



# PRAISE

Piedmonters for Resources, Advocacy, and Information in Special Education

## **SPECIAL EDUCATION PARENT HANDBOOK, 2011-2012 Edition**

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*Piedmont Unified staff and the parents who prepared this handbook recognize that the learning curve for parents new to the IEP process can be daunting. We all continue to find our way along this path. The relationship between the school district and your family is truly important, and, though the IEP process can be emotional and in rare instances adversarial, it always helps to remember that everyone at the table has committed to finding solutions which result in educational benefit for your child. We hope that sharing the information in this handbook will result in assisting you to meaningful participation as members of the IEP team.*

*The Special Education Parent Handbook has been created in cooperation with PUSD and PRAISE. We wish to thank the staff and parents who contributed time and expertise to the writing of this handbook. Funding for the publication of this handbook is from the generous donations of parents to the PRAISE organization. PRAISE and PUSD wish to thank the parents for their support.*

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# **INTRODUCTION**

## ***What is my role as parent of a child who needs special education services?***

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

## ***What is covered in this handbook?***

The District and parents experienced in the Individualized Education Program (IEP) process have developed this handbook to provide you with information that will support your participation in the IEP process. If further questions arise after reviewing the information contained in this manual, please contact any member of the Special Education staff or any Resource Parent with your questions.

## ***What is an IEP?***

IEP: refers to the Individualized Education Program, which is the plan developed in the IEP meeting. This meeting results in a written plan and legal document that states a child's present level of functioning; specific areas that need special services; annual goals; short-term objectives; services to be provided; and the method of evaluation to be implemented for children 3 to 21 years of age who have been determined eligible for special education.

## ***Who can attend an IEP?***

An IEP is attended by parents, a district administrator with the ability to sign off on the plan, special education staff and specialists, a general education teacher, parents' outside specialists, and, at parents' discretion, a friend, an advocate or facilitator. When appropriate, the student may attend and participate in the development of the IEP.

## ***What is IDEA?***

The Individuals with Disabilities Education Act (IDEA) is the law that provisions service and support to children with disabilities throughout the US. IDEA governs how states and public agencies provide early intervention, special education and related services to US children. IDEA ensures that children with disabilities receive a "free appropriate public education" (FAPE). This means that schools will provide students who are eligible (have

a disability) with specialized supports/instruction that will address their academic needs in the least restrictive environment.

## **GLOSSARY OF SPECIAL EDUCATION TERMS**

### ***What vocabulary will I need to understand?***

Special Education has a language of its own with seemingly endless acronyms and terminology. We have attempted here to give you the key to this specialized language. We know that this glossary is not all inclusive, but we hope it will provide you with the basic special education vocabulary. This will aid you in being a knowledgeable member of the IEP team.

### **Accommodations:**

Accommodations are supports, which alter the structure or format of the learning/performance situation but the expectation of learning mastery relative to all students does not change.

### **Adapted Physical Education (APE):**

A program for students who, because of their disabilities, cannot participate effectively in regular PE and require specialized physical education.

### **Alternative Dispute Resolution:**

Free mediation and facilitation services offered to families who have reached an impasse in the process of developing the IEP agreement. ADR is now required before a due process hearing.

### **Assistive Technology:**

Technology used by individuals with disabilities in order to perform functions that might otherwise be difficult or impossible. This can include mobility devices such as walkers and wheelchairs, as well as hardware, software, and peripherals that assist people with disabilities in accessing computers or other information technologies.

### **Audiological Services:**

Includes identifying children with hearing loss and providing services that will help children with hearing losses maximize their strengths and abilities.

**Augmentative and Alternative Communication:**

The symbols, aids, strategies and techniques used to enhance communication, including gestures, eye gaze, body postures, sign language, photographs, printed words, objects, picot-ideographs, and Braille.

**Due Process:**

The legal procedures set up to resolve disagreements between parents and school districts over some part of a child's special education program (See Fair Hearing).

**Extended School Year (ESY):**

Services provided during the summer recess to qualifying students with special needs.

**Fair Hearing:**

A formal hearing that is called by parents or school district personnel and presided over by an administrative law judge from the California State Office of Administrative Hearings. Issues, which may be considered under the fair hearing procedure are limited to identification, assessment, the IEP, and placement of individuals with exceptional needs.

**Family Educational Rights and Privacy Act (FERPA):**

A Federal law that protects the privacy of student education records.

**Free and Appropriate Public Education (FAPE):**

A guiding principle of federal special education law which mandates that students with disabilities are to be provided an appropriate public education at no cost to the parents.

**Individuals with Disabilities Education Act (IDEA):**

Federal statute governing special education for children with disabilities

**Individualized Education Program (IEP):**

A written document developed by a team including the parent, mandated by law, that defines a child's current levels of educational performance; specifies annual goals and where appropriate, short-term objectives; type of educational instruction and related services; amount of participation in general educational programs; date(s) special education service begins and is projected to end; and the annual evaluation procedures and review date for updating the IEP. When appropriate, the IEP contains additional items.

**Inclusion:**

The inclusion of students with disabilities with their regular education peers to the maximum extent possible, while meeting the needs of both groups.

**Learning Disability:**

A disorder in one or more of the basic psychological processes involved in understanding or using spoken and/or written language as well as a severe discrepancy between intellectual ability and achievement.

This may manifest itself by an impaired ability to listen, think, speak, read, write, spell, or do mathematical calculations.

**Least Restrictive Environment (LRE):**

The educational setting in which any child can succeed which is most closely aligned with the regular classroom and curricula.

**Local Education Agency (LEA):**

Your local school district.

**Low Incidence Disability:**

A severe disabling condition with an expected incidence rate of less than one percent of the total statewide enrollment in kindergarten through grade 12 (e.g. hearing impairments, vision impairments, and severe orthopedic impairments).

**Mainstreaming:**

A term referring to the time during which a special education student participates in general education activities, either academic or non-academic (e.g., math, reading, art, PE).

**Mental Health Services:** These can be provided by the school district or through Alameda County Behavioral Health Services. Services can range from counseling to day treatment or residential treatment programs. It also can include case management and medication monitoring. A student can qualify for these services if the mental health condition is impacting their ability to benefit from special education.

**Modifications:**

Modifications are a change to the curriculum standard from that required of general education students. As a result, modifications are noted on report cards. Most colleges

and universities view modified high school curriculum/grades as unacceptable for entrance requirements.

### **Occupational Therapy (O.T.)**

Services which addresses fine motor difficulties that may impact the ability to carry out the act of writing as well as addressing the sensory motor challenges experienced by some students or gross motor difficulties that may impact a child's access to the school environment, safety, and ability to learn. Students may receive these services from school district personnel, through California Children Services (CCS) if they have a qualifying medical condition or through both agencies.

### **Para-educator:**

Also known as an aide or a para, a para-educator, is support staff, non-credentialed, which assist students in receiving services as defined in the IEP.

