

# *Special Education* **RESOURCES**

Instruction & Professional Development  
Department

## **2022 EDITION**



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# Additional Resources



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# The ABC's of Special Education

ADA - American with Disabilities Act	ITP - Individual Transition Plan
ADR - Alternative Dispute Resolution	LEA - Local Educational Agency
APE - Adapted Physical Education	LRE - Least Restrictive Environment
BIP - Behavior Intervention Plan	NPS/NPA - Non-Public Schools/Non-Public Agencies
CAASPP - California Assessment of Student Performance and Progress	OAH - Office of Administrative Hearings
CAC - Community Advisory Committee	OCR - Office of Civil Rights
CalSTAT - California Services for Technical Assistance and Training	OHI - Other Health Impairment
CAA - California Alternate Assessment	OI - Orthopedic Impairment
CASEMIS - California Special Education Management Information System	OSEP - Office of Special Education Programs
CBEDS - California Basic Educational Data System	OT/PT - Occupational and Physical Therapy
CCR- California Code of Regulations	RSP - Resource Specialist Program
CFR - Code of Federal Regulations	SEA - State Educational Agency
COE - County Office of Education	SDC - Special Day Class
DHH- Deaf or Hard of Hearing	SOP - State Operated Programs
EC - Education Code	SLD - Specific Learning Disability
ESY - Extended School Year	SST - Student Study Team
FBA - Functional Behavioral Assessment	SLI - Speech/Language Impairment
FAPE - Free and Appropriate Public Education	SLP- Speech Language Pathologist
FERPA - Family Education Rights and Privacy Act	TBI - Traumatic Brain Injury
IA - Instructional Assistant	ED - Emotional Disturbance
IDEA - Individualized with Disabilities Education Act	SELPA - Special Education Local Plan Area
KPI - Key Performance Indicators	VI - Visual Impairment
ID - Intellectual Disability	
IEE - Independent Educational Evaluation	
IEP - Individualized Educational Program	
ISP - Individual Services Plan	
IFSP - Individual Family Service Plan	





# WHAT ARE SOME IDENTIFIED DISABILITIES OF STUDENTS WITH IEPs THAT YOU MIGHT SEE IN YOUR CLASSROOM?

"A person who never made a mistake, never learned anything new."



- Albert Einstein

**So you have a student with an IEP in your classroom. You look at the IEP and see a marked box under the qualifying disability. What does that mean? Here are four common types of identified disabilities that you might see in your classroom:**

Do not confuse "disability" with low cognitive functioning. Most students with an identified disability process or learn differently. This doesn't mean they are not able to learn or be successful. Break the cycle of alienation that many of our students with IEPs feel. Remember, every student is OUR student.

#1

Many people with autism have difficulty with sensory processing. This may include sensitivity to sound, light, taste, and touch. Be aware of these sensitivities to maintain a safe learning environment for your student.

#2

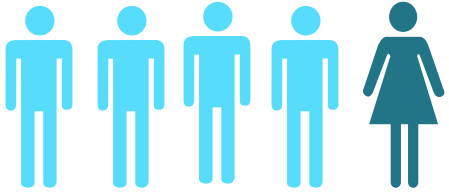
There is not one type of autism, but many subtypes. Each person with autism has unique challenges and strengths.

#3

Some children may display repetitive behaviors or obsessions with topics or objects.

#4

Autism can affect communication & social skills. This doesn't mean they have limitations however! We have many ways to overcome these difficulties.



1 in 59 of all children are diagnosed as autistic. ASDs are 4 times more common in boys than in girls.

## Autism Spectrum Disorder (ASD)

## Specific Learning Disability (SLD)

This can affect the ability to: speak, write, read, listen, spell, do math calculations, and results from a variety of factors which include memory issues, hearing or visual disabilities, processing, etc.

Dyslexia is ONE TYPE of specific learning disorder. Screenings for dyslexia should be given to all students in grades kindergarten and up. Not one specific test is used to identify dyslexia. A number of characteristics, including deficits in phonological processing, can identify someone as having dyslexia.

For more information, read the California Dyslexia Guidelines at: <https://www.cde.ca.gov/sp/se/ac/documents/cadyslexiaguidelines.pdf>

If you suspect a student has a potential learning disability, collect samples of work that show evidence of learning difficulties and share these with an expert at your school site.

Experts include: school psychologists, speech language pathologists, and special education teachers. They might offer some suggestions on strategies that can be used in your classroom with that child. If learning difficulties still persist, call for a Student Success Team meeting to discuss additional documented interventions that student might need. At this meeting, a special education assessment might be discussed. You might also talk with the parent to find out if the child has a history of learning difficulties. Be supportive and positive in those discussions.

A multi-tiered system of supports that provides additional interventions is oftentimes the most appropriate remedy to assist a child with learning difficulties without needing to assess for Special Education identification. School districts must be careful not to over-identify students.

Qualifying a child for special education also does not mean removing them from your classroom. Many students with IEPs can be successful in the general education classroom with the right supports and services.

# Speech and Language Impairment (SLI)

7.5

million people in the U.S. have trouble using their voices

3

million people stutter in the U.S.

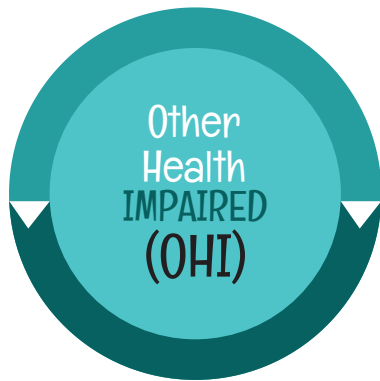
9%

of all young children have a speech disorder.

6-8

million people in the U.S. have a language impairment of some type.

Language impairments can affect sounds, articulation, the ability to express oneself or the ability to understand verbal communication.



97,426 identified California students in 2017-2018

adversely affects a student's performance in the classroom

acute or chronic health conditions—asthma, ADHD, Tourettes, to name a few

Limited strength or has some heightened alertness to environmental stimuli





WHAT ARE THE

# FULL CONTINUUM OF PLACEMENTS?

**IDEA states that "each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services."**

**What does that mean?**

Removal only when nature or severity of disability is such that the student can't receive an appropriate education in general ed w/supplementary supplementary aids and services

Districts must offer a full continuum of placements from least restrictive to most restrictive

Private Schools,  
Residential,  
Hospital Schools,  
or Homebound

Special Education classes  
with mainstreaming  
opportunities for academic  
and non-academic classes  
(as specified in the IEP)

Pull-out Special Ed  
services and other  
services for a portion of  
the school day

General Education with direct  
Special Education services &  
other related services

General Education setting with no  
direct Special Education services

Source: Section 300.115  
Continuum of alternate  
placements, Part B  
Subpart B IDEA  
Regulations



# SPECIAL EDUCATION

## RIGHTS, RESPONSIBILITIES, & INFORMATION

### TEACHER & PERSONNEL RIGHTS



#### RIGHT TO REQUEST TRAINING

CA EC 56345 (a)(4) Ask for training (supports & services) if you feel you need it to help you fully implement a child's IEP. Training must be specific to that child.



REQUEST TO DEVELOP, REVIEW, OR REVISE IEP CA EC 56343: An IEP team shall meet whenever a teacher or parent requests to develop, review, or revise an IEP.



#### PLACEMENT NOTIFICATION

CA EC 56347: General and Special Ed teacher **MUST** be notified in advance of the placement of a student with an IEP in their class! You must also be informed of your responsibilities in the IEP plan.

**DID**  
you  
*Know?*

The regular education teacher of an individual with exceptional needs, to the extent appropriate, shall participate in the development, review, and revision of the pupil's individualized education program, including assisting in the determination of appropriate positive behavioral interventions and supports, and other strategies for the pupil, and the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the pupil, consistent with Section 1414(d)(1)(A)(i)(IV) of Title 20 of the United States Code.

### LEAST RESTRICTIVE ENVIRONMENT

#### IEP MEETING



The placement of services is determined at the IEP meeting by the IEP team. All members must give feedback but do not necessarily have to all agree to the decisions made.

75%

In the U.S. Individuals with Disabilities Education Act (IDEA), least restrictive environment (LRE) means that a student who has a disability should have the opportunity to be educated with non-disabled peers, to the greatest extent appropriate.



