaken for the agency's public school children.

(d) **Cost.** The cost of carrying out the child find requirements in this section, including individual evaluations, may not be considered in determining if an LEA has met its obligation under §300.133.

(e) **Completion period.** The child find process must be completed in a time period comparable to that for students attending public schools in the LEA consistent with §300.301.

(f) **Out-of-State children.** Each LEA in which private, including religious, elementary schools and secondary schools are located must, in carrying out the child find requirements in this section, include parentally-placed private school children who reside in a State other than the State in which the private schools that they attend are located.

11.10. C Provision of services for parentally-placed private school children with disabilities--basic requirement.

(a) **General.** To the extent consistent with the number and location of children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, provision is made for the participation of those children in the program assisted or carried out under Part B of the Act by providing them with special education and related services, including direct services determined in accordance with §300.137, unless the Secretary has arranged for services to those children under the by-pass provisions in §§300.190 through 300.198.

(b) **Services plan for parentally-placed private school children with disabilities.** In accordance with paragraph (a) of this section and §§300.137 through 300.139, a services plan must be developed and implemented for each private school child with a disability who has been designated by the LEA in which the private school is located to receive special education and related services under this part.

(c) **Record keeping.** Each LEA must maintain in its records, and provide to the SEA, the following information related to parentally-placed private school children covered under §§300.130 through 300.144:

- (1) The number of children evaluated;
- (2) The number of children determined to be children with disabilities; and
- (3) The number of children served.

11.10. D Expenditures.

(a) **Formula.** To meet the requirement of §300.132(a), each LEA must spend the following on providing special education and related services (including direct services) to parentally-placed private school children with disabilities:

(1) For children aged 3 through 21, an amount that is the same proportion of the LEA's total subgrant under section 611(f) of the Act as the number of private school children with disabilities aged 3 through 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged 3 through 21.

(2)(i) For children aged three through five, an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as the number of parentally-placed private school children with disabilities aged three through five who are enrolled by their parents in a private, including religious, elementary school located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged three through five.

(ii) As described in paragraph (a)(2)(i) of this section, children aged three through five are considered to be parentally-placed private school children with disabilities enrolled by their parents in private, including religious, elementary schools, if they are enrolled in a private school that meets the definition of elementary school in §300.13.

(3) If an LEA has not expended for equitable services all of the funds described in paragraphs (a)(1) and (a)(2) of this section by the end of the fiscal year for which Congress appropriated the funds, the LEA must obligate the remaining funds for special education and related services (including direct services) to parentally-placed private school children with disabilities during a carry-over period of one additional year.

(b) Calculating proportionate amount. In calculating the proportionate amount of Federal funds to be provided for parentally-placed private school children with disabilities, the LEA, after timely and meaningful consultation with representatives of private schools under §300.134, must conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities attending private schools located in the LEA. (See Appendix B for an example of how proportionate share is calculated).

(c) Annual count of the number of parentally-placed private school children with disabilities.

(1) Each LEA must--

(i) After timely and meaningful consultation with representatives of parentally-placed private school children with disabilities (consistent with §300.134), determine the number of parentally-placed private school children with disabilities attending private schools located in the LEA; and

(ii) Ensure that the count is conducted on any date between October 1 and December 1, inclusive, of each year.

(2) The count must be used to determine the amount that the LEA must spend on providing special education and related services to parentally-placed private school children with disabilities in the next subsequent fiscal year.

(d) Supplement, not supplant. State and local funds may supplement and in no case supplant the proportionate amount of Federal funds required to be expended for parentally-placed private school children with disabilities under this part.

11.10. E Consultation.

To ensure timely and meaningful consultation, an LEA, or, if appropriate, an SEA, must consult with private school representatives and representatives of parents of parentally-placed private school children

with disabilities during the design and development of special education and related services for the children regarding the following:

(a) Child find. The child find process, including--

- (1) How parentally-placed private school children suspected of having a disability can participate equitably; and
- (2) How parents, teachers, and private school officials will be informed of the process.

(b) Proportionate share of funds. The determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under §300.133(b), including the determination of how the proportionate share of those funds was calculated.

(c) Consultation process. The consultation process among the LEA, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services.

(d) Provision of special education and related services. How, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of--

- (1) The types of services, including direct services and alternate service delivery mechanisms; and
- (2) How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children; and
- (3) How and when those decisions will be made;

(e) Written explanation by LEA regarding services. How, if the LEA disagrees with the views of the private school officials on the provision of services or the types of services (whether provided directly or through a contract), the LEA will provide to the private school officials a written explanation of the reasons why the LEA chose not to provide services directly or through a contract.

11.10. F Written affirmation.

- (a) When timely and meaningful consultation, as required by §300.134, has occurred, the LEA must obtain a written affirmation signed by the representatives of participating private schools.
- (b) If the representatives do not provide the affirmation within a reasonable period of time, the LEA must forward the documentation of the consultation process to the SEA.

11.10. G Compliance.

(a) General. A private school official has the right to submit a complaint to the SEA that the LEA--

- (1) Did not engage in consultation that was meaningful and timely; or
- (2) Did not give due consideration to the views of the private school official.