### **Placement:**

The specific system of delivery (DIS = designated instructional services such as PT/OT/Speech, RSP = resource specialist program, SDC = special day class) that meets the child's individual needs as identified in the IEP. These acronyms may also refer to the classroom(s) where a child will receive education services.

### **Referral:**

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

### **Related Services:**

Specialized instruction and/or support services identified through an assessment and written on an IEP as necessary for a child to benefit from his/her educational program (e.g., speech/language remediation, Braille transcription, assistive technology, etc.).

### **Resource Specialist Program (RSP):**

Students receiving special education instruction for less than 50% of the school day are enrolled in the RSP; these students may be "pulled out" of the general education classroom for special assistance during specific periods of the day or week and are taught by credentialed resource specialists; a push-in model is also implemented for some students.

### **Response to Intervention (RTI):**

Response to Intervention (RtI) or Response to Instruction and Intervention (RtI<sup>2</sup> in California) is a strategy designed to support all students. It defines a general education approach of high quality instruction and early intervention, prevention, and behavioral strategies. It is a systematic, data driven approach to education which is based upon evidence based instruction. RtI is cited in the reauthorization of the Individuals with Disabilities Education Act (IDEA) of 2004 related to the determination of a specific learning disability (SLD) and in 34 *Code of Federal Regulations* sections 300.307, 300.309, and 300.311. The IDEA regulations allow for the use of a process, based on a child's response to scientific, research-based intervention, as a component to determine whether a child has an SLD. (Specific Learning Disability) Thus, the data gained during the implementation of an effective RtI<sup>2</sup> system can be part of the process to identify students with learning disabilities.

### **Special Education:**

Instruction or education that is required to meet the needs of children with special needs which cannot be supplied through some modification in the general education program.

### **Special Education Local Plan Area (SELPA):**

The alliance of local districts which share federal special education funding. Piedmont shares funding with Berkeley, Albany, Emeryville and Alameda. Special education placements in any of the five cities may be available to your child, as determined at the IEP meeting, limited by space availability. There is a SELPA staff, which oversees special education in all five districts and which offers free mediation and facilitation to families who would like to avail themselves of Alternative Dispute Resolution services.

### **Standardized Testing and Report Program (STAR):**

School districts are required by the State to assess students annually through the STAR program. IEP teams must identify which STAR test is appropriate and should identify any necessary accommodations for the student. IEP teams may not exempt students from STAR testing.

### **Student Study Team (SST):**

The Student Study Team (SST) is a school site team, convened either at the request of a teacher or parent, which reviews individual student strengths and problem areas. The SST plans strategies and organizes resources for addressing problems and concerns. This process is a function of **regular education** and is outside the IEP process.

# **PIEDMONT UNIFIED SPECIAL EDUCATION PROGRAM OVERVIEW**

At the present time, there are approximately 350 students in the Piedmont schools receiving special education services, with many receiving more than one service. The most frequently occurring disabling condition is specific learning disability, followed closely by students with speech and language disorders. Although the incidence is much smaller, the District also serves students with autism, hearing impairments, severe emotional disturbance, orthopedic handicaps, health impairments, and students with multiple handicaps. Staff includes approximately 33 full and part-time credentialed teachers and specialists, as well as approximately 45 para-educators providing instructional and clerical support. As nearly all special education students are placed in general education for the majority of their school day, classroom teachers are an integral component in the provision of special education services in the District. Through close and continuing collaboration, a partnership between special and general education is seen as a vital prerequisite to the successful delivery of special education services in the Piedmont schools.

## ***General Philosophy***

Special Education is individually designed instruction and services for individuals with disabilities whose educational needs cannot be met with accommodations in the general education program. Special Education is an integral part of the total public education system, and provides education in a manner that promotes maximum interaction between students with disabilities and students who are not disabled, consistent with the needs of both groups of students. The basic tenets of the Piedmont Special Education program include the following:

- Advocacy for the needs of special education students in all educational settings. When appropriate, assisting students in advocating for their own educational needs.
- Encouraging development of each student's independence in academic, social, and other significant areas of their development.
- Empowering students with strategies and compensatory techniques to enable them to be successful in school and in life.
- Close and continuing collaboration with general education staff members.
- Use of a wide variety of instructional approaches and programs designed to address the needs of each individual student in order to improve skills and increase self confidence and independence.
- Full participation of parents as members of their student's IEP team. When appropriate, full participation of students as members of their IEP team.

- Helping students, parents, and teachers to understand the true nature of each student's specific learning challenges, and to help to dispel any misconceptions that may exist.
- Full utilization of technology in support of student achievement.
- Preparation of students for life beyond high school through post-secondary transition planning.

Within the District's general philosophy is an adherence to the principle that all students with disabilities need to have maximum interaction, as appropriate, with non-disabled students. This means that special education students are placed on regular school campuses, and attend general education classes as much as is consistent with their needs. Points to consider regarding this kind of program integration:

- Students with disabilities are motivated to participate in learning activities with non-disabled peers.
- Students with disabilities should be full participants in the social experience of their school.
- Students without disabilities develop an appreciation for, and an increased acceptance of, students with disabilities.
- Special education students experience more of the "real world," and at the same time are exposed to what is needed to be successful in meeting academic and social expectancies.

***What types of Services/Programs are available for consideration?***

The services/programs listed below are those most frequently delivered in the district. This is not an exhaustive list and some students will require instruction/support in a fashion not described below. It is the responsibility of the IEP team to identify what is appropriate for each individual student.

**Learning Center:** The district's learning center program provides specialized instruction and support to students at multiple levels. The amount of time spent in learning center is defined by the IEP and based upon level of student need.

**Level I:** Students receiving learning center support at Level I attend a special education classroom that focuses on supporting the student's progress in the general education curriculum. Often, this includes an emphasis on teaching organization and planning as well as learning strategies for a broad range of curriculum.

**Level II:** Students receiving learning center support at Level II have been determined by the IEP team to require intensive remedial support in a core content class such as reading,

language arts, and/or math. This remedial support parallels and supports the curriculum in the general education classroom. This means a student may be receiving language arts instruction (or another area of curriculum) in both the general education and learning center environments simultaneously. For other students at Level II, the IEP team may determine that the general education core content is not appropriate and the student will be solely enrolled in a class such as Learning Center Language Arts in place of the general education language arts class. However, in each event the expectation is that students are working in range of district curriculum standards.

**Level III:** Students receiving learning center support at Level III have been determined by the IEP team to require instruction through modified curriculum. This level of support is only appropriate for students who need a high level of remediation and sometimes this is across multiple areas of curriculum. In most cases, students in Level III learning center are working to curriculum standards defined by the IEP team rather than the curriculum standards of the district. Students at Level III are sometimes served 50% or more of their day in special education.

**Related Services:** These services are provided by specialists and are specific services, to students, that support the underlying skills required for learning. Those services defined as Related Services may include, but are not limited to: speech and language therapy, hearing and audiological support, mobility instruction, special instruction for visually handicapped, home or hospital instruction, designated psychological services, physical and occupational therapy, assistive technologies, AAC, career/occupation training, social skills facilitation, play therapy, and transportation. Instruction may be given in any appropriate setting, including the regular classroom. Services include assistance to individuals and/or consultation with an individual's teacher or parent, as specified in the IEP. Frequency and duration of a related service must be specified as well as whether the service will be provided individually or in a group setting.