Students with disabilities in California, 2017-18

Source: CDE, <https://www.cde.ca.gov/sp/se/sr/cefspeced.asp>

# HANDOUTS

SHARING IS CARING!

Use these resources to make your IEP meetings a little less bumpy...

#1

IEP Best Practices

#2

IEP Facilitation Tips

#3

Commonly Used Ground Rules for Meetings

#4

Communication Tips for IEP Meetings

# IEP BEST PRACTICES

Here are some ways you can make the IEP process more meaningful & productive.

1

General Ed teachers- Stay for the entire meeting if possible. Many services, goals, and accommodations that are discussed take place in your classroom and you need to give valuable feedback. This also falls under the general education teachers' responsibility to assist in the development of the entire IEP. See CA EC 56341.

2

Ask for training (supports & services) if you feel you need it to help you fully implement a child's IEP. CA EC Sec. 56345(a)(4)

3

If you feel an IEP isn't working, you may call for a review IEP. Be prepared to document the accommodations and any other research-based practices you have been using with that student. If an IEP isn't working, ask the special education teacher on your campus for additional ideas or other accommodations you can try. CA EC Sec. 56343

4

You must be knowledgeable of the IEP contents and your responsibilities to assist the student in meeting their goals. If you don't have access to this, ask your Special Ed teacher for a copy and keep it in a secure location. CA EC Sec. 56347

5

You have the right to speak up to assist a parent or guardian of a special education student to obtain services and accommodations for that student. This means that no district employee may directly or indirectly use their influence to intimidate, threaten, coerce a teacher in order to prevent you from helping that person. CA EC Sec. 56046 (a)

## WHAT IF I DON'T AGREE?



Even if you don't agree with everything in the IEP, you still need to sign that you were in attendance. If you feel strongly about noting this in the IEP, ask to have your concerns documented in the notes. You could also ask for a trial run of certain accommodations to see if they work and then re-convene the meeting in two to three months to review how progress is being made. Remember, the purpose of the IEP is to help the student.

## WHAT IF I CAN'T MAKE THE MEETING?

The parent and district can agree in writing to dismiss the attendance of an IEP member, in whole or in part, however, the member still needs to submit IEP feedback in writing prior to the meeting. (Cal. EC Sec. 56341 (f) & (g).

## USEFUL RESOURCES:

BEHAVIORAL SUPPORTS: [www.pbisworld.com](http://www.pbisworld.com), [www.pbis.org](http://www.pbis.org)

ACCOMMODATIONS: [www.pent.ca.gov](http://www.pent.ca.gov), [www.udlcenter.org](http://www.udlcenter.org)

ADVOCACY: [www.disabilityrightscalifornia.org](http://www.disabilityrightscalifornia.org)

# IEP Facilitation Tips

## IMPORTANT POINT!

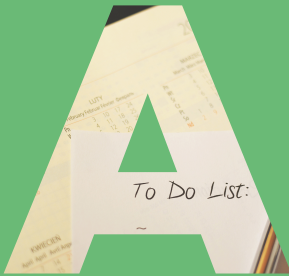
Sometimes a few changes in our behavior can change the way others act and react.



*Smile! It puts everyone at ease in a potentially tense situation. If you force yourself to feel the emotion and not just put on a show, this will relieve the stress and emotional burden of faking your emotions.*



*TIME- Always start the meeting by asking if anyone has a conflict with the time. This puts the pressure off people who might have to leave early and also allows for written permission to leave by parents and district of IEP team members.*



*AGENDA- An agenda can also help manage time conflicts. Post it up on the wall if you need to. This can be also useful for parents to know what to expect in the meeting. Ask the IEP team members, especially parents, if there is anything else they would like to add to the agenda before getting started.*



*RIGHTS- Make an effort to highlight a few key pieces of the procedural safeguards for parents. Just because you hand parents their rights, doesn't mean they always know them or may read them after the meeting. This also shows you're willing to be a partner with them.*



*TAKING NOTES- Ask another team member in advance to help take notes. The case manager should lead the meeting whenever possible. In the case of a triennial, ask the school psychologist to lead the meeting and offer to take the notes if you are the case manager. If you can, project the IEP as you type so that the process is transparent.*

*Source: Karen Taylor, Instructional & Professional Development*

# IEP Meeting Commonly Used Ground Rules

- |   |  |
|---|--|
| <ul style="list-style-type: none"><li>• Everyone participate, no one dominate</li><li>• Share the airtime</li><li>• Success depends on participation – share ideas, ask questions, draw others out</li><li>• Listen to understand</li><li>• Use I statements</li><li>• Listen for the future to emerge</li><li>• One speaker at a time</li><li>• Seek unity (not separation)</li><li>• Disagree without being disagreeable</li><li>• Share your unique perspective</li><li>• Share your experience (not others)</li><li>• Speak honestly</li><li>• Stay open to new ways of doing things</li><li>• All ideas are valid</li><li>• Critique ideas, not people</li><li>• Articulate hidden assumptions</li><li>• Challenge cherished beliefs</li><li>• With transformation, expect anxiety</li><li>• Manage group work</li><li>• Be intrigued by the difference you hear</li><li>• Expect to be surprised</li><li>• Allow every voice to be heard</li><li>• Ask “what’s possible?” not “what’s wrong?” Keep asking</li><li>• Listen with care instead of “building your story”</li><li>• “Yes...and” thinking (not, “Yes...but”)</li><li>• Listen for the future to emerge</li></ul> | <ul style="list-style-type: none"><li>• Be positive, non-judgmental and open to new ideas</li><li>• Remember responsibility and non-defensiveness</li><li>• Stay at the strategic level (out of the operational)</li><li>• Everything happens through conversation</li><li>• Meaning is in the listener</li><li>• Listen from the “We” but speak from the “I”</li><li>• Respect each others’ thinking and value their contributions</li><li>• Listen for understanding – inquire (ask) before you advocate (persuade)</li><li>• Be aware of meaningless abstraction</li><li>• Treat everything you hear as an opportunity to learn and grow</li><li>• Show up and CHOOSE to be present</li><li>• Staying on schedule is everyone’s responsibility; honor time limits</li><li>• State your “headline” first, then the supporting information as necessary</li><li>• Be brief and meaningful when voicing your opinion</li><li>• Speak your truth, without blame or judgment</li><li>• Let go of the outcome</li><li>• Whatever is said in the room, stays in the room.</li><li>• Participate 100%</li><li>• Seek common ground and understanding (not problems and conflict)</li><li>• Stay out of the weeds and the swamps</li></ul> |
|---|--|



# Communication Tips for IEP Meetings

“ THE MOST IMPORTANT THING IN COMMUNICATION IS HEARING WHAT ISN'T SAID. ”

- PETER DRUCKER

## 1. Put yourself in their shoes...



EVEN THE MOST WELL MEANING ADULT CAN FEEL DEFENSIVE OR BECOME AGGRESSIVE WHEN DISCUSSING THEIR CHILD AND THEIR CHILD'S EDUCATION. THINK ABOUT WHAT IT FEELS LIKE TO BE THEM FOR A MOMENT. HOW LONG HAVE THEY BEEN FEELING FRUSTRATED? HOW MIGHT THEY FEEL ABOUT HAVING A CHILD WITH A DISABILITY? HOW MIGHT THEY FEEL IF THEY DON'T THINK THEIR CHILD IS GETTING WHAT THEY NEED?

## 2. Use the "revoicing strategy"

AFTER LISTENING TO A COMPLAINT, GAIN CLARIFICATION AND UNDERSTANDING.

"SO WHAT YOU'RE SAYING IS..."  
"IS THAT RIGHT?"



## 3. Use the "example strategy"



"CAN YOU GIVE ME AN EXAMPLE OF THIS?" THE EXAMPLE CAN HELP YOU DETERMINE NEXT STEPS FOR ACTION AND RESPONSE.

## 4. Show that you're on the same team.



"HOW CAN WE WORK TOGETHER TO MAKE (STUDENT'S) EXPERIENCE THE BEST POSSIBLE?"

## 5. Take a time-out.

"I KNOW WE ALL WANT WHAT IS BEST FOR (STUDENT). MAYBE WE SHOULD TAKE A FIVE-MINUTE BREAK TO COOL DOWN."



## 6. Listen, listen, listen



OFTENTIMES, PEOPLE JUST WANT TO BE HEARD. SUPPRESS THE URGE TO RESPOND AND LET PARENTS TALK OUT THEIR FRUSTRATION.