(b) Procedure.

- (1) If the private school official wishes to submit a complaint, the official must provide to the SEA the basis of the noncompliance by the LEA with the applicable private school provisions in this part; and
- (2) The LEA must forward the appropriate documentation to the SEA.

(i) If the private school official is dissatisfied with the decision of the SEA, the official may submit a complaint to the Secretary by providing the information on noncompliance described in paragraph (b)(1) of this section; and

(ii) The SEA must forward the appropriate documentation to the Secretary.

11.10. H Equitable services determined.

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

(b) Decisions.

(1) Decisions about the services that will be provided to parentally- placed private school children with disabilities under §§300.130 through 300.144 must be made in accordance with paragraph (c) of this section and §300.134(c).

(2) The LEA must make the final decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities.

(c) Services plan for each child served under §§300.130 through 300.144. If a child with a disability is enrolled in a religious or other private school by the child's parents and will receive special education or related services from an LEA, the LEA must--

(1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with §300.138(b); and

(2) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls.

11.10. I Equitable services provided.

(a) General.

(1) The services provided to parentally-placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally- placed private school children with disabilities do not have to meet the highly qualified special education teacher requirements of §300.18.

(2) Parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools.

(b) Services provided in accordance with a services plan. (1) Each parentally-placed private school child with a disability who has been designated to receive services under §300.132 must have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in §§300.134 and 300.137, it will make available to parentally-placed private school children with disabilities.

(2) The services plan must, to the extent appropriate--

(i) Meet the requirements of §300.320, or for a child ages three through five, meet the requirements of §300.323(b) with respect to the services provided; and

(ii) Be developed, reviewed, and revised consistent with §§300.321 through 300.324.

(c) Provision of equitable services.

(1) The provision of services pursuant to this section and §§300.139 through 300.143 must be provided:

(i) By employees of a public agency; or

(ii) Through contract by the public agency with an individual, association, agency, organization, or other entity.

(2) Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, must be secular, neutral, and non-ideological.

11.10. J Location of services and transportation.

(a) Services on private school premises. Services to parentally-placed private school children with disabilities may be provided on the premises of private, including religious, schools, to the extent consistent with law.

(b) Transportation.

(1) General.

(i) If necessary for the child to benefit from or participate in the services provided under this part, a parentally-placed private school child with a disability must be provided transportation--

(A) From the child's school or the child's home to a site other than the private school; and

(B) From the service site to the private school, or to the child's home, depending on the timing of the services.

(ii) LEAs are not required to provide transportation from the child's home to the private school.

(2) Cost of transportation. The cost of the transportation described in paragraph (b)(1)(i) of this section may be included in calculating whether the LEA has met the requirement of §300.133.

11.10. K Due process complaints and State complaints.

(a) Due process not applicable, except for child find. (1) Except as provided in paragraph (b) of this section, the procedures in §§300.504 through 300.519 do not apply to complaints that an LEA has failed to meet the requirements of §§300.132 through 300.139, including the provision of services indicated on the child's services plan.

(b) Child find complaints--to be filed with the LEA in which the private school is located.

(1) The procedures in §§300.504 through 300.519 apply to complaints that an LEA has failed to meet the child find requirements in §300.131, including the requirements in §§300.300 through 300.311.

(2) Any due process complaint regarding the child find requirements (as described in paragraph (b)(1) of this section) must be filed with the LEA in which the private school is located and a copy must be forwarded to the SEA.

(c) State complaints.

(1) Any complaint that an SEA or LEA has failed to meet the requirements in §§300.132 through 300.135 and 300.137 through 300.144 must be filed in accordance with the procedures described in §§300.151 through 300.153.

(2) A complaint filed by a private school official under §300.136(a) must be filed with the SEA in accordance with the procedures in §300.136(b).

11.10. L Requirement that funds not benefit a private school.

(a) An LEA may not use funds provided under section 611 or 619 of the Act to finance the existing level of instruction in a private school or to otherwise benefit the private school.

(b) The LEA must use funds provided under Part B of the Act to meet the special education and related services needs of parentally-placed private school children with disabilities, but not for meeting--

(1) The needs of a private school; or

(2) The general needs of the students enrolled in the private school.

11.10.M Use of personnel.

(a) Use of public school personnel. An LEA may use funds available under sections 611 and 619 of the Act to make public school personnel available in other than public facilities--

(1) To the extent necessary to provide services under §§300.130 through 300.144 for parentally-placed private school children with disabilities; and

(2) If those services are not normally provided by the private school.

(b) Use of private school personnel. An LEA may use funds available under sections 611 and 619 of the Act to pay for the services of an employee of a private school to provide services under §§300.130 through 300.144 if--

(1) The employee performs the services outside of his or her regular hours of duty; and

(2) The employee performs the services under public supervision and control.

11.10. Separate classes prohibited.

An LEA may not use funds available under section 611 or 619 of the Act for classes that are organized separately on the basis of school enrollment or religion of the children if—

- (a) The classes are at the same site; and
- (b) The classes include children enrolled in public schools and children enrolled in private schools.