**Transition:** Transition is defined as a process designed to support the movement from school to work and from childhood to a quality adult life. The goal of transition is meaningful employment and successful community functioning for young adults with disabilities. No later than your child's 16<sup>th</sup> birthday the IEP team must develop a transition plan. This can include college and career counseling; coordination of services between agencies such as Regional Center and the Department of Rehabilitation; goals for acquiring skills needed to live independently such as travel training, money management, cooking and self care; and developing opportunities to gain work experience.

**Extended School Year (ESY):** Special Education and related services provided outside of the regular academic year. Students may qualify for these services if the IEP team decides that without the continuity of service the child will regress and it will be difficult for them to regain skills and make the progress expected. A child should receive the same related services as they receive during the regular academic year, although placement may be different. Extended school year is defined as a minimum of 20 instructional days including holidays.

**Nonpublic, Nonsectarian School Services:** Nonpublic, nonsectarian school services are available to individuals with exceptional needs, only when the IEP team determines that the most appropriate educational program is not available through the public school system in Piedmont Unified School District or the North Region Special Education Local Plan Area or adjacent service regions.

**AB3632:** Requires that local education agencies (LEA) arrange with other agencies to provide related services (needed for students to benefit from special education). These agencies include California Children’s Services, County Mental Health, and the State Department of Rehabilitation.

***What types of Program Supports are available for consideration?***

In addition to specialized instruction, a student with an IEP is entitled to program supports identified as necessary by the IEP team.

**Accommodations:** Accommodations are a common component of Individualized Education Programs throughout the district. A general principle of accommodations is that they do not change the curriculum standard from that required of general education students. This means a student may receive supports, which alter the structure or format of the learning/performance situation but the expectation of learning mastery relative to all students does not change. The North Region SELPA’s IEP forms have a list of common accommodations and these may include:

- Extended time on tests/assignments.
- Preferential Seating.
- Books on Tape.
- Note taking Support.
- Use of graph paper.

**Modifications:** Modifications are a less common component of Individualized Education Programs throughout the district. A general principle of modifications is that they are a change to the curriculum standard from that required of general education students. As a result, modifications are noted on report cards. While a modification noted on a report card during elementary and middle school has no implication for postsecondary admissions, this changes when students enter high school. Most colleges and universities view modified curriculum/grades as unacceptable for entrance requirements.

Below is a list of typical modifications:

- Alterations to test standard .
- Dictation on an assignment or test that is measuring written expression skills.
- Exemption from class assignments determined essential by the classroom teacher.

**Assistive Technology:** For some students, technology will be of central importance to accessing their curriculum. For example, many students with hearing impairments receive the support of listening devices as part of the IEP. Other examples include the use of a word processor at a student's desk or the use of a classroom computer to assist with the writing process.

**Behavioral Interventions:** In the event that a student's behavior impedes the learning of self or others, the IEP team is required to develop a behavioral intervention plan. Such a plan will include identification of target behaviors and the strategies the team intends to implement in order to diminish the problem behavior(s).

**Functional Behavioral Assessment:** An evidence-based, analytical process based on observations, review of records, interviews and data analysis that is used to address student problem behavior. It strives to determine the immediate and immediate past antecedents and consequences supporting the problem behavior. This assessment is the first step in designing function-based interventions that promote educational success. FBA is necessary prior to identifying a functionally equivalent replacement behavior. PUSD staff or parents may initiate an FBA when a student's learning is being impacted by behavior.

**Transportation:** Special arrangements will be made if the IEP team determines that age, disability, or distance prevents your child from either walking to school or riding the city bus. Whenever possible, students are encouraged to use regular bus transportation.

## THE IEP PROCESS

### *What should I know which will increase my participation in the IEP process?*

In this section, we provide tips, strategies and information that will assist your full participation in the IEP process.

1. If, at any point, you do not understand something, ask that it be restated. Do not hesitate to ask for clarification of any detail. Ask for further discussion whenever necessary.
2. If you do not understand the meaning of an educational term, ask for an example or demonstration of what is meant.
3. Share relevant information about your child by contributing what you know about your child's skills, interests, weaknesses and strengths.
4. Prior to the meeting, make a list of questions and note any issues you feel are important to discuss. Ask in writing for copies of all reports and proposed goals to be sent home 2-3 days ahead of the IEP so that you can absorb the information at your own pace.
5. Take note of what regular school activities are included in the program for your child. Don't forget non-academic areas such as lunch and recess and other areas such as art, music, and physical education.
6. Be sure all services that are necessary to implement your child's educational program will be written into the IEP.
7. Ask yourself if what is planned corresponds to your knowledge of your child's ability. Bring a file of your child's work product so that you can show examples of work that illustrates your child's skill level. This is useful when the team appears to have a different picture of your child than you or when your child is not showing the same skill levels across all settings (doing better at home than at school, for example, or vice versa.)
8. Save all documents from the IEP process in a binder. This will help you to keep track of your student's program and the history of services. It is a good idea to make requests in writing (email is fine) and then to print and keep copies in a binder.
9. You may request to record the IEP, with 24 hours written notice to your district. You may request a translator. You may, again with notice to your district, bring an advocate or friend to assist you. You may also request that the district provide a facilitator for any IEP meeting, though this usually is called for only after an IEP meeting attempt failed to achieve an agreement. (See below for more information.)

10. Parents may sign the IEP at the meeting in three ways: 1. in agreement; 2. in partial agreement (be specific); or 3. indicating that they were present, but not agreeing yet to the IEP proposal. Parents may request to take the IEP proposal home for consideration, and may respond to the IEP proposal at a later date.

***How do I know if my child is eligible for Special Education services?***

Eligibility is a term with special legal meaning. A child's eligibility is determined by the IEP team after you provide consent to an assessment by the district.

***At what age can students become eligible for special education services?***

As early as infancy, if your child has been diagnosed with a low incidence disability such as deafness, blindness or orthopedic impairment. Otherwise, students may be found eligible as early as 3 years of age.

***Who determines my child's special educational eligibility/needs?***

You, working in cooperation with the IEP team, will determine your child's eligibility/needs. You may bring outside specialists and/or their reports to the IEP for consideration by the whole team.

***What should an assessment cover?***

The student is to be assessed in all areas related to the suspected disability including, where appropriate, health and development, vision (including low vision), hearing, motor abilities, language function, general ability, academic performance, self-help, orientation and mobility skills, career and vocational abilities and interest, and social and emotional status.

***Are there documents I may have that would help in the assessment process?***

Yes. Various professional reports, which you may have received on your child from other sources such as Regional Center reports, documentation of hearing and vision screenings, or any doctor's reports would help the assessment process. For example, speech and language, occupational and physical therapy, neurological or ophthalmological reports, and special medical reports are often useful. School districts ask you to share the other professional reports with them to assist in determining your child's needs.