## 7. Dig deeper

"CAN YOU TELL ME WHAT HAPPENED THAT HAS LED YOU TO FEEL THIS WAY?"

THEN USE A STRATEGY LIKE 2, 3, OR 6.

**Remember, empathy, listening, and patience can go a long way.**

## 8. Pay attention to your own body language.

WHAT PERCEPTIONS ARE YOU GIVING WHEN YOU SIT AND LISTEN? ARE YOU LEANING BACK OR LEANING FORWARD? USE A COMFORTABLE FORWARD STANCE THAT SHOWS YOU ARE INTERESTED IN LISTENING TO THE PARENT.

## 9. Choose your battles

ASK YOURSELF, "IS THIS WORTH PUTTING ALL OF MY ENERGY INTO TO FIGHT?" IF A PARENT REQUEST IS UNREASONABLE, FIND SOME MIDDLE GROUND THAT BOTH PARTIES CAN AGREE TO THAT STILL BENEFIT THE CHILD. DON'T BE AFRAID TO SAY YES TO REASONABLE REQUESTS. REMEMBER, THE IEP IS MEANT TO HELP THE STUDENT.

## 10. Just Breathe

DEEP BREATHING HAS BEEN SHOWN TO EFFECTIVELY LOWER STRESS LEVELS.

## **IEP MEETINGS FAQs**

### **Q: Can parents record meetings?**

**A:** Yes. Parents may use a recorder to record an IEP meeting, even without the school district's permission, as long as the parents give the school district 24 hours notice of their intention to do so. Similarly, a school district may tape record a meeting with 24 hours notice to the parent. However, the district cannot tape record the meeting if the parent objects. If the parent objects to the district tape recording, then there can be no tape recording of the meeting by either the district or the parent. [Cal. Ed. Code Sec. 56341.1(g)(1).]

Under federal and state law, audio tape recordings made by the school district are subject to the confidentiality provisions of the Family Educational Rights and Privacy Act of 1974. [20 U.S.C. Secs. 1232g(a)(4) & (b)(2); 34 C.F.R. Secs. 300.610 - 300.626; Cal. Ed. Code Sec. 56341.1(g)(2).]

### **Q: Who is responsible for scheduling these meetings and/or coordinating between parents and staff?**

**A:** Typically the case manager of the student does the coordination. In some cases, a secretary or parent liaison might help, especially if translation is needed. A good practice is to coordinate a calendar-scheduling meeting at the beginning of the school year to coordinate between the different LEA/3rd party representatives that need to attend. Ultimately though, the IEP meeting must be scheduled at a mutually agreed upon time and place, especially with the parent's involvement in mind. For example, if a parent can only meet on Monday during the day, the district should ensure that the staff are available to meet that day.

### **Q: Teachers "SHOULD" attend entire meeting or "MUST?"**

**A:** Great question! Parent & district can agree in writing that an IEP team member does not need to attend if the members' area of the curriculum or related services is not being modified or discussed in the meeting. In addition, even in case of changes, the parent and district may still agree in writing after conferring with the member that the member does not need to attend. The member must submit written input into the development of the IEP to the IEP team before the meeting. Ed Code [34 C.F.R. Secs. 300.321(e)(1) and (2); Cal. Ed. Code Secs. 56341(f) & (g).] So if you are not excused from the meeting you must attend, however, if you must leave early, please let the parent know. If the parent does not wish for you to leave, then you can request that they pause the meeting and continue at another time when you are all available. When in doubt, consult with your site rep.

**Q: Do school Academic Counselors need to attend IEP meetings?**

**A:** Anyone who has expertise for the child should attend the IEP meeting.

**Q: What is "general education environment?" If student is not mainstreamed/included at this time, must a Gen Ed teacher attend? (if student only has recess/lunch with Gen Ed)**

**A:** CA Ed Code 56341 says: (a) Each meeting to develop, review, or revise the individualized education program of an individual with exceptional needs shall be conducted by an individualized education program team. (b)(2) Not less than one regular education teacher of the pupil, **if the pupil is, or may be**, participating in the regular education environment. If more than one regular education teacher is providing instructional services to the individual with exceptional needs, one regular education teacher may be designated by the local educational agency to represent the others.

**Q: My students are in a self enclosed classroom, they only leave for lunch, recess and PE, do we need to have a general education teacher at the IEP?**

**A:** If the PE teacher is a general education teacher, then yes they should attend. See the question above for the Ed Code regarding general education teacher attendance at an IEP.

**Q: Do you have information on student ratios of students with IEPs in regular classrooms?**

**A:** You can find recommendations in CTA policy in the CTA Policy Handbook on [www.cta.org](http://www.cta.org). You must be a CTA member to access the handbook.

**Q: Our association was under the impression that we don't have to sign if we disagree with the IEP.**

**A:** When you as the teacher sign for the IEP, you are only signing in attendance, not agreement. Only the parent can sign in dissent of an IEP in part or whole.

## CA ED CODE - SPECIAL EDUCATION

Please refer to the additional statutes mentioned for further clarification. In addition, there are federal and state regulations, along with case law that help interpret Special Education law. It is important to consider all statute, regulations, and court interpretations when interpreting Ed Code.

### **ARTICLE 3. General Provisions [56040 - 56048]**

*(Article 3 added by Stats. 1980, Ch. 797, Sec. 9. )*

#### **Free and Appropriate Education**

##### **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. *(Amended by Stats. 2007, Ch. 56, Sec. 10. Effective January 1, 2008.)*

#### **Least Restrictive Environment**

**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.

*(Added by Stats. 2007, Ch. 454, Sec. 8. Effective October 10, 2007.)*

**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.

*(Added by Stats. 2005, Ch. 653, Sec. 5. Effective October 7, 2005.)*

**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 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.

(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.

**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.

### **Special Education Timelines, Transfers, Pupil Records, and Due Process**

**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 18 years of age, 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 18 years of age, years of age, 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 1414(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 of those records, 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 before 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 before 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 before 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) 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 before 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.

*(Amended by Stats. 2014, Ch. 327, Sec. 12. (AB 1599) Effective January 1, 2015.)*

## **Compliance**

**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.

## **Retaliation Against an Employee**

**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.

(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). due process.

(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.

## **The Individualized Education Program Meeting**

### **IEP Meeting Attendance**

#### **56341.**

(a) Each meeting to develop, review, or revise the individualized education program of an individual with exceptional needs shall be conducted by an individualized education program team.

(b) The individualized education program team shall include all of the following:

(1) One or both of the pupil's parents, a representative selected by a parent, or both, in accordance with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(2) Not less than one regular education teacher of the pupil, if the pupil is, or may be, participating in the regular education environment. If more than one regular education teacher is providing instructional services to the individual with exceptional needs, one regular education teacher may be designated by the local educational agency to represent the others.

The regular education teacher of an individual with exceptional needs, to the extent appropriate, shall participate in the development, review, and revision of the pupil's individualized education program, including assisting in the determination of appropriate positive behavioral interventions and supports, and other strategies for the pupil, and the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the pupil, consistent with Section 1414(d)(1)(A)(i)(IV) of Title 20 of the United States Code.

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

(4) A representative of the local educational agency who meets all of the following:

(A) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of individuals with exceptional needs.

(B) Is knowledgeable about the general education curriculum.

(C) Is knowledgeable about the availability of resources of the local educational agency.

(5) An individual who can interpret the instructional implications of the assessment results. The individual may be a member of the team described in paragraphs (2) to (6), inclusive.

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

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

(c) In accordance with Sections 300.308 and 300.310 of Title 34 of the Code of Federal Regulations, for a pupil suspected of having a specific learning disability, at least one member of the individualized education program team shall be qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher. In accordance with Section 300.310 of Title 34 of the Code of Federal Regulations, at least one team member shall observe the pupil's academic performance and behavior in the areas of difficulty in the pupil's learning environment, including in the regular classroom setting. In the case of a child who is less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

(d) (1) The local educational agency shall invite an individual with exceptional needs to attend his or her individualized education program meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the individual and the needed transition services for the individual to assist the individual in reaching those goals under subparagraphs (A) and (B) of paragraph (8) of subdivision (a) of Section 56345.

(2) If the individual with exceptional needs does not attend the individualized education program meeting, the local educational agency shall take steps to ensure that the individual's preferences and interests are considered.

