

SPECIAL EDUCATION IN CALIFORNIA



INSIDE:

Advocacy & Organizing • Current Trends • Law



Special Education in California

Introduction

Founded in 1863, the California Teachers Association has become one of the strongest advocates for educators in the country. CTA includes teachers, counselors, school librarians, social workers, psychologists, and nurses. These educators in the K-12 school system are joined by community college faculty, California State University faculty, and education support professionals to make CTA the most inclusive and most powerful voice of educators in the state.

This guide is a user-friendly resource to assist educators, CTA leaders, and local bargaining teams to advocate for members and students with disabilities. This resource guide was created by the CTA State Council Special Education Committee during 2010-2011 and reflects CTA's commitment to strengthen support for both general and special educators. Collaboration between teachers, students and parents can enhance the teaching and learning of all California's public education students

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SPECIAL EDUCATION REGULATIONS AND LAWS

Special Education

Special Education means specifically designed instruction and related services, at no cost to the parent, to meet the unique educational needs of individuals with exceptional needs, whose educational needs cannot be completely met with modification of the general instructional program. Special Education provides a full continuum of program options to meet the educational and service needs of individuals with exceptional needs in the least restrictive environment. This instruction can include a special education classroom, resource specialist program, general education setting, pull-out program, home instruction, instruction in hospital, and institutions. (Ed. Code 56031, CFR Part 300.26)

Special Education is based on three important concepts: individualized instruction, a continuum of program options and services, and Least restrictive environment (LRE). In order to meet the needs of all students with disabilities a continuum of services or placement options are necessary. These placement options can range from general education, resource specialist program, special education classroom to residential setting. The IEP team decides the appropriate placement, services and setting for each individual student. This brings in the consideration of “least restrictive environment” or “LRE”. Least restrictive environment is a legal term that refers to the idea that children with disabilities should be educated with their nondisabled peers to the maximum extent appropriate depending upon the nature and severity of their needs. (34 CFR 300.14) LRE is defined differently for each student depending on their unique needs. Districts are required by law to maintain a continuum of placement options. This ensures that students with disabilities are served in the least restrictive environment that is appropriate to their needs and this is determined on a student by student basis by the IEP team.

Individuals with Disabilities Education Act (IDEA)

IDEA was originally enacted by Congress in 1975 to ensure that children with disabilities have the opportunity to receive a free and appropriate public education, just like other children. The law has been revised many times over the years. The most recent amendments were passed by Congress in December 2004, with final regulations published in August 2006. So, in one sense, the law is very new, even as it has a long, detailed, and powerful history. IDEA 2004 is divided into four parts, as follows:

Part A – General Provisions, which includes findings of Congress, the purposes of IDEA, and key definitions;

Part B – Assistance for Education of All Children with Disabilities, which describes the processes that states and school systems must use to identify children with disabilities and educate them, including preschoolers, as well as such other critical areas as parent and student rights;

Part C – Infants and Toddlers with Disabilities, which describes the responsibilities that states have for providing early intervention services to babies and toddlers with disabilities or developmental delays;

Part D – National Activities to Improve Education of Children with Disabilities, which authorizes programs meant to improve outcomes for children with disabilities, including teacher training programs and parent information and training centers (PTIs) in every state that help states, locales, and families implement IDEA

IDEA establishes six guiding principles that are key to understanding the intent and spirit of the law. The principles include:

- Free and Appropriate Public Education (FAPE)
- Appropriate evaluation

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- Individualized Education Program (IEP)
- Least Restrictive Environment (LRE)
- Parent and student participation in decision making
- Procedural safeguards (Public Law PL 105-17)

Access to and participation in the general education curriculum does not occur solely because a student is placed in a general education classroom, but rather when students with disabilities are actively engaged in learning the content and skills that define the general education curriculum. Meaningful access to the general education curriculum means that a student with a disability has the appropriate supports, services and accommodations to address his or her disability in consideration of the content of the curriculum, instructional materials, how the curriculum is taught to the student, the physical environment and how the student's learning is measured.

It is the consideration of the individual needs of the student and the support, services and/or modifications needed to the general education curriculum, instructional methods, instructional materials and/or instructional environment that determine which of the service delivery options would be most appropriate to assist the student to meet his/her annual goals and to meet California State Academic Content Standards.

According to the U.S. Department of Education Program, Office of Special Education and Rehabilitative Services' [Guide to the Individualized Education Program](#), each public school child who receives special education and related services must have an Individualized Education Program (IEP). Each IEP must be designed for one student and

must be a truly individualized document. The IEP creates an opportunity for teachers, parents, school administrators, related services personnel, and students (when appropriate) to work together to improve educational results for children with disabilities. The IEP is the cornerstone of a quality education for each child with a disability. (For more information, see the USDOE's [A Guide to the Individualized Education Program](http://ed.gov/parents/needs/speced/iepguide) at <http://ed.gov/parents/needs/speced/iepguide>).

To create an effective IEP, parents, teachers, other school staff, and often the student as appropriate, are required to examine the student's unique needs. These individuals pool knowledge, experience and commitment to design an educational program that will help the student be involved and progress in the general curriculum. The IEP guides the delivery of special education supports and services for the student with a disability.

By law, the IEP must include certain information about the child and the educational program designed to meet his or her unique needs as determined by the IEP team. This information includes:

- current performance
- annual goals
- special education and related services
- participation with nondisabled children
- participation in state and district-wide tests

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- dates of service
- places services will be provided
- transition service needs
- measuring progress

For information regarding IEPs, please refer to the “Frequently Asked Questions” section of this document.

RESPONSE TO INTERVENTION

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Response to Intervention (RtI) is the practice of (1) providing high-quality instruction/intervention matched to student needs and (2) using learning rate over time and level of performance to (3) make important educational decisions. RtI is cited in the reauthorization of the Individuals with Disabilities Education Act (IDEA) of 2004 related to the determination of Specific Learning Disability (SLD) and 34 Code of Federal Regulations sections 300.307, 300.309, and 300.311.

ACADEMIC SYSTEMS

TIER 3 Intensive, Individual Interventions

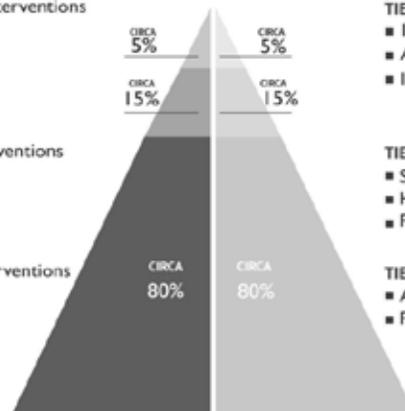
- Individual students
- Assessment-based
- High intensity
- Of longer duration

TIER 2 Targeted Group Interventions

- Some students (at-risk)
- High efficiency
- Rapid response

TIER 1 Core Instructional Interventions

- All students
- Preventive, proactive



BEHAVIORAL SYSTEMS

TIER 3 Intensive, Individual Interventions

- Individual students
- Assessment-based
- Intense, durable procedures

TIER 2 Targeted Group Interventions

- Some students (at-risk)
- High efficiency
- Rapid response

TIER 1 Core Instructional Interventions

- All settings, all students
- Preventive, proactive

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The California Department of Education (CDE) has squared the term RtI to Response to Instruction and Intervention (RtI²) to define a general education approach of high quality instruction, early intervention, and prevention and behavioral strategies. RtI² offers a way to eliminate achievement gaps through a school-wide process that provides assistance to every student, both high achieving and struggling learners. It is a process that utilizes all resources within a school and district in a collaborative manner to create a single, well-integrated system of instruction and interventions informed by student outcome data. (For more information, refer to the CDE Advisory on RtI² in the Appendix of this document.)

CURRENT TRENDS IN SPECIAL EDUCATION

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School reform initiatives and challenging economic times are transforming the landscape of special education service delivery. Some local education agencies have claimed broad legal latitude to create new instructional delivery options that they deem appropriate to meet students' needs. The inappropriate actions by districts in response to budget struggles and reform have created confusion about what constitutes appropriate Service Delivery Models for Students with Disabilities.

The driving force behind creating any new service delivery model should focus on improving student achievement and providing instruction in the Least Restrictive Environment. These changes have raised very serious concerns for special educators about caseload, class sizes, lack of time to provide services to students, increased workload, and lack of involvement in the planning process. The CTA State Council Special Education Committee designed and administered a statewide online survey regarding Special Education Service Delivery. The survey collected valuable data from 5,601 respondents from August 11, 2010 through December 1, 2010. Over half of the survey respondents, or 60.6%, were general educators and 34.5% were special educators.

The survey respondents indicated that the changes to the special education service delivery model used at their school has impacted the delivery of instruction for both general and special education students in the following manner:

- 60% of respondents communicated there was an increase in the number of special education students in general education classes;
- 32% of respondents indicated that students in special education are not receiving services needed to be successful;
- 59% indicated an increase in the workload of general educators and 58% indicated an increase in the workload of special educators;

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- Almost half of the respondents indicated that special education students were moved into general education classes without adequate training having been provided to the general education staff.

Specially Designed Instruction

Specially-designed instruction means adapting, as appropriate, to the needs of an eligible student, the content, methodology, or delivery of instruction to address the unique needs that result from the student's disability, and to ensure access by the student to the general curriculum, so that he or she can meet the educational standards that apply to all students.

Research on specially designed instruction clearly supports the proposition that high quality instruction should be provided to the greatest extent possible to meet the student's individualized education program (IEP) in the general education classrooms where students with disabilities have the greatest likelihood of receiving curriculum content delivered by highly qualified teachers. Schools may utilize a variety of combinations of special education supports and services to serve students with disabilities in general education settings and promote meaningful access, participation and progress in the general curriculum, including consultant teacher services, paraprofessional support, resource room services and integrated co-teaching.

Access to and participation in the general education curriculum occurs when students with disabilities are actively engaged in learning the content and skills that define the general education curriculum. Meaningful access to the general education curriculum means that a student with a disability has the appropriate supports, services and accommodations to address his or her disability in consideration of the content of the

curriculum, instructional materials, teaching strategies, the physical environment and how the student's learning is measured.

It is the consideration of the individual needs of the student and the support, services and/or modifications needed to the general education curriculum, instructional methods, instructional materials and/or instructional environment that determine which of the service delivery options would be most appropriate to assist the student to meet his/her annual goals and to meet California State Academic Standards. (For more information, see the USDOE's [A Guide to the Individualized Education Program](http://ed.gov/parents/needs/speced/iepguide) at <http://ed.gov/parents/needs/speced/iepguide>).

Specialized Academic Instruction (SAI)

According to the California Department of Education (CDE), Specialized Academic Instruction (SAI) is a way of delivering instructional services to students with disabilities (SWDs). SAI is an instructional delivery model, **NOT a program**, and can be used to describe instructional services on the Individualized Education Program (IEP). The term SAI is interchangeable with "Specially Designed Instruction" which is found in the federal regulations. The SAI designation is used by the CDE in its data collection system known as CASEMIS to describe an instructional delivery model. Districts have the local option of using the SAI designation to describe an instructional delivery model.

Some districts are misusing SAI, collapsing the Resource Specialist Program (RSP) and moving all special education students to general education to receive SAI from general and special education teachers. Though this may increase the amount of time students with disabilities are in a general education setting and least restrictive environment, the necessary supports, services and personnel are not being provided for effective instruction to occur. IEP teams are not provided a choice of a full continuum of services

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as defined by IDEA when the Resource Specialist Program (RSP) option and Special Day Class (SDC) are removed from IEP forms. Also, when districts try to change RSP and SDC teachers' job titles to Specialized Academic Instructors, RSP caseload protection of 28 students is removed. (For more information, refer to the CDE Advisory on SAI in the Appendix of this document.)

Rtl²

It is important to remember that Rtl² is a general education function. The only parts that include special education are the use of 15% of IDEA special education money for early intervening services and the use of the progress monitoring data from Rtl² to identify students with specific learning disabilities for special education services. Often districts use Rtl² to delay or deny identification for special education and services. Additionally, LEA and school sites treat Rtl² as a special education function. In doing this, LEAs and school sites are often tapping into the resources used to deliver services to students with disabilities by requiring special education personnel to deliver interventions to general education students. This not only adds to the workload of the special education personnel, but can dilute services to the students with disabilities on their caseload.

Added Authorizations Special Education (ASSE)

As the number of students with disabilities has increased in public school settings, especially students with autism spectrum disorders, a corresponding need to have special education teachers authorized to teach those students has arisen. As a result, the CTC has created AASE in six specific subject areas: Autism Spectrum Disorder, Deaf-Blind, Emotional Disturbance, Orthopedically Impaired, Other Health Impaired, and Traumatic Brain Injury.

These authorizations are similar to supplementary authorizations for general education teachers and are added to an existing Special Education Teaching Credential. Each authorization allows the holder to conduct assessments, and provide instruction and special education related services to individuals with the specific primary disability across the continuum of special education program options. An educator must hold an appropriate special education prerequisite teaching credential in order to obtain an AASE. Holders of current Education Specialist Teaching Credentials and special education credentials issued under prior statutes and regulations can obtain one or more AASE.

Currently, some employers are notifying teachers that they must obtain an AASE, and some are inaccurately stating that the CTC is requiring all special education teachers to return to school to earn an AASE. (For more information, refer to the Joint Advisory on Added Authorization in Special Education and Bargaining Advisory on AASE in the Appendix of this document.)

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ADVOCACY & ORGANIZING AROUND SPECIAL EDUCATION ISSUES

In unity there is strength and educators need to work together effectively within our local unions to address special education issues. Special education is not always thought of as a “bread and butter” issue but the current educational landscape is changing and now everyone is teaching students with disabilities. Developing a consensus around special education issues is critical and good organization strategies can make the difference between frustration and success.

There are many special education-related issues that can be addressed through organizing:

- empowering IEP teams
- educating parents on rights regarding IEPs
- professional development
- IEP attendance
- services for students with IEPs
- class size
- representation on Community Advisory Committees
- representation on School Site Council Special Education Committees

Communication Breakdown

Frequently, when an educator has a special education issue at their school site or in their classroom, their first stops are usually the site administrator, district special education department director and their local association. It is here at the local association that issues should be addressed. Special education issues often go unresolved at the district office unless educators, working with their local association, take it there. Educators should work with their local associations on special education issues through organizing, bargaining and professional development.

An educator’s concerns about providing special education to students with disabilities

likely will not be shared by the district at the Special Education Local Plan Area (SELPA) or state level. To advocate for special education issues, there are many successful strategies that can be employed by the local association at each level to create an awareness of the issue and ultimately provide for a resolution.

Developing a strategy that defines the issues, identifies obstacles and assets, sets activities with timelines and clarifies who is responsible can make the difference between success and frustration.

Organizing Steps

Clarify what advocacy strategies you need to employ by taking into account these critical considerations:

Identifying the Issues

The first step to developing a successful organizing strategy is to convey a full understanding to others of the nature of the special education issue. Bringing the concerns and issues to the association is a great place to start in creating awareness. If the issue is systemic and impacts more than one educator, a meeting could be held with other members to discuss, list and prioritize issues. Stating the issues in a way that draws in and involves more unit members than just those in special education is important in building consensus.

Surveying the Membership

Broadening awareness of the issues can also be accomplished by surveying all of the membership - including both general and special education members.

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Essential Considerations

Create association awareness about special education our concerns and issues by:

- meeting with the Association Rep
- talking to the President and/or Executive Board
- bringing issues to the Rep Council
- responding to union surveys
- initiating a Special Education Committee or caucus
- electing special educators to Rep Council
- electing special educators to Executive Board
- appointing a special education-knowledgeable member to the bargaining team

Raise Awareness

Using the media and other communication vehicles to highlight the issues, and the impact on students, can raise public awareness. This could include leaflets, human interest stories, testimonials from educators and one-on-one meetings with school board members.

Identifying Allies

There are a multitude of local organizations that have an interest in special education and the effectiveness of IDEA and can be powerful allies. Identify these allies and create partnerships around common priorities. Family and parent groups can be a great place to start. In California, the California Association of Family Empowerment Centers <http://cafec.org/> provides support, information and education for families of children with disabilities and the professionals who assist these families.

Local Level Strategies

At the local level, the most important step is to involve the local teachers association. By taking this important first step, contacting your local association president, an educator not only shares the information about the special education issue, creating awareness of the problem, but allows the local association to provide guidance and in some instances, protect individual educators from retaliation by the district.

Local Plan Development

The Education Code (56205) provides that committees established for the development of a local special education plan include special and general education teachers selected by peers as well as parents selected by parents. CTA recommends that the selection process be conducted by the association. The number and term of teacher committee members should be determined by local considerations, such as size of the district and scope of the program. These matters are subject to bargaining, and the selection procedure should be proposed as the sole prerogative of the association.

School Site Councils (SSC)

The school site council is a group of teachers, parents, classified employees, and students (at the high school level) that works with the principal to develop, review and evaluate school improvement programs and school budgets. The members of the site council are generally elected by their peers. For example, parents elect the parent representatives and teachers elect teachers. The Education Code (52852) requires the school site councils to:

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1. Measure effectiveness of improvement strategies at the school.
2. Seek input from school advisory committees.
3. Reaffirm or revise school goals.
4. Revise improvement strategies and expenditures.
5. Recommend the approved single plan for student achievement (SPSA) to the governing board.
6. Monitor implementation of the SPSA.

In addition to academic planning, many site councils are also responsible for making decisions about parent engagement, safety and discipline. These are public meetings and having members attend these meetings and share concerns with SSC about special education issues can create awareness with school stakeholder groups. Each SSC has a special education committee that attends district level meetings and reports information. Associations can work with districts to make sure that the special education committee at the district and site level has special education member representation.

School Board

School Board members are often kept in the dark about what is occurring in a school district in special education. This is an opportunity for the association leadership to meet with individual board members and share special education issues to create awareness and form allies. In addition, school board meetings can be a public forum in which members, parents and students can stand together to provide information on special education issues.

Parent Teacher Organization

Associations can construct a positive relationship with parent groups involved with each school site. The association site representatives should know who the parent organization decisions makers are at the site level, meet with them and share special education issues.

IEP Teams

The federal law IDEA provides clear language that the IEP team makes decisions for individual students with disabilities about programs, placement, and services to be provided by the district. Educating all members about their rights related to special education is required to empower IEP teams. Also, an association should develop procedures for members to document and report back when IEP teams' decisions are overturned by administration and/or IEP team members are coerced.

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SELPA/County Level Strategies

SELPA stands for Special Education Local Plan Area. SELPAs are made up of school districts and County Offices of Education within particular geographic areas. Small school districts join together so they can provide a full range of services to students with special needs. Other school districts (such as San Diego Unified Schools and Poway Unified Schools) are so large that they do not join with others; they act as their own SELPAs.

Local Plan Development

Each SELPA develops a local plan describing how it will provide special education services. Reviewing this plan to ensure the district is implementing it correctly is recommended.

Community Advisory Committee

SELPAs also support Community Advisory Committees (CAC). CACs are made up of school administrators, staff members, SELPA parents and others concerned about educating children with special needs and are public meetings. Generally, they meet once a month to review policies and advise the SELPA regarding the needs of the children it serves. Participating in CAC meetings can be an excellent way to learn about your district's special education program, and to create awareness of special education issues. Agendas for these meetings are required to be posted.

State Level Strategies

Procedural Safeguards Complaint Process

An individual or a local association may file a state compliance complaint when a

school district has violated federal or state special education laws or regulations. The 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.

Tips for Filing a Procedural Safeguard Complaint with the CDE

1. Check the California Ed. Code or the federal law (IDEA) to identify which law is being violated. List your concerns that are student-specific or systemic.
2. Complete the Request for Complaint Investigation form. You do not need to submit this form to the district prior to filing.
3. It is highly recommended that you have your CTA staff person file the complaint.

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4. Call directly to the manager of complaints division at CDE: 916-327-4222, identify yourself as an educator and state you fear retaliation and want this to be confidential and then share your concerns.
5. If possible, in conjunction with your call, have parents call the toll free complaint phone number 1-800-926-0648.
6. You can also send questions and concerns anonymously and confidentially to a secure CDE email address speceducation@cde.ca.gov

There are provisions in California's education regulations that address special education caseload size, and program requirements for the Resource Specialist Program. (For more information, refer to the Procedural Safeguards Complaint Information in the Appendix of this document.)