***How often must assessments be completed?***

Complete re-evaluation must be considered at least every three years for individuals with exceptional needs. In addition, reevaluation may be conducted whenever the students' parents or teacher request, and when reevaluation appears to be needed for program planning.

***Is parental consent needed for reevaluation of my child?***

Yes. Parental consent is needed for any reevaluation of your child, not just the initial evaluation.

***If I think my 3-5 year old needs services, who should I contact?***

You should contact the Educational Services office at 594-2893.

***If my 3-5 year old child is eligible for services, where will he/she receive them?***

Your child, if eligible, may receive services at a public or private non-sectarian preschool, a child development center, family day care home, your own home, or a special preschool where both children with disabilities and children without disabilities attend. In California, the state can contract with Head Start programs to provide special education services to children between three and five years old.

***If my infant has been diagnosed with a disability such as orthopedic impairment, deafness or blindness?***

Your family may be eligible for services under Part C of IDEA through a program called Early Start. You should contact the Educational Services office at 594-2893. If your child has additional developmental delays these services may be provided through Regional Center of the East Bay. You can call (510) 618-6100. Medically necessary Physical and Occupational Therapy may be provided at no cost through California Children Services (510) 208-5970

***When can I call an IEP?***

Once a child is found eligible for special education and the IEP has been approved by the parent, there are predicted as well as sometimes unpredicted times when an IEP team needs to meet. You, as the parent, have the right to call an IEP meeting to review the program and progress of your child at any time.

The IEP team should meet when any of the following things happen:

1. Student demonstrates lack of expected progress in his/her program.
2. When any new assessments have been completed by the classroom teacher, nurse, psychologist, speech therapist, occupational therapist, adaptive physical education teacher, etc.
3. When a parent wants to revise, review, or develop new goals and objectives for the IEP.
4. When any change of program placement is requested.
5. At least one time per year to review the IEP (annual review).

### ***What steps should I take to call an IEP?***

1. Write a short letter requesting that an IEP meeting be scheduled. You should include the reason(s) for your request in that letter.
2. Send your letter to the principal of the school your child attends.
3. The office will set up the IEP meeting by calling or writing to your for convenient times, days, dates, and people you feel should attend the IEP meeting.
4. You will be notified in writing of the day, time, and location of the IEP meeting. The written notification should be signed and returned. The meeting should take place within 30 days of your request when school is in session.

## **Frequently Asked Questions Related to the IEP Process**

### ***What is an IEP?***

An IEP is an Individualized Educational Program specially designed to meet your child's Special Education needs. It will include present levels of education performance, annual goals, objectives, and indicate what services and/or special programs are needed to achieve the goals.

### ***What is a 504 Plan?***

Section 504 of the Americans with Disabilities Act provides that no program, including education programs, which receive federal money, may exclude a person with disabilities from participation in it solely by reason of his or her disability. While IDEA protects children in the area of education, Section 504 protects the disabled for life and encompasses the right to vote, education, accessibility, employment, etc. Some students who do not meet eligibility criteria for special education services may have a right to a 504 plan. PUSD Assessment is necessary for the development of a 504 plan.

### ***How are Goals Created?***

Assessments will describe a child's current functioning levels. The professionals will then propose goals they feel can be accomplished in one year by the child. Goals must be written in such a way that they are measurable and progress against the goals must be observable. Goals must state the settings in which they will be measured (in a special day class, a general education class, across all settings, etc.) and who will be responsible to deliver instruction described in the goal. Goals will help the team to choose an appropriate placement for the child.

You can read the California State Standards in order to get a sense of what the general education goals are by grade, and that may help you judge the proposed packet of goals. For children who are non-academic learners, there are other resources which describe life

skills milestones, which, again, may help you to participate in the creation of goals at the IEP.

### ***How are Parent's and Children's Rights Protected?***

Piedmont Unified School District wants to provide the best education possible for all students. In doing this, certain procedures must be kept in mind. The law requires that the districts shall establish procedures to protect the rights of disabled students and their parents or guardians; these procedures are called Procedural Safeguards and Parent Rights. These are described throughout this booklet as they pertain to the different topics discussed. In addition, you can find a copy of parent rights in Appendix A of this handbook. Below, are highlights for your consideration.

Parents/Students have the right to:

1. Written prior notice for evaluation or change of educational placement of an exceptional student. The current IEP is the document which sets the placements, and these may not be changed without a new agreement. Parents may invoke the right of Stay Put, to keep a child in a current placement until a new IEP is agreed to (however, suspension and expulsion may impact placement);
2. Written permission of the student's parent(s) or guardian (or of the student, if age 18 years) to begin a diagnostic evaluation of a student, or a change in the educational placement of your student;
3. The right of the parent(s) or guardian (or student, if age 18 years) to examine all reports and educational records of the student with regard to evaluation and the provision of a free, appropriate public education. This includes access to your child's special ed file and to the District cumulative file of all documents relating to your child;
4. The right of parent(s) to an independent evaluation of the student. This right may be invoked at any time at the parent's expense, or, with notice to the District when parents disagree with the findings of the District assessment team. In such instances, the costs of the outside assessment may be assumed by the District if the outside findings are significantly different from the District reports. Please refer to the North Region SELPA IEE Policy for further information.
5. The right to have a copy of the IEP provided at no cost, and when requested, in the primary language of the parent;
6. Confidentiality of records and other information regarding the student. The right to Family Educational Rights and Privacy Act of 1974 (FERPA) assures families that District personnel will protect the privacy of your child. FERPA protects the privacy of education records, establishes the right of parents or eligible students to inspect and review their education records, and provides guidelines for the correction of inaccurate and misleading data through informal and formal hearings. Parents may choose whether

or not to sign releases allowing the District to share information with outside agencies; parents may opt to allow the sharing of information on a case-by-case basis, versus signing a general release, as a means of assuring accuracy and privacy.

7. The right to an impartial Due Process hearing regarding the identification, evaluation, placement, and provision of a free, appropriate public education for your student. Parents may also consult the California Department of Education for information on filing compliance complaints;

8. The right to electronically record the proceedings of the IEP meetings with at least 24 hours prior notification given to the district.

***What standard of service does my child have a right to?***

The U.S. Supreme Court issued a decision in the Rowley case, which declares that under federal law an "appropriate" educational program and placement is one which provides services to the disabled student sufficient for him/her to obtain "educational benefit." It does not entitle the student to the "best" possible educational program or a "potential maximizing" education. The plan of instruction and placement should be likely to result in educational progress not regression- or trivial educational advancement.

***If dissatisfaction/disagreement arises and if I believe my child is not receiving the services agreed upon in the IEP?***

Contact your child's special education teacher or a site administrator. If need be, you should request an IEP meeting.

***If I am not happy with my child's progress, whom do I contact first? If I still do not get the situation satisfactorily resolved, to whom can I speak?***

First, contact your child's teacher. If you are not able to resolve the problem, then speak to the principal. If need be, you should request an IEP meeting.