(3) To the extent appropriate, with the consent of the parents or an individual with exceptional needs who has reached the age of majority, in implementing the requirements of paragraph (1), the local educational agency shall invite a representative of a participating agency that is likely to be responsible for providing or paying for transition services.

(e) A local educational agency may designate another local educational agency member of the individualized education program team to serve also as the representative required pursuant to paragraph (4) of subdivision (b) if the requirements of subparagraphs (A), (B), and (C) of paragraph (4) of subdivision (b) are met.

(f) A member of the individualized education program team described in paragraphs (2) to (5), inclusive, of subdivision (b) shall not be required to attend an individualized education program meeting, in whole or in part, if the parent of the individual with exceptional needs and the local educational agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

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

(1) The parent, in writing, and the local educational agency consent to the excusal after conferring with the member.

(2) The member submits, in writing, to the parent and the individualized education program team input into the development of the individualized education program prior to the meeting.

(h) A parent's agreement under subdivision (f) and consent under subdivision (g) shall be in writing.

(i) In the case of a child who was previously served under Chapter 4.4 (commencing with Section 56425), Early Education for Individuals with Exceptional Needs, or the California Early Intervention Services Act under Title 14 (commencing with Section 95000) of the Government Code, an invitation to the initial individualized education program team meeting shall, at the request of the parent, be sent to the infants and toddlers with disabilities service coordinator, as described in Subchapter III (commencing with Section 1431) of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or other representatives of the early education or early intervention system to assist with the smooth transition of services.

## **The IEP Meeting**

### **56341.1.**

(a) When developing each pupil's individualized education program, the individualized education program team shall consider the following:

(1) The strengths of the pupil.

(2) The concerns of the parents or guardians for enhancing the education of the pupil.

(3) The results of the initial assessment or most recent assessment of the pupil.

(4) The academic, developmental, and functional needs of the child.

(b) The individualized education program team shall do the following:

(1) In the case of a pupil whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.

(2) In the case of a pupil with limited English proficiency, consider the language needs of the pupil as those needs relate to the pupil's individualized education program.

(3) In the case of a pupil who is blind or visually impaired, provide for instruction in braille, and the use of braille, unless the individualized education program team determines, after an assessment of the pupil's reading and writing skills, needs, and appropriate reading and writing media, including an assessment of the pupil's future needs for instruction in braille or the use of braille, that instruction in braille or the use of braille is not appropriate for the pupil.

(4) Consider the communication needs of the pupil, and in the case of a pupil who is deaf or hard of hearing, consider the pupil's language and communication needs, opportunities for direct communications with peers and professional personnel in the pupil's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the pupil's language and communication mode.

(5) Consider whether the pupil requires assistive technology devices and services as defined in Section 1401(1) and (2) of Title 20 of the United States Code.

(c) If, in considering the special factors described in subdivisions (a) and (b), the individualized education program team determines that a pupil needs a particular device or service, including an intervention, accommodation, or other program modification, in order for the pupil to receive a free appropriate public education, the individualized education program team shall include a statement to that effect in the pupil's individualized education program.

(d) The individualized education program team shall review 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 revise the individualized education program, as appropriate, to address, among other matters, the following:

(1) A lack of expected progress toward the annual goals and in the general education curriculum, where appropriate.

(2) The results of any reassessment conducted pursuant to Section 56381.

(3) Information about the pupil provided to, or by, the parents or guardians, as described in subdivision (b) of Section 56381.

(4) The pupil's anticipated needs.

(5) Any other relevant matter.

(e) A regular education teacher of the pupil, who is a member of the individualized education program team, shall participate, consistent with Section 1414(d)(1)(C) of Title 20 of the United States Code, in the review and revision of the individualized education program of the pupil.

(f) The parent or guardian shall have the right to present information to the individualized education program team in person or through a representative and the right to participate in meetings, relating to eligibility for special education and related services, recommendations, and program planning.

### **Recording an IEP Team Meeting**

(g) (1) Notwithstanding Section 632 of the Penal Code, the parent or guardian or local educational agency shall have the right to audio record the proceedings of individualized

education program team meetings. The parent or guardian or local educational agency shall notify the members of the individualized education program team of his, her, or its intent to audio record a meeting at least 24 hours prior to the meeting. If the local educational agency initiates the notice of intent to audio record a meeting and the parent or guardian objects or refuses to attend the meeting because it will be audio recorded, the meeting shall not be audio recorded.

(2) The Legislature hereby finds as follows:

(A) Under federal law, audio recordings made by a local educational agency are subject to the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) and are subject to the confidentiality requirements of the regulations under Sections 300.610 to 300.626, inclusive, of Title 34 of the Code of Federal Regulations.

(B) Parents or guardians have the right, pursuant to Sections 99.10 to 99.22, inclusive, of Title 34 of the Code of Federal Regulations, to do all of the following:

(i) Inspect and review the audio recordings.

(ii) Request that the audio recordings be amended if the parent or guardian believes that they contain information that is inaccurate, misleading, or in violation of the rights of privacy or other rights of the individual with exceptional needs.

(iii) Challenge, in a hearing, information that the parent or guardian believes is inaccurate, misleading, or in violation of the individual's rights of privacy or other rights.

(h) It is the intent of the Legislature that the individualized education program team meetings be nonadversarial and convened solely for the purpose of making educational decisions for the good of the individual with exceptional needs.

## **Student in a Group Home**

### **56341.2.**

(a) In the case of a pupil with exceptional needs who has been placed in a group home, as defined in subdivision (g) of Section 80001 of Title 22 of the California Code of Regulations, by the juvenile court pursuant to Section 300, 601, or 602 of the Welfare and Institutions Code, the district, special education local plan area, or county office shall invite to the individualized education program team meetings a representative of the group home.

(b) This section shall not be construed to delay the individualized education program process or to change the individualized education program team requirements of subdivision (b) of Section 56341.

## **IEP Team Meeting Notifications**

### **56341.5.**

(a) Each local educational agency convening a meeting of the individualized education program team shall take steps to ensure that no less than one of the parents or guardians of the individual with exceptional needs are present at each individualized education program meeting or are afforded the opportunity to participate.

(b) Parents or guardians shall be notified of the individualized education program meeting *early enough to ensure an opportunity to attend*.

(c) The individualized education program meeting shall be scheduled at a mutually agreed-upon time and place. The notice of the meeting under subdivision (b) shall indicate the

purpose, time, and location of the meeting and who shall be in attendance. Parents or guardians also shall be informed in the notice of the right, pursuant to Section 300.322(b)(1)(ii) of Title 34 of the Code of Federal Regulations, to bring other people to the meeting who have knowledge or special expertise regarding the individual with exceptional needs, and inform the parents of subdivision (i) of Section 56341 relating to the participation of the infants and toddlers with disabilities service coordinator under Subchapter III (commencing with Section 1431) of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) at the initial individualized education program team meeting for a child previously served under the Subchapter III program.

(d) As part of the participation of an individual with exceptional needs in the development of an individualized education program, as required by federal law, the individual with exceptional needs shall be allowed to provide confidential input to any representative of his or her individualized education program team.

(e) For an individual with exceptional needs, beginning no later than the effective date of the individualized education program in effect when the individual reaches the age of 16 years, or younger if determined appropriate by the individualized education program team, the meeting notice also shall indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the individual, pursuant to Section 56345.1 and Section 1414(d)(1)(A)(i)(VIII) of Title 20 of the United States Code, and the meeting notice shall indicate that the individual with exceptional needs is invited to attend. If the pupil does not attend the individualized education program meeting, the local educational agency shall take steps to ensure that the preferences and interests of the pupil are considered in accordance with Section 300.321(b)(2) of Title 34 of the Code of Federal Regulations.

(f) The local educational agency, to the extent appropriate, with the consent of the parents or individual with exceptional needs who has reached the age of majority, and in accordance with Section 300.321(b)(3) of Title 34 of the Code of Federal Regulations, shall invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

(g) Pursuant to Section 300.322(c) of Title 34 of the Code of Federal Regulations, if no parent or guardian can attend the meeting, the local educational agency shall use other methods to ensure parent or guardian participation, including individual or conference telephone calls, and consistent with Section 300.328 of Title 34 of the Code of Federal Regulations, the parent or guardian and the local educational agency may agree to use alternative means of meeting participation.