11.10. P Property, equipment, and supplies.

(a) A public agency must control and administer the funds used to provide special education and related services under §§300.137 through 300.139, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the Act.

(b) The public agency may place equipment and supplies in a private school for the period of time needed for the Part B program.

(c) The public agency must ensure that the equipment and supplies placed in a private school--

- (1) Are used only for Part B purposes; and
- (2) Can be removed from the private school without remodeling the private school facility.

(d) The public agency must remove equipment and supplies from a private school if--

- (1) The equipment and supplies are no longer needed for Part B purposes; or
- (2) Removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.

(e) No funds under Part B of the Act may be used for repairs, minor remodeling, or construction of private school facilities.

11.11 CHILDREN WITH DISABILITIES IN PRIVATE SCHOOLS PLACED OR REFERRED BY PUBLIC AGENCIES

11.11 A Applicability of §§300.146 through 300.147.

Sections 300.146 through 300.147 apply only to children with disabilities who are or have been placed in or referred to a private school or facility by a public agency as a means of providing special education and related services.

11.12 CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS WHEN FAPE IS AT ISSUE

General. This part does not require an LEA to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made FAPE available to the child and the parents elected to place the child in a private school or facility. However, the public agency must include that child in the population whose needs are addressed consistent with §§300.131 through 300.144.

(a) Disagreements about FAPE. Disagreements between the parents and a public agency regarding the availability of a program appropriate for the child, and the question of financial reimbursement, are subject to the due process procedures in §§300.504 through 300.520.

(b) Reimbursement for private school placement. If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private preschool, elementary school, or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the SEA and LEAs.

(d) Limitation on reimbursement. The cost of reimbursement described in paragraph (c) of this section may be reduced or denied--

(1) If--

(i) At the most recent IEP Team meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

(ii) At least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in paragraph (d)(1)(i) of this section;

(2) If, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in §300.503(a) (1), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation; or

(3) Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

(e) Exception. Notwithstanding the notice requirement in paragraph (d)(1) of this section, the cost of reimbursement--

(1) Must not be reduced or denied for failure to provide the notice if--

(i) The school prevented the parents from providing the notice;

(ii) The parents had not received notice, pursuant to §300.504, of the notice requirement in paragraph (d)(1) of this section; or

(iii) Compliance with paragraph (d)(1) of this section would likely result in physical harm to the child; and

(2) May, in the discretion of the court or a hearing officer, not be reduced or denied for failure to provide this notice if--

(i) The parents are not literate or cannot write in English; or

(ii) Compliance with paragraph (d)(1) of this section would likely result in serious emotional harm to the child.

11.13 CHILD COUNT REQUIREMENTS

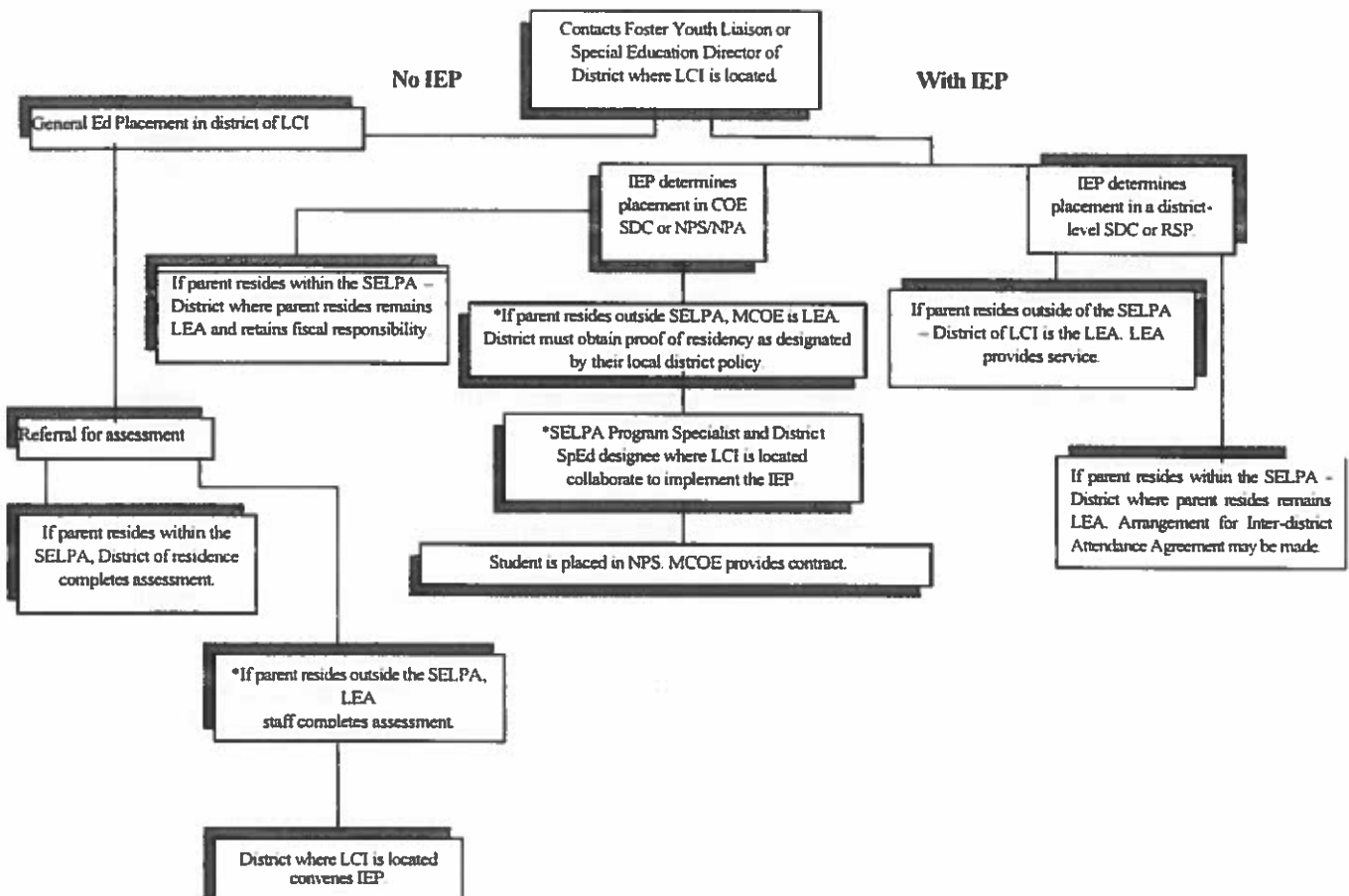
A. The LEA shall consult with representatives of private school children to decide how to conduct the annual count of the number of private school children with disabilities:

1. The child count shall be conducted for attendance on December 1 of the prior year. The child count shall be conducted by mail and follow-up phone or in-person contact as needed.
2. The child count shall be used to determine the amount that the LEA must spend on providing special education and related services to private school children with disabilities in the fiscal year following the date on which the child count is conducted.

B. Following the consultation, the LEA shall conduct an annual count of the number of private school children with disabilities

EXHIBIT A

FOSTER YOUTH/LCI/NPS FLOWCHART



CHAPTER 12 – SURROGATE PARENT PROCEDURES

12.1 DETERMINING ELIGIBILITY OF STUDENTS

Prior to assigning a surrogate parent to represent a student, the placing agency representative must complete an MP026 form, which shall be reviewed, and the eligibility of the student shall be determined.

If a student is adjudicated a dependent or ward of the court pursuant to Section 300,601 or 602 of the Welfare and Institutions Code, the documentation provided by the court shall be deemed as documentation that the rights of the student's parent(s) to make educational decisions have been removed or limited by the court.

If the rights of the student's parent(s) and/or legal guardian to represent the child for educational purposes have been specifically removed or limited by the court, the student shall be assigned a surrogate parent.

If one parent or legal guardian retains the right to make educational decisions on the pupil's behalf, and that parent or legal guardian is willing to represent the student, no surrogate parent will be assigned.

The reasonable search for the student's parent(s)/legal guardian must be documented. The search shall consist of a minimum of three search attempts, conducted over a three-week period, utilizing two or more types of contact attempts (certified letter, telephone call, home visit, etc.)

If no parent has been located, the student shall be assigned a surrogate parent.

If a parent is located, but refuses to exercise his or her rights to represent the student, that fact shall be documented and a referral shall be made to the court.

If a student has reached the age of majority and has been conserved by the court, that fact shall be documented. The student shall be assigned a surrogate parent. In some instances, the conservator will be assigned as the surrogate parent, if he or she has no conflict of interest.

If it is suspected that the parents are minors, the age of the parent(s) shall be documented.

If a student is an emancipated minor, that fact shall be documented. Emancipated minors shall not be assigned a surrogate parent.

If a student is a married minor, that fact shall be documented. Married minors shall not be assigned a surrogate parent.

12.2 RECRUITMENT OF VOLUNTEERS

The SELPA Director and district directors will work with community agencies and organizations, both public and private, to secure applicants for the position of surrogate parent volunteer.

The SELPA Director/designee will coordinate activities of the SELPA and LEAs in seeking volunteers.

Each volunteer interested in the surrogate parent position must complete a surrogate parent application form.

12.3 SCREENING OF APPLICANTS

The following areas must be addressed by the SELPA Director/designee in the screening process for the appointment of surrogate parents.

- (1) The volunteer must have an active interest in the students to be served.
- (2) The volunteer must have a willingness to learn the requirements of special education.
- (3) The volunteer must have no criminal background (arrest/conviction) that includes a misdemeanor involving abuse or neglect or others, or contributing to the delinquency of minors, or any felony conviction. Misdemeanor convictions within the past five years will be considered on a case by case basis.
- (4) The volunteer must have a valid *California Drivers License* and provide proof of insurance or demonstrate the ability to fulfill all duties of a surrogate parent without needing to drive.
- (5) The volunteer must be willing to be fingerprinted, if deemed necessary by the SELPA Director or district director.
- (6) The volunteer must not have a conflict of interest, including financial, with the specific student represented, or other interests, including institutional or other biases that might restrict or interfere with his or her ability to advocate for all the services required to ensure a free appropriate public education for the assigned individual with exceptional needs.
- (7) The volunteer must not be an employee of an agency that has a direct relationship to the student, e.g., school employees, probation officers, social workers, group home providers, or others who may have a conflict of interest.
- (8) The volunteer should display sensitivity to the cultural, socio-economic and individual needs of the student served.