***If I am not happy with my child's special education placement, what can I do?***

Call your school principal to request an IEP meeting to consider other alternatives.

***What happens if I don't agree with all or part of the IEP? What are my options?***

Under California law, a student with disabilities is not allowed to participate in any part of a special education program without written parental consent to the IEP. If you do not agree with an IEP, you can refuse to sign it altogether, or you can consent only to the parts with which you agree and specifically state your disagreement with other parts. In the latter case, only those components of the IEP to which you have consented will be implemented. If this is not your first IEP, the last signed IEP will be in affect until you sign the new IEP.

***I agreed with the IEP when it was written, but I no longer think it is appropriate. What can I do?***

If you are convinced your child's IEP is no longer appropriate, you can request a new IEP meeting.

***Can I change my mind after I sign the IEP document?***

Yes. When a parent has changed his/her mind, he/she may revoke his/her consent at any time and should immediately send a written revocation of consent to the special education administrator who represented the school district at the IEP meeting and ask that a new IEP meeting be scheduled as soon as possible. [A parent is entitled to an IEP review meeting within 30 days of a written request, not counting days over the two-week winter break and summer recess.]

***I have tried to resolve my concerns through the IEP process and do not believe they have been adequately resolved?***

You may contact the North Region SELPA at 525-9800 and request Alternative Dispute Resolution (ADR). This is a problem-solving process mediated by a two-person mediation team provided free-of-charge. If your issue is not adequately resolved through the ADR process, you may wish to review your due process rights which are explained in your copy of Parent's Rights and District Responsibilities. The California Department of Education also may be able to assist you online at its Quality Assurance and Compliance site. Visit <http://www.cde.ca.gov/sp/se/qa/> for more information.

***If I want to visit the school program or my child's classes, what procedures do I follow?***

Call the school where your child attends; they will help arrange a convenient time for both you and the teacher.

***If I want extra conferences about my child's progress, what can I do?***

Contact your child's teacher, special education case manager, and/or the site principal.

***Can you explain the Procedural Essentials? And what laws govern special education?***

In 2004, after much input from educators, parents, and policymakers, the Individuals with Disabilities Education Improvement Act (IDEA 2004) was approved. This revision of IDEA '97 continues to be the central body of legislation that governs the responsibilities of school districts to provide equal opportunity for educational benefit to students with disabilities. These responsibilities are further guided by state law, which together with federal regulations establishes the full responsibilities school districts have to serve students with disabilities.

### ***What is Special Education, legally speaking?***

The California Education Code (section 56031) defines special education as:

"... specially designed instruction, at no cost to the parents, to meet the unique needs of individuals with exceptional needs whose educational needs cannot be met with modification of the regular instruction program, and related services, at no cost to the parent, that may be needed to assist these individuals to benefit from specially designed instruction. "

Special education is an integral part of the total public education system. Other features of special education include:

- 1 . It is provided in a way that promotes maximum interaction between students with and without disabilities in a manner which is appropriate to the needs of both.
2. Special education provides a full continuum of program options, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and instruction in physical education, to meet the educational and service needs of individuals with exceptional needs in the least restrictive environment.
3. Individuals with exceptional needs shall be grouped for instructional purposes according to their instructional needs.

### ***Referral and Assessment***

**All schools in PUSD are committed to the Student Study Team (SST) process for supporting students who are not making sufficient progress. Parents can request that a SST meeting be convened as well as your student's teacher or school principal.**

**The team may decide that modifications of the general education program are appropriate to address your child's needs. If so, these modifications or interventions will be documented and monitored. If the interventions are not successful, the SST will meet again. The SST may then decide to refer your child for a special education assessment and complete the Referral for Assessment Form.**

**If the team decides that it is appropriate to conduct an assessment, they will then development an assessment plan based on the identified concerns and the area(s) of suspected disability.**

**Another way to seek help is to make a written request for special education assessment to the school principal or your student's teacher**

**Referral** - The IEP process begins with a referral for assessment. A referral for assessment means any written request for assessment to identify an individual with exceptional needs made by any of the following:

(a) A parent or guardian of the individual. (b) A teacher or other service provider of the individual. (c) A foster parent of the individual, consistent with the limitations contained in federal law. (30 EC 56029)

**Assessment Plan** - Once a child has been referred for assessment, the Local Education Agency (aka. Piedmont Unified School District) must provide a parent with an assessment plan within 15 days of the written referral. The assessment plan "...shall include all areas related to the suspected disability by those qualified to make a determination of the child's need for the service before any action is taken with respect to the provision of related services or designated instruction and services to a child, including, but not limited to, services in the areas of, occupational therapy, physical therapy, psychotherapy, and other mental health assessments . . . (1 GC 7572)."

**\*\*\*The assessment process cannot begin until parents have provided written consent, by signing and returning the district's assessment plan.**

Once the signed assessment plan is received by the district, the assessment team has 60 days to convene an Individualized Education Program (IEP) meeting and determine eligibility, programs, and services.

### ***Members of the IEP Team***

Once the assessment is complete, an IEP meeting is held.

The IEP team shall include all of the following (30 EC 56341):

- (1) One or both of the pupil's parents, a representative selected by a parent, or both
- (2) Not less than one regular education teacher of the pupil, if the pupil is, or may be, participating in the regular education environment. If more than one regular education teacher is providing instructional services to the individual with exceptional needs, one regular education teacher may be designated by the Local Educational Agency to represent the others.

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

(3) Not less than one special education teacher of the pupil, or if appropriate, not less than one special education provider of the pupil.

(4) 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 described in paragraphs (2) to (6), inclusive.

(6) At the discretion of the parent, guardian, or the Local Educational Agency, other individuals who have knowledge or special expertise regarding the pupil, including related services personnel, as appropriate. The determination of whether the individual has knowledge or special expertise regarding the pupil shall be made by the party who invites the individual to be a member of the IEP team.

(7) Whenever appropriate, the individual with exceptional needs.

At the initial IEP meeting, the assessment team provides its results and discusses eligibility for special education.

### ***Eligibility and Criteria:***

A pupil shall qualify as an individual with exceptional needs if the results of the assessment demonstrate that the degree of the pupil's impairment requires special education. The decision as to whether or not the assessment results demonstrate that the degree of the pupil's impairment requires special education shall be made by the IEP team, including assessment personnel. The IEP team shall take into account all the relevant material which is available on the pupil. No single score or product of scores shall be used as the sole criterion for the decision of the IEP team as to the pupil's eligibility for special education.

(1) 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. (Hearing Impaired).

(2) A pupil has concomitant hearing and visual impairments, the combination of which causes severe communication, developmental, and educational problems. (Vision and Hearing Impaired).