(h) A meeting may be conducted without a parent or guardian in attendance if the local educational agency is unable to convince the parent or guardian that he or she should attend. In this event, the local educational agency shall maintain a record of its attempts to arrange a mutually agreed-upon time and place, such as:

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

(2) Copies of correspondence sent to the parents or guardians and any responses received.

(3) Detailed records of visits made to the home or place of employment of the parent or guardian and the results of those visits.

(i) The local educational agency shall take any action necessary to ensure that the parent or guardian understands the proceedings at a meeting, including arranging for an interpreter for parents or guardians with deafness or whose native language is a language other than English.



(j) The local educational agency shall give the parent or guardian a copy of the individualized education program, at no cost to the parent or guardian.

## Placement Recommendations

### 56342.

(a) The individualized education program team shall review the assessment results, determine eligibility, determine the content of the individualized education program, consider local transportation policies and criteria developed pursuant to paragraph (5) of subdivision (b) of Section 56195.8, and make program placement recommendations.

(b) In determining the program placement of an individual with exceptional needs, a local educational agency shall ensure that the placement decisions and the child's placement are made in accordance with Sections 300.114 to 300.118, inclusive, of Title 34 of the Code of Federal Regulations.

See these regulations at <https://www.law.cornell.edu/cfr/text/34/300.114>

## Nonsectarian School Placement Recommendations

### 56342.1.

Before a local educational agency places an individual with exceptional needs in, or refers an individual to, a nonpublic, nonsectarian school, the district, special education local plan area, or county office of education shall initiate and conduct a meeting to develop an individualized education program in accordance with Sections 56341.1 and 56345 and in accordance with Section 300.325(a) of Title 34 of the Code of Federal Regulations. An individual with exceptional needs shall not be referred to, or placed in, a nonpublic, nonsectarian school unless his or her individualized education program specifies that the placement is appropriate.

## Parental Involvement in Decision-Making

### 56342.5.

A local educational agency shall ensure that the parent of each individual with exceptional needs is a member of *any group* that makes decisions on the educational placement of the individual with exceptional needs.

## When shall the IEP Team meet?

### 56343.

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

(a) A pupil has received an initial formal assessment. The team may meet when a pupil receives any subsequent formal assessment.

(b) The pupil demonstrates a lack of anticipated progress.

(c) The parent or teacher requests a meeting to develop, review, or revise the individualized education program.

(d) At least annually, to review the pupil's progress, the individualized education program, including whether the annual goals for the pupil are being achieved, and the appropriateness of placement, and to make any necessary revisions. The individualized education program team conducting the annual review shall consist of those persons specified in subdivision (b) of Section 56341. Other individuals may participate in the annual review if they possess expertise or knowledge essential for the review.

## **Parent Request of an IEP Team Meeting**

### **56343.5.**

A meeting of an individualized education program team requested by a parent to review an individualized education program pursuant to subdivision (c) of Section 56343 shall be held within 30 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 written request. If a parent makes an oral request, the local educational agency shall notify the parent of the need for a written request and the procedure for filing a written request.

## **IEP Assessment Timeline**

### **56344.**

(a) 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 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 written consent for assessment, unless the parent agrees, in writing, to an extension. However, an individualized education program required as a result of an assessment of a pupil shall be developed within 30 days after the commencement of the subsequent regular school year as determined by each local educational agency's school calendar for each pupil for whom a referral has been made 30 days or less prior to the end of the regular school year. In the case of pupil school vacations, the 60-day time shall recommence on the date that pupil school days reconvene. A meeting to develop an initial individualized education program for the pupil shall be conducted within 30 days of a determination that the pupil needs special education and related services pursuant to Section 300.323(c)(1) of Title 34 of the Code of Federal Regulations.

(b) Pursuant to Section 300.323(c)(2) of Title 34 of the Code of Federal Regulations, as soon as possible following development of the individualized education program, special education and related services shall be made available to the individual with exceptional needs in accordance with the individual's individualized education program.

(c) Each local educational agency shall have an individualized education program in effect for each individual with exceptional needs within its jurisdiction at the beginning of each school year in accordance with subdivision (a) and pursuant to Section 300.323(a) and (b) of Title 34 of the Code of Federal Regulations.

## **Individualized Education Programs**

### **56345.**

(a) The individualized education program is a written statement for each individual with exceptional needs that is developed, reviewed, and revised in accordance with this section, as required by Section 1414(d) of Title 20 of the United States Code, and that includes the following:

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

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

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

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

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

(A) Meet the needs of the individual that result from the disability of the individual to enable the pupil to be involved in and make progress in the general education curriculum.

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

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

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

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

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

(C) To be educated and participate with other individuals with exceptional needs and nondisabled pupils in the activities described in this subdivision.

(5) An explanation of the extent, if any, to which the pupil will not participate with nondisabled pupils in the regular class and in the activities described in subparagraph (C) of paragraph (4).

(6) (A) A statement of individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the pupil on state and districtwide assessments consistent with Section 1412(a)(16)(A) of Title 20 of the United States Code.

(B) If the individualized education program team determines that the pupil shall take an alternate assessment instead of a particular state or district wide assessment of pupil achievement, a statement of the following:

(i) The reason why the pupil cannot participate in the regular assessment.

(ii) The reason why the particular alternate assessment selected is appropriate for the pupil.

(7) The projected date for the beginning of the services and modifications described in paragraph (4), and the anticipated frequency, location, and duration of those services and modifications.

(8) 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 following shall be included:

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

(B) The transition services, as defined in Section 56345.1, including courses of study, needed to assist the pupil in reaching those goals.

(b) If appropriate, the individualized education program shall also include, but not be limited to, all of the following:

- (1) For pupils in grades 7 to 12, inclusive, any alternative means and modes necessary for the pupil to complete the prescribed course of study of the district and to meet or exceed proficiency standards for graduation.
- (2) For individuals whose native language is other than English, linguistically appropriate goals, objectives, programs, and services.
- (3) Pursuant to Section 300.106 of Title 34 of the Code of Federal Regulations, extended school year services shall be included in the individualized education program and provided to the pupil if the individualized education program team of the pupil determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education to the pupil.
- (4) Provision for the transition into the regular class program if the pupil is to be transferred from a special class or nonpublic, nonsectarian school into a regular class in a public school for any part of the schoolday, including the following:
  - (A) A description of activities provided to integrate the pupil into the regular education program. The description shall indicate the nature of each activity, and the time spent on the activity each day or week.
  - (B) A description of the activities provided to support the transition of pupils from the special education program into the regular education program.
- (5) For pupils with low-incidence disabilities, specialized services, materials, and equipment, consistent with guidelines established pursuant to Section 56136.
- (c) It is the intent of the Legislature in requiring individualized education programs, that the local educational agency is responsible for providing the services delineated in the individualized education program. However, the Legislature recognizes that some pupils may not meet or exceed the growth projected in the annual goals and objectives of the individualized education program of the pupil.
- (d) Consistent with Section 56000.5 and Section 1414(d)(3)(B)(iv) of Title 20 of the United States Code, it is the intent of the Legislature that, in making a determination of the services that constitute an appropriate education to meet the unique needs of a deaf or hard-of-hearing pupil in the least restrictive environment, the individualized education program team shall consider the related services and program options that provide the pupil with an equal opportunity for communication access. The individualized education program team shall specifically discuss the communication needs of the pupil, consistent with "Deaf Students Education Services Policy Guidance" (57 Fed. Reg. 49274 (October 1992)), including all of the following:
  - (1) The pupil's primary language mode and language, which may include the use of spoken language with or without visual cues, or the use of sign language, or a combination of both.
  - (2) The availability of a sufficient number of age, cognitive, and language peers of similar abilities, which may be met by consolidating services into a local plan areawide program or providing placement pursuant to Section 56361.
  - (3) Appropriate, direct, and ongoing language access to special education teachers and other specialists who are proficient in the pupil's primary language mode and language consistent with existing law regarding teacher training requirements.
  - (4) Services necessary to ensure communication-accessible academic instructions, school services, and extracurricular activities consistent with the federal Vocational Rehabilitation Act of 1973 (29 U.S.C. Sec. 794 et seq.) and the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

(5) In accordance with Section 300.113 of Title 34 of the Code of Federal Regulations, each public agency shall ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly.