12.4 APPOINTMENT OF SURROGATE PARENT

- (l) The SELPA or the LEA may appoint a surrogate parent volunteer. The surrogate parent volunteer shall be assigned to one or more students, using the following criteria:
 - Cultural and socio-economic sensitivity.

- Location, based on reasonable travel time for the surrogate parent.
 - Ability to understand and relate to the disability and needs of the student.
 - The interest of the surrogate parent volunteer.
- (2) Upon appointment, the following will be provided to the surrogate parent:
- An identification card.
 - The SELPA Director or designee will ensure that an initial meeting with the LEA Special Education Director, surrogate parent and student is arranged.
 - The LEA Special Education Director will ensure that the surrogate parent meets with the teacher(s) and personnel providing related services for the assigned student.
 - The LEA Special Education Director will ensure that the surrogate parent meets with the foster home parent, group home provider, or the person with whom the student resides.
 - The LEA Special Education Director will ensure that the surrogate parent will receive training, from the LEA case manager or other designated staff, in the disability and educational needs of the student assigned to the surrogate parent.

12.5 TRAINING

Prior to assigning a surrogate parent to represent a student, the SELPA or district director/designee will arrange for training for the surrogate parent. Training shall include, but not be limited to, the following topics:

1. Special Education and Related services.
2. Special Education programs available within Mendocino County as well as other educational placement options.
3. Policies of the Mendocino County SELPA Governing Board.
4. Federal and State laws and regulations regarding Special Education.
5. Parent and student rights under federal and State Special Education laws and regulations.
6. Surrogate parent responsibilities, including participating in Individualized Education Program (IEP) meetings and suspension/expulsion proceedings for the assigned student.

7. Conflicts of Interest.
8. Visiting with the student's classroom(s) and consulting with the student's teacher(s) and personnel providing related services.
9. Visiting with the student outside the educational environment.
10. Consulting with the student's foster parent(s), group home provider/staff members, or the person(s) with whom the student resides.
11. Ethical concerns, including the responsibility to hold all information regarding the assigned student in confidence.
12. The Community Advisory Committee and parent support groups.

13. Child and adult abuse reporting laws.

Training Sessions

Training sessions shall be provided at convenient locations, and shall be scheduled on days and at times that are suited to meet the needs of the surrogate parent volunteers.

The LEA Director shall arrange for records to be kept of the dates and types of training received by each prospective surrogate parent.

12.6 SURROGATE PARENT CASELOAD

The SELPA Director or District Director will determine the student caseload for the surrogate parent. The criteria utilized will include, but not be limited to: demonstrated ability of the surrogate parent, location of students requiring surrogate parents, and the surrogate parent's interest in the particular students to be assigned.

12.7 SURROGATE PARENT COMPENSATION

Upon prior approval of the LEA Director, the LEA will reimburse the surrogate parent for reasonable costs incurred in their duties as follows:

- Mileage shall be reimbursed at a rate established by the district in which the surrogate parent is volunteering.
- Phone calls required in the performance of surrogate parent duties, not to exceed \$5.00 per month.
- When necessary and appropriate, stipends may be paid to surrogate parents according to a written agreement by the SELPA or district.
- The surrogate parent must complete the appropriate reimbursement claim forms for reimbursement.

12.8 ACCESS TO THE STUDENT

The surrogate parent must meet with the student under the supervision of the student's group home provider, foster parent, person with whom the student resides, placing agency representative, or designated school staff. Exceptions to this procedure are made by the SELPA Director/district director/designee.

School personnel shall make every reasonable effort to ensure that the surrogate parent has access to the student as it relates to the student's educational needs.

12.9 ACCESS TO STUDENT RECORDS

The surrogate parent retains the same rights as a parent/legal guardian to access student records. He or she must request copies of school records and other records in the same manner that is required by the parent/legal guardian.

Due to the continual need for confidentiality, when a surrogate parent discontinues representing a specific student, he or she must return to the district all copies of the student's records in his or her possession.

12.10 USE OF INTERIM SURROGATE PARENTS

When any of the following conditions prevail, the Director of Special Education of the LEA in which the student is educated, shall notify the SELPA Director, within two working days, of the need for the assignment of an interim surrogate parent:

- If no parent is immediately available, and the student has been referred for an assessment for possible placement in a Special Education Program; or
- The student transfers into another district or county program in the Mendocino County SELPA and is provided an interim placement in a Special Education Program.

The LEA Director shall assign a surrogate parent, within five working days, depending upon the availability of surrogate parents.

The LEA Director shall terminate the services of the interim surrogate parent when/if any of the following exist:

- The student, after assessment, is found to be ineligible for Special Education and/or related services. The Director of Special Education of the LEA in which the student is educated shall notify the SELPA Director, within five working days that the student was determined to be ineligible for special education.
- The student is determined to be ineligible for the services of a surrogate parent.
- The surrogate parent from the previous SELPA qualified to be a surrogate parent in the Mendocino County SELPA, and is willing and available to provide the service for the student.
- A permanent surrogate parent is appointed for the student.