- (3) A pupil has a language or speech disorder. (Language Impairment)
- (4) A pupil has a visual impairment which, even with correction, adversely affects a pupil's educational performance. (Visual Impairment)
- (5) 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. (Orthopedic Impairment).
- (6) A pupil has limited strength, vitality or alertness, due to chronic or acute health problems, including but not limited to a attention deficit disorder, heart condition, cancer, leukemia, rheumatic fever, chronic kidney disease, cystic fibrosis, severe asthma, epilepsy, lead poisoning, diabetes, tuberculosis and other communicable infectious diseases, and hematological disorders such as sickle cell anemia and hemophilia which adversely affects a pupil's educational performance. (Other Health Impaired)
- (7) A pupil exhibits autistic-like behaviors. (Autism Spectrum Disorder)
- (8) 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. (Intellectual Disability).
- (9) A pupil exhibits a serious emotional disturbance (ED).
- (10) 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. (Specific Learning Disability).
- (11) A pupil has a traumatic brain injury.
- (12) A pupil has multiple disabilities.

If a student is found eligible for services and supports, then the team must develop an IEP.

## ***IEP Components***

The IEP must contain the following components (30 EC 56345):

(1) A statement of the individual's present levels of academic achievement and functional performance, including the following:

a. The manner in which the disability of the individual affects his or her involvement and progress in the general education curriculum.

b. For preschool children, as appropriate, the manner in which the disability affects his or her participation in appropriate activities.

c. For individuals with exceptional needs who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.

(2) A statement of measurable annual goals, including academic and functional goals, designed to do the following:

(a) Meet the individual's needs that result from the individual's disability to enable the pupil to be involved in and make progress in the general curriculum.

(b) Meet each of the pupil's other educational needs that result from the individual's disability.

(3) A description of the manner in which the progress of the pupil toward meeting the annual goals described in paragraph (2) will be measured and when periodic reports on the progress the pupil is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards, will be provided.

(4) A statement of the special education and related services and supplementary aids and services, on peer-reviewed research to the extent practicable, to be provided to the pupil, or on behalf of pupil, and a statement of the program modifications or supports for school personnel that will be provided to the pupil to do the following:

(a) To advance appropriately toward attaining the annual goals.

(b) To be involved in and make progress in the general education curriculum in accordance with paragraph (1) and to participate in extracurricular and other nonacademic activities.

(c) To be educated and participate with other individuals with exceptional needs and non-disabled pupils in the activities described in this subdivision.

(5) An explanation of the extent, if any, to which the pupil will not participate with non-disabled pupils in the regular class.

(6) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the pupil on state and district- wide assessments.

(7) The projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications.

In order for the initial IEP to be implemented, a parent must sign in agreement on the IEP document. A parent may indicate partial agreement. Parents may request to take the IEP proposal home for consideration, and may respond to the IEP proposal at a later date.

### ***After Your Student's Initial IEP***

Upon completion of the initial IEP, service providers will be responsible to provide you with progress towards goals at least as often as progress reports are provided to all students.

The IEP team will reconvene at least annually and your student will be reassessed to determine eligibility every three years unless the team agrees that further assessment is unnecessary to re-establish eligibility and update the IEP.

Parents may request, in writing, an IEP meeting at any time and the district will schedule such meeting within 30 days. This request should be provided to your student's special education teacher or a site administrator.

### ***How do I read and understand academic testing reports?***

In general, academic achievement tests measure how much a student has learned in a given content area. Both informal tests and formal tests are used for evaluation. Informal tests, such as the Qualitative Reading Inventory, measure a child's knowledge against a criterion, or set, established performance standard. These informal or criterion tests tell how much of the subject matter the person knows, and suggest what should be taught next. Although these tests are deemed informal, much care has been given to their development.

The other, formal type of test is called a normed or standardized test. A norm is a designated standard of the average performance of people of a given age, background, etc. Scores are based on a procedure for comparing the test-taker's performance to the performance of some well-defined group; part of the normative sample. For instance, the

Woodcock-Johnson data were gathered from a sample of 6,359 people, from 24 months to 95 years old. They were balanced according to national distributions of sex, race, occupation, geographic location and type of community. They came from all over the U.S.

Scores for these formal or standardized tests are expressed in a variety of ways. Percentile ranks and standard scores are peer comparison statements that describe the test-taker's standing in a group.

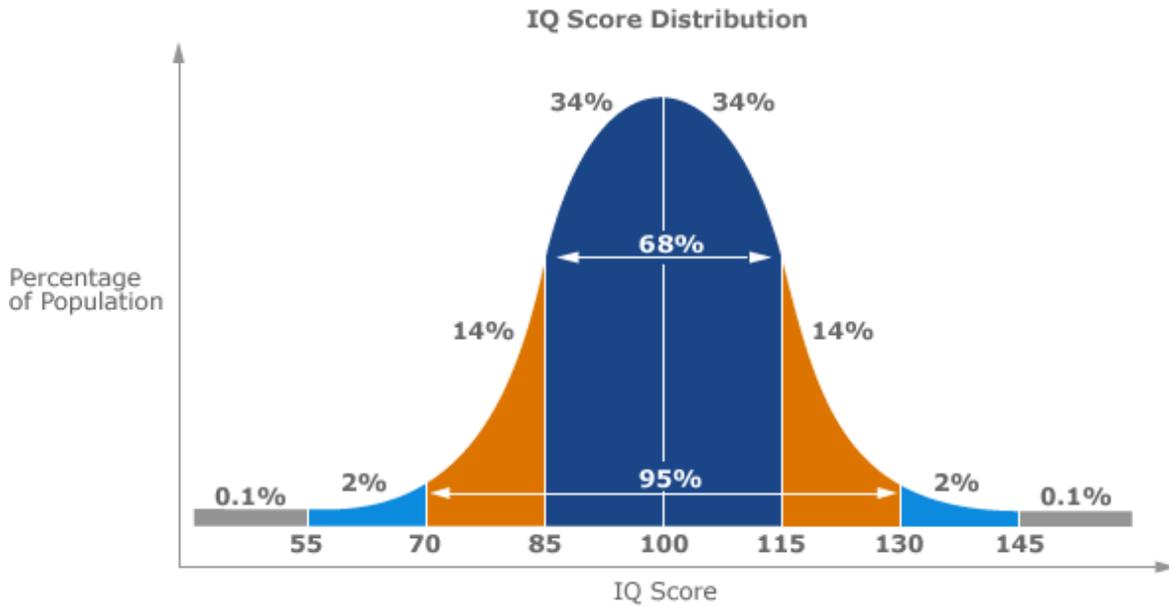
A percentile score shows, for instance, that if a student age 6 years has a percentile rank of 70 on a subtest, 70% of the 6 year old students in the standardization sample scored as well as, or lower than, our student, and 30% of the students in the standardization sample scored higher. Percentile scores do not form an equal increment scale, the way standard scores do, but percentile scores are usually easier to understand. With percentile scores the center of the curve may be 50%. 100% is a "Perfect" score. But nobody gets a perfect score. Just as the ends of the bell curve extend in theory to infinity, never touching the baseline, so the percentile ranks and the extended percentile ranks may reach 99% or 99.9%, but never 100%.