(6) Subject to paragraph (7), each public agency, pursuant to Section 300.113(b) of Title 34 of the Code of Federal Regulations, shall ensure that external components of surgically implanted medical devices are functioning properly.

(7) For a child with a surgically implanted medical device who is receiving special education and a service under Section 56363, a public agency is not responsible for the postsurgical maintenance, programming, or replacement of the medical device that has been surgically implanted, or of an external component of the surgically implanted medical device.

(e) State moneys appropriated to districts or local educational agencies may not be used for any additional responsibilities and services associated with paragraphs (1) and (2) of subdivision (d), including the training of special education teachers and other specialists, even if those additional responsibilities or services are required pursuant to a judicial or state agency determination. Those responsibilities and services shall only be funded by a local educational agency as follows:

(1) The costs of those activities shall be funded from existing programs and funding sources.

(2) Those activities shall be supported by the resources otherwise made available to those programs.

(3) Those activities shall be consistent with Sections 56240 to 56243, inclusive.

(f) It is the intent of the Legislature that the communication skills of teachers who work with hard-of-hearing and deaf children be improved. This section does not remove the discretionary authority of the local educational agency in regard to in-service activities.

(g) Beginning not later than one year before the pupil reaches the age of 18 years, 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.

(h) The individualized education program team is not required to include information under one component of a pupil's individualized education program that is already contained under another component of the individualized education program.

(i) This section does not require that additional information, beyond that explicitly required by Section 1414 of Title 20 of the United States Code and this part, be included in the individualized education program of a pupil.

## **Supplementary Aids and Services**

### **56345.2.**

(a) Pursuant to Section 300.107 of Title 34 of the Code of Federal Regulations, each public agency shall take steps, including the provision of supplementary aids and services determined appropriate and necessary by the individualized education program team of the individual with exceptional needs, to provide nonacademic and extracurricular services and activities in the manner necessary to afford individuals with exceptional needs an equal opportunity for participation in those services and activities.

(b) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals

with exceptional needs, and employment of pupils, including both employment by the public agency and assistance in making outside employment available.

(c) Pursuant to Section 300.117 of Title 34 of the Code of Federal Regulations, each public agency shall ensure that each individual with exceptional needs participates with nondisabled children in extracurricular services and activities to the maximum extent appropriate to the needs of that individual. Each public agency shall ensure that each individual with exceptional needs has the supplementary aids and services determined by the individualized education program team of the individual to be appropriate and necessary for the individual to participate in nonacademic settings.

### **Knowledge of IEP Contents**

**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.



# **PARAPROFESSIONAL/INSTRUCTIONAL AIDE RELATED ED CODE**

California EC and Title 34 C.F.R. EC related to Paraprofessionals delivering Special Education Services (not including Early Childhood)

## **Title 34 C.F.R. § 300.156 Personnel qualifications.**

(a) General. The SEA must establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.

(b) Related services personnel and paraprofessionals. The qualifications under paragraph (a) of this section must include qualifications for related services personnel and paraprofessionals that-

(1) Are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services; and

(2) Ensure that related services personnel who deliver services in their discipline or profession-

(i) Meet the requirements of paragraph (b)(1) of this section; and

(ii) Have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

(iii) Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services under this part to children with disabilities.

## **CA Ed Code: ARTICLE 5. Qualifications for Designated Instruction and Services Personnel, Related Services Personnel, and Paraprofessionals [56070- 56070.]**

(a) In accordance with Section 1412(a)(14)(A), (B), and (D) of Title 20 of the United States Code and Section 300.156(a), (b), and (d) of Title 34 of the Code of Federal Regulations, qualifications for designated instruction and services personnel, related services personnel, and paraprofessionals shall include the following:

(1) Be consistent with a state-approved or state-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or designated instruction and services, and related services.

(2) Ensure that personnel who deliver services in their discipline or profession meet the requirements of this subdivision and have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis.

(3) Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with state law, regulation, or written policy, in meeting the requirements of this part

to be used to assist in the provision of special education, designated instruction and services, and related services under this part to individuals with exceptional needs.

(b) Local educational agencies shall take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education, designated instruction and services, and related services under this part to individuals with exceptional needs.

*(Added by Stats. 2007, Ch. 454, Sec. 11. Effective October 10, 2007.)*

## **ARTICLE 7. Instructional Aides [45340 - 45349]**

This article may be cited as the Instructional Aide Act of 1968. The provisions of this article shall apply to personnel referred to in Sections 35021, 44833, 44835, 54422, 54481, 54482, 54525, or any other section heretofore or hereafter enacted, who perform the duties of instructional aides. *(Enacted by Stats. 1976, Ch. 1010.)*

**45341.** The Legislature recognizes the need to provide classroom teachers and other certificated personnel with more time to teach and to provide the means for them to utilize their professional knowledge and skills more effectively in the educational programs of the public schools. It is the intent of the Legislature to authorize the employment of instructional aides in order that classroom teachers and other certificated personnel may draw upon the services of such aides to assist them in ways determined to be useful in improving the quality of educational opportunities for pupils. *(Enacted by Stats. 1976, Ch. 1010.)*

**45342.** Instructional aides shall not be utilized to increase the number of pupils in relation to the number of classroom teachers in any school, any school district, or in the state. Notwithstanding the foregoing provisions, class size ratios existing in special education classes prior to November 13, 1968, may be maintained or decreased, but not increased, by use of instructional aides.

All instructional aide positions in a school district shall be assigned the basic title of "instructional aide" or other appropriate title designated by the governing board. To provide for differences in responsibilities and duties, additions to the basic title may be assigned such as "instructional aide I or II" or "instructional aide—volunteer," or other appropriate title. *(Enacted by Stats. 1976, Ch. 1010.)*

### **45343.**

(a) As used in this article, "instructional aide" means a person employed to assist classroom teachers and other certificated personnel in the performance of their duties and in the supervision of pupils and in instructional tasks which, in the judgment of the certificated personnel to whom the instructional aide is assigned, may be performed by a person not licensed as a classroom teacher.

(b) "Any school district" means a school district or a county superintendent of schools who employs classroom teachers in the public schools. *(Enacted by Stats. 1976, Ch. 1010.)*

### **45344.**

(a) Subject to the provisions of this article, any school district may employ instructional aides to assist classroom teachers and other certificated personnel in the performance of duties as defined in Section 45343. An instructional aide shall perform only such duties as, in the judgment of the certificated personnel to whom the instructional aide is assigned, may be

performed by a person not licensed as a classroom teacher. These duties shall not include assignment of grades to pupils. An instructional aide need not perform such duties in the physical presence of the teacher but the teacher shall retain his responsibility for the instruction and supervision of the pupils in his charge.

(b) Educational qualifications for instructional aides shall be prescribed by the school district employer and shall be appropriate to the responsibilities to be assigned. (*Enacted by Stats. 1976, Ch. 1010.*)

**45344.5.**

(a) No person shall be initially assigned to assist in instruction as an instructional aide unless the person has demonstrated proficiency in basic reading, writing, and mathematics skills pursuant to Section 45330.

(b) A school district may charge prospective aides taking the district's proficiency test a fee to fund the costs incurred by the district in giving the test. This fee may be subject to negotiation between the district and the exclusive representative of instructional aides, but in no event shall the fee exceed seven dollars (\$7).

(c) An instructional aide who passes a district proficiency test as required by this section, transfers to another district, and is employed in the same capacity shall be considered to have met the proficiency standards for purposes of this section unless the district to which he or she has transferred determines that the test taken by the aide is not comparable to the standards required by the employing district. (*Amended by Stats. 2002, Ch. 1080, Sec. 3. Effective January 1, 2003.*)

**45345.** Notwithstanding the provisions of Section 48950, no instructional aide shall give out any personal information concerning any pupil who is not his own child or ward, except under judicial process, to any person other than a teacher or administrator in the school which the pupil attends. A violation of this section may be a cause for disciplinary action, including dismissal. (*Enacted by Stats. 1976, Ch. 1010.*)

**45346.** Classroom teachers and other certificated personnel shall not be required to hold a standard supervision credential or a standard administration credential as a prerequisite to the supervision and direction of instructional aides. (*Enacted by Stats. 1976, Ch. 1010.*)

**45347.**

(a) An instructional aide shall not be deemed a certificated employee for the purposes of apportioning state aid and no regrouping of pupils with instructional aides shall be construed as a class for apportionment purposes.