12.11 TERMINATION OF SURROGATE PARENT APPOINTMENT

Only the SELPA Director/LEA Director may terminate a surrogate parent's appointment. The SELPA Director shall terminate the appointment of a surrogate parent, when the Director of Special Education of the LEA in which the student is educated notifies the SELPA Director of any of the following conditions:

1. Notice is received from the court that the student is no longer a dependent or ward of the court, under Section 300.601 or 602 of the Welfare and Institutions Code. A copy of said notice should be forwarded to the SELPA Director within two working days of receipt.
2. Notice is received from the court that the right of the parent or legal guardian to make educational decisions for the student, who is a ward, has been reinstated. A copy of said notice should be forwarded to the SELPA Director within two working days of receipt.
3. The student reaches the age of majority, as documented by the school district or County Office of Education records.
4. The student exits from the Special Education program, as documented by an IEP team.
5. The parent or guardian appears and assumes the responsibility for making educational decisions for the student.

6. The surrogate parent is alleged to have committed a misdemeanor involving the abuse or neglect of others or contributing to the delinquency of minors, or any felony.

7. A surrogate parent is found to have a conflict of interest:

If the SELPA Director determines that a conflict of interest exists, it shall be documented and the LEA Director of Special Education shall be notified of same within two working days.

The surrogate parent takes action, which threatens the safety or well being of the assigned student.

The LEA Director of Special Education shall investigate the allegations of such action and report the results of said investigation to the SELPA Director as soon as possible, but no later than 30 days following the original report of the allegations.

The SELPA Director shall determine whether the surrogate parent's appointment should be terminated, based on the results of the investigation.

When the SELPA Director receives information indicating the possible need to terminate a surrogate parent, the SELPA Director shall consider the validity of the information and make a decision to terminate or not terminate within five working days.

If the SELPA Director determines that the surrogate parent should be terminated, the SELPA Director shall notify the surrogate parent within five working days of such decision.

Notice of termination shall be by documented phone call or certified mail, with return receipt requested.

At the discretion of the SELPA Director, the terminated surrogate parent may be granted the right to discuss the termination with the SELPA Director with the possibility of eventual reinstatement.

A terminated surrogate parent may protest the termination in writing to the SELPA Director, whose decision regarding the appeal shall be final.

A student, whose surrogate parent has been terminated, shall be so notified by the LEA Director of Special Education in which the student is educated.

A student, who remains eligible for the services of a surrogate parent, shall be assigned an interim or new surrogate parent within two working days or as soon as possible.

12.12 CONFLICT RESOLUTIONS AND APPEALS

Conflicts must be brought to the attention of the SELPA Director, who will work with all parties involved, to bring resolution to the conflict. The SELPA Director, or his or her designee, will have the final authority in all appeals and conflicts.

12.13 HOLD HARMLESS

The SELPA and the surrogate parent shall enter into a signed agreement of that with a hold harmless clause.

APPENDIX A

APPOINTMENT OF SURROGATE PARENT

I appoint _____ to act as surrogate parent in matters involving the education of _____ . This representative shall have parental authority

in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the Individualized Family Service Plan (IFSP) or the Individualized Education Plan (IEP) including non-emergency medical services, mental health services and occupational or physical therapy services as relating to the IFSP/IEP, and in other matters relating to the provision of a free appropriate education for the individual.

This appointment shall remain in effect until any of the following occur.

1. The pupil's parent is located and/or appoints an educational representative.
2. The surrogate parent is unwilling or unable to carry out his/her responsibilities to the best interest of the child.
3. The surrogate parent is in a position with a conflict of interest in the above matter.

LEA Special Education Administrator Date

Telephone: _____

ACCEPTANCE OF APPOINTMENT

I, _____ , hereby accept the above appointment. At such time as I am unable or unwilling to continue this appointment, I will notify the LEA Special Education Administrator designated above. I understand that I shall be held harmless by the State of California when acting in my official capacity except for acts or omissions which are found to have been wanton, reckless, or malicious.

I acknowledge that _____ has provided information/training regarding the laws applicable to surrogate parent responsibilities and the continuum of education program placements and opportunities available for individuals with disabilities.

I agree to maintain all student records and information in a confidential manner. Upon the termination of this agreement, I will return all such records to _____

Surrogate Parent Date

Address

City ZIP

Telephone:

CHAPTER 13 – LOW INCIDENCE GUIDELINES

LOW INCIDENCE POLICY

As part of the Local Plan submitted to the State, each SELPA shall describe how specialized books, materials, equipment and services will be distributed within the SELPA. This policy has been developed to provide a summary of legal and local requirements and guidelines for students with low incidence disabilities. In addition to this policy, all requirements outlined under the Annual State Low Incidence Funding Update will be observed.