Standard scores form a bell shaped curve. (See illustration below.) The center of the curve is the score 100, and "perfect" varies with the test. It may be, for instance, 140 or 160. A standard score of 100 is at the 50th percentile.

Standard scores have a standard deviation of 15. About 68% of the norm sample population scores between 85 and 115 (one standard deviation on each side of 100; the center of the bell-shaped curve). 95% of the norm sample population scores between 70 and 130 (2 standard deviations on each side of the center of the curve or the mean). The illustration below shows how these percentages and standard deviations look on the bell shaped curve.

Scaled scores are used to show results for subtests containing too few items to provide the broad distribution needed for standard scores with a mean of 100 and a standard deviation of 15. Scaled scores have a mean of 10 and a standard deviation of 3. They approximate a normal distribution, like the standard scores, and so 68% of the relevant group will score within one standard deviation of the mean (7-13), 95% will score within 2 standard deviations, and 99% will score within 3 standard deviations.

Grade and age equivalents are often felt to be more understandable by lay people; however, they can be misleading for interpreting performance, for several reasons. They can't be compared across subtests, they don't form equally spaced units throughout the scale, and they are easily misinterpreted. For instance, if a 5th grader scored a grade-equivalence of 9.2 on a given sub-test, this means they scored about the same as the average student in the second month of ninth grade would score on this subtest. It does not mean that this 5th grader is performing at a level consistent with curricular expectations at his or her school.



In another example, if a 10 year old scores a 6.8 age equivalent on a certain subtest, this means that the average student age 6 years, 8 months, would get the same score. Obviously, this 10 year old knows many things beyond the general knowledge of the average child age 6.8. These discrepancies are compounded at higher grade levels, where the variety of, for instance, mathematics classes, further separates student skills. Because of the danger of misinterpretation, these grade and age equivalencies are de-emphasized in most reports.

## **RESOURCES FOR PARENTS (WITH HELPFUL CONTACT INFORMATION)**

Piedmont Resource Parents: Call Martha Schultz at North Region SELPA (510) 337-2352 and request the name and number of a resource parent in Piedmont. Resource parents have received special training in assisting families to access special education services and provide confidential assistance to families free of charge.

PRAISE: Piedmonters for Resources, Advocacy and Information in Special Education. Piedmont's parent organization dedicated to providing information and mentoring parent-to-parent, advocacy as a group for the improvement of special education in our town, and grant-making to our schools to support their efforts. [www.piedmontpraise.org](http://www.piedmontpraise.org)

Wrightslaw at [www.wrightslaw.com](http://www.wrightslaw.com); Wrightslaw links to Yellow Pages for Special Ed Services Providers in Northern California, including neuropsychologists, educational consultants, advocates, attorneys, specialists, etc.

Advocacy Bazon Center for Mental Health Law [www.bazon.org](http://www.bazon.org)

Center for Law and Education [www.cleweb.org](http://www.cleweb.org)

Community Alliance For Special Education (415) 431-2289 [www.caseadvocacy.org](http://www.caseadvocacy.org)

Disability Rights Education and Defense Fund [www.dredf.org](http://www.dredf.org)

Family Resource Network [www.frnoakland.org](http://www.frnoakland.org)

Family Voices of California [www.familyvoicesofca.org](http://www.familyvoicesofca.org)

National Center for Youth Law [www.youthlaw.org](http://www.youthlaw.org)

Disability Rights California (formerly Protection and Advocacy)  
[www.disabilityrightsca.org](http://www.disabilityrightsca.org)

Attention Deficit Disorder Children and Adults with Attention Deficit Disorder (CH.A.D.D.) (510)291-2950 [www.chadd.org](http://www.chadd.org)

The National Attention Deficit Disorder Association (ADDA) [www.add.org](http://www.add.org)

Autism Research Institute [www.autism.com/ari](http://www.autism.com/ari)

Autism Society of America (800) 328-8476 [www.autism-society.org](http://www.autism-society.org)

Autism Speaks [www.autismspeaks.org](http://www.autismspeaks.org)

CADDRE (510) 620-3700 [www.ehib.org/CADDRE](http://www.ehib.org/CADDRE)

Cure Autism Now (888) 828-8476 [www.cureautismnow.org](http://www.cureautismnow.org)

Online Asperger Syndrome Information and Support (OASIS)  
[www.udel.edu/bkirby/asperger/](http://www.udel.edu/bkirby/asperger/)

Bay Area Resources Alameda County Department of Public Health (510) 267-8000  
[www.acphd.org](http://www.acphd.org)

Alameda County Special Olympics (510) 553-9833 [www.specialolympics.org](http://www.specialolympics.org)

Bay Area Outreach and Recreation Program [www.borp.org](http://www.borp.org)

Center for Independent Living (510) 841-4776 [www.cilberkeley.org](http://www.cilberkeley.org)

East Bay Learning Disabilities [www.eastbaylda.org](http://www.eastbaylda.org)

FamilyPaths (formerly Parental Stress Services) (510) 893-5444 [www.familypaths.org](http://www.familypaths.org)

Through the Looking Glass(510) 848-1112 [www.lookingglass.org](http://www.lookingglass.org)

Disabilities Information Blind Babies (415) 586-6140 [www.blindbabies.org](http://www.blindbabies.org)

Council for Exceptional Children (888) 232-7733 [www.cec.sped.org](http://www.cec.sped.org)

Down Syndrome Connection (925) 362-8660 [www.downsyndromeconnection.org](http://www.downsyndromeconnection.org)

Epilepsy Foundation of Northern California (800) 632-3532  
[www.epilepsyfoundation.org/norcal](http://www.epilepsyfoundation.org/norcal)

Federation for Children with Special Needs [www.fcsn.org](http://www.fcsn.org)

National Information Center for Children and Youth with Disabilities [www.nichcy.org](http://www.nichcy.org)

Project: Circle of Inclusion Web site [www.circleofinclusion.org](http://www.circleofinclusion.org)

United Cerebral Palsy of the Golden Gate (510) 832-7430  
[www.ucp.org/ucp\\_local.cfm/35](http://www.ucp.org/ucp_local.cfm/35)

Federal, State, and Local Government Education Departments Alameda County Office of  
Education (510) 887-0152 [www.acoe.k12.ca.us](http://www.acoe.k12.ca.us)

California Department of Education <http://www.cde.ca.gov>

Piedmont Unified School District (510) 594-2600 [www.piedmont.k12.ca.us](http://www.piedmont.k12.ca.us)

U.S. Department of Education Office of Special Education and Rehabilitation Services  
[www.ed.gov/about/offices/list/osers/osep](http://www.ed.gov/about/offices/list/osers/osep)

Service Provider Agencies Regional Center of the East Bay (510)383-1200  
[www.rceb.org](http://www.rceb.org) California Children's Services (510) 208-5970  
[www.dhs.ca.gov/pcfh/cms/ccs](http://www.dhs.ca.gov/pcfh/cms/ccs)