Focus Monitoring Technical Assistance Department

The Focused Monitoring and Technical Assistance (FMTA) at the California Department of Education is a part of the larger Quality Assurance Process, which is designed to ensure that students with disabilities receive the services mandated by law.

The FMTA Consultants are assigned geographically and work closely with their procedural safeguards colleagues, complaint investigation team, and FMTA support staff to provide individualized assistance to the education entities in their assigned counties. They are responsible for coordinating all monitoring and technical assistance activities for the districts and Special Education Local Plan Areas in their assigned counties, providing information, and facilitating access to technical assistance related to program monitoring and program implementation. Bringing questions about special education

issues to your FMTA consultant can be a starting point for answers and may trigger a complaint and/or investigation. (For more information, refer to the CDE's [List of FMTA Regional Contacts](#) in the Appendix of this document.)

Office for Civil Rights (OCR)

The Office for Civil Rights' (OCR) is a law enforcement agency whose purpose is to ensure that recipients of federal funds do not engage in discriminatory conduct. The Case Resolution and Investigation Manual (CRIM) provides OCR with procedures to promptly and effectively investigate and resolve complaints against recipients allegedly engaging in discriminatory practices.

An OCR complaint is a written or electronic statement alleging that the rights of one or more persons have been violated and requesting that OCR take action. Complaints may be filed online as well as by mail, fax, or in person. Some correspondence that OCR receives, even if it concerns an alleged civil rights violation, may not be a complaint. Immediately upon receipt, OCR will determine whether or not the correspondence is a complaint. Until OCR is able to accept electronic signatures, if a complaint is filed electronically, by e-mail or fax, a signed consent form must be secured in lieu of a signed complaint form.

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[Attachments \(linked\)](#)

FREQUENTLY ASKED QUESTIONS 27

What is Special Education?

“Special Education” means specifically designed instruction and related services, at no cost to the parent, to meet the unique needs of individuals with exceptional needs, whose educational needs cannot be met with modification of the regular instructional program. Special education provides a full continuum of program options to meet the educational and service needs of individuals with exceptional needs in the least restrictive, general classroom environment. The instruction can also include a special education classroom, home instruction, instruction in hospitals and institutions. Special education affects general education in a number of ways. Over the past ten years, the number of U.S. students enrolled in special education programs has risen 30 percent. Three out of every four students with disabilities spend part of their school day in a general education classroom. In turn, every general education classroom across the country includes students with disabilities. Only three decades ago these same children would have been isolated in separate institutions or simply kept at home, with little or no chance of becoming independent, productive citizens.

What is an IEP?

The IDEA requires every student who qualifies for special education to have an IEP. An IEP is a written Individualized Education Program designed to meet the unique needs of a student with a disability. It is a mandated document that spells out the education plan and related services a student with disabilities will receive. This document is developed and reviewed by an IEP team.

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Who are the participants on the IEP team?

The IDEA states that the IEP team shall include:

- One or both of the pupil's parents, or a representative selected by a parent.
- Not less than one general education teacher of the pupil (if the pupil is, or may be, participating in the general education program).
- At least one special education teacher or, when appropriate, at least one of the child's special education providers.
- A representative of the Local Education Agency (LEA) who is qualified to provide or supervise specially designed instruction, is knowledgeable about the general curriculum and the availability of resources.
- An individual who can interpret the instructional implications of the assessment results.
- At the discretion of the parents, other individuals who may have knowledge or special expertise regarding the pupil.
- If appropriate, the pupil.

What is the role of the general education teacher at the IEP meeting?

The general education teacher participating in the IEP meeting should be the teacher(s) who is (are), or may be, responsible for implementing the IEP. The general education teacher assists in developing behavioral interventions and strategies, the determination of program modifications and most importantly, how best to instruct the student in the general education program.

If teachers are unable to attend the IEP meeting, how do they know what the IEP contains?

A copy of the IEP is to be maintained at each school site. The California Education Code mandates that, prior to the student's placement, the special education teacher or general education teacher be knowledgeable of the IEP. Check with your special education teacher for specific procedures used at your school site.

Who can initiate an IEP meeting?

The parent/guardian, general education teacher, special education teacher, or administrator may request an IEP meeting.

Does the teacher have to sign the IEP?

The education code is silent on this issue. If the teacher attended the IEP meeting, then the IEP should be signed. If the teacher disagrees with the IEP, he/she should sign as a "dissenting member" of the IEP team and attach a written statement documenting the reasons for the dissent.

What kind of accommodations/modifications need to be made by the classroom teacher?

The general classroom teacher should be involved in the IEP meeting to determine specific modifications. Modifications may include more time to complete assignments, using a specialized computer, reviewing directions, shortened assignments, etc.

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What “special factors” are to be considered by the IEP team?

Special factors to be considered are:

- the strengths of the child;
- the concerns of the parents for enhancing their child’s education;
- the results of the initial evaluation or most recent evaluation of the child;
- the academic, developmental and functional needs of the child; the behavior of the child;
- the student’s language needs if the student has limited English proficiency;
- providing instruction in Braille if the student is blind or visually impaired;
- the communication needs of the student if they are deaf or hearing impaired;
- whether the student requires “assistive technology”.

May a student with disabilities participate in district and state assessments?

The IDEA provides that “all children with disabilities are included in general State and district-wide assessment programs... with appropriate accommodations and alternate assessments, where necessary and as indicated in their respective IEPs.” The IEP team must include a statement in the IEP if a student is to take a state or district assessment with accommodations and modifications. If the IEP team determines that the child will not participate in the district or state assessment, the IEP must state why it is inappropriate and how the student will be assessed.

What is Least Restrictive Environment (LRE)?

The Individuals with Disabilities Education Act (IDEA) sets up the need for LEAs to have available a continuum of service and placement options that will allow the LEA to meet a disabled student's educational needs by implementing the Individualized Education Program (IEP). In part a continuum of alternative placements is required in order for a district to be able to provide services while meeting the Least Restrictive Environment (LRE) of provision of the IDEA. The IDEA in Title 34 of the Code of Federal Regulations Section 300.114 discusses the LRE requirement. Essentially the LRE requirement holds that to the greatest extent that is appropriate students with disabilities should be educated with their non-disabled peers. Removing students with disabilities from the regular educational environment only occurs when the needs of the disabled student cannot be met satisfactorily in the general education environment with the use of supplementary aids and services. **The placement decision itself is to be made by the IEP team conforming to the LRE provisions (34 CFR 300.116).**

The California Education Code (EC) also discusses the LRE issue and adds to the requirements found in the Federal Regulations. EC 56031 discusses a continuum of program options.

What is a Continuum of Program Options according to IDEA?

The California Education Code (EC) also discusses the LRE issue and adds to the requirements found in the Federal Regulations. EC 56031 discusses a continuum of program options. Title 34 of the Code of Federal Regulations Section 300.115 provides the basis for continuum of alternative placements (California Education Code uses the term "continuum of program options"). This law requires that each public agency must ensure that a continuum of alternative placements is made available to meet the needs of students with disabilities for special education and related services.

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By taking together 34 CFR 300. 115, and EC 56361, a service array meeting the requirements of continuum of alternative program options would include but not be limited to:

Federal Requirements (through a public agency):

- Regular Classes
- Special Classes
- Special Schools
- Home Instruction
- Hospital Instruction
- Institutional Instruction

State Requirements (through SELPA):

- Regular Education Programs (EC 56367)
- Resource Specialist Program (EC 56362)
- Designated Instruction and Services (EC 56363)
- Special Classes (EC 56364.2)
- Nonpublic, nonsectarian school services (EC 56365)
- State Special Schools (EC 56367)
- Early education programs for infants (EC 56425.5)

SPECIAL EDUCATION TERMS

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Adapted Physical Education (APE): Specially designed physical education program, using accommodations designed to fit the needs of students who require developmental or corrective instruction in PE.

Accommodations: Changes that allow a person with a disability to participate fully in an activity. Examples include: extended time, different test format, and alterations to a classroom.

ADD/ADHD: Attention deficit disorder and attention deficit hyperactivity disorder are medical conditions characterized by a child's inability to focus, while possessing impulsivity, fidgeting and inattention.

Anxiety in Children: Defined as extreme agitation, filled with tension and dread. Anxiety is different than fear. Children with anxiety may or may not qualify for special education. Those who need modifications to their school day can achieve this through a 504 plan.

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

Asperger's Syndrome: A type of pervasive developmental disorder (PDD) that involved delays in the development of basic skills, including socializing, coordination and the ability to communicate.

Autism: A brain development disorder characterized by impaired social interaction and communication, and by restricted and repetitive behavior. Signs usually begin before a child is 3 years old.

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

Bipolar Disorders: Characterized by cycles of mania alternating with depression. It is difficult to diagnose children with this disorder.

Blindness: Condition of lacking visual perception due to physiological or neurological factors.

Cerebral Palsy: A series of motor problems and physical disorders related to brain injury. CP causes uncontrollable reflex movements and muscle tightness and may cause problems in balance and depth perception. Severe cases can result in mental retardation, seizures or vision and hearing problems.

Community Advisory Committee (CAC): A committee whose membership includes parents of school children, school personnel and representatives of the public. This committee advises school administration and local school boards regarding the plan for special education, assists with parent education and promotes public awareness of individuals with special needs.

Complaint Procedure: A formal complaint filed with the County or State Board of Education if a district violates a legal duty or fails to follow a requirement under the Individuals with Disabilities Education Act. (IDEA)

Cumulative File: The records maintained by the local school district for any child enrolled in school. The file may contain evaluations and information about a child's disability and placement. It also contains grades and results of standardized assessments. Parents have the right to inspect these files at any time.

Deafness: Hearing impairment so severe that a child is impaired in possessing any linguistic information through hearing.

Designated Instruction Services (DIS): Instruction and services not normally provided by regular classes, resource specialist programs or special day classes. They include speech therapy and adaptive physical education.

Differential Standards for Graduation: Standards for graduation that may be modified for students with exceptional needs.

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

Due Process: Special education term used to describe the process where parents may disagree with the program recommendations of the school district. The notice must be given in writing within 30 days. IDEA provides two methods for resolving disputes, mediation or fair hearing.

Early Intervention: Programs for developmentally delayed infants and toddlers through 35 months of age; designed to help prevent problems as the child matures.

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Emotional Disturbance (SED): Term used to describe a diagnosable mental, behavioral or emotional disorder that has a significant duration and that meets the criteria within the Diagnostic and Statistical Manual of Mental Disorders.

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

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

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

Hearing Impairment: Full or partial decrease in the ability to detect or understand sounds.

Home/Hospital Instruction: Students with verified medical conditions, which prevent them from attending school, may receive services on a temporary basis in the home or hospital with a physician's referral.

Inclusion: Term used to describe service that places students with disabilities in general education classrooms with appropriate support services.

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

Individualized Education Plan (IEP): Special education term used by IDEA to define the written document that states goals, objectives and services for students receiving special education.

Independent Educational Evaluation (IEE): A school district is required by law to conduct assessments for students who may be eligible for special education. If the parent disagrees with the results of a school district's evaluation conducted on their child, they have the right to request an independent educational evaluation. The district must provide you with information about how to obtain an IEE. An independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the school district. Public expense means the school district pays for the full cost of the evaluation and that it is provided at no cost to you.

Individualized Education Program Team: Term used to describe the committee of parents, teachers, administrators and school personnel that provides services to the student. The committee may also include medical professional and other relevant parties. The team reviews assessment results, determines goals and objectives and program placement for the child needing services.

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

Individualized Transition Plan (ITP): This plan starts at age 14 and addresses areas of post-school activities, post-secondary education, employment, community experiences and daily living skills.

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

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

Local Plan: A plan developed by a SELPA and submitted to the State Department of Education for approval. The document outlines the plan for delivery of support services to eligible students living within the geographic boundaries of the plan.

Mainstreaming: Term used to describe the integration of children with special needs into regular classrooms for part of the school day. The remainder of the day is in a special education classroom.

Manifestation Determination: Within 10 school days of any decision to change the placement of a child with a disability because of violation of school code, the IEP team must review all relevant information in the student's file to determine if the conduct in question was caused by the child's disability or if the conduct was a direct result of the school district's failure to implement the child's IEP.

Mental Retardation (now referred to as Intellectually Disabled): This term has recently been changed. This disorder is characterized by below average cognitive functioning in two or more adaptive behaviors with onset before age 18.

Multiple Disabilities: An IEP term used to define a combination of disabilities that causes severe educational needs that require multiple special education programs such as mental retardation with blindness.

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

Obsessive-Compulsive Disorder (OCD): OCD is an anxiety disorder that presents itself as recurrent, persistent obsessions or compulsions. Obsessions are intrusive ideas, thoughts or images while compulsions are repetitive behaviors or mental acts that the child feels they must perform.

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

Oppositional Defiant Disorder (ODD): A child who defies authority by disobeying, talking back, arguing or being hostile in a way that is excessive compared to other children and this pattern continues for more than six months may be determined to have ODD. ODD often occurs with other behavioral problems such as ADHD, learning disabilities and anxiety disorders.

Orthopedic Impairment: Term used to define impairments caused by congenital anomaly, impairments by diseases and impairments by other causes.

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Other Health Impaired: Term used to describe limited strength, vitality and alertness that results in limited ability in the educational environment. Impairment could be a result of chronic health problems such as asthma, attention deficit disorder, epilepsy, heart condition, hemophilia, leukemia, nephritis, rheumatic fever and sickle cell anemia.

Parent Consent: Special education term used by IDEA that states parents or legal guardians have been fully informed in their native language or other mode of communication of all the information about the action for which they are giving consent and that they understand and agree in writing to that action.

Physical Therapists: Provide consultation and support to staff to improve a student's educational performance related to functional gross motor development.

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

Residential and Private Placements: Part B of IDEA does not require a school district to pay for the cost of education for your disabled child at a private school or facility if the school district made free appropriate public education available to your child and you chose to place your child in private placement.

Resource Specialists: Provide instructional planning and support and direct services to students who needs have been identified in and IEP and are assigned to general education classrooms for the majority of their school day.

Resource Specialist Program (RSP): Term used to describe a program that provides instruction, materials and support services to students with identified disabilities who are assigned to general classroom for more than 50% of their school day.

School Psychologist: Assist in the identification of intellectual, social and emotional needs of students. They provide consultation and support to families and staff regarding behavior and conditions related to learning. They plan programs to meet the special needs of children and often serve as a facilitator during an IEP meeting.

Sensory Processing Disorder: A complex brain disorder that causes a child to misinterpret everyday sensory information like movement, sound and touch. Children with SPD may seek out intense sensory experiences or feel overwhelmed with information.

Specific Learning Disability: Special education term used to define a disorder in one or more of the basic psychological processes involved in understanding or using language spoken or written that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or do mathematical equations.

Speech and Language Impairments: Communication disorders such as stuttering, impaired articulation, language impairment or voice impairment.

Speech and Language Specialists: Assesses students for possible delayed speech and language skills and provides direct services in the area of phonology, morphology, syntax, semantics and pragmatics. They are also available regarding hearing impairments and amplification.

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SSDI: Social security disability insurance benefits are provided to qualified individuals who cannot engage in substantial gainful work activity because of a disability and who have paid into the system or has a parent who has paid into the Social Security system.

SSI: Supplemental Security Income benefits are provided to qualified individuals who cannot engage in substantial gainful work activity because of a disability and who fall below certain assets and income levels.

Special Day Class (SDC): Term used to describe a self-contained special education class which provides services to students with intensive needs that cannot be met by the general education program, RSP or DIS program. Classes consist of more than 50% of the student's day.

State Schools: Most states operate state run residential schools for deaf and blind students.

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

Tourette's Syndrome: Disorder that includes multiple motor and one or more vocal tics, which occur many times per day, nearly daily. If a child has Tourette's syndrome, symptoms tend to appear between the ages of 3-10 years old.

Traumatic Brain Injury: An acquired injury to the brain caused by an external physical force resulting in total or partial functional disability or psychosocial impairment. Applies to open or closed head injuries.

Transition IEP: IDEA mandates that at age 16, the IEP must include a statement about transition including goals for post-secondary activities and the services needed to achieve these goals. This is referred to as an Individual Transition Plan or (ITP).

Turner's Syndrome: This rare genetic disorder affects females and is characterized by the absence of an X chromosome. Characteristics include small stature, limited development of sexual characteristics, low hairline and abnormal eye and bone development.

Visual Impairment: Impairment in vision that even with correction adversely affects a child's educational performance.

Vision Specialists: Provide consultation and support to staff and direct instructional support to students with visual impairments. They provide functional vision assessments and curriculum modifications including Braille, large type and aural media.

Workability Program: These programs focus on preparing high school students with disabilities for successful transition to employment, continuing education and quality adult life with an emphasis on work based learning opportunities.

44 CTA SPECIAL EDUCATION POLICY

RULE 7-18: Special Education Committee (SEC)

The Special Education Committee studies and recommends policies and procedures for consideration by CTA governance bodies in the following areas:

1. Matters pertaining to special education needs of California students;
2. Matters pertaining to special education concerns of the state and local associations;
3. Other matters, upon referral, that falls under its purview.

(Adopted November 1991, Amended September 2004, September 2009, Renumbered September 2009)

Alternate Education Programs

CTA believes in the optional use of limited experimental programs with equivalent instructional minutes provided that proper and appropriate provisions are included for the protection of teacher and student rights. Students must receive due process before placement in alternative programs. (PRR: June 1992; March 1981; SMC June 1995; June 1994)

Alternative Education

CTA believes alternative programs must be provided to meet the needs of students at risk of not completing the traditional educational programs.

1. The intent of alternative education is to offer students more of a choice about what and how they will learn. The alternatives shall be cooperatively developed by students/teachers/support staff and parents.
2. The student/teacher/support staff and parent choice of programs shall not be limited by percentage targets or funding restrictions at the local, state or national level.
3. The students enrolled and teachers employed in alternative educational programs shall be selected entirely from volunteers.
4. The alternative must have a well-developed and publicized evaluation program; evaluation shall be based upon previously established goals and objectives; evaluation should emphasize the success of alternative ways of developing basic skills.

These alternative programs may include, but are not limited to, continuation high school, home and hospital study, independent study, juvenile court schools, alternative schools, opportunity schools and pregnant minor and teen parent programs. Students in alternative programs should be provided comprehensive and extensive support services. Class sizes should be limited to 15 to allow for intensive guidance and individualized instruction. Educational staff should be assigned to alternative programs on a voluntary basis.

The board of education and administration should be firmly committed to the concept of alternatives and be willing to make changes in personnel and policies in order to ensure the success of the program. Alternative programs should assist students in making a successful transition to adult life. Programs should be funded at appropriate levels to facilitate student success. Sufficient time for planning and in-service training for individual teachers, teams of teachers and the faculty as a whole must be provided. The exclusive representative shall be involved throughout the procedure.

(C&I: June 1992; October 1973; SAE: May 2005; April 2002; March 2001; June 1992)

Appropriate Inclusion

CTA believes appropriate inclusion exists when students with disabilities attends age-appropriate regular education classes in their home school, for the same number of instructional minutes as their peers, with appropriate support and funding.

Appropriate inclusion is one option in the full continuum of services and full range of delivery models available to students with disabilities as determined by the Individualized Educational Plan (IEP). Appropriate inclusion requires additional federal and state funding. This funding should be a prerequisite to the implementation of appropriate inclusion and will continue for as long as this option exists. Coordinated planning time for all educational employees involved is a requirement for successful appropriate inclusion. The impact of

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appropriate inclusion must be bargained. Regular educators, special educators and support personnel must be involved as full partners in the planning for and implementation of appropriate inclusion. Training must be provided for all educational employees involved in the implementation of appropriate inclusion. Modification in class size, scheduling, and curriculum design may be needed to accommodate the shifting demands appropriate inclusion creates. (SAE: June 1993)

Appropriate Placement: Special Education

CTA believes Individuals with Exceptional Needs (IWENS) should be educated in the most appropriate placement, based on their Individual Educational Program (IEP).

A continuum of placements should be available to meet the needs of these individuals for special education and/or related services, including regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions.

The impact of this continuum of placements must be bargained; especially the issues of class size, coordinated planning time for the employees involved, and appropriate inclusion programs. (SAE: June 1993; October 1987)

Attention Deficit Disorders: Special Education

CTA believes students with attention deficit disorders (ADD) can be served adequately within existing educational programs and services.

Attention deficit disorders are a specific diagnostic syndrome and not a broad categorical dimension as are the eleven disability categories delineated in the Individuals with Disabilities Education Act (IDEA). ADD should not be considered a separate category of disability at the local, state or federal levels.