(b) Instructional aides shall be classified employees of the district, and shall be subject to all of the rights, benefits, and burdens of the classified service, except as specified in Section 45105 for "restricted" positions. (*Enacted by Stats. 1976, Ch. 1010.*)

**45348.** The school district shall pay to each person employed as an instructional aide compensation at a rate not less than the minimum hourly rate prescribed by federal law. (*Enacted by Stats. 1976, Ch. 1010.*)

**45349.** Notwithstanding the provisions of this article, or any other provisions of law, a school district may utilize volunteers in the supervision and instruction of pupils, but any such volunteer shall be subject to the provisions of Section 35021 and this article.

**Additional Ed Code related to any mandated hours of paraprofessional support**

**CA EC 56362 (f)** At least 80 percent of the resource specialists within a local plan shall be provided with an instructional aide (See 56362 and 56362.1 for entire RSP caseload language)

**California Code of Regulations 5 CCR § 3100. Resource Specialist Caseload Waivers**

For full language on California State Board of Education RSP waivers go to this [link](#):

(d) For the purposes of subdivision (b), a request to waive the maximum resource specialist caseload shall not "hinder" either (1) implementation of a pupil's IEP or (2) compliance by the requesting agency with specified federal law if all of the following conditions are met:

(1) The requesting agency demonstrates to the satisfaction of the SBE (A) that the excess resource specialist caseload results from extraordinary fiscal and/or programmatic conditions, and (B) that the extraordinary conditions have been resolved or will be resolved by time the waiver expires.

(2) The waiver stipulates that an affected resource specialist will have the assistance of an instructional aide at least five hours daily whenever that resource specialist's caseload exceeds the statutory maximum during the waiver's effective period.

(3) The waiver confirms that the students served by an affected resource specialist will receive all of the services called for in their IEPs.

(4) The waiver was agreed to by any affected resource specialist, and the bargaining unit, if any, to which the resource specialist belongs participated in the waiver's development.

(5) The waiver demonstrates to the satisfaction of the SBE that the excess caseload can be reasonably managed by an affected resource specialist in particular relation to (A) the resource specialist's pupil contact time and other assigned duties and (B) the programmatic conditions faced by the resource specialist, including, but not limited to, student age level, age span, and the behavioral characteristics; number of curriculum levels taught at any one time or any given session; and intensity of student instructional needs.

**Article 1.1 Elements of the Local Plan (Special Education) State Requirements [56205-56208]**

CA EC 56205 re: Special Education Local Plan Areas says that plans must include, “ (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.”

**ARTICLE 5. Qualifications for Designated Instruction and Services Personnel, Related Services Personnel, and Paraprofessionals [56070- 56070.]**

*(Article 5 added by Stats. 2007, Ch. 454, Sec. 11. )*

**56070.**

(a) In accordance with Section 1412(a)(14)(A), (B), and (D) of Title 20 of the United States Code and **Section 300.156(a), (b), and (d) of Title 34 of the Code of Federal Regulations**, qualifications for designated instruction and services personnel, related services personnel, and paraprofessionals shall include the following:

(1) Be consistent with a state-approved or state-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or designated instruction and services, and related services.

(2) Ensure that personnel who deliver services in their discipline or profession meet the requirements of this subdivision and have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis.

(3) Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with state law, regulation, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education, designated instruction and services, and related services under this part to individuals with exceptional needs.

(b) Local educational agencies shall take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education, designated instruction and services, and related services under this part to individuals with exceptional needs.

*(Added by Stats. 2007, Ch. 454, Sec. 11. Effective October 10, 2007.)*





# **BACKGROUND:**

## **SPECIAL EDUCATION WORKLOAD ANALYSIS MODEL**

**T**raditionally, providers of services to students with disabilities talk in terms of the number of students on their caseloads. Caseload data are based on the number of students with Individualized Education Programs (IEPs) assigned to the educator without consideration for the intensity of services needed by the student or the amount of time needed to provide those services.

Given the transition to more inclusionary practices such as coteaching and supported instruction in the general education setting, thinking in terms of workload more accurately addresses the service demands of special education teachers, paraeducators (paras), and specialized instructional support personnel (SISP). Workload data take into consideration the supports and services, both direct and indirect, provided by teachers, paras, and SISP.

This workload analysis model is intended as a framework to adapt to the changing responsibilities of special education service providers.

### **Workload Considerations**

1. Specially Designed Instruction
  - a. Direct instruction to meet IEP goals/objectives
  - b. Indirect services
    - i. Consultation with general education teachers
    - ii. Adaptation of curricular materials
    - iii. Coordinating with other service providers
    - iv. Collaboration time among special education service providers to discuss progress and next steps for individual students
      1. Teacher of record and general education teacher
      2. Teacher of record and paras
      3. Teacher of record and SISP
      4. SISP and para
    - v. Dedicated planning time for coteaching
2. Inclusionary Practices
  - a. Coteaching (two or more certificated providers)
  - b. Supported instruction (paraeducator supporting general education teacher)
  - c. Push-in services/specialized services provided in general education setting (e.g., speech-language pathologist providing lesson in general education setting)
3. Individual Education Program Management
  - a. Coordination of paperwork regarding IEP meetings
  - b. Development of the IEP
  - c. Progress monitoring and reporting on IEP goals
  - d. Annual review/triennial review
  - e. Initial evaluation/re-evaluation
  - f. Functional behavior assessments/behavioral intervention plans
  - g. Agency service coordination and documentation (Medicaid, VocRehab, etc.)

## Calculating Workload

### A. Calculate Workload Considerations (as minutes per week)

- a. Analyze IEPs on caseload to determine services as per documentation
- b. Assigned inclusionary practices responsibilities
- c. Determine time needed for IEP management (consider time needed throughout year and divide to determine weekly average)

### B. Determine available instructional minutes per week (minutes in day x 5)

- a. Minutes in a student day (start of day to end of day for student) x 5 to determine minutes per week
- b. Subtract teacher minutes in the week
  - i. Duty-free lunch
  - ii. Guaranteed contractual preparation time
  - iii. Travel/drive time between service delivery sites

### C. Determine difference between "A" and "B" to determine if there are enough available minutes in the week to complete the necessary duties of this teacher

## Calculation Examples

### Desirable allocation of time:

A: Workload Considerations		Minutes	B: Available Time		Minutes
Specially Designed Instruction: Direct instruction		415	Student day (8:00-3:10)	$430 \times 5 =$	2150
Specially Designed Instruction: Indirect services		125	Teacher time		-500
Inclusionary Practices		575			
IEP Management		480			
Weekly workload time		1595			
<b>C: Difference <math>1650 - 1595 = 55</math> minutes available beyond current workload</b>					

With 55 minutes per week unallocated, there is time for the unexpected (parent consult, student emergency, newly enrolled student, etc.)

### More typical example based on conversations with members:

A: Workload Considerations		Minutes	B: Available Time		Minutes
Specially Designed Instruction: Direct instruction		815	Student day (8:00-3:10)	$430 \times 5 =$	2150
Specially Designed Instruction: Indirect services		150	Teacher time		-500
Inclusionary Practices		550			
IEP Management		480			
Weekly workload time		1995			
<b>C: Difference <math>1650 - 1995 = -345</math> minutes beyond available needed to complete IEP needs</b>					

This example indicates there is a need to consider additional staffing.

# Special Ed Class Sizes & Caseloads

To learn more about Special Education class size and caseloads, watch our video at <https://goo.gl/b73WEc>

There are no specific class size requirements for students with IEPs

General education teachers may teach any number of students with IEPs in their classroom, as long as they are teaching the subject matter for which they are credentialed.

Class sizes & caseloads can be bargained in the collective bargaining agreement.

Any contract language agreed upon, cannot prevent students with IEPs access to the general education curriculum.

CTA has policy recommendations for Special Education class size/caseloads in the Organizational Handbook, which can be found online at [www.cta.org](http://www.cta.org).

Every situation is unique. Talk to your association site rep, leadership, or CTA Primary Contact Staff if you have questions or concerns.

Speech Language Pathologists have Ed Code and Regulations written specifically on caseload requirements and limits.