SUMMARY OF LEGAL REQUIREMENTS:

Education Code Section 56836.22 provides for funds to purchase “specialized” books, materials and equipment as required under the student’s individualized education program (IEP) for students with low incidence disabilities as defined in Section 56026.5 (hard of hearing, deaf, deaf-blind, visually impairment, or severe orthopedic impairments, or any combination thereof).

As a condition of receiving these funds, the SELPA shall ensure that:

- the appropriate books, materials and equipment are purchased
- the use of items is coordinated as necessary
- the books, materials and equipment are reassigned within the SELPA once the student that originally received the items no longer needs them.

Special supplies and equipment purchased with State funds are the property of the State and shall be available for use by individuals with exceptional needs throughout the State. The Clearinghouse for Specialized Media and Technology (CSMT) is available to facilitate the distribution of unused materials and equipment.

In addition to the equipment fund, annually, the State Budget Act may appropriate funds which shall be used to provide specialized services to pupils with low incidence disabilities.

RESPONSIBILITY:

Low Incidence funding is legally the responsibility of the SELPA, including accountability of how the funds are used and reassignment of specialized books, materials and equipment within the SELPA and sharing with neighboring SELPAs. To meet this responsibility, a Low Incidence Committee has been established which is comprised of educators knowledgeable about low incidence disabilities. The Mendocino County SELPA Low Incidence Committee has established procedures and guidelines for purchases through the Low Incidence fund.

The Low Incidence Committee may include:

- Specialist for the visually impaired
- Specialist for the orthopedically impaired
- Specialist for the Hard of Hearing or Deaf
- Speech/Language Pathologist
- Audiologist
- Teacher or Specialist knowledgeable in assistive technology
- SELPA Administrator
- SELPA Program Specialist

ELIGIBILITY

Funds may be used for all pupils with the Low Incidence disabilities as defined in law, even though they may have been counted in another category in the pupil count. For example, a pupil who is deaf and also has mental retardation would still be eligible even if the pupil was reported in the latter category or as having multiple disabilities. Also, some students counted as having an orthopedic impairment may not be eligible because they do not have a "severe orthopedic impairment" as per the definition of Low Incidence disabilities in Education Code 56026.5. Students who have severe orthopedic impairments require highly specialized services, equipment and materials per Education Code Section 5600.5(b).

Education Code Section 56320(g) requires that persons knowledgeable of that disability shall conduct the assessment of a pupil with a suspected low incidence disability. A low incidence disability does not guarantee the use of low incidence funds. The IEP team reviews assessment data and determines the most appropriate items or services needed to address the student's unique educational needs. These may, or may not be "specialized." Items, which are found in most classrooms, would not be acquired through low incidence funds.

REQUESTING EQUIPMENT/MATERIALS THROUGH LOW INCIDENCE FUNDS

These guidelines were developed for those persons and agencies serving pupils with severe orthopedic impairments and who require specialized services to benefit from education. These students have the potential to pursue the district's general, parallel, or adapted course of study. Persons who are planning educational programs for a student with more than one impairment should combine the concepts in these guidelines with those from the guidelines that address other impairments.

A. LIF Parameters

1. Prior to requesting purchase of new equipment the district/program should check other sources such as the

Clearinghouse for Specialized Media and Technology for any availability.

2. Low Incidence Funds shall not be used for purchase of non-adapted computers and toys.
3. Requests for individual items that are under \$200.00 should not be submitted for low incidence funding and are district or program responsibility unless the items comprise parts of a single piece of equipment from the same vendor for an individual student that totals at or above \$200.
4. Requests that are above \$5,000 – SELPA LI funds will cover up to \$5,000 and the district of residence will be responsible for the amount over \$5,000. Because money from the LIF was used to pay for part of the equipment, it is the property of the state, not the school district.
5. Equipment purchased with LIF funds is the property of the State of California and is managed by the Mendocino County SELPA.

B. Procedures

1. **Determine Eligibility:** The IEP team determines eligibility for low incidence disability - the Low Incidence eligibility must be documented on the IEP as a primary or secondary disability.
2. **Determine Student Needs:** The IEP team determines the student's educational needs for item(s) through educational assessment and documentation.
 - a. **Educational Assessment**

The personnel who assess the pupil shall prepare a written report, or reports as appropriate, of the results of each assessment. The report shall include, but not be limited to the need for specialized services, materials, and equipment for students with low incidence disabilities.
 - b. **IEP Documentation:** The requirements must be written into the IEP but are not limited to the following:
 - How the item will assist the student's instruction in accordance with the IEP.
 - How often the item will be used or is needed.
 - How the item facilitates participation in the classroom.

- Specific projected student outcomes.
 - Justification statement that is related to the student's unique educational needs as identified in the assessment information. (See IEP Team's Rationale on Request Form)
 - Assessment, goals and objectives that are correlated to the justification statement of need.
 - Present level that reflects assessment information and need for support.
 - Identification of personnel who will provide support to student and will monitor and inventory adapted equipment and FM System (List name & position).
3. Complete the "Low Incidence Request" Forms all current forms for submitting a request to the LIF committee for purchase of, or reimbursement for, equipment are available on the SELPA website (www.smcoe.k12.ca.us). Revisions/Updates are posted as necessary. The District or COE Director must sign request form. Include accurate ordering information including tax and shipping.
 4. Attach Current annual IEP. IEP must be signed and legible. Attach amendment IEPs as appropriate.
 5. Attach all supportive Documentation pertinent to the low incidence funds request (e.g. reports from OT, PT, audiologist, VI teacher, speech pathologist)
 6. Send the Request Packet to the District or County Director for Approval. After approval, the request packet will be sent to the SELPA Program Coordinator. Keep a copy of the request form for your records.