Students diagnosed with ADD of such severity that it interferes significantly with their educational performance are currently being served within the existing regulatory framework. Students with ADD symptoms which interfere with their learning or behavior to a significant extent should be referred to student study teams for regular education intervention and possible assessment for special education services.

Students with ADD may be exhibiting conditions of learning disabilities, serious emotional disturbance or other impairments and would be eligible for special education services under these classifications. Many students with ADD do not need special education programs and are able to fully participate in the general education program. (C&I: October 1991)

Credentials: Special Education

CTA believes teachers should obtain certification in their special education area and be required to pass competencies specific to the students for whom they are responsible.

Procedures to determine highly qualified status should be uniform for both veteran and new special education teachers.

Special education teachers need to have appropriate subject matter background and knowledge of the core curriculum. Special education teachers and general education teachers should be prepared to collaborate on teaching students the core curriculum.

To receive a California credential, special education teachers prepared outside of California should be required to have equivalent training as those prepared in California.

The requirements for waivers for special education substitutes should be at least as stringent as those required by the district seeking waivers for substitutes.

The bargaining agent should be consulted on waivers.

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The student population designated “at-risk”, who are also identified special education students, should not be denied special education services. Teachers, who are not identified as special educators designated specifically to work with “at-risk” students, shall not be required to hold a special education credential.

(CPD: May 2009; April 2006; January 1996; June 1989; March 1981)

Educational Accountability

Accountability measures education by a variety of indicators that provide a clear description of resources, processes, and outcomes. The process for developing accountability program requires time and should be deliberate and sequential. Valid testing and data reporting are required for any accountability process.

CTA believes bargaining unit members can be held accountable only to the degree that they share responsibility in educational decision making. Other individuals and institutions who share this responsibility should also be held accountable.

CTA believes in meaningful educational accountability systems.

Any accountability process must assure that teachers are provided with the professional development and resources needed to help them align their curriculum, instruction and assessment with the adopted standards. Special programs should help teacher-design, implement and coordinate programs to support students who do not meet the standards.

Students must be provided with the materials and facilities needed to learn and meet adopted standards.

Any accountability process must be evaluated by valid testing and data reporting. Annual test items and official answers must be made public immediately after they have been used.

Students, teachers, certificated support personnel, parents, guardians, school board members, classified personnel, administrators, state legislators and community members are partners in the educational process and must be accountable for their roles in this effort.

CTA understands that statewide tests are a major component of California's education assessment system. The main use of these tests should be as a diagnostic tool. Local governing boards, the State Board and legislators should evaluate curriculum based on the results of local and statewide assessments. (AST: May 2005; April 2002; June 1998; May 1996; C&I: October 1973)

Educational Excellence: Consequences of Accountability Systems

CTA believes intervention from state and federal government must focus on providing useful assistance that can produce powerful improvement, such as collaboration, meaningful professional development, parent involvement, and high quality classroom assessment.

CTA also believes meaningful improvements do not result from sanctions. Any interventions should be accompanied by sufficient support and resources to increase the likelihood of success. If a school or district has taken steps toward desired improvement, it must be allowed sufficient time for those changes to take effect.

CTA opposes the labeling of schools as low-performing or any other negative label.

CTA opposes takeovers of public schools, privatizing school management and forcibly converting schools to charter schools as a consequence of an accountability system.

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CTA opposes reconstitution of public schools as a consequence of an accountability system.

CTA believes students, parents/guardians, teachers, administrators, schools and school districts should not be penalized for parents/guardians exercising their right to exempt their children from standardized tests.

CTA believes state monies must be used towards resources that will help all students meet adopted standards. Incentives that reward individual students, bargaining unit members, schools or districts based on the result of a test constitute a policy of inequality.

Accountability Systems:

CTA believes that the use of statewide longitudinal data should be limited and relevant to informing effective instructional strategies and improving student outcomes. Multiple measures of student achievement must be used along with any mandated state and federal assessment system to show the progress of each student. Data will be reported that tracks the overall growth of each individual student from year to year. The use of longitudinal diagnostic information about student learning shall be limited to decisions about instructional strategies, allocation of classroom resources, student placement, and professional development opportunities designed by educators.

CTA believes that a firewall must be maintained between data elements in California Longitudinal Pupil Achievement Data System (CALPADS) and California Longitudinal Teachers Integrated Data Education system (CALTIDES), or any successor education data collections systems, in order to prevent the use of data systems for any employment decisions related to individual educators and education support professionals. This firewall must also prevent the combining of CALPADS data with CALTIDES data. Privacy provisions should apply to education support professionals, students, parents and educators of pre-k through higher education.

CTA believes that the privacy rights of students, parents, educators and education support professionals must be protected in a statewide longitudinal education data system, including all privacy protections under state and federal law (Family Educational Rights and Privacy Act) and protections under CALPADS and CALTIDES. The privacy rights of parents, students, educators and education support professionals must be maintained by all users of education data, including state and local officials, researchers, and policy makers.

CTA believes that to effectively utilize statewide longitudinal data effectively, the data must be regularly audited to assure that it is:

- a. Of high quality, and
- b. Valid and reliable both in its analysis and at the point it was collected, and
- c. Meaningful to the users of education data.

CTA believes that if the data are used for research purposes there must be assurances that the above criteria are reviewed and that human subject protocols are followed.

CTA believes that adequate funding and adequate time during the work day must be provided to allow educators and education support professionals' appropriate and effective training in the use of longitudinal education data. Hardware and software needed for data use must be kept up to date and adequate technical support must be provided. (AST: June 2008; June 2007; June 2004; January 2003; April 2002)

Graduation Requirements

CTA believes students should receive high school diplomas only when they have met minimum competency standards for graduation. Multiple options will be provided for students to demonstrate competency. There will only be one document (referred to as a diploma) that designates that students have satisfied all requirements to graduate from high school. Students should not be denied a diploma based on the results of any single state or district mandated test or measurement.

CTA believes every student is entitled to the opportunity to graduate from high school. Mandated curriculum/graduation requirements must take into consideration the diverse needs of the learner; the differing abilities and resources of the schools and localities; the complex and ever-changing nature of our economy and society; and the difference between idealistic goals and practical realities.

Graduation requirements must be well-balanced and broadly based, including provisions for both general education (i.e., the common learning or core curriculum required of all students) and specialized education (i.e., career technical education and/or college preparatory education). CTA believes teachers should have the central role in the development, definition, and implementation of graduation requirements. (C&I: October 1977; June 2002; June 2001; January 1984)

CTA believes that any governance structure, state or local, designed to manage education data, must include CTA representatives as an integral part of that governance and oversight structure.

CTA believes that education data systems should be subject to regular periodic review for the purpose of assuring that they are consistent with the goal of educating students. (AST: June 2008; June 2007; June 2004; January 2003; April 2002)

Mainstreaming Pre K-12

CTA believes students with special needs should be mainstreamed under the following conditions:

1. A beneficial learning experience is provided for both students with special needs and general education students.
2. Educators and administrators share equally in its planning and implementation and evaluation.

3. All staff will be prepared for mainstreaming roles through in-service training and retraining. District provided staff development programs to prepare staff for these roles prior to their involvement. Release time shall be given for this purpose.
 4. All students shall be adequately prepared for the mainstreaming experiences prior to their involvement.
 5. Appropriate instructional materials, supportive services and pupil personnel services will be provided for the educator and the students with special needs.
 6. Determination of appropriate methods, materials, and support services the result of cooperation among the classroom teacher and the involved specialists.
 7. An appeal procedure for teachers and support staff regarding implementation of mainstreaming, especially in the areas of students' placement and any prescriptive supportive services.
 8. Modifications in class size, using a weighted plan which recognizes individual differences, scheduling and curriculum design to accommodate the shifting demands that mainstreaming creates.
 9. Systematic evaluation of mainstream programs.
 10. Adequate additional funding and resources for appropriate intervention will be maintained for students with special needs.
 11. No reduction of educational staff as a result of mainstreaming.
 12. The classroom teacher(s) shall be included on the school assessment/ placement teams. Released time shall be given for this purpose.
 13. No encroachment of funds/resources from any other education program.
- (C&I: June 1990; March 1977 and ECE: June 2006; May 2005)

Paperwork

CTA believes the excess paperwork mandated by state, federal, and/or local programs or regulations reduces time available for teacher preparation and contact time with students. Data collection should be streamlined. All required forms and questionnaires should be

consolidated and reduced to the least amount. These forms should be available in an electronic format and used only when the data is of significant educational use. (C&I: June 2007; June 2002; December 1980)

Special Education: Caseload

CTA believes that mandated Special Education caseload limits for programmatic and funding purposes are necessary. These limits must apply to all students for whom ongoing direct service or consultation is provided including identified students with Individual Educational Programs (IEP) or non-identified students. These same class size/caseload caps shall be enforced on a per class basis.

1. Special Day Class Teacher Caseload

a. Infant/Pre-school (Birth - 5 years)

- (1) Intensive, 6 pupils
- (2) Non-intensive, 8-10 pupils

b. Ages (5.0 - 22)

- (1) Autism, 6 pupils
- (2) Moderate - severe, 6-8 pupils
- (3) Mild-moderate, 8-10 pupils
- (4) Blended - RSP/SDC/autism, 10-12 pupils
- (5) Emotionally disturbed, 4-6 pupils
- (6) Low incidence
 - (a) Hearing (hard of hearing, deaf), 6-8 pupils
 - (b) Vision (low vision, blind), 6-8 pupils
 - (c) Deaf-blind, 4-6 pupils
 - (d) Orthopedically challenged, 6-8 pupils

2. Resource Specialists: caseload, 20 pupils

3. Related/Designated Instructional Services Caseload

a. Speech and Language (including duplicated and unduplicated),

- (1) Infant, 15 pupils
- (2) Preschool, 25 pupils
- (3) Elementary, secondary, post-secondary, 40 pupils
- b. Adapted P.E. (including duplicated and unduplicated), 45 pupils
- c. Psychological Services
 - (1) Assessment caseload (including gifted), 45 pupils
 - (2) Counseling, 12-22 pupils
- d. Hearing (itinerant) (duplicated and unduplicated), 12 pupils
- e. Orientation and Mobility, 12 pupils
- f. Inclusion Specialist, 8-10 pupils
- 4. School Nursing Service Caseload
 - a. General and special education K-6, 750:1
 - b. General and special education 7-12, 1000:1
 - c. Special education, 100:1

(SE: November 2009; April 2007; February 2001; June 1998; June 1992; June 1990; January 1986)

Special Education: Caseload Waivers

CTA believes waivers that increase mandated Special Education caseloads should be issued only in extraordinary circumstances.

Furthermore, CTA recommends such waivers be approved only if the following conditions are met:

1. The circumstances are documented.
2. All other service delivery options have been exhausted.
3. The waiver does not exceed the current school year.
4. The exclusive bargaining representative has signed off on the waiver.
5. The teacher/specialist has agreed to and signed the waiver.

6. The same resource specialist shall not be asked to sign a waiver for more than two consecutive years.

(SE: June 1998; May 1997)

Special Education: Suspension and Expulsion

CTA believes children identified as individuals with exceptional needs are entitled to a prescribed suspension/expulsion policy as determined by the Individual Educational Plan (IEP) team.

(CRE: June 1990; May 1985)

Special Education: Use of Aversive Procedures

CTA believes the use of aversive procedures must be designed to address the behavioral needs of individual students and be approved as part of a student's Individual Educational Plan (IEP). For students with an IEP, aversive procedures such as restraint, educative seclusion or behavior training for socially acceptable behavior, should be implemented as an integral part of a long-term, school-wide, positive behavior support system as outlined in the student's IEP when other non-aversive behavior modification techniques have proven ineffective in ensuring a safe learning environment for all.

Any restrictions on the use of aversive procedures do not apply to crisis intervention and emergency situations.

Bargaining unit members shall not be liable for implementing aversive procedures outlined and agreed to by parents/guardians in the IEP.

(SEC January 2010; SAE: May 2005; March 1987)

Special Education Plan: Local Committee

CTA believes a committee should be constituted within each responsible local agency, county office, and consortium responsible for the submission of a local plan for special

education. The committee should be composed of 25% administrators, 50% special education teachers, and 25% regular classroom teachers, the committee and the administrative entity of each agency should cooperatively develop and implement the local plan for special education. The exclusive bargaining agent(s) within each responsible local agency, county office, and consortium should provide for the appropriate representation of regular and special educators. (SAE: May 1981)

Special Education Programs: Foundation for Excellence

CTA believes some children with disabilities can benefit from instruction provided by regular education. There must be a greater emphasis on collaboration between regular education teachers and special education staff in order to improve and expand services to children.

Decisions about the appropriate education for an exceptional child must be individually determined and made with active involvement of varied professionals. There must be a full continuum of services and a full range of delivery models available. Each child must have available the alternatives which are most educationally appropriate to his or her needs.

CTA believes all educators retain the right to participate in development of IEP's for students whom they serve and be invited to participate in such IEP meetings.

The regulations of the Individuals with Disabilities Education Act (IDEA) must be maintained. This includes protection of parent rights, professional rights, due process, IEP timelines, eligibility criteria and the evaluation process.

Special education eligibility standards must be maintained. Students who have met the eligibility standards for existing special education services must be assured an educational program to meet all of their educational needs. Delays in access to special education

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services, in the name of early intervention or prevention for eligible students must not occur. Resources must not be diverted away from special education students in order to focus or refocus services to other “at risk” students.

Proposed education reforms must provide adequate funding. Before statewide implementation these must be piloted and carefully evaluated.

Staff development programs that address the needs for children with disabilities should be provided for all educational personnel. These programs must be designed and implemented by classroom teachers and other participating school personnel. Programs will be scheduled on released time throughout the school year and provided with an appropriate budget.

Implementation of strategies such as collaboration, team teaching, student study team planning and any other support activities must be an integral part of the educational process, be fully funded and occur within the parameters of the work day.

Any redefinition of roles and responsibilities, such as consultation, collaboration or alternative assessment procedures, must not result in an increase in the workload of personnel providing services to students with disabilities.

CTA stands ready and committed to be full participants in the dialogue and development that will produce positive changes for the benefit of our students through adequate funding and collaboration at the school site level to more appropriately address the needs of all students in California.

(SAE: June 2005; May 1996; June 1990)

Special Education Students: Graduation

CTA believes special education students who meet their Individual Education Plan and other students who receive certificates of achievement should have the right to attend graduation ceremonies in the same manner as those students receiving a diploma.

(CRE: March 1988)

Specialized Health Care Procedures

CTA believes specialized health care (e.g., dispensing of medication, catheterization, gavage feeding, suctioning) should be provided by qualified designated personnel as defined in the Education Code and recommended by the credentialed school nurse. Certificated instructional staff shall not be required to perform these services. Specialized health care should be provided by a credentialed school nurse, public health nurse or licensed physician or surgeon. Certain medications such as insulin should only be administered by licensed medical personnel supervised by the above.

When licensed medical personnel are not available, special education students unable to self-administer their medication shall have their medication, except for certain medications such as insulin, administered by qualified designated personnel, as defined by Ed Code, trained and supervised by the credentialed school nurse. (CPD: June 1998; January 1995; March 1991; SPS: June 2006)

Testing/Assessment: Assessment of Student Learning

CTA supports ongoing comprehensive assessment of student growth using multiple measures. The term multiple measures refer to a variety of teacher selected assessments both formal and informal.

CTA believes the primary purpose of assessment is to support learning by:

1. Providing a basis for determining instructional strategies and appropriate learning experience for students.

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2. Assisting students and their parents/guardians in identifying the students' strengths and needs.
3. Improving instruction
4. Measuring a program's effectiveness.
5. Communicating learning expectations.

CTA further believes:

1. Education standards specifying what students should know and be able to do should be clearly defined and prioritized before assessment procedures and exercises are developed.
2. A student's level of performance is best assessed with authentic measures directly linked to the lessons teachers teach and the materials teachers use.
3. Assessment standards, tasks, procedures, and uses should be free of cultural, racial, and gender biases and be fair to all students regardless of economic and/or linguistic differences.
4. Assessment exercises or tasks should be valid and appropriate representations of the standards students are expected to achieve.
5. Appropriate assessment supports a students' positive self-image by reflecting accomplishment of curricular objectives.
6. No one measure should be used to determine a student's performance. A decision or characterization that will have a major impact on a student should not be made on the basis of a single test score. A variety of measures should be used to assess all students.
7. Assessment results and statistical data should be reported in the context of all relevant information.
8. Bargaining unit members, including classroom teachers, must be involved in the design and development of assessment systems, including multiple measures, and are best qualified to determine the criteria for multiple measure assessment of students and dissemination of results.
9. Assessment procedures and results should be understandable by all stakeholders.

10. Assessment systems should be subject to ongoing review and improvement and correlate with local curricular goals and objectives.
11. When new assessment procedures are adopted by a district, resources should be available for professional development of those who administer the assessment.
12. Students whose primary language is other than English should not be given mandated assessments until such tests are available in their primary languages or until fluency is attained in English. It is the responsibility of the State Department of Education to provide the state-mandated assessments in the child's primary language.
13. Multiple measures should be used to assess students with special needs, specifically in relation to the student's individual goals and objectives on their IEP. Accommodations and modifications to required district and/or state assessments should be made specific to individual student needs and should be defined in detail in an IEP. Students should be allowed any accommodation that will help them demonstrate mastery of statewide content standards.
14. On-line testing and evaluation creates new opportunities and concerns.
 - a. The privacy of students must be maintained, including student test results and records.
 - b. Each test takers' identity must be verified for the integrity of the results.
 - c. There must be equal opportunity to access on-line testing and evaluation.
 - d. Teachers must be involved with the input and development of on-line testing and evaluation.

CTA further believes students need adequate instruction time as well as appropriate time set aside for testing. Therefore, CTA recommends:

1. Testing of students should not detract from time allotted for the delivery of required curriculum or cause a negative impact on students' academic performance.

2. Time, format and instructions must be developmentally appropriate.

(AST: January 2010; June 2008; June 2004; May 2005; April 2002; June 2000; May 1999; June 1998; June 1995; March 1995; June 1994; June 1992)

Testing/Assessment: End-of-Course Exam

CTA believes no state-mandated subject exam or end-of-course exam should be used as the sole determination of a passing or failing grade within a course or to determine eligibility for promotion or graduation. (AST: May 2005; June 2001)

Testing/Assessment: Standardized Testing of Students

CTA believes standardized tests, whether norm-, criterion- or standards-referenced, can validly assess only a limited range of student learning. Therefore, they should be only an adjunct or supplement to information obtained through school- and classroom-based assessment conducted by teachers for the purpose of supporting and strengthening instruction as well as for summarizing and evaluating student learning.

Standardized tests are most useful when designed by the educational professionals closest to the classroom and integrated with assessment information specific to local programs.

CTA believes a standardized testing program must include a variety of developmentally appropriate assessment techniques that allow necessary accommodations, modifications and exemptions and are bias-free, reliable and valid. Every test and/or assessment mandated at the local, state or national level should be reviewed by a panel of appropriate subject area specialists and teachers to ascertain the relevance of the test to the subject area and be used to evaluate a program's effectiveness toward meeting local, state or national standards and/or goals.

The administration of standardized tests includes the responsibility to educate the stakeholders in the purpose of the test, the meaning of test results, and the accurate interpretation of conclusions.

CTA believes students, parents/guardians, teachers, administrators, schools and school districts should not be penalized for parents/guardians exercising their legal rights to exempt their children from standardized tests and/or assessments.

CTA believes all test items should be made public after they are used. Every test must include procedures for teachers, students and parents to challenge the accuracy or fairness of test items, answer and scoring procedures. Challenges must be directed to a public body with the authority and responsibility to examine all challenges, to report its findings, and to recommend appropriate remedies in cases where challenged items have negatively impacted student scores.

CTA also believes in order for standardized achievement test and/or assessments to support quality education:

1. Content standards must be prioritized to support effective curriculum, instruction, professional development and assessment.
2. Stakeholders must determine high priority content standards. These standards must be clearly and thoroughly described so that the knowledge and skills students need to demonstrate are evident.
3. Valid results of assessment of high-priority content standards must be reported standard-by-standard for each student school and district.
4. The breadth of the curriculum must be monitored to ensure that attention is given to all content standards and subject areas, including those that are not assessed.
5. Progress should be continually monitored to ensure that assessments are appropriate for the purposes for which they are intended.