## Online Resources

Find all of our recommended links & resources at:

- Pinterest - [www.pinterest.com/CTAIPD/](http://www.pinterest.com/CTAIPD/)
- Collaboration in Common - <http://bit.ly/2DNUFrE>



## The RSP Caseload Waiver

"EC Section 56101 allows the State Board of Education (SBE) to waive any provision of EC or regulation if the waiver is necessary or beneficial when implementing a student IEP. Title 5 CCR specifically allows the SBE to approve waivers for resource specialists providing special education services to allow them to exceed the maximum caseload of 28 students by no more than four students. However, there are specific requirements in these regulations which must be met for approval, and **if these requirements are not met, the waiver must be denied**"

- California State Board of Education

## RSP Caseload Waiver Stipulations

- (1) The requesting agency demonstrates to the satisfaction of the SBE: (a) that the excess resource specialist caseload results from extraordinary fiscal and/or programmatic conditions; and (b) that the extraordinary conditions have been resolved or will be resolved by the time the waiver expires.
- (2) The waiver stipulates that an affected resource specialist will have the assistance of an instructional aide at least five hours daily whenever that resource specialist's caseload exceeds the statutory maximum during the waiver's effective period.
- (3) The waiver confirms that the students served by an affected resource specialist will receive all of the services called for in their IEPs.
- (4) **The waiver was agreed to by any affected resource specialist, and the bargaining unit, if any, to which the resource specialist belongs participated in the waiver's development.**
- (5) The waiver demonstrates to the satisfaction of the SBE that the excess caseload can be reasonably managed by an affected resource specialist in particular relation to: (a) the resource specialist's pupil contact time and other assigned duties; and (b) the programmatic conditions faced by the resource specialist, including, but not limited to, student age level, age span, and the behavioral characteristics; number of curriculum levels taught at any one time or any given session; and intensity of student instructional needs. (Source: California Department of Education)

## **RESOURCE SPECIALIST/SPECIALIST ED CODE 56362 AND 56362.1**

**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 school day.**

(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 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 school day 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.**

## **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

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*EC* Section 56101 allows the State Board of Education (SBE) to waive any provision of *EC* or regulation if the waiver is necessary or beneficial when implementing a student IEP. Title 5 *CCR* specifically allows the SBE to approve waivers for resource specialists providing special education services to allow them to exceed the maximum caseload of 28 students by no more than four students. However, there are specific requirements in these regulations which must be met for approval, and if these requirements are not met, the waiver must be denied:

- (1) The requesting agency demonstrates to the satisfaction of the SBE: (a) that the excess resource specialist caseload results from extraordinary fiscal and/or programmatic conditions; and (b) that the extraordinary conditions have been resolved or will be resolved by the time the waiver expires.
- (2) The waiver stipulates that an affected resource specialist will have the assistance of an instructional aide at least five hours daily whenever that resource specialist's caseload exceeds the statutory maximum during the waiver's effective period.
- (3) The waiver confirms that the students served by an affected resource specialist will receive all of the services called for in their IEPs.
- (4) The waiver was agreed to by any affected resource specialist, and the bargaining unit, if any, to which the resource specialist belongs participated in the waiver's development.
- (5) The waiver demonstrates to the satisfaction of the SBE that the excess caseload can be reasonably managed by an affected resource specialist in particular relation to: (a) the resource specialist's pupil contact time and other assigned duties; and (b) the programmatic conditions faced by the resource specialist, including, but not limited to, student age level, age span, and the behavioral characteristics; number of curriculum levels taught at any one time or any given session; and intensity of student instructional needs.

The SBE receives several waivers of this type each year, and approximately 90 percent are approved. Due to the nature of this type of waiver, they are almost always retroactive.

## **FISCAL ANALYSIS (AS APPROPRIATE)**

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There is no statewide fiscal impact of waiver(s) approval.

## **ATTACHMENT(S)**

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Attachment 1: Resource Specialist Program Summary Table (1 page)

CALIFORNIA SPECIAL EDUCATION REFERENCE

CALIFORNIA CODE OF REGULATIONS (CCR)

Title 5. Education

Division 1. California Department of Education

Chapter 3. Individuals with Exceptional Needs

Subchapter 1. Special Education

Article 5. Implementation (Program Components)

§ 3051.1. Language, Speech and Hearing Development and Remediation.

(1) Referral and assessment of individuals suspected of having a disorder of language, **speech**, or hearing. Such individuals are not considered as part of the **caseload** pursuant to Education Code section 56363.3 unless an IEP is developed and services are provided pursuant to sections 3051.1(a)(2) and (3).

(2) Specialized instruction and services for individuals with disorders of language, speech, and hearing, including monitoring of pupil progress on a regular basis, providing information for the review, and when necessary participating in the review and revision of IEPs of pupils.

(3) Consultative services to pupils, parents, teachers, or other school personnel.

(4) Coordination of speech and language services with an individual's regular and special education program.

(b) Caseloads of full-time equivalent language, speech and hearing specialists providing instruction and services within the district, SELPA, or county office shall not exceed a district-wide, SELPA-wide, or county-wide average of 55 individuals unless prior written approval has been granted by the SSPI.

(c) Language and speech development and remediation shall be provided only by personnel who possess:

(1) a license in Speech-Language Pathology issued by a licensing agency within the Department of Consumer Affairs; or

(2) a credential authorizing language or speech services.

(d) Services may also be provided by speech-language pathology assistants working under the direct supervision of a qualified language, speech, and hearing specialist, as defined in Business and Professions Code section 2530.2(i), and if specified in the IEP. No more than two assistants may be supervised by one qualified language, speech, and hearing specialist. The caseloads of persons in subdivision (b) shall not be increased by the use of assistants.

Note: Authority cited: Sections 56100 and 56366.1, Education Code. Reference: Section 2530, Business and Professions Code; Sections 56363 and 56363.3, Education Code; and 34 C.F.R. Sections 300.34 and 300.156(b)(1).

## HISTORY

1. Repealer and new section filed 3-21-88; operative 4-20-88 (Register 88, No. 15).

2. Amendment of section and Note filed 5-5-2014; operative 7-1-2014 (Register 2014, No. 19).



CALIFORNIA SPECIAL EDUCATION REFERENCE

CALIFORNIA STATUTES

EDUCATION CODE

Part 30. Special Education Programs

CHAPTER 4. Identification and Referral, Assessment, Instructional Planning, Implementation, and Review [56300 - 56385]

ARTICLE 4. Implementation [56360 - 56369]

56363.3.

**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**.

*(Amended by Stats. 2007, Ch. 56, Sec. 58. Effective January 1, 2008.)*

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CALIFORNIA SPECIAL EDUCATION REFERENCE

CALIFORNIA STATUTES

EDUCATION CODE

Part 30. Special Education Programs

CHAPTER 4.45. Special Education Programs for Individuals With Exceptional Needs Between the Ages of Three and Five Years, Inclusive [56440 - 56447.1]

56441.7.

(a) The maximum **caseload** for a **speech** and language specialist providing services exclusively to individuals with exceptional needs, between the ages of three and five years, inclusive, as defined in Section 56441.11 or 56026, shall not exceed a count of 40.

(b) The superintendent shall issue caseload guidelines or proposed regulations to local educational agencies for individuals with exceptional needs between the ages of three and five years, inclusive, by January 1, 1988.

*(Added by Stats. 1987, Ch. 311, Sec. 6.5. Effective July 30, 1987.)*



CALIFORNIA  
DEPARTMENT OF  
EDUCATION

**JACK O'CONNELL**  
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

December 12, 2009

Deirdre Casparian  
28585 Hell Creek Road  
Valley Center, CA 92082

Dear Ms. Casparian:

Subject: Caseload Size for Speech and Language Specialists

Thank you for your inquiry regarding caseload size for speech and language specialists. Your letter was forwarded to me from the office of California State Senator Dennis Hollingsworth for a response.

Your letter referenced *Education Code* sections 56441.7(a) and 56363.3, and you asked "If there is a mixed preschool, elementary caseload, how should these two sections be interpreted?"

We have been advised that when a speech therapist works with preschool students, for which there is a maximum caseload of 40 students, and also works with older students, for which there is a maximum caseload of 55 students, then both case loads are prorated. So if half your caseload were composed of pupils in preschool and the other half were composed of older students, you would assist 20 pupils in preschool and approximately 27 older students.

If you have any questions regarding this subject, please contact Allison Smith, Consultant, Special Education Division, at (916) 327-3698 or by e-mail at [