Gifted Education ERIC Clearinghouse on Disabilities and Gifted Education  
<http://www.cec.sped.org> National Association for Gifted Children <http://www.nagc.org>

Learning Disabilities All Kinds of Minds [www.allkindsofminds.org](http://www.allkindsofminds.org)

International Dyslexia Association <http://interdys.org>

LdOnline <http://www.ldonline.org> Learning Disabilities Association of America  
<http://www.ldanatl.org>

National Center for Learning Disabilities <http://www.ncld.org> Schwab Foundation for Learning <http://www.schwablearning.org>

Technology Alliance for Technology Access (707) 778-3011 <http://www.ataccess.org>

# APPENDIX A: SPECIAL EDUCATION RIGHTS OF PARENTS AND CHILDREN

Under the Individuals with Disabilities Education Act, Part B, and the California Education Code

## • Notice of Procedural Safeguards • Revised January 2009

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

### What is the Notice of Procedural Safeguards?

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

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

The first time your child is referred for a special education assessment

Each time you are given an assessment plan to evaluate your child

Upon receipt of the first state or due process complaint in a school year, and

When the decision is made to make a removal that constitutes a change of placement

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

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

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

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

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

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

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

### **Where can I get more help?**

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

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

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

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

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

### **Prior Written Notice**

#### **When is a notice needed?**

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

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

#### **What will the notice tell me?**

The Prior Written Notice must include the following:

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

## **Parental Consent**

### **When is my approval required for assessment?**

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

### **When is my approval required for services?**

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

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

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

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

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

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

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

### **When may I revoke consent?**

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

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

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

### **Surrogate Parent Appointment**

#### **What if a parent cannot be identified or located?**

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

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

## **Nondiscriminatory Assessment**

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

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

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

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

## **Independent Educational Assessments**

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

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

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

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

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

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

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

### **Access to Educational Records**

#### **May I examine my child's educational records?**

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

### **How Disputes Are Resolved**

#### **Due Process Hearing**

##### **When is a due process hearing available?**

You have the right to request an impartial due process hearing regarding the identification, assessment, and educational placement of your child or the provision of FAPE. The request for a due process hearing must be filed within two years from the date you knew or should have known about the alleged action that forms the basis of the due process complaint. (20 USC 1415[b][6]; 34 CFR 300.507; EC 56501 and 56505[1])

#### **Mediation and Alternative Dispute Resolution**

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

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

##### **What is a pre-hearing mediation conference?**

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

At the prehearing mediation conference, the parent or the school district may be accompanied and advised by non-attorney representatives and may consult with an

attorney prior to or following the conference. However, requesting or participating in a prehearing mediation conference is not a prerequisite to requesting a due process hearing. All requests for a prehearing mediation conference shall be filed with the Superintendent. The party initiating a prehearing mediation conference by filing a written request with the Superintendent shall provide the other party to the mediation with a copy of the request at the same time the request is filed.

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

## **Due Process Rights**

### **What are my due process rights?**

You have a right to:

1. Have a fair and impartial administrative hearing at the state level before a person who is knowledgeable of the laws governing special education and administrative hearings (20 USC 1415[f][1][A], 1415[f][3][A]-[D]; 34 CFR 300.511; EC 56501[b][4])
2. Be accompanied and advised by an attorney and/or individuals who have knowledge about children with disabilities (EC 56505 [e][1])
3. Present evidence, written arguments, and oral arguments (EC 56505[e][2])
4. Confront, cross-examine, and require witnesses to be present (EC 56505[e][3])
5. Receive a written or, at the option of the parent, an electronic verbatim record of the hearing, including findings of fact and decisions (EC 56505[e][4])
6. Have your child present at the hearing (EC 56501[c][1])
7. Have the hearing be open or closed to the public (EC 56501[c][2])
8. Receive a copy of all documents, including assessments completed by that date and recommendations, and a list of witnesses and their general area of testimony within five (5) business days before a hearing (EC 56505[e][7] and 56043[v])

9. Be informed by the other parties of the issues and their proposed resolution of the issues at least ten (10) calendar days prior to the hearing (EC 56505[e][6])
10. Have an interpreter provided (CCR 3082[d])
11. Request an extension of the hearing timeline (EC 56505[f][3])
12. Have a mediation conference at any point during the due process hearing (EC 56501[b][2]), and
13. Receive notice from the other party at least ten days prior to the hearing that the other party intends to be represented by an attorney (EC 56507[a]). (20 USC 1415[e]; 34 CFR 300.506, 300.508, 300.512 and 300.515)

### **Filing a Written Due Process Complaint**

#### **How do I request a due process hearing?**

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

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

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

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

### **What does a resolution session include?**

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

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

### **Does my child's placement change during the proceedings?**

The child involved in any administrative or judicial proceeding must remain in the current educational placement unless you and the school district agree on another arrangement.

If you are applying for initial admission of your child to a public school, your child will be placed in a public school program with your consent until all proceedings are completed. (20 USC 1415[j]; 34 CFR 300.518; EC 56505[d])

### **May the decision be appealed?**

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

### **Who pays for my attorneys' fees?**

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

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

1. The court finds that you unreasonably delayed the final resolution of the controversy;

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

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

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

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

Office of Administrative Hearings

Attention: Special Education Division

2349 Gateway Oaks Drive, Suite 200

Sacramento, CA 95833-4231

(916) 263-0880

FAX (916) 263-0890

## **School Discipline and Placement Procedures for Students with Disabilities**

### **School Discipline and Alternative Interim Educational Settings**

#### **May my child be suspended or expelled?**

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

An appropriate interim alternative education setting, another setting, or suspension for not more than ten (10) consecutive school days, and

Additional removals of not more than ten (10) consecutive school days in the same school year for separate incidents of misconduct

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

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

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

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

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

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

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

Regardless of the setting the school district must continue to provide FAPE for your child.

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

### **Children Attending Private School**

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

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

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

#### **When may reimbursement be reduced or denied?**

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

At the most recent IEP team meeting you attended before removing your child from the public school, or

In writing to the school district at least ten (10) business days (including holidays) before removing your child from the public school. (20 USC 1412[a][10][C]; 34 CFR 300.148; EC 56176)

**When may reimbursement not be reduced or denied?**

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

The school prevented you from providing notice

You had not received a copy of this Notice of Procedural Safeguards or otherwise been informed of the requirement to notify the district

Providing notice would likely have resulted in physical harm to your child

Illiteracy and inability to write in English prevented you from providing notice, or

Providing notice would likely have resulted in serious emotional harm to your child

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

**State Complaint Procedures**

**When may I file a state compliance complaint?**

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

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

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

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

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

### **Glossary of Abbreviations Used in This Notification**

ADR Alternative Dispute Resolution

CFR: Code of Federal Regulations

EC California Education Code

FAPE Free Appropriate Public Education

IDEA Individuals with Disabilities Education Act

IEP Individualized Education Program

OAH: Office of Administrative Hearings

SELPA: Special Education Local Plan Area

USC: United States Code