CTA opposes the use of standardized tests and multiple measure assessments when:

1. Used as the criterion for the reduction or withholding of any educational funding.
2. Results are used to compare students, teachers, programs, schools and communities.
3. Used as a single criterion for high-stakes decision making.
4. The results lead to sanctions or other punitive actions.
5. Arbitrary standards of improvement are required.
6. They do not match the motor skills, academic developmental levels or language proficiency of the student.
7. Student scores are used to evaluate teachers or to determine compensation or employment status.
8. Programs are specifically designed to teach to the test.
9. Testing programs or multiple measure assessments limit or supplant instructional time.
10. Every student is required to be tested every year.
11. Students and parents/guardians are not provided with a complete report of the individual student's test results.
12. Time required to administer the test exceeds reasonable and appropriate limits for the age of the student.
13. Test preparation impedes or discourages learning, constrains the curriculum in ways that threaten the quality of teaching and learning for students, or limits future educational opportunities of learners.
14. Scores are used to track students.
15. Students in grade 2 and below are required to be tested.

(AST: January 2010; April 2005; June 2004)

Testing/Assessment: Student Performance

CTA believes an integral part of the educational program is a system of multiple measures to gather a complete picture of student achievement. Valid testing and assessment is accomplished through a wide variety of teacher selected performance based assessments:

developmentally appropriate tests, rubrics, and critical thinking activities. Assessments should allow for students to be measured by a variety of methods that address all learning modalities. Testing and assessment should be used as a diagnostic tool for the improvement of both instruction and learning; reflect what students know and can do; and be free from cultural, racial, gender, socio-economic and linguistic biases. Testing and assessment should measure growth of each student over time documenting the progress of individual students, not the comparison of students.

CTA believes in hearing, vision, and other health screenings.

CTA believes curriculum content standards, student performance standards, and student assessment programs are interrelated and interdependent; neither the state nor school district should develop or apply any of the three components separately from the others. Both standards and assessment instruments must be appropriate for students at each grade level and in each subject.

CTA believes all pertinent comparability information must be included with the results from any statewide program when these results are reported by the media.

CTA believes results from student assessment programs should not be used to evaluate bargaining unit members, determine compensation or continued employment status but be used to train and guide bargaining unit members on how to use performance based assessments in the classroom.

Teachers must be an integral part in the development, analysis and evaluation of curriculum content standards, student performance standards, and student assessment programs.

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CTA further believes:

1. The full allocation of funds for programs and curricula must be provided to ensure adequate assessment results.
2. There should be staff development/teacher training and adequate classroom preparation time to administer a performance based assessment.
3. California educators and certificated support personnel must be involved in all aspects of the assessments process from construction through reporting to the public.
4. Assessments should be used as a diagnostic/prescriptive tool to assist bargaining members in improving instruction and advancing student learning.

(AST: January 2010 May 2005; April 2002; February 2001; October 1997; June 1995; March 1995; January 1995; June 1993; January 1989; June 1980; May 1979; ECE: May 2005; FPE: October 1997)

Testing/Assessment: Student Portfolio

CTA believes portfolios are collections of annotated student activities with clearly delineated goals and objectives that can be used to evaluate students' progress. Student portfolios are for the purpose of students' self-evaluation and for the identification of on-going goals. Portfolios should:

1. Provide information that shows the student engaged in self-assessment.
2. Consist of activities done by and with the student.
3. Exist as separate and different from cumulative folders.
4. Demonstrate student activities to the teacher or reviewer and should include the actual work, the rationale or purpose, and standards of performance.
5. Contain information that illustrates growth and provides a comprehensive view of student performance in context.
6. Provide a forum which encourages students to develop the abilities needed to become independent and self-directed life-long learners.
7. Send a message to students, parents, and administrators that learning is on-going.

8. Demonstrate progress toward the goals of the instructional program, based on clearly stated purposes.

There must be:

1. Teacher and student collaboration to determine what should be contained in portfolios.
2. On-going in-service and training for teachers and certificated support personnel to assist students in developing portfolios.
3. Training and guidance for teachers and certificated support personnel on how to assist students in self-assessment and how to assess students' work contained in portfolios.
4. Training for on how to use the work contained in portfolios as a tool for student assessment.
5. Adequate compensation for the many hours that teachers will need to construct, maintain, and assess portfolios.
6. Time provided for development, implementation, and maintenance of portfolios.
7. A concerted effort to educate parents and community members regarding the value of portfolios as compared to traditional methods of assessment.
8. Adequate storage space provided for portfolios.
9. A period of transition from traditional assessment to portfolio type assessment; this initial transition should focus on core subjects with mutually agreed-upon electives added gradually.

(AST: May 2005; April 2002; June 1995; June 1993)

Testing/Assessment: Student Progress Reporting

CTA believes students and parents should be notified at regular intervals of the students' progress toward meeting District and/or State standards. The assignment of letter grades may be one of multiple methods used in the evaluation of the students' development and progress toward meeting District and/or State standards. (PRR: June 1994; June 2001)

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Tracking of Students

CTA believes the use of academic tracking resulting in groupings along lines of socio-economic status, sex, race, color, or national origin must be eliminated in all public schools. The intentional or unintentional misplacement of students must be investigated, reported, and eliminated.

CTA encourages all school districts to investigate and monitor the discriminatory academic tracking of minority students. Areas of concern are the over-representation of minority students in low ability and special education classes and the under-representation of these students in college-prep and accelerated programs such as GATE, Honors and Advanced Placement.

A variety of appropriate grouping strategies should be used to ensure all students gain access to a meaning-centered curriculum that is strongly academic and encourages critical thinking.

(CRE: January 1996; June 1995; October 1992)

California Education Code Section 44014

(a) Whenever any employee of a school district or of the office of a county superintendent of schools is attacked, assaulted, or physically threatened by any pupil, it shall be the duty of the employee, and the duty of any person under whose direction or supervision the employee is employed in the public school system who has knowledge of the incident, to promptly report the incident to the appropriate law enforcement authorities of the county or city in which the incident occurred. Failure to make the report shall be an infraction punishable by a fine of not more than one thousand dollars (\$1,000).

(b) Compliance with school district governing board procedures relating to the reporting of, or facilitation of reporting of, the incidents specified in subdivision (a) shall not exempt a person under a duty to make the report prescribed by subdivision (a) from making the report.

(c) A member of the governing board of a school district, a county superintendent of schools, or an employee of any school district or the office of any county superintendent of schools, shall not directly or indirectly inhibit or impede the making of the report prescribed by subdivision (a) by a person under a duty to make the report. An act to inhibit or impede the making of a report shall be an infraction, and shall be punishable by a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

(d) Neither the governing board of a school district, a member of the governing board, a county superintendent of schools, nor an employee of a school district or of the office of any county superintendent of schools shall impose any sanctions against a person under a duty to make the report prescribed by subdivision (a) for making the report.

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California Education Code Section 48900

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(a)(1) Caused, attempted to cause, or threatened to cause physical injury to another person.

(2) Willfully used force or violence upon the person of another, except in self-defense.

(b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stolen or attempted to steal school property or private property.

(h) Possessed or used tobacco, or products containing tobacco or nicotine prod-

ucts, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.

(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

(l) Knowingly received stolen school property or private property.

(m) Possessed an imitation firearm. As used in this section, "imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

(n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

(p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

(q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, "hazing" means a method of initiation or pre-initiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, "hazing" does not include athletic events or

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school-sanctioned events.

(r) Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act, as defined in subdivisions (f) and (g) of Section 32261, directed specifically toward a pupil or school personnel.

(s) A pupil shall not be suspended or expelled for any of the acts enumerated in this section, unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to, any of the following:

- (1) While on school grounds.
- (2) While going to or coming from school.
- (3) During the lunch period whether on or off the campus.
- (4) During, or while going to or coming from, a school sponsored activity.

(t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(u) As used in this section, "school property" includes, but is not limited to, electronic files and databases.

(v) A superintendent of the school district or principal may use his or her discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this section.

(w) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

48900.1. (a) The governing board of each school district may adopt a policy authorizing teachers to require the parent or guardian of a pupil who has been suspended by a teacher pursuant to Section 48910 for reasons specified in subdivision (i) or (k) of Section 48900, to attend a portion of a school day in the classroom of his or her child or ward. The policy shall take into account reasonable factors that may prevent compliance with a notice to attend. The attendance of the parent or guardian shall be limited to the class from which the pupil was suspended.

(b) The policy shall be adopted pursuant to the procedures set forth in Sections 35291 and 35291.5. Parents and guardians shall be notified of this policy prior to its implementation. A teacher shall apply any policy adopted pursuant to this section uniformly to all pupils within the classroom.

The adopted policy shall include the procedures that the district will follow to accomplish the following:

(1) Ensure that parents or guardians who attend school for the purposes of this section meet with the school administrator or his or her designee after completing the classroom visitation and before leaving the school site.

(2) Contact parents or guardians who do not respond to the request to attend school pursuant to this section.

(c) If a teacher imposes the procedure pursuant to subdivision (a), the principal shall send a written notice to the parent or guardian stating that attendance by the parent or guardian is pursuant to law. This section shall apply only to a parent or guardian who is actually living with the pupil.

(d) A parent or guardian who has received a written notice pursuant to subdivision

(c) shall attend class as specified in the written notice. The notice may specify that the attendance of the parent or guardian be on the day the pupil is scheduled to return to class, or within a reasonable period of time thereafter, as established by the policy of the board adopted pursuant to subdivision (a).

48900.2. In addition to the reasons specified in Section 48900, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed sexual harassment as defined in Section 212.5.

For the purposes of this chapter, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall not apply to pupils enrolled in kindergarten and grades 1 to 3, inclusive.

48900.3. In addition to the reasons set forth in Sections 48900 and 48900.2, a pupil in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233.

48900.4. In addition to the grounds specified in Sections 48900 and 48900.2, a pupil enrolled in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or pupils, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of

materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment.

48900.5. Suspension shall be imposed only when other means of correction fail to bring about proper conduct. However, a pupil, including an individual with exceptional needs, as defined in Section 56026, may be suspended for any of the reasons enumerated in Section 48900 upon a first offense, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900 or that the pupil's presence causes a danger to persons or property or threatens to disrupt the instructional process.

48900.6. As part of or instead of disciplinary action prescribed by this article, the principal of a school, the principal's designee, the superintendent of schools, or the governing board may require a pupil to perform community service on school grounds or, with written permission of the parent or guardian of the pupil, off school grounds, during the pupil's non-school hours. For the purposes of this section, "community service" may include, but is not limited to, work performed in the community or on school grounds in the areas of outdoor beautification, community or campus betterment, and teacher, peer, or youth assistance programs. This section does not apply if a pupil has been suspended, pending expulsion, pursuant to Section 48915. However, this section applies if the recommended expulsion is not implemented or is, itself, suspended by stipulation or other administrative action.

48900.7. (a) In addition to the reasons specified in Sections 48900, 48900.2, 48900.3, and 48900.4, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled

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determines that the pupil has made terroristic threats against school officials or school property, or both.

(b) For the purposes of this section, “terroristic threat” shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars (\$1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family’s safety, or for the protection of school district property, or the personal property of the person threatened or his or her immediate family.

48900.8. For purposes of notification to parents, and for the reporting of expulsion or suspension offenses to the department, each school district shall specifically identify, by offense committed, in all appropriate official records of a pupil each suspension or expulsion of that pupil for the commission of any of the offenses set forth in Section 48900, 48900.2, 48900.3, 48900.4, 48900.7, or 48915.

California Education Code 48925

As used in this article:

- (a) “Day” means a calendar day unless otherwise specifically provided.
- (b) “Expulsion” means a removal of a pupil from (1) the immediate supervision and control, or (2) the general **supervision**, of school personnel, as those terms are used in Section 46300.
- (c) “School day” means a day upon which the schools of the district are in session or

weekdays during the summer recess.

(d) "Suspension" means removal of a pupil from ongoing instruction for adjustment purposes. However, "suspension" does not mean any of the following:

(1) Reassignment to another education program or class at the same school where the pupil will receive continuing instruction for the length of the day prescribed by the governing board for pupils of the same grade level.

(2) Referral to a certificated employee designated by the principal to advise pupils.

(3) Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the pupil to the principal or the principal's designee as provided in Section 48910. Removal from a particular class shall not occur more than once every five schooldays.

(e) "Pupil" includes a pupil's parent or guardian or legal counsel.

California Education Code Section 56040

(a) Every individual with exceptional needs who is eligible to receive special education instruction and related services under this part, shall receive that instruction and those services at no cost to his or her parents or, as appropriate, to him or her. A free appropriate public education shall be available to individuals with exceptional needs in accordance with Section 1412(a)(1) of Title 20 of the United States Code and Section 300.101 of Title 34 of the Code of Federal Regulations.

(b) An individual, aged 18 through 21 years, who, in the educational placement prior to his or her incarceration in an adult correctional facility was not identified as being an individual with exceptional needs or did not have an individualized education program under this part, is not entitled to a free appropriate public education pursuant to Section 1412(a)(1)(B)(ii) of Title 20 of the United States Code.

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56040.1 In accordance with Section 1412(a)(5) of Title 20 of the United States Code and Section 300.114 of Title 34 of the Code of Federal Regulations, each public agency shall ensure the following to address the least restrictive environment for individuals with exceptional needs:

(a) To the maximum extent appropriate, individuals with exceptional needs, including children in public or private institutions or other care facilities, are educated with children who are nondisabled.

(b) Special classes, separate schooling, or other removal of individuals with exceptional needs from the regular educational environment occurs only if the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

56040.5 (a) State and local educational agency personnel are prohibited, pursuant to paragraph (25) of subsection (a) of Section 1412 of Title 20 of the United States Code, from requiring an individual with exceptional needs to obtain a prescription for a medication that is a substance covered by the Controlled Substances Act (21 U.S.C. Sec. 801 et seq.) as a condition of attending school, receiving an assessment under subsection (a) or (c) of Section 1414 of Title 20 of the United States Code, or receiving services under this part.

(b) Subdivision (a) does not create a federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a pupil's academic and functional performance, his or her behavior in the class or school, or the need for assessment for special education and related services under paragraph (3) of subsection (a) of Section 1412 of Title 20 of the United States Code.

California Education Code Section 56041

Except for those pupils meeting residency requirements for school attendance specified in subdivision (a) of Section 48204, and notwithstanding any other provision of law, if it is determined by the individualized education program team that special education services are required beyond the pupil's 18th birthday, the district of residence responsible for providing special education and related services to pupils between the ages of 18 to 22 years, inclusive, shall be assigned, as follows:

(a) For nonconserved pupils, the last district of residence in effect prior to the pupil's attaining the age of majority shall become and remain as the responsible local educational agency, as long as and until the parent or parents relocate to a new district of residence. At that time, the new district of residence shall become the responsible local educational agency.

(b) For conserved pupils, the district of residence of the conservator shall attach and remain the responsible local educational agency, as long as and until the conservator relocates or a new one is appointed. At that time, the new district of residence shall attach and become the responsible local educational agency.

56041.5. When an individual with exceptional needs reaches the age of 18, with the exception of an individual who has been determined to be incompetent under state law, the local educational agency shall provide any notice of procedural safeguards required by this part to both the individual and the parents of the individual. All other rights accorded to a parent under this part shall transfer to the individual with exceptional needs. The local educational agency shall notify the individual and the parent of the transfer of rights.

California Education Code Section 56042

Notwithstanding any other provision of law, an attorney or advocate for a parent of an individual with exceptional needs shall not recommend placement in a nonpublic, nonsectarian school or agency with which the attorney or advocate is employed or contracted, or otherwise has a conflict of interest or from which the attorney or advocate receives a benefit.

California Education Code Section 56043

The primary timelines affecting special education programs are as follows:

(a) A proposed assessment plan shall be developed within 15 calendar days of referral for assessment, not counting calendar days between the pupil's regular school sessions or terms or calendar days of school vacation in excess of five schooldays, from the date of receipt of the referral, unless the parent or guardian agrees in writing to an extension, pursuant to subdivision (a) of Section 56321.

(b) A parent or guardian shall have at least 15 calendar days from the receipt of the proposed assessment plan to arrive at a decision, pursuant to subdivision (c) of Section 56321.

(c) Once a child has been referred for an initial assessment to determine whether the child is an individual with exceptional needs and to determine the educational needs of the child, these determinations shall be made, and an individualized education program team meeting shall occur within 60 days of receiving parental consent for the assessment, pursuant to subdivision (a) of Section 56302.1, except as specified in subdivision (b) of that section, and pursuant to Section 56344.

(d) The individualized education program team shall review the pupil's individualized education program periodically, but not less frequently than annually, pursuant to subdivision (d) of Section 56341.1.

(e) A parent or guardian shall be notified of the individualized education program

team meeting early enough to ensure an opportunity to attend, pursuant to subdivision (b) of Section **56341.5**: In the case of an individual with exceptional needs who is 16 years of age or younger, if appropriate, the meeting notice shall indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the individual with exceptional needs, and the meeting notice described in this subdivision shall indicate that the individual with exceptional needs is invited to attend, pursuant to subdivision (e) of Section 56341.5.

(f) (1) An individualized education program required as a result of an assessment of a pupil shall be developed within a total time not to exceed 60 calendar days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's or guardian's written consent for assessment, unless the parent or guardian agrees in writing to an extension, pursuant to Section 56344.

(2) A meeting to develop an initial individualized education program for the pupil shall be conducted within 30 days of a determination that the child needs special education and related services pursuant to Section 300.323(c)(1) of Title 34 of the Code of Federal Regulations and in accordance with Section 56344.

(g)(1) Beginning not later than the first individualized education program to be in effect when the pupil is 16 years of age, or younger if determined appropriate by the individualized education program team, and updated annually thereafter, the individualized education program shall include appropriate measurable postsecondary goals and transition services needed to assist the pupil in reaching those goals, pursuant to paragraph (8) of subdivision (a) of Section 56345.

(2) The individualized education program for pupils in grades 7 to 12, inclusive, shall include any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and to meet or exceed proficiency standards for graduation, pursuant to paragraph (1) of subdivision (b) of Section 56345.

(3) Beginning not later than one year before the pupil reaches the age of 18 years, the individualized education program shall contain a statement that the pupil has been informed of the pupil's rights under this part, if any, that will transfer to the pupil upon reaching the age of 18 years, pursuant to Section 56041.5, subdivision (g) of Section 56345, and Section 300.520 of Title 34 of the Code of Federal Regulations.

(h) Beginning at the age of 16 years or younger, and annually thereafter, a statement of needed transition services shall be included in the pupil's individualized education program, pursuant to Section 56345.1 and Section 1414(d)(1)(A)(i)(VIII) of Title 20 of the United States Code.

(i) A pupil's individualized education program shall be implemented as soon as possible following the individualized education program team meeting, pursuant to Section 300.323(c)(2) of Title 34 of the Code of Federal Regulations and in accordance with Section 56344.

(j) An individualized education program team shall meet at least annually to review a pupil's progress, the individualized education program, including whether the annual goals for the pupil are being achieved, the appropriateness of the placement, and to make any necessary revisions, pursuant to subdivision (d) of Section 56343. The local educational agency shall maintain procedures to ensure that the individualized education program team reviews the pupil's individualized education program periodically, but not less frequently than annually, to determine whether the annual goals for the pupil are being achieved, and revises the individualized education program as appropriate to address, among other matters, the provisions specified in subdivision (d) of Section 56341.1, pursuant to subdivision (a) of Section 56380.

(k) A reassessment of a pupil shall occur not more frequently than once a year, unless the parent and the local educational agency agree otherwise in writing, and shall occur at least once every three years, unless the parent and the local educational agency agree, in writing, that a reassessment is unnecessary, pursuant to Section

56381, and in accordance with Section 414(a)(2) of Title 20 of the United States Code.

(l) A meeting of an individualized education program team requested by a parent or guardian to review an individualized education program pursuant to subdivision (c) of Section 56343 shall be held within 30 calendar days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's or guardian's written request, pursuant to Section 56343.5.

(m) If an individual with exceptional needs transfers from district to district within the state, the following are applicable pursuant to Section 56325:

(1) If the child has an individualized education program and transfers into a district from a district not operating programs under the same local plan in which he or she was last enrolled in a special education program within the same academic year, the local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved individualized education program, in consultation with the parents or guardians, for a period not to exceed 30 days, by which time the local educational agency shall adopt the previously approved individualized education program or shall develop, adopt, and implement a new individualized education program that is consistent with federal and state law, pursuant to paragraph (1) of subdivision (a) of Section 56325.