C. Cautions:

1. Do not list specific items in the student's IEP using specialized brand names. Objectives should be addressed generically. What the IEP must show is that the student has a unique educational need directly related to the low incidence disability and that this need can only be met with specialized books, materials, equipment and services. Goals need to be written to address the unique educational needs, not the desired items or service.
2. If the Annual IEP goals do not specifically address this educational need, then an amendment IEP with goals that reflect the need for specialized books, materials, and equipment must be written and submitted.
3. There is no guarantee of approval by the Low Incidence Committee. Once specific items are listed on the IEP, the district is ultimately responsible for purchasing the equipment.
4. The need for specific equipment must be addressed by the current appropriate specialist (e.g. PT, Audiologist, Speech/Language Specialist), by way of assessment and report, and included in the current IEP if a goal addressing that need is a part of the IEP. If a goal is written into an IEP, and a report/assessment is done after the fact by a specialist, the request for LIF funding may be denied.

D. Low Incidence Committee Approval Process

1. **Dates of Review:** The Low Incidence Committee will meet on an as needed basis to review the Low Incidence requests.
2. **Purchasing the LI Item:** Once approval is granted, the SELPA will process the purchase order. Inventory tag must be attached to equipment by designated district/county personnel. Identify equipment as LIF with permanent marker. Inventory tag number will also be recorded on the P.O. by SELPA personnel.

E. Student Movement

1. **Student Moves Into the SELPA:** When a student moves into the LEA with low incidence equipment already purchased for the student in their last placement, it is the responsibility of the LEA of attendance to secure and document that the equipment be transferred.

If equipment is sent with the student an inventory form should be completed and sent to the SELPA so it can be put into the low incidence inventory database.

2. **Student moves out of SELPA:** Per CDE FAQs about LIF funds: “if the books, materials and equipment are still needed by other students with low incidence disabilities in your SELPA, there is no requirement to send it with the student who moved away. Providing these resources is the responsibility of the SELPA where the student now resides. If, however, books, materials and equipment purchased with low incidence funds are unused, SELPAs are encouraged to make arrangements with other SELPAs to share the unused equipment, books and materials. The California Department of Education may be contacted for assistance in locating another SELPA that has need of the unused equipment, books or materials.”
3. **Student graduates from high school:** A graduating high school student who has a low incidence disability cannot use the specialized equipment purchased for him by his SELPA through low incidence funds in college. To do so would be a gift of public funds which is a violation of law. Pursuant to Education Code 56822 “Books, materials and equipment purchased with low incidence funds remain the property of the state. Since the student has graduated from high school, he is no longer eligible to received special education services from your SELPA. If your SELPA no longer has use for the books, equipment or materials the California Department of Education should be notified so that we can find another SELPA that has need of these resources. If the student needs similar equipment in college, he should contact the Department of Rehabilitation who has the legal responsibility to assist in training adults with disabilities.”

F. Equipment

1. **Lost or stolen equipment** will not be replaced using low incidence funds. LEA is responsible for replacement of equipment.
2. **Item No Longer Needed:** If the item(s) has been purchased for one student and is no longer being used by that student, notify the SELPA Program Coordinator. The item can be

reassigned to another student who is LI eligible. The IEP for that student must indicate the need for LI equipment.

3. IEP teams may want to recommend a trial basis on a piece of equipment. This can be accomplished through a lease agreement with the vendor prior to purchase.

G. Management Information Documentation:

An IEP team member will ensure that the student is listed with a Low Incidence disability on the MIS system – SELPA Manager.

H. Definition of Low Incidence Disabilities

1. Visual Impairment

To be eligible for special education, a “pupil has a visual impairment which, even with correction, adversely affects a pupil’s educational performance.”

When an assessment of a student with a visual impairment determines that he or she has educational needs that cannot be met without special education and related services, the student is provided with instruction, specialized services and materials and equipment in accordance with his or individualized education program (IEP).

The term *visual impairment* includes, for educational purposes:

- Students who have functional blindness (who rely basically on senses other than vision as their major channels for learning).
- Students with low vision (who use vision as a major channel for learning).
- A visual impairment that does not include perceptual or visual motor dysfunction resulting solely from a learning disability.

2. Severe Orthopedic Impairment

The term orthopedic impairment includes those impairments caused by congenital anomalies, diseases, and other conditions.

Conditions resulting in severe orthopedic impairments include, but are not limited to: cerebral palsy, muscular dystrophy, spinal bifida, spinal cord injuries, head traumas, juvenile rheumatoid arthritis, and tumors.

These conditions may improve, remain stable, or deteriorate; and changes in characteristics may occur at varying rates.