(2) If the child has an individualized education program and transfers into a district from a district operating programs under the same special education local plan area of the district in which he or she was last enrolled in a special education program within the same academic year, the new district shall continue, without delay, to provide services comparable to those described in the existing approved individualized education program, unless the parent and the local educational agency agree to develop, adopt, and implement a new individualized education program that is

consistent with state and federal law, pursuant to paragraph (2) of subdivision (a) of Section 56325.

(3) If the child has an individualized education program and transfers from an educational agency located outside the state to a district within the state within the same academic year, the local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved individualized education program, in consultation with the parents or guardians, until the local educational agency conducts an assessment as specified in paragraph (3) of subdivision (a) of Section 56325.

(4) In order to facilitate the transition for an individual with exceptional needs described in paragraphs (1) to (3), inclusive, the new school in which the pupil enrolls shall take reasonable steps to promptly obtain the pupil's records, as specified, pursuant to subdivision (b) of Section 56325.

(n) The parent or guardian shall have the right and opportunity to examine all school records of the child and to receive complete copies within five business days after a request is made by the parent or guardian, either orally or in writing, and before any meeting regarding an individualized education program of his or her child or any hearing or resolution session pursuant to Chapter 5 (commencing with Section 56500), in accordance with Section 56504 and Chapter 6.5 (commencing with Section 49060) of Part 27.

(o) Upon receipt of a request from a local educational agency where an individual with exceptional needs has enrolled, a former educational agency shall send the pupil's special education records, or a copy thereof, to the new local educational agency within five working days, pursuant to subdivision (a) of Section 3024 of Title 5 of the California Code of Regulations.

(p) The department shall do all of the following:

(1) Have a time limit of 60 calendar days after a complaint is filed with the state

educational agency to investigate the complaint.

(2) Give the complainant the opportunity to submit additional information about the allegations in the complaint.

(3) Review all relevant information and make an independent determination as to whether there is a violation of a requirement of this part or Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(4) Issue a written decision pursuant to Section 300.152(a)(5) of Title 34 of the Code of Federal Regulations.

(q) A prehearing mediation conference shall be scheduled within 15 calendar days of receipt by the Superintendent of the request for mediation, and shall be completed within 30 calendar days after the request for mediation, unless both parties to the prehearing mediation conference agree to extend the time for completing the mediation, pursuant to Section 56500.3.

(r) Any request for a due process hearing arising from subdivision (a) of Section 56501 shall be filed within two years from the date the party initiating the request knew or had reason to know of facts underlying the basis for the request, except that this timeline shall not apply to a parent if the parent was prevented from requesting the due process hearing, pursuant to subdivision (l) of Section 56505.

(s) The Superintendent shall ensure that, within 45 calendar days after receipt of a written due process hearing request, the hearing is immediately commenced and completed, including any mediation requested at any point during the hearing process, and a final administrative decision is rendered, pursuant to subdivision (f) of Section 56502.

(t) If either party to a due process hearing intends to be represented by an attorney in the due process hearing, notice of that intent shall be given to the other party at least 10 calendar days prior to the hearing, pursuant to subdivision (a) of Section 56507.

(u) Any party to a due process hearing shall have the right to be informed by the

other parties to the hearing, at least 10 calendar days prior to the hearing, as to what those parties believe are the issues to be decided at the hearing and their proposed resolution of those issues, pursuant to paragraph (6) of subdivision (e) of Section 56505.

(v) Any party to a due process hearing shall have the right to receive from other parties to the hearing, at least five business days prior to the hearing, a copy of all documents, including all assessments completed and not completed by that date, and a list of all witnesses and their general area of testimony that the parties intend to present at the hearing, pursuant to paragraph (7) of subdivision (e) of Section 56505.

(w) An appeal of a due process hearing decision shall be made within 90 calendar days of receipt of the hearing decision, pursuant to subdivision (k) of Section 56505.

(x) When an individualized education program calls for a residential placement as a result of a review by an expanded individualized education program team, the individualized education program shall include a provision for a review, at least every six months, by the full individualized education program team of all of the following pursuant to paragraph (2) of subdivision (c) of Section 7572.5 of the Government Code:

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

(y) A complaint filed with the department shall allege a violation of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) or a provision of this part that occurred not more than one year prior to the date that the complaint is received by the department, pursuant to Section 56500.2 and Section 300.153(c) of Title 34 of the Code of Federal Regulations.

California Education Code Section 56045

(a) The Superintendent shall send a notice to the governing board of each local educational agency within 30 days of when the Superintendent determines any of the following:

(1) The local educational agency is substantially out of compliance with one or more significant provisions of this part, the implementing regulations, provisions of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or the implementing regulations.

(2) The local educational agency fails to comply substantially with corrective action orders issued by the department resulting from focused monitoring findings or complaint investigations.

(3) The local educational agency fails to implement the decision of a due process hearing officer for noncompliance with provisions of this part, the implementing regulations, provisions of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or the implementing regulations, which noncompliance results in the denial of, or impedes the delivery of, a free appropriate public education for an individual with exceptional needs.

(b) The notice shall provide a description of the special education and related services that are required by law and with which the local educational agency is not in compliance.

(c) Upon receipt of the notification sent pursuant to subdivision (a), the governing board shall at a regularly scheduled public hearing address the issue of noncompliance.

California Education Code Section 56046

(a) An employee of a local educational agency shall not directly or indirectly use or attempt to use the official authority or influence of the employee for the purpose of

intimidating, threatening, coercing, or attempting to intimidate, threaten, or coerce, any person, including, but not limited to, a teacher, a provider of designated instruction and services, a paraprofessional, an instructional aide, a behavioral aide, a health aide, other educators or staff of the local educational agency, a private individual or entity under contract with the local educational agency, or a subordinate of the employee, for the purpose of interfering with the action of that person at any time, to assist a parent or guardian of a pupil with exceptional needs to obtain services or accommodations for that pupil.

(b) If a person described in subdivision (a), believes an employee or agent of a local educational agency is in violation of subdivision (a) because of using or attempting to use official authority or influence, that person may file a complaint under the Uniform Complaint Procedures as set forth in Title 5 of the California Code of Regulations. If a person files a complaint pursuant to this subdivision, the state shall intervene directly and the conditions for intervention in Section 4650 of Title 5 of the California Code of Regulations are not applicable.

(c) This section does not limit or alter any right a person described in subdivision (a) may have to file a complaint pursuant to either a governing board-adopted grievance process or a collectively bargained grievance process.

(d) This section does not do any of the following:

(1) Limit or alter the right or duty of a public school official to direct or discipline an employee or contractor.

(2) Prevent a local educational agency from enforcing a law or regulation regarding conflicts of interest, incompatible activities, or the confidentiality of pupil records.

(e) (1) For purposes of this section, "services or accommodations" includes information that would assist a parent or guardian to obtain a free appropriate public education for his or her child as guaranteed by the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or other services or accommodations guaranteed under Section 504 of the federal Rehabilitation Act of

1973 (29 U.S.C. Sec. 794) and the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), as well as state laws regarding individuals with exceptional needs.

(2) For purposes of this section, “use of official authority or influence” includes promising to confer or conferring any benefit, affecting or threatening to affect any reprisal, or taking, directing others to take, recommending, processing, or approving any personnel action, including, but not limited to, appointment, promotion, transfer, assignment, performance evaluation, suspension, or other disciplinary action. “Use of official authority or influence” does not include good faith advocacy by an employee of a public school agency, to any person including another agency employee or contractor, regarding the services, if any, to be provided to a pupil under the laws referred to in paragraph (1).

(f) This section does not diminish the rights, privileges, or remedies of a public school employee under any other federal or state law or under an employment contract or collective bargaining agreement.

(g) A school employee’s or contractor’s assistance offered to a parent or guardian of a pupil with exceptional needs to obtain services or accommodations for that pupil shall not interfere with the school employee’s or contractor’s regular duties for the local educational agency.

56205. (a) Each special education local plan area submitting a local plan to the Superintendent under this part shall ensure, in conformity with Sections 1412(a) and 1413(a) (1) of Title 20 of the United States Code, and in accordance with Section 300.201 of Title 34 of the Code of Federal Regulations, that it has in effect policies, procedures, and programs that are consistent with state laws, regulations, and policies governing the following:

(1) Free appropriate public education.

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- (2) Full educational opportunity.
- (3) Child find and referral.
- (4) Individualized education programs, including development, implementation, review, and revision.
- (5) Least restrictive environment.
- (6) Procedural safeguards.
- (7) Annual and triennial assessments.
- (8) Confidentiality.
- (9) Transition from Subchapter III (commencing with Section 1431) of Title 20 of the United States Code to the preschool program.
- (10) Children in private schools.
- (11) Compliance assurances, including general compliance with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), federal regulations relating thereto, and this part.
- (12) (A) A description of the governance and administration of the plan, including identification of the governing body of a multidistrict plan or the individual responsible for administration in a single district plan, and of the elected officials to whom the governing body or individual is responsible.
(B) A description of the regionalized operations and services listed in Section 56836.23 and the direct instructional support provided by program specialists in accordance with Section 56368 to be provided through the plan.
(C) Verification that a community advisory committee has been established pursuant to Section 56190.
(D) Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56195.1, shall do the following:
 - (i) Specify the responsibilities of each participating county office and district governing

board in the policymaking process, the responsibilities of the superintendents of each participating district and county in the implementation of the plan, and the responsibilities of district and county administrators of special education in coordinating the administration of the local plan.

(ii) Identify the respective roles of the administrative unit and the administrator of the special education local plan area and the individual local educational agencies within the special education local plan area in relation to the following:

(I) The hiring, supervision, evaluation, and discipline of the administrator of the special education local plan area and staff employed by the administrative unit in support of the local plan.

(II) The allocation from the state of federal and state funds to the special education local plan area administrative unit or to local educational agencies within the special education local plan area.

(III) The operation of special education programs.

(IV) Monitoring the appropriate use of federal, state, and local funds allocated for special education programs.

(V) The preparation of program and fiscal reports required of the special education local plan area by the state.

(iii) Include copies of joint powers agreements or contractual agreements, as appropriate, for districts and counties that elect to enter into those agreements pursuant to subdivision (b) or (c) of Section 56195.1.

(E) The description of the governance and administration of the plan, and the policymaking process, shall be consistent with subdivision (f) of Section 56001, subdivision (a) of Section 56195.3, and Section 56195.9, and shall reflect a schedule of regular consultations regarding policy and budget development with representatives of special education and regular education teachers and administrators selected by the groups they represent and parent members of the community advisory committee established pursuant to Article 7 (commencing with Section 56190) of Chapter 2.

- (13) Personnel qualifications to ensure that personnel, including special education teachers and personnel and paraprofessionals providing related services, necessary to implement this part are appropriately and adequately prepared and trained in accordance with Sections 56058 and 56070 and Sections 1412(a)(14) and 1413(a)(3) of Title 20 of the United States Code.
- (14) Performance goals and indicators.
- (15) Participation in state and district-wide assessments, including assessments described under Section 1111 of the federal Elementary and Secondary Education Act of 1965 (20 U.S.C. Sec. 6301 et seq.) and alternate assessments in accordance with Section 1412(a) (16) of Title 20 of the United States Code, and reports relating to assessments.
- (16) Supplementation of state, local, and other federal funds, including nonsupplantation of funds.
- (17) Maintenance of financial effort.
- (18) Opportunities for public participation prior to adoption of policies and procedures.
- (19) Suspension and expulsion rates.
- (20) Access to instructional materials by blind individuals with exceptional needs and others with print disabilities in accordance with Section 1412(a)(23) of Title 20 of the United States Code.
- (21) Overidentification and disproportionate representation by race and ethnicity of children as individuals with exceptional needs, including children with disabilities with a particular impairment described in Section 1401 of Title 20 of the United States Code and in accordance with Section 1412(a)(24) of Title 20 of the United States Code.
- (22) Prohibition of mandatory medication use pursuant to Section 56040.5 and in accordance with Section 1412(a)(25) of Title 20 of the United States Code.
- (b) Each local plan submitted to the Superintendent under this part shall also contain all the following:
 - (1) An annual budget plan that shall be adopted at a public hearing held by the special

education local plan area. Notice of this hearing shall be posted in each school in the local plan area at least 15 days prior to the hearing. The annual budget plan may be revised during any fiscal year according to the policymaking process established pursuant to subparagraphs (D) and (E) of paragraph (12) of subdivision (a) and consistent with subdivision (f) of Section 56001 and Section 56195.9. The annual budget plan shall identify expected expenditures for all items required by this part which shall include, but not be limited to, the following:

- (A) Funds received in accordance with Chapter 7.2 (commencing with Section 56836).
- (B) Administrative costs of the plan.
- (C) Special education services to pupils with severe disabilities and low incidence disabilities.
- (D) Special education services to pupils with nonsevere disabilities.
- (E) Supplemental aids and services to meet the individual needs of pupils placed in regular education classrooms and environments.
- (F) Regionalized operations and services, and direct instructional support by program specialists in accordance with Article 6 (commencing with Section 56836.23) of Chapter 7.2.
- (G) The use of property taxes allocated to the special education local plan area pursuant to Section 2572.

(2) An annual service plan shall be adopted at a public hearing held by the special education local plan area. Notice of this hearing shall be posted in each district in the special education local plan area at least 15 days prior to the hearing. The annual service plan may be revised during any fiscal year according to the policymaking process established pursuant to subparagraphs (D) and (E) of paragraph (12) of subdivision (a) and consistent with subdivision (f) of Section 56001 and with Section 56195.9. The annual service plan shall include a description of services to be provided by each district and county office, including the nature of the services and the physical location at which the services will be provided, including alternative schools, charter schools,

opportunity schools and classes, community day schools operated by districts, community schools operated by county offices, and juvenile court schools, regardless of whether the district or county office is participating in the local plan. This description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs.

(3) A description of programs for early childhood special education from birth through five years of age.

(4) A description of the method by which members of the public, including parents or guardians of individuals with exceptional needs who are receiving services under the plan, may address questions or concerns to the governing body or individual identified in subparagraph (A) of paragraph (12) of subdivision (a).

(5) A description of a dispute resolution process, including mediation and final and binding arbitration to resolve disputes over the distribution of funding, the responsibility for service provision, and the other governance activities specified within the plan.

(6) Verification that the plan has been reviewed by the community advisory committee and that the committee had at least 30 days to conduct this review prior to submission of the plan to the Superintendent.

(7) A description of the process being utilized to meet the requirements of Section 56303.

(c) A description of the process being utilized to oversee and evaluate placements in nonpublic, nonsectarian schools and the method of ensuring that all requirements of each pupil's individualized education program are being met. The description shall include a method for evaluating whether the pupil is making appropriate educational progress.

(d) The local plan, budget plan, and annual service plan shall be written in language that is understandable to the general public.

California Education Code 56207

(a) No educational programs and services already in operation in school districts or a county office of education pursuant to Part 30 (commencing with Section 56000) shall be transferred to another school district or a county office of education or from a county office of education to a school district unless the special education local plan area has developed a plan for the transfer which addresses, at a minimum, all of the following:

- (1) Pupil needs.
 - (2) The availability of the full continuum of services to affected pupils.
 - (3) The functional continuation of the current individualized education programs of all affected pupils.
 - (4) The provision of services in the least restrictive environment from which affected pupils can benefit.
 - (5) The maintenance of all appropriate support services.
 - (6) The assurance that there will be compliance with all federal and state laws and regulations and special education local plan area policies.
 - (7) The means through which parents and staff were represented in the planning process.
- (b) The date on which the transfer will take effect may be no earlier than the first day of the second fiscal year beginning after the date on which the sending or receiving agency has informed the other agency and the governing body or individual identified in subparagraph (A) of paragraph (12) of subdivision (a) of Section 56205, unless the governing body or individual identified in subparagraph (A) of paragraph (12) of subdivision (a) of Section 56205 unanimously approves the transfer taking effect on the first day of the first fiscal year following that date.
- (c) If either the sending or receiving agency disagree with the proposed transfer, the

matter shall be resolved by the alternative resolution process established pursuant to paragraph (5) of subdivision (b) of Section 56205.

(d) Notwithstanding Section 56208, this section shall apply to all special education local plan areas commencing on July 1, 1998, whether or not a special education local plan area has submitted a revised local plan for approval or has an approved revised local plan pursuant to Section 56836.03.

California Education Code 56320

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

(a) Testing and assessment materials and procedures used for the purposes of assessment and placement of individuals with exceptional needs are selected and administered so as not to be racially, culturally, or sexually discriminatory. Pursuant to Section 1412(a) (6)(B) of Title 20 of the United States Code, the materials and procedures shall be provided in the pupil's native language or mode of communication, unless it is clearly not feasible to do so.

(b) Tests and other assessment materials meet all of the following requirements:

(1) Are provided and administered in the language and form most likely to yield accurate information on what the pupil knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer as required by Section 1414(b) (3)(A)(ii) of Title 20 of the United States Code.

(2) Are used for purposes for which the assessments or measures are valid and reliable.

(3) Are administered by trained and knowledgeable personnel and are administered in accordance with any instructions provided by the producer of the assessments, ex-

cept that individually administered tests of intellectual or emotional functioning shall be administered by a credentialed school psychologist.

(c) Tests and other assessment materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(d) Tests are selected and administered to best ensure that when a test administered to a pupil with impaired sensory, manual, or speaking skills produces test results that accurately reflect the pupil's aptitude, achievement level, or any other factors the test purports to measure and not the pupil's impaired sensory, manual, or speaking skills unless those skills are the factors the test purports to measure.

(e) Pursuant to Section 1414(b)(2)(B) of Title 20 of the United States Code, no single measure or assessment is used as the sole criterion for determining whether a pupil is an individual with exceptional needs or determining an appropriate educational program for the pupil.

(f) The pupil is assessed in all areas related to the suspected disability including, if appropriate, health and development, vision, including low vision, hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. A developmental history shall be obtained, when appropriate. For pupils with residual vision, a low vision assessment shall be provided in accordance with guidelines established pursuant to Section 56136. In assessing each pupil under this article, the assessment shall be conducted in accordance with Sections 300.304 and 300.305 of Title 34 of the Code of Federal Regulations.

(g) The assessment of a pupil, including the assessment of a pupil with a suspected low incidence disability, shall be conducted by persons knowledgeable of that disability. Special attention shall be given to the unique educational needs, including,

but not limited to, skills and the need for specialized services, materials, and equipment consistent with guidelines established pursuant to Section 56136.

(h) As part of an initial assessment, if appropriate, and as part of any reassessment under Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and this part, the group that includes members of the individualized education program team, and other qualified professionals, as appropriate, shall follow the procedures specified in Section 1414(c) of Title 20 of the United States Code. The group may conduct its review without a meeting.

(i) Each local educational agency shall ensure that assessments of individuals with exceptional needs who transfer from one district to another district in the same academic year are coordinated with the individual's prior and subsequent schools, as necessary and as expeditiously as possible, in accordance with Section 1414(b)(3)(D) of Title 20 of the United States Code, to ensure prompt completion of the full assessment.

56320.1: All identification, evaluation, and assessment procedures for individuals with exceptional needs who are younger than three years of age shall be provided pursuant to Chapter 4.4 (commencing with Section 56425) and the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

California Education Code Section 56321

(a) If an assessment for the development or revision of the individualized education program is to be conducted, the parent or guardian of the pupil shall be given, in writing, a proposed assessment plan within 15 days of the referral for assessment not counting days between the pupil's regular school sessions or terms or days of school vacation in excess of five schooldays from the date of receipt of the referral, unless the parent or guardian agrees, in writing, to an extension. However, in any

event, the assessment plan shall be developed within 10 days after the commencement of the subsequent regular school year or the pupil's regular school term as determined by each district's school calendar for each pupil for whom a referral has been made 10 days or less prior to the end of the regular school year. In the case of pupil school vacations, the 15-day time shall recommence on the date that the pupil's regular schooldays reconvene. A copy of the notice of a parent's or guardian's rights shall be attached to the assessment plan. A written explanation of all the procedural safeguards under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), and the rights and procedures contained in Chapter 5 (commencing with Section 56500), shall be included in the notice of a parent's or guardian's rights, including information on the procedures for requesting an informal meeting,

prehearing mediation conference, mediation conference, or due process hearing; the timelines for completing each process; whether the process is optional; and the type of representative who may be invited to participate.

(b) The proposed assessment plan given to parents or guardians shall meet all the following requirements:

- (1) Be in language easily understood by the general public.
- (2) Be provided in the native language of the parent or guardian or other mode of communication used by the parent or guardian, unless to do so is clearly not feasible.
- (3) Explain the types of assessments to be conducted.
- (4) State that no individualized education program will result from the assessment without the consent of the parent.

(c)(1) The local educational agency proposing to conduct an initial assessment to determine if the child qualifies as an individual with exceptional needs shall make reasonable efforts to obtain informed consent from the parent of the child before conducting the assessment, in accordance with Section 1414(a)(1)(D) of Title 20 of the

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United States Code.

(2) If the parent of the child does not provide consent for an initial assessment, or the parent fails to respond to a request to provide the consent, the local educational agency may, but is not required to, pursue the initial assessment utilizing the procedures described in Section 1415 of Title 20 of the United States Code and in accordance with paragraph (3) of subdivision (a) of Section 56501 and subdivision (e) of Section 56506.

(3) In accordance with Section 300.300(a)(3)(ii) of Title 34 of the Code of Federal Regulations, the local educational agency does not violate its obligation under Section 300.111 and Sections 300.301 to 300.311, inclusive, of Title 34 of the Code of Federal Regulations if it declines to pursue the assessment.

(4) The parent or guardian shall have at least 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.

(d) Consent for initial assessment shall not be construed as consent for initial placement or initial provision of special education and related services to an individual with exceptional needs, pursuant to Section 1414(a)(1)(D)(i)(I) of Title 20 of the United States Code.

(e) In accordance with Section 300.300(d)(1) of Title 34 of the Code of Federal Regulations, parental consent is not required before reviewing existing data as part of an assessment or reassessment, or before administering a test or other assessment that is administered to all children, unless before administration of that test or assessment, consent is required of the parents of all the children.

(f) Pursuant to Section 1414(a)(1)(E) of Title 20 of the United States Code, the screening of a pupil by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an assessment for eligibility for special education and related services.

(g) In accordance with Section 300.300(d)(5) of Title 34 of the Code of Federal

Regulations, to meet the reasonable efforts requirement in subdivision (c), the local educational agency shall document its attempts to obtain parental consent using the procedures in subdivision (h) of Section 56341.5.

56321.1 If the child is a ward of the state and is not residing with his or her parent, the agency shall, pursuant to clause (iii) of subparagraph (D) of paragraph (1) of subsection (a) of Section 1414 of Title 20 of the United States Code, make reasonable efforts to obtain the informed consent from the parent, as defined in Section 56028, of the child for an initial assessment to determine whether the child is an individual with exceptional needs.

56321.5 The copy of the notice of parent rights shall include the right to electronically record the proceedings of individualized education program team meetings as specified in subdivision (g) of Section 56341.1.

56321.6 The copy of the notice of parent rights shall include information regarding the state special schools for pupils who are deaf, hard of hearing, blind, visually impaired, or deaf-blind.

56322 The assessment shall be conducted by persons competent to perform the assessment, as determined by the local educational agency.

56323 Admission of a pupil to special education instruction shall be made only in accordance with this article, Article 2.5 (commencing with Section 56333) and standards established by the board and upon a recommendation by the individualized education program team.

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California Education Code 56324

(a) Any psychological assessment of pupils shall be made in accordance with Section 56320 and shall be conducted by a credentialed school psychologist who is trained and prepared to assess cultural and ethnic factors appropriate to the pupil being assessed.

(b) Any health assessment of pupils shall be made in accordance with Section 56320 and shall be conducted by a credentialed school nurse or physician who is trained and prepared to assess cultural and ethnic factors appropriate to the pupil being assessed.

California Education Code 56325

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

(2) In the case of an individual with exceptional needs who has an individualized education program and transfers into a district from a district operating programs under the same special education local plan area of the district in which he or she was

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

(3) As required by subclause (II) of clause (i) of subparagraph (C) of paragraph (2) of subsection (d) of Section 1414 of Title 20 of the United States Code, the following shall apply to special education programs for individuals with exceptional needs who transfer from an educational agency located outside the State of California to a district within California. In the case of an individual with exceptional needs who transfers from district to district within the same academic year, the local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved individualized education program, in consultation with the parents, until the local educational agency conducts an assessment pursuant to paragraph (1) of subsection (a) of Section 1414 of Title 20 of the United States Code, if determined to be necessary by the local educational agency, and develops a new individualized education program, if appropriate, that is consistent with federal and state law.

(b) (1) To facilitate the transition for an individual with exceptional needs described in subdivision (a), the new school in which the individual with exceptional needs enrolls shall take reasonable steps to promptly obtain the pupil's records, including the individualized education program and supporting documents and any other records relating to the provision of special education and related services to the pupil, from the previous school in which the pupil was enrolled, pursuant to paragraph (2) of subsection (a) of Section 99.31 of Title 34 of the Code of Federal Regulations.

(2) The previous school in which the individual with exceptional needs was enrolled shall take reasonable steps to promptly respond to the request from the new school.

(c) If whenever a pupil described in subdivision (a) was placed and residing in a residential nonpublic, nonsectarian school, prior to transferring to a district in another special education local plan area, and this placement is not eligible for funding pursuant to Section 56836.16, the special education local plan area that contains the district that made the residential nonpublic, nonsectarian school placement is responsible for the funding of the placement, including related services, for the remainder of the school year. An extended year session is included in the school year in which the session ends. This subdivision also applies to special education and related services required under Section 7573 of the Government Code for an individual with exceptional needs who was placed in a residential placement by an expanded individualized education program team, pursuant to Section 7572.5 of the Government Code, if the parent of the individual moves during the course of the year to a district in another special education local plan area.

California Education Code 56326

A pupil may be referred, as appropriate, for further assessment and recommendations to the California Schools for the Deaf or Blind or the Diagnostic Centers.

California Education Code 56327

The personnel who assess the pupil shall prepare a written report, or reports, as appropriate, of the results of each assessment. The report shall include, but not be limited to, all the following:

- (a) Whether the pupil may need special education and related services.
- (b) The basis for making the determination.
- (c) The relevant behavior noted during the observation of the pupil in an appropriate

setting.

(d) The relationship of that behavior to the pupil's academic and social functioning.

(e) The educationally relevant health and development, and medical findings, if any.

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

(g) A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate.

(h) The need for specialized services, materials, and equipment for pupils with low incidence disabilities, consistent with guidelines established pursuant to Section 56136.

California Education Code 56328

Notwithstanding the provisions of this chapter, a special education local plan area may utilize a schoolsite level and a regional level service, as provided for under Section 56336.2 as it read prior to July 28, 1980, to provide the services required by this chapter.

California Education Code 56329

As part of the assessment plan given to parents or guardians pursuant to Section 56321, the parent or guardian of the pupil shall be provided with a written notice that shall include all of the following information:

(a) (1) Upon completion of the administration of tests and other assessment materials, an individualized education program team meeting, including the parent or guardian and his or her representatives, shall be scheduled, pursuant to Section 56341,

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to determine whether the pupil is an individual with exceptional needs as defined in Section 56026, and to discuss the assessment, the educational recommendations, and the reasons for these recommendations.

(2) In making a determination of eligibility under paragraph (1), a pupil shall not, pursuant to Section 1414(b)(5) of Title 20 of the United States Code, and Section 300.306(b) of Title 34 of the Code of Federal Regulations, be determined to be an individual with exceptional needs if the determinant factor for the determination is one of the following in subparagraphs (A) to (C), inclusive, plus subparagraph (D):

(A) Lack of appropriate instruction in reading, including the essential components of reading instruction as defined in Section 6368(3) of Title 20 of the United States Code.

(B) Lack of appropriate instruction in mathematics.

(C) Limited-English proficiency.

(D) If the pupil does not otherwise meet the eligibility criteria under Section 300.8(a) of Title 34 of the Code of Federal Regulations.

(3) A copy of the assessment report and the documentation of determination of eligibility shall be given to the parent or guardian.

(b) A parent or guardian has the right to obtain, at public expense, an independent educational assessment of the pupil from qualified specialists, as defined by regulations of the board, if the parent or guardian disagrees with an assessment obtained by the public education agency, in accordance with Section 300.502 of Title 34 of the Code of Federal Regulations. A parent or guardian is entitled to only one independent educational assessment at public expense each time the public education agency conducts an assessment with which the parent or guardian disagrees. If a public education agency observed the pupil in conducting its assessment, or if its assessment procedures make it permissible to have in-class observation of a pupil, an equivalent opportunity shall apply to an independent educational assessment of the pupil in the pupil's current educational placement and

setting, and observation of an educational placement and setting, if any, proposed by the public education agency, regardless of whether the independent educational assessment is initiated before or after the filing of a due process hearing proceeding.

(c) The public education agency may initiate a due process hearing pursuant to Chapter 5 (commencing with Section 56500) to show that its assessment is appropriate. If the final decision resulting from the due process hearing is that the assessment is appropriate, the parent or guardian maintains the right for an independent educational assessment, but not at public expense.

If the parent or guardian obtains an independent educational assessment at private expense, the results of the assessment shall be considered by the public education agency with respect to the provision of free appropriate public education to the child, and may be presented as evidence at a due process hearing pursuant to Chapter 5 (commencing with Section 56500) regarding the child. If a public education agency observed the pupil in conducting its assessment, or if its assessment procedures make it permissible to have in-class observation of a pupil, an equivalent opportunity shall apply to an independent educational assessment of the pupil in the pupil's current educational placement and setting, and observation of an educational placement and setting, if any, proposed by the public education agency, regardless of whether the independent educational assessment is initiated before or after the filing of a due process hearing proceeding.

(d) If a parent or guardian proposes a publicly financed placement of the pupil in a nonpublic school, the public education agency shall have an opportunity to observe the proposed placement and the pupil in the proposed placement, if the pupil has already been unilaterally placed in the nonpublic school by the parent or guardian. An observation conducted pursuant to this subdivision shall only be of the pupil who is the subject of the observation and shall not include the observation or assessment of any other pupil in the proposed placement. The observation or assessment by a public

education agency of a pupil other than the pupil who is the subject of the observation pursuant to this subdivision may be conducted, if at all, only with the consent of the parent or guardian pursuant to this article. The results of an observation or assessment of any other pupil in violation of this subdivision shall be inadmissible in a due process or judicial proceeding regarding the free appropriate public education of that other pupil.

California Education Code 56333

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

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

(e) Hearing loss which results in a language or speech disorder and significantly affects educational performance.

56363.3 The average caseload for language, speech, and hearing specialists in special education local plan areas shall not exceed 55 cases, unless the local plan specifies a higher average caseload and the reasons for the greater average caseload.

California Education Code 56347

A local educational agency, prior to the placement of the individual with exceptional needs, shall ensure that the regular teacher or teachers, the special education teacher or teachers, and other persons who provide special education, related services, or both to the individual with exceptional needs have access to the pupil's individualized education program, shall be knowledgeable of the content of the individualized education program, and shall be informed of his or her specific responsibilities related to implementing a pupil's individualized education program and the specific accommodations, modifications and supports that shall be provided for the pupil in accordance with the individualized education program, pursuant to Section 300.323(d) of Title 34 of the Code of Federal Regulations. A copy of each individualized education program shall be maintained at each school site where the pupil is enrolled. Service providers from other agencies who provide instruction or a related service to the individual off the school site shall be provided a copy of the individualized education program. All individualized education programs shall be maintained in accordance with state and federal pupil record confidentiality laws.

California Education Code 56360

Each special education local plan area shall ensure that a continuum of program options is available to meet the needs of individuals with exceptional needs for special

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education and related services, as required by the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and federal regulations relating thereto.

California Education Code 56361

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

- (a) Regular education programs consistent with subparagraph (A) of paragraph (5) of subsection (a) of Section 1412 of Title 20 of the United States Code and implementing regulations.
- (b) A resource specialist program pursuant to Section 56362.
- (c) Designated instruction and services pursuant to Section 56363.
- (d) Special classes pursuant to Section 56364.2.
- (e) Nonpublic, nonsectarian school services pursuant to Section 56365.
- (f) State special schools pursuant to Section 56367.
- (g) Instruction in settings other than classrooms where specially designed instruction may occur.
- (h) Itinerant instruction in classrooms, resource rooms, and settings other than classrooms where specially designed instruction may occur to the extent required by federal law or regulation.
- (i) Instruction using telecommunication, and instruction in the home, in hospitals, and in other institutions to the extent required by federal law or regulation.

56361.2: All special education and related services for any individual with exceptional needs who is younger than three years of age shall be provided pursuant to Chapter 4.4 (commencing with Section 56425).

56361.5: (a) In addition to the continuum of program options listed in Section 56361, a local educational agency may contract with a hospital to provide designated instruction and services, as defined in subdivision (b) of Section 56363, required by the individual with exceptional needs, as specified in the individualized education program. However, a local educational agency shall not contract with a sectarian hospital for instructional services. A local educational agency shall contract with a hospital for designated instruction and services required by the individual with exceptional needs only when no appropriate public education program is available. For purposes of this section, "hospital" means a health care facility licensed by the State Department of Health Care Services.

(b) Contracts with hospitals pursuant to subdivision (a) shall be subject to the procedures prescribed in Sections 56365, 56366, and 56366.5.

California Education Code 56362

(a) The resource specialist program shall provide, but not be limited to, all of the following:

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

(2) Provision of information and assistance to individuals with exceptional needs and their parents.

(3) Provision of consultation, resource information, and material regarding individuals with exceptional needs to their parents and to regular staff members.

(4) Coordination of special education services with the regular school programs for each individual with exceptional needs enrolled in the resource specialist program.

(5) Monitoring of pupil progress on a regular basis, participation in the review and

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revision of individualized education programs, as appropriate, and referral of pupils who do not demonstrate appropriate progress to the individualized education program team.

(6) Emphasis at the secondary school level on academic achievement, career and vocational development, and preparation for adult life.

(b) The resource specialist program shall be under the direction of a resource specialist who is a credentialed special education teacher, or who has a clinical services credential with a special class authorization, who has had three or more years of teaching experience, including both regular and special education teaching experience, as defined by rules and regulations of the Commission on Teacher Credentialing, and who has demonstrated the competencies for a resource specialist, as established by the Commission on Teacher Credentialing.

(c) Caseloads for resource specialists shall be stated in the local policies developed pursuant to Section 56195.8 and in accordance with regulations established by the board. No resource specialist shall have a caseload which exceeds 28 pupils.

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

(e) Resource specialists shall not enroll a pupil for a majority of a schoolday without approval by the pupil's individualized education program team.

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

56362.1: For the purposes of Section 56362, "caseload" shall include, but not be limited to, all pupils for whom the resource specialist performs any of the services described in subdivision (a) of Section 56362.

56362.5: By July 1982, the Commission on Teacher Credentialing shall adopt rules and regulations for a resource specialist certificate of competence. The certificate shall provide all the following:

(a) Definition of the competencies required of a resource specialist.

(b) Provision for a system of direct application to the commission for a certificate of competence for each teacher who holds a valid special education credential, other than an emergency credential, and who satisfies any one of the following criteria:

(1) Provided instruction and services as specified in subdivision (a) of Section 80070.1 of Title 5 of the California Administrative Code as it read immediately prior to July 28, 1980, for two years prior to September 1, 1981.

(2) Provided instruction and services as specified in subdivision (b) of Section 80070.2 of Title 5 of the California Administrative Code as it read immediately prior to July 28, 1980, for two years prior to June 30, 1983.

(c) Provision for the issuance, for up to three years, of a preliminary nonrenewable certificate of competence for the resource specialist, and adoption of the standards for the issuance and continuing validity of such a certificate.

(d) Establishment of a system for verification of competencies through both of the following:

(1) Commission on Teacher Credentialing approved institution of higher education resource specialist certificate program.

(2) Commission on Teacher Credentialing approved competency assessment panels for resource specialist certification.

(e) Cooperation with the department in implementing these provisions.

Notwithstanding any other provision of law, any person who held a preliminary resource specialist certificate of competence on January 28, 1982, and who met the requirements for a clear resource specialist certificate of competence as specified in paragraph (1) of subdivision (b) may be issued a clear resource specialist certificate of

competence upon submission of a completed application, but without any additional fee.

56362.7: (a) The Legislature recognizes the need for specially trained professionals to assess and serve pupils of limited English proficiency. This is particularly true of pupils with exceptional needs or pupils with suspected disabilities.

(b) The commission shall develop a bilingual-crosscultural certificate of assessment competence for those professionals who may participate in assessments for placements in special education programs. The certificate shall be issued to holders of appropriate credentials, certificates, or authorizations who demonstrate, by written and oral examination, all of the following:

(1) That the person is competent in both the oral and written skills of a language other than English.

(2) That the person has both the knowledge and understanding of the cultural and historical heritage of the limited-English-proficient individuals to be served.

(3) That the person has the ability to perform the assessment functions the candidate is certified or authorized to perform in English and in a language other than English.

(4) That the person has knowledge of the use of instruments and other assessment techniques appropriate to evaluate limited-English-proficient individuals with exceptional needs and ability to develop appropriate data, instructional strategies, individualized education programs, and evaluations.

(c) Certificates of bilingual-crosscultural competence for special education professionals who implement individual education plans requiring bilingual services shall be granted by the commission pursuant to Section 44253.7.

(d) It is not the intent of the Legislature in enacting this section that possession of any certificate established by this section be a state-mandated requirement for employment or continued employment. It is the intent that this is a matter for local educational agencies to determine.

California Education Code 56363

(a) As used in this part, the term “designated instruction and services” means “related services” as that term is defined in Section 1401(26) of Title 20 of the United States Code and Section 300.34 of Title 34 of the Code of Federal Regulations. The term “related services” means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable an individual with exceptional needs to receive a free appropriate public education as described in the individualized education program of the child, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist an individual with exceptional needs to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

(b) These services may include, but are not limited to, the following:

- (1) Language and speech development and remediation. The language and speech development and remediation services may be provided by a speech-language pathology assistant as defined in subdivision (f) of Section 2530.2 of the Business and Professions Code.
- (2) Audiological services.
- (3) Orientation and mobility services.
- (4) Instruction in the home or hospital.
- (5) Adapted physical education.
- (6) Physical and occupational therapy.
- (7) Vision services.
- (8) Specialized driver training instruction.

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(9) Counseling and guidance services, including rehabilitation counseling.

(10) Psychological services other than assessment and development of the individualized education program.

(11) Parent counseling and training.

(12) Health and nursing services, including school nurse services designed to enable an individual with exceptional needs to receive a free appropriate public education as described in the individualized education program.

(13) Social worker services.

(14) Specially designed vocational education and career development.

(15) Recreation services.

(16) Specialized services for low-incidence disabilities, such as readers, transcribers, and vision and hearing services.

(17) Interpreting services.

(c) The terms “designated instruction and services” and “related services” do not include a medical device that is surgically implanted, including cochlear implants, the optimization of the functioning of a medical device, maintenance of that device, or the replacement of that device, pursuant to Section 300.34(b) of Title 34 of the Code of Federal Regulations. In accordance with Section 300.34(b) of Title 34 of the Code of Federal Regulations, nothing in this subdivision shall do any of the following:

(1) Limit the right of an individual with exceptional needs with a surgically implanted device, including a cochlear implant, to receive related services or designated instruction and services that are determined by the individualized education program team to be necessary for the individual to receive a free appropriate public education.

(2) Limit the responsibility of a local educational agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the individual, including breathing, nutrition, or operation of other bodily functions, while the individual is transported to and from school or is at school.

(3) Prevent the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required by Section 300.113(b) of Title 34 of the Code of Federal Regulations.

56363.1: A local educational agency is not required to purchase medical equipment for an individual pupil. However, the local educational agency is responsible for providing other specialized equipment for use at school that is needed to implement the individualized education program. For purposes of this section, “medical equipment” does not include an assistive technology device, as defined in Section 1401(1) of Title 20 of the United States Code.

56363.3: The average caseload for language, speech, and hearing specialists in special **education** local plan areas shall not exceed 55 cases, unless the local plan specifies a higher average caseload and the reasons for the greater average caseload.

56363.5: Local educational agencies may seek, either directly or through the pupil’s parents or guardians, reimbursement from insurance companies to cover the costs of related services, in accordance with Section 300.154(d) to (h), inclusive, of the Code of Federal Regulations.

56364.1: Notwithstanding the provisions of Section 56364.2, pupils with low incidence disabilities may receive all or a portion of their instruction in the regular classroom and may also be enrolled in special classes taught by appropriately credentialed teachers who serve these pupils at one or more schoolsites. The instruction shall be provided in a manner which is consistent with the guidelines adopted pursuant to Section 56136 and in accordance with the individualized education program.

56364.2:

(a) Special classes that serve pupils with similar and more intensive educational needs shall be available. The special classes may enroll pupils only when the nature or severity of the disability of the individual with exceptional needs is such that education in the regular classes with the use of supplementary aids and services, including curriculum modification and behavioral support, cannot be achieved satisfactorily. These requirements also apply to separate schooling, or other removal of individuals with exceptional needs from the regular educational environment.

(b) In providing or arranging for the provision of activities, each public agency shall ensure that each individual with exceptional needs participates in those activities with nondisabled pupils to the maximum extent appropriate to the needs of the individual with exceptional needs, including nonacademic and extracurricular services and activities. Special classes shall meet standards adopted by the board.

(c) This section shall only apply to special education local plan areas that have had a revised local plan approved pursuant to Section 56836.03.

California Education Code 56365

(a) Services provided by nonpublic, nonsectarian schools, as defined pursuant to Section 56034, and nonpublic, nonsectarian agencies, as defined pursuant to Section 56035, shall be made available. These services shall be provided pursuant to Section 56366, and in accordance with Section 300.146 of Title 34 of the Code of Federal Regulations, under contract with the local educational agency to provide the appropriate special educational facilities, special education, or designated instruction and services required by the individual with exceptional needs if no appropriate public education program is available.

(b) Pupils enrolled in nonpublic, nonsectarian schools and agencies under this section shall be deemed to be enrolled in public schools for all purposes of Chapter 4

(commencing with Section 41600) of Part 24 and Section 42238. The local educational agency shall be eligible to receive allowances under Articles 3 (commencing with Section 56836.165) and 4 (commencing with Section 56836.20) of Chapter 7.2 for services that are provided to individuals with exceptional needs pursuant to the contract.

(c) If the state participates in the federal program of assistance for state-operated or state-supported programs for individuals with exceptional needs (P.L. 89-313, Sec. 6), pupils enrolled in nonpublic, nonsectarian schools shall be deemed to be enrolled in state-supported institutions for all purposes of that program and shall be eligible to receive allowances under Chapter 7.2 (commencing with Section 56836) for supplemental services provided to individuals with exceptional needs pursuant to a contract with a local educational agency. In order to participate in the federal program, the state shall find that participation will not result in any additional expenditures from the General Fund.

(d) The local educational agency shall pay to the nonpublic, nonsectarian school or agency the full amount of the tuition for individuals with exceptional needs that are enrolled in programs provided by the nonpublic, nonsectarian school pursuant to the contract.

(e) Before contracting with a nonpublic, nonsectarian school or agency outside of this state, the local educational agency shall document its efforts to utilize public schools or to locate an appropriate nonpublic, nonsectarian school or agency program, or both, within the state.

(f) If a local educational agency places a pupil with a nonpublic, nonsectarian school or agency outside of this state, the pupil's individualized education program team shall submit a report to the Superintendent within 15 days of the placement decision. The report shall include information about the special education and related services provided by the out-of-state program placement and the costs of the special education and related services provided, and shall indicate the efforts of the local educational

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agency to locate an appropriate public school or nonpublic, nonsectarian school or agency, or a combination thereof, within the state. The Superintendent shall submit a report to the board on all placements made outside of this state.

(g) If a local educational agency decides to place a pupil with a nonpublic, nonsectarian school or agency outside of this state, that local educational agency shall indicate the anticipated date for the return of the pupil to a public or nonpublic, nonsectarian school or agency placement, or a combination thereof, located in the state and shall document efforts during the previous placement year to return the pupil.

(h) In addition to meeting the requirements of Section 56366.1, a nonpublic, nonsectarian school or agency that operates a program outside of this state shall be certified or licensed by that state to provide, respectively, special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(i) A nonpublic, nonsectarian school or agency that is located outside of this state is eligible for certification pursuant to Section 56366.1 only if a pupil is enrolled in a program operated by that school or agency pursuant to the recommendation of an individualized education program team in California, and if that pupil's parents or guardians reside in California.

(j) In accordance with Section 300.147(b) and (c) of Title 34 of the Code of Federal Regulations, the department shall disseminate copies of applicable standards to each nonpublic, nonsectarian school and nonpublic, nonsectarian agency to which a local educational agency has referred or placed an individual with exceptional needs and shall provide an opportunity for those nonpublic, nonsectarian schools and nonpublic, nonsectarian agencies to participate in the development and revision of state standards that apply to those entities.

California Education Code 56366

It is the intent of the Legislature that the role of a nonpublic, nonsectarian school or agency shall be maintained and continued as an alternative special education service available to a local educational agency and parents.

(a) The master contract for nonpublic, nonsectarian school or agency services shall be developed in accordance with the following provisions:

(1) The master contract shall specify the general administrative and financial agreements, including teacher-to-pupil ratios, between the nonpublic, nonsectarian school or agency and the local educational agency to provide the special education and designated instruction and services, as well as transportation specified in each pupil's individualized education program. The administrative provisions of the contract also shall include procedures for recordkeeping and documentation, and the maintenance of school records by the contracting local educational agency to ensure that appropriate high school graduation credit is received by each pupil. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school.

(2) (A) The master contract shall include an individual services agreement for each pupil placed by a local educational agency that will be negotiated for the length of time for which nonpublic, nonsectarian school or agency special education and designated instruction and services are specified in the pupil's individualized education program.

(B) The master contract shall include a description of the process being utilized by the local educational agency to oversee and evaluate placements in nonpublic, nonsectarian schools, as required by federal law. This description shall include a method for evaluating whether each pupil is making appropriate educational progress. At least once every year, the local educational agencies shall do all of the following and, to the extent possible, the following shall be conducted as part of the development and provision of an individualized education program:

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(i) Evaluate the educational progress of each pupil placed in a nonpublic, nonsectarian school, including all state assessment results pursuant to the requirements of Section 52052.

(ii) Consider whether or not the needs of the pupil continue to be best met at the nonpublic, nonsectarian school and whether changes to the individualized education program of the pupil are necessary, including whether the pupil may be transitioned to a public school setting. This consideration shall be made at the meeting required by subdivision (d) of Section 56343.

(C) In the case of a nonpublic, nonsectarian school that is owned, operated by, or associated with a licensed children's institution, the master contract shall include a method for evaluating whether the nonpublic, nonsectarian school is in compliance with the mandate set forth in Section 56366.9 of this code and subdivision (b) of Section 1501.1 of the Health and Safety Code.

3) Changes in educational instruction, services, or placement provided under contract may only be made on the basis of revisions to a pupil's individualized education program.

At any time during the term of the contract or individual services agreement, the parent, the nonpublic, nonsectarian school or agency, or the local educational agency may request a review of a pupil's individualized education program by the individualized education program team. Changes in the administrative or financial agreements of the master contract that do not alter the individual services agreement that outlines each pupil's educational instruction, services, or placement may be made at any time during the term of the contract as mutually agreed by the nonpublic, nonsectarian school or agency and the local educational agency.

(4) The master contract or individual services agreement may be terminated for cause. The cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the pupil to a public

school program. To terminate the contract either party shall give 20 days' notice.

(5) The nonpublic, nonsectarian school or agency shall provide all services specified in an individualized education program, unless the nonpublic, nonsectarian school or agency and the local educational agency agree otherwise in the contract or individual services agreement.

(6) Related services provided pursuant to a nonpublic, nonsectarian agency master contract shall only be provided during the period of a pupil's regular or extended school year program, or both, unless otherwise specified by the pupil's individualized education program.

(7) The nonpublic, nonsectarian school or agency shall report attendance of pupils receiving special education and designated instruction and services, as defined by Section 46307, for purposes of submitting a warrant for tuition to each contracting local educational agency.

(8) (A) A nonpublic, nonsectarian school is subject to the alternative accountability system developed pursuant to Section 52052 in the same manner as public schools and each pupil placed in the nonpublic, nonsectarian school by a local educational agency shall be tested by qualified staff of the nonpublic, nonsectarian school in accordance with that accountability program. The test results shall be reported by the nonpublic, nonsectarian school to the department.

(B) Beginning with the 2006-07 school year testing cycle, each nonpublic, nonsectarian school shall determine its STAR testing period subject to subdivisions (b) and (c) of Section 60640. The nonpublic, nonsectarian school shall determine this period based on completion of 85 percent of the instructional year at that nonpublic, nonsectarian school, plus and minus 10 days, resulting in a 21-day period. Each nonpublic, nonsectarian school shall notify the district of residence of a pupil enrolled in the school of its testing period. Staff at the nonpublic, nonsectarian school who administer the assessments shall attend the regular testing training sessions provided by the district

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of residence. If staff from a nonpublic, nonsectarian school have received training from one local educational agency, that training will be sufficient for all local educational agencies that send pupils to the nonpublic, nonsectarian school. The district of residence shall order testing materials for its pupils that have been placed in the nonpublic, nonsectarian school. The board shall adopt regulations to facilitate the distribution of and collection of testing materials.

(9) With respect to a nonpublic, nonsectarian school, the school shall prepare a school accountability report card in accordance with Section 33126.

(b) The master contract or individual services agreement shall not include special education transportation provided through the use of services or equipment owned, leased, or contracted by a local educational agency for pupils enrolled in the nonpublic, nonsectarian school or agency unless provided directly or subcontracted by that nonpublic, nonsectarian school or agency.

The superintendent shall withhold 20 percent of the amount apportioned to a local educational agency for costs related to the provision of nonpublic, nonsectarian school or agency placements if the superintendent finds that the local educational agency is in noncompliance with this subdivision. This amount shall be withheld from the apportionments in the fiscal year following the superintendent's finding of noncompliance. The superintendent shall take other appropriate actions to prevent noncompliant practices from occurring and report to the Legislature on those actions.

(c) (1) If a pupil is enrolled in a nonpublic, nonsectarian school or agency with the approval of the local educational agency prior to agreement to a contract or individual services agreement, the local educational agency shall issue a warrant, upon submission of an attendance report and claim, for an amount equal to the number of creditable days of attendance at the per diem tuition rate agreed upon prior to the enrollment of the pupil. This provision shall be allowed for 90 days during which time the contract shall be consummated.

(2) If after 60 days the master contract or individual services agreement has not been finalized as prescribed in paragraph (1) of subdivision (a), either party may appeal to the county superintendent of schools, if the county superintendent is not participating in the local plan involved in the nonpublic, nonsectarian school or agency contract, or the superintendent, if the county superintendent is participating in the local plan involved in the contract, to negotiate the contract. Within 30 days of receipt of this appeal, the county superintendent or the superintendent, or his or her designee, shall mediate the formulation of a contract, which shall be binding upon both parties.

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

(e) By September 30, 1998, the procedures, methods, and regulations for the purposes of contracting for nonpublic, nonsectarian school and agency services pursuant to this section and for reimbursement pursuant to Sections 56836.16 and 56836.20 shall be developed by the superintendent in consultation with statewide organizations representing providers of special education and designated instruction and services. The regulations shall be established by rules and regulations issued by the board.

56366.1 (a) A nonpublic, nonsectarian school or agency that seeks certification shall file an application with the Superintendent on forms provided by the department and include the following information on the application:

(1) A description of the special education and designated instruction and services

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provided to individuals with exceptional needs if the application is for nonpublic, nonsectarian school certification.

(2) A description of the designated instruction and services provided to individuals with exceptional needs if the application is for nonpublic, nonsectarian agency certification.

(3) A list of appropriately qualified staff, a description of the credential, license, or registration that qualifies each staff member rendering special education or designated instruction and services to do so, and copies of their credentials, licenses, or certificates of registration with the appropriate state or national organization that has established standards for the service rendered.

(4) An annual operating budget.

(5) Affidavits and assurances necessary to comply with all applicable federal, state, and local laws and regulations that include criminal record summaries required of all nonpublic, nonsectarian school or agency personnel having contact with minor children under Section 44237.

(b) (1) The applicant shall provide the special education local plan area in which the applicant is located with the written notification of its intent to seek certification or renewal of its certification. The applicant shall submit on a form, developed by the department, a signed verification by local educational agency representatives that they have been notified of the intent to certify or renew certification. The verification shall include a statement that representatives of the local educational agency for the area in which the applicant is located have had the opportunity to review the application at least 60 calendar days prior to submission of an initial application to the Superintendent, or at least 30 calendar days prior to submission of a renewal application to the Superintendent. The signed verification shall provide assurances that local educational agency representatives have had the opportunity to provide input on all required components of the application.

(2) If the applicant has not received a response from the local educational agency 60 calendar days from the date of the return receipt for initial applications or 30 calendar days from the date of the return receipt for renewal applications, the applicant may file the application with the Superintendent. A copy of the return receipt shall be included with the application as verification of notification efforts to the local educational agency.

(3) The department shall mail renewal application materials to certified nonpublic, nonsectarian schools and agencies at least 120 days prior to the date their current certification expires.

(c) If the applicant operates a facility or program on more than one site, each site shall be certified.

(d) If the applicant is part of a larger program or facility on the same site, the Superintendent shall consider the effect of the total program on the applicant. A copy of the policies and standards for the nonpublic, nonsectarian school or agency and the larger program shall be available to the Superintendent.

(e) Prior to certification, the Superintendent shall conduct an onsite review of the facility and program for which the applicant seeks certification. The Superintendent may be assisted by representatives of the special education local plan area in which the applicant is located and a nonpublic, nonsectarian school or agency representative who does not have a conflict of interest with the applicant. The Superintendent shall conduct an additional onsite review of the facility and program within three years of the effective date of the certification, unless the Superintendent conditionally certifies the school or agency or unless the Superintendent receives a formal complaint against the school or agency. In the latter two cases, the Superintendent shall conduct an onsite review at least annually.

(f) The Superintendent shall make a determination on an application within 120 days of receipt of the application and shall certify, conditionally certify, or deny certification

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to the applicant. If the Superintendent fails to take one of these actions within 120 days, the applicant is automatically granted conditional certification for a period terminating on August 31 of the current school year. If certification is denied, the Superintendent shall provide reasons for the denial. The Superintendent may certify the school or agency for a period of not longer than one year.

(g) Certification becomes effective on the date the nonpublic, nonsectarian school or agency meets all the application requirements and is approved by the Superintendent. Certification may be retroactive if the school or agency met all the requirements of this section on the date the retroactive certification is effective. Certification expires on December 31 of the terminating year.

(h) The Superintendent annually shall review the certification of each nonpublic, nonsectarian school and agency. For this purpose, a certified school or agency annually shall update its application between August 1 and October 31, unless the board grants a waiver pursuant to Section 56101. The Superintendent may conduct an onsite review as part of the annual review.

(i) (1) The Superintendent shall conduct an investigation of a nonpublic, nonsectarian school or agency onsite at any time without prior notice if there is substantial reason to believe that there is an immediate danger to the health, safety, or welfare of a child. The Superintendent shall document the concern and submit it to the nonpublic, nonsectarian school or agency at the time of the onsite investigation. The Superintendent shall require a written response to any noncompliance or deficiency found.

(2) With respect to a nonpublic, nonsectarian school, the Superintendent shall conduct an investigation, which may include an unannounced onsite visit, if the Superintendent receives evidence of a significant deficiency in the quality of educational services provided, a violation of Section 56366.9, or noncompliance with the policies expressed by subdivision (b) of Section 1501 of the Health and Safety Code by the nonpublic, nonsectarian school. The Superintendent shall document the

complaint and the results of the investigation and shall provide copies of the documentation to the complainant, the nonpublic, nonsectarian school, and the contracting local educational agency.

(3) Violations or noncompliance documented pursuant to paragraph (1) or (2) shall be reflected in the status of the certification of the school, at the discretion of the Superintendent, pending an approved plan of correction by the nonpublic, nonsectarian school. The department shall retain for a period of 10 years all violations pertaining to certification of the nonpublic, nonsectarian school or agency.

(j) The Superintendent shall monitor the facilities, the educational environment, and the quality of the educational program, including the teaching staff, the credentials authorizing service, the standards-based core curriculum being employed, and the standard-focused instructional materials used, of an existing certified nonpublic, nonsectarian school or agency on a three-year cycle, as follows:

(1) The nonpublic, nonsectarian school or agency shall complete a self-review in year one.

(2) The Superintendent shall conduct an onsite review of the nonpublic, nonsectarian school or agency in year two.

(3) The Superintendent shall conduct a follow-up visit to the nonpublic, nonsectarian school or agency in year three.

(k) (1) Notwithstanding any other provision of law, the Superintendent shall not certify a nonpublic, nonsectarian school or agency that proposes to initiate or expand services to pupils currently educated in the immediate prior fiscal year in a juvenile court program, community school pursuant to Section 56150, or other nonspecial education program, including independent study or adult school, or both, unless the nonpublic, nonsectarian school or agency notifies the county superintendent of schools and the special education local plan area in which the proposed new or expanded nonpublic, nonsectarian school or agency is located of its intent to seek

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certification.

(2) The notification shall occur no later than the December 1 prior to the new fiscal year in which the proposed or expanding school or agency intends to initiate services. The notice shall include the following:

(A) The specific date upon which the proposed nonpublic, nonsectarian school or agency is to be established.

(B) The location of the proposed program or facility.

(C) The number of pupils proposed for services, the number of pupils currently served in the juvenile court, community school, or other nonspecial education program, the current school services including special education and related services provided for these pupils, and the specific program of special education and related services to be provided under the proposed program.

(D) The reason for the proposed change in services.

(E) The number of staff who will provide special education and designated instruction and services and hold a current valid California credential or license in the service rendered.

(3) In addition to the requirements in subdivisions (a) to (f), inclusive, the Superintendent shall require and consider the following in determining whether to certify a nonpublic, nonsectarian school or agency as described in this subdivision:

(A) A complete statement of the information required as part of the notice under paragraph (1).

(B) Documentation of the steps taken in preparation for the conversion to a nonpublic, nonsectarian school or agency, including information related to changes in the population to be served and the services to be provided pursuant to each pupil's individualized education program.

(4) Notwithstanding any other provision of law, the certification becomes effective no earlier than July 1 if the school or agency provided the notification required

pursuant to paragraph (1).

(l) (1) Notwithstanding any other provision of law, the Superintendent shall not certify or renew the certification of a nonpublic, nonsectarian school or agency, unless all of the following conditions are met:

(A) The entity operating the nonpublic, nonsectarian school or agency maintains separate financial records for each entity that it operates, with each nonpublic, nonsectarian school or agency identified separately from any licensed children's institution that it operates.

(B) The entity submits an annual budget that identifies the projected costs and revenues for each entity and demonstrates that the rates to be charged are reasonable to support the operation of the entity.

(C) The entity submits an entity-wide annual audit that identifies its costs and revenues, by entity, in accordance with generally accepted accounting and auditing principles. The audit shall clearly document the amount of moneys received and expended on the education program provided by the nonpublic, nonsectarian school.

(D) The relationship between various entities operated by the same entity are documented, defining the responsibilities of the entities. The documentation shall clearly identify the services to be provided as part of each program, for example, the residential or medical program, the mental health program, or the educational program. The entity shall not seek funding from a public agency for a service, either separately or as part of a package of services, if the service is funded by another public agency, either separately or as part of a package of services.

(2) For purposes of this section, "licensed children's institution" has the same meaning as it is defined by Section 56155.5.

(m) The school or agency shall be charged a reasonable fee for certification. The Superintendent may adjust the fee annually commensurate with the statewide average percentage inflation adjustment computed for revenue limits of unified

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school districts with greater than 1,500 units of average daily attendance if the percentage increase is reflected in the district revenue limit for inflation purposes. For purposes of this section, the base fee shall be the following:

- (1) 1-5 pupils..... \$ 300
- (2) 6-10 pupils..... 500
- (3) 11-24 pupils..... 1,000
- (4) 25-75 pupils..... 1,500
- (5) 76 pupils and over.....2,000

The school or agency shall pay this fee when it applies for certification and when it updates its application for annual renewal by the Superintendent. The Superintendent shall use these fees to conduct onsite reviews, which may include field experts. No fee shall be refunded if the application is withdrawn or is denied by the Superintendent.

(n) (1) Notwithstanding any other provision of law, only those nonpublic, nonsectarian schools and agencies that provide special education and designated instruction and services utilizing staff who hold a certificate, permit, or other document equivalent to that which staff in a public school are required to hold in the service rendered are eligible to receive certification. Only those nonpublic, nonsectarian schools or agencies located outside of California that employ staff who hold a current valid credential or license to render special education and related services as required by that state shall be eligible to be certified.

(2) The board shall develop regulations to implement this subdivision.

(o) In addition to meeting the standards adopted by the board, a nonpublic, nonsectarian school or agency shall provide written assurances that it meets all applicable standards relating to fire, health, sanitation, and building safety.

California Education Code 56368

(a) A program specialist is a specialist who holds a valid special education credential, clinical services credential, health services credential, or a school psychologist authorization and has advanced training and related experience in the education of individuals with exceptional needs and a specialized in-depth knowledge in preschool disabilities, career vocational development, or one or more areas of major disabling conditions.

(b) A program specialist may do all the following:

(1) Observe, consult with, and assist resource specialists, designated instruction and services instructors, and special class teachers.

(2) Plan programs, coordinate curricular resources, and evaluate effectiveness of programs for individuals with exceptional needs.

(3) Participate in each school's staff development, program development, and innovation of special methods and approaches.

(4) Provide coordination, consultation and program development primarily in one specialized area or areas of his or her expertise.

(5) Be responsible for assuring that pupils have full educational opportunity regardless of the district of residence.

(c) For purposes of Section 41403, a program specialist shall be considered a pupil services employee, as defined in subdivision (c) of Section 41401.

California Education Code 56369

A local educational agency may contract with another public agency to provide special education or related services to an individual with exceptional needs.

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California Education Code 56380

(a) Pursuant to subparagraphs (A) and (B) of paragraph (4) of subsection (d) of Section 1414 of Title 20 of the United States Code, the local educational agency shall maintain procedures to ensure that the individualized education program team does both of the following:

(1) Reviews the pupil's individualized education program periodically, but not less frequently than annually, to determine whether the annual goals for the pupil are being achieved.

(2) Revises the individualized education program as appropriate to address, among other matters, the provisions specified in subdivision (d) of Section 56341.1.

(b) The annual review of an individualized education program shall be conducted in accordance with the notice and scheduling requirements for the initial assessment.

(c) This section does not preclude other meetings of the individualized education program team from occurring as provided in Section 56343.

56380.1: (a) In making changes to a pupil's individualized education program after the annual individualized education program meeting for a school year, the parent of the individual with exceptional needs and the local educational agency may agree, pursuant to Section 1414(d)(3)(D) of Title 20 of the United States Code, not to convene an individualized education program meeting for the purposes of making those changes, and instead may develop a written document, signed by the parent and by a representative of the local educational agency, to amend or modify the pupil's existing individualized education program.

(b) Changes to the individualized education program may be made, in accordance with Section 1414(d)(3)(F) of Title 20 of the United States Code and Section 300.324(a)(6) of Title 34 of the Code of Federal Regulations, either by the entire individualized education program team at an individualized education program team meeting, or,

as provided in subdivision (a), by amending the individualized education program rather than by redrafting the entire individualized education program. Upon request, a parent shall be provided with a revised copy of the individualized education program with the amendments incorporated.

(c) If changes are made to the pupil's individualized education program, in accordance with subdivisions (a) and (b), the local educational agency shall ensure that the pupil's individualized education program team is informed of those changes as required by Section 300.324(a)(4)(ii) of Title 34 of the Code of Federal Regulations.

California Education Code 56381

(a) (1) A reassessment of the pupil, based upon procedures specified in Section 56302.1 and in Article 2 (commencing with Section 56320), and in accordance with Section 1414(a), (b), and (c) of Title 20 of the United States Code, shall be conducted if the local educational agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the pupil warrant a reassessment, or if the pupil's parents or teacher requests a reassessment.

(2) A reassessment shall occur not more frequently than once a year, unless the parent and the local educational agency agree otherwise, and shall occur at least once every three years, unless the parent and the local educational agency agree, in writing, that a reassessment is unnecessary.

If the reassessment so indicates, a new individualized education program shall be developed.

(b) As part of a reassessment, the individualized education program team and other qualified professionals, as appropriate, shall do the following:

(1) Review existing assessment data on the pupil, including assessments and information provided by the parents of the pupil, as specified in Section 300.305(a)(1)

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(i) of Title 34 of the Code of Federal Regulations, current classroom-based assessments and observations, and teacher and related services providers' observations.

(2) On the basis of the review conducted pursuant to paragraph (1), and input from the parents of the pupil, identify what additional data, if any, is needed to determine:

(A) Whether the pupil continues to have a disability described in Section 1401(3) of Title 20 of the United States Code.

(B) The present levels of performance and educational needs of the pupil.

(C) Whether the pupil continues to need special education and related services.

(D) Whether any additions or modifications to the special education and related services are needed to enable the pupil to meet the measurable annual goals set out in the individualized education program of the pupil and to participate, as appropriate, in the general curriculum.

(c) The local educational agency shall administer tests and other assessment materials needed to produce the data identified by the individualized education program team.

(d) If the individualized education program team and other qualified professionals, as appropriate, determine that no additional data is needed to determine whether the pupil continues to be an individual with exceptional needs, and to determine the educational needs of the pupil, the local educational agency shall notify the parents of the pupil of that determination and the reasons for it, and the right of the parents to request an assessment to determine whether the pupil continues to be an individual with exceptional needs, and to determine the educational needs of the pupil. The local educational agency is not required to conduct an assessment, unless requested by the parents of the pupil.

(e) A local educational agency shall assess an individual with exceptional needs in accordance with this section and procedures specified in Article 2 (commencing with Section 56320), as provided in Section 300.306(c)(2) of Title 34 of the Code of Federal Regulations.

(f) (1) A reassessment may not be conducted, unless the written consent of the parent is obtained prior to reassessment, except pursuant to subdivision (e) of Section 56506. Pursuant to Section 300.300(c)(1) and (2) of Title 34 of the Code of Federal Regulations, informed parental consent need not be obtained for the reassessment of an individual with exceptional needs if the local educational agency can demonstrate that it has taken reasonable measures to obtain that consent and the parent of the child has failed to respond.

(2) To meet the reasonable measure requirements of this subdivision, the local educational agency shall use procedures consistent with those set forth in Section 300.322(d) of Title 34 of the Code of Federal Regulations.

(3) If the parent refuses to consent to the reassessment, the local educational agency may, but is not required to, pursue the reassessment by using the consent override procedures described in Section 300.300(a)(3) of Title 34 of the Code of Federal Regulations.

(4) The local educational agency does not violate its obligations under Section 300.111 and Sections 300.301 to 300.311, inclusive, of Title 34 of the Code of Federal Regulations if it declines to pursue the reassessment.

(g) The individualized education program team and other qualified professionals referenced in subdivision (b) may conduct the review without a meeting, as provided in Section 300.305(b) of Title 34 of the Code of Federal Regulations.

(h) Before determining that the individual is no longer an individual with exceptional needs, a local educational agency shall assess the individual in accordance with Section 56320 and this section, as appropriate, and in accordance with Section 1414 of Title 20 of the United States Code.

(i) (1) The assessment described in subdivision (h) shall not be required before the termination of a pupil's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for a free

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appropriate public education under Section 56026.

(2) For a pupil whose eligibility under this part terminates under circumstances described in paragraph (1), a local educational agency shall provide the pupil with a summary of the academic achievement and functional performance of the pupil, which shall include recommendations on the manner in which to assist the pupil in meeting his or her postsecondary educational goals as required in Section 1414(c)(5)(B)(ii) of Title 20 of the United States Code.

(j) To the extent possible, the local educational agency shall encourage the consolidation of reassessment meetings for the individual with exceptional needs and other individualized education program team meetings for the individual.

California Education Code 56382

All review and reassessment procedures for individuals with exceptional needs who are younger than three years of age shall be provided pursuant to Chapter 4.4 (commencing with Section 56425) and the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

California Education Code 56383

Pursuant to Section 300.325(b) of Title 34 of the Code of Federal Regulations, after an individual with exceptional needs is placed in a nonpublic, nonsectarian school under Section 56366, any meetings to review and revise the pupil's individualized education program may be conducted by the nonpublic, nonsectarian school at the discretion of the local educational agency. However, even if a nonpublic, nonsectarian school implements a child's individualized education program, responsibility for compliance with this part and with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and implementing regulations remains with the local educational agency pursuant to Section 300.325(c) of Title 34 of the Code of Federal Regulations.

California Code of Regulations 3064

Staff Qualifications - Special Education Instruction

(a) In each classroom for which the nonpublic school is seeking certification, the nonpublic school shall deliver instruction utilizing personnel who possess a credential authorizing the holder to deliver special education instruction according to the age range and disabling conditions of individuals with exceptional needs enrolled in the nonpublic school.

(1) during situations when instructional personnel leave the employ of the nonpublic school with little or no notice, the nonpublic school may employ a person who holds a Provisional Internship Permit, a Short Term Staff Permit, or a Temporary County Certificate for a period of time not to exceed the remainder of the school year.

(b) Instruction shall be directed and delivered pursuant to the IEP, the master contract, and the individual service agreement.

(c) To provide special education instruction for individuals with exceptional needs younger than three years of age, as described in Education Code, part 30, chapter 4.4, the nonpublic school shall comply with the provisions of Education Code section 56425 et seq., and Education Code section 56426.2(e) regarding adult to child ratios.

(d) To provide special education instruction for individuals with exceptional needs between the ages of three and five years, inclusive, as described in Education Code, part 30, chapter 4.45, the nonpublic school shall comply with the provisions of Education Code section 56440 et seq., and Education Code section 56441.5 regarding appropriate instructional adult-to-child-ratios.

(e) Nonpublic schools and nonpublic agencies shall comply with the personnel standards and qualifications pursuant to Education Code section 45340 et seq., and Education Code section 45350 et seq., regarding instructional aides and teacher assistants, respectively.

(f) Nonpublic schools and nonpublic agencies shall comply with all of the laws and

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regulations governing the licensed professions, in particular the provisions with respect to supervision. Nonpublic schools and nonpublic agencies may use assistants to the extent authorized by state and federal law.

California Code of Regulations 3052

Designated Positive Behavioral Interventions

(a) General Provisions.

(1) An IEP team shall facilitate and supervise all assessment, intervention, and evaluation activities related to an individual's behavioral intervention plan. When the behavioral intervention plan is being developed, the IEP team shall be expanded to include the behavioral intervention case manager with documented training in behavior analysis including positive behavioral intervention(s), qualified personnel knowledgeable of the student's health needs, and others as described in Education Code Section 56341 (c)(2). The behavioral intervention case manager is not intended to be a new staff person and may be an existing staff member trained in behavior analysis with an emphasis on positive behavioral interventions.

(2) Behavioral intervention plans shall only be implemented by, or be under the supervision of, staff with documented training in behavior analysis, including the use of positive behavioral interventions. Such interventions shall only be used to replace specified maladaptive behavior(s) with alternative acceptable behavior(s) and shall never be used solely to eliminate maladaptive behavior(s).

(3) Behavioral intervention plans shall be based upon a functional analysis assessment, shall be specified in the individualized education program, and shall be used only in a systematic manner in accordance with the provisions of this section.

(4) Behavioral emergency interventions shall not be used as a substitute for behavioral intervention plans.

(5) The elimination of any maladaptive behavior does not require the use of intrusive

behavioral interventions that cause pain or trauma.

(6) To the extent possible, behavioral intervention plans shall be developed and implemented in a consistent manner appropriate to each of the individual's life settings.

(b) Functional Analysis Assessments. A functional analysis assessment must be conducted by, or be under the supervision of a person who has documented training in behavior analysis with an emphasis on positive behavioral interventions. A functional analysis assessment shall occur after the individualized education program team finds that instructional/behavioral approaches specified in the student's IEP have been ineffective. Nothing in this section shall preclude a parent or legal guardian from requesting a functional analysis assessment pursuant to the provisions of Education Code sections 56320 et seq.

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

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

- (A) Systematic observation of the occurrence of the targeted behavior for an accurate definition and description of the frequency, duration, and intensity;
- (B) Systematic observation of the immediate antecedent events associated with each instance of the display of the targeted inappropriate behavior;
- (C) Systematic observation and analysis of the consequences following the display of the behavior to determine the function the behavior serves for the individual, i.e., to identify the specific environmental or physiological outcomes produced by the behavior. The communicative intent of the behavior is identified in terms of what the individual is either requesting or protesting through the display of the behavior;

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(D) Ecological analysis of the settings in which the behavior occurs most frequently. Factors to consider should include the physical setting, the social setting, the activities and the nature of instruction, scheduling, the quality of communication between the individual and staff and other students, the degree of independence, the degree of participation, the amount and quality of social interaction, the degree of choice, and the variety of activities;

(E) Review of records for health and medical factors which may influence behaviors (e.g. medication levels, sleep cycles, health, diet); and

(F) Review of the history of the behavior to include the effectiveness of previously used behavioral interventions.

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

(A) A description of the nature and severity of the targeted behavior(s) in objective and measurable terms;

(B) A description of the targeted behavior(s) that includes baseline data and an analysis of the antecedents and consequences that maintain the targeted behavior, and a functional analysis of the behavior across all appropriate settings in which it occurs;

(C) A description of the rate of alternative behaviors, their antecedents and consequences; and

(D) Recommendations for consideration by the IEP team which may include a proposed plan as specified in Section 3001(f).

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

to direct the implementation of the plan.

(d) Intervention. Based upon the results of the functional analysis assessment, positive programming for behavioral intervention may include the following:

(1) Altering the identified antecedent event to prevent the occurrence of the behavior (e.g., providing choice, changing the setting, offering variety and a meaningful curriculum, removing environmental pollutants such as excessive noise or crowding, establishing a predictable routine for the individual);

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

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

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

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

(1) the behavior is ignored, but not the individual;

(2) the individual is verbally or verbally and physically redirected to an activity;

(3) the individual is provided with feedback (e.g., "You are talking too loudly");

(4) the message of the behavior is acknowledged (e.g., "You are having a hard time with your work"); or

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(5) a brief, physical prompt is provided to interrupt or prevent aggression, self-abuse, or property destruction.

(f) Evaluation of the Behavioral Intervention Plan Effectiveness. Evaluation of the effectiveness of the behavioral intervention plan shall be determined through the following procedures:

(1) Baseline measure of the frequency, duration, and intensity of the targeted behavior, taken during the functional analysis assessment. Baseline data shall be taken across activities, settings, people, and times of the day. The baseline data shall be used as a standard against which to evaluate intervention effectiveness;

(2) Measures of the frequency, duration, and intensity of the targeted behavior shall be taken after the behavioral intervention plan is implemented at scheduled intervals determined by the IEP team. These measures shall also be taken across activities, settings, people, and times of the day, and may record the data in terms of time spent acting appropriately rather than time spent engaging in the inappropriate behavior;

(3) Documentation of program implementation as specified in the behavioral intervention plan (e.g., written instructional programs and data, descriptions of environmental changes); and

(4) Measures of program effectiveness will be reviewed by the teacher, the behavioral intervention case manager, parent or care provider, and others as appropriate at scheduled intervals determined by the IEP team. This review may be conducted in meetings, by telephone conference, or by other means, as agreed upon by the IEP team.

(5) If the IEP team determines that changes are necessary to increase program effectiveness, the teacher and behavioral intervention case manager shall conduct additional functional analysis assessments and, based on the outcomes, shall propose changes to the behavioral intervention plan.

(g) Modifications Without IEP Team Meeting. Minor modifications to the behavioral

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

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

(i) Emergency Interventions. Emergency interventions may only be used to control unpredictable, spontaneous behavior which poses clear and present danger of serious physical harm to the individual or others and which cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior.

(1) Emergency interventions shall not be used as a substitute for the systematic behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior.

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

(3) No emergency intervention shall be employed for longer than is necessary to

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contain the behavior. Any situation which requires prolonged use of an emergency intervention shall require staff to seek assistance of the school site administrator or law enforcement agency, as applicable to the situation.

(4) Emergency interventions may not include:

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

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

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

(5) To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent and residential care provider, if appropriate, shall be notified within one school day whenever an emergency intervention is used or serious property damage occurs. A "Behavioral Emergency Report" shall immediately be completed and maintained in the individual's file. The report shall include all of the following:

(A) The name and age of the individual;

(B) The setting and location of the incident;

(C) The name of the staff or other persons involved;

(D) A description of the incident and the emergency intervention used, and whether the individual is currently engaged in any systematic behavioral intervention plan; and

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

(6) All "Behavioral Emergency Reports" shall immediately be forwarded to, and reviewed by, a designated responsible administrator.

(7) Anytime a "Behavioral Emergency Report" is written regarding an individual who

does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an IEP team meeting to review the emergency report, to determine the necessity for a functional analysis assessment, and to determine the necessity for an interim behavioral intervention plan. The IEP team shall document the reasons for not conducting the assessment and/or not developing an interim plan.

(8) Anytime a “Behavioral Emergency Report” is written regarding an individual who has a behavioral intervention plan, any incident involving a previously unseen serious behavior problem or where a previously designed intervention is not effective should be referred to the IEP team to review and determine if the incident constitutes a need to modify the plan.

(9) “Behavioral Emergency Report” data shall be collected by SELPAs which shall report annually the number of Behavioral Emergency Reports to the California Department of Education and the Advisory Commission on Special Education.

(j) SELPA Plan. The local plan of each SELPA shall include procedures governing the systematic use of behavioral interventions and emergency interventions. These procedures shall be part of the SELPA local plan.

(1) Upon adoption, these procedures shall be available to all staff members and parents whenever a behavioral intervention plan is proposed.

(2) At a minimum, the plan shall include:

(A) The qualifications and training of personnel to be designated as behavioral intervention case managers, which shall include training in behavior analysis with an emphasis on positive behavioral interventions, who will coordinate and assist in conducting the functional analysis assessments and the development of the behavioral intervention plans;

(B) The qualifications and training required of personnel who will participate in the implementation of the behavioral intervention plans; which shall include training in

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positive behavioral interventions;

(C) Special training that will be required for the use of emergency behavioral interventions and the types of interventions requiring such training; and

(D) Approved behavioral emergency procedures.

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

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

(1) Any intervention that is designed to, or likely to, cause physical pain;

(2) Releasing noxious, toxic or otherwise unpleasant sprays, mists, or substances in proximity to the individual's face;

(3) Any intervention which denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities;

(4) Any intervention which is designed to subject, used to subject, or likely to subject the individual to verbal abuse, ridicule or humiliation, or which can be expected to cause excessive emotional trauma;

(5) Restrictive interventions which employ a device or material or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained personnel as a limited emergency intervention pursuant to subsection (i);

(6) Locked seclusion, except pursuant to subsection (i)(4)(A);

(7) Any intervention that precludes adequate supervision of the individual; and

(8) Any intervention which deprives the individual of one or more of his or her senses.

(m) Due Process Hearings. The provisions of this chapter related to functional analysis

assessments and the development and implementation of behavioral intervention plans are subject to the due process hearing procedures specified in Education Code Section 56501 et seq. No hearing officer may order the implementation of a behavioral intervention that is otherwise prohibited by this section, by SELPA policy, or by any other applicable statute or regulation.

[NOTE: Authority: Section 56523(a), Education Code. Reference: Sections 56520 and 56523, Education Code.]

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California Teachers Association (CTA): www.cta.org

National Education Association (NEA): www.nea.org

California Teachers Association, Instruction & Professional Development:
www.ctalPD.org

The California Department of Education (CDE)
Determining Specific Learning Disability Eligibility Using Response to Instruction and
Intervention (RtI²) <http://www.cde.ca.gov/sp/se/sr/documents/sldeligibiltyrti2.doc>

California Association of Family Empowerment Centers: <http://cafec.org/>

Focus Monitoring Technical Assistance Unit: www.cde.ca.gov/sp/se/qa/fmtacncnt.asp

U.S. Department of Education, Office of Special Education and Rehabilitative Services
A Guide to the Individualized Education Program, July 2000
ed.gov/parents/needs/speced/iepguide/iepguide.doc

National Center on Response to Intervention
www.rti4success.org/whatisrti

The California Department of Education (CDE)
RtI Information: www.cde.ca.gov/ci/cr/ri

U.S. Department of Education: A Guide to the Individualized Education Program IEP
www2.ed.gov/parents/needs/speced/iepguide/index.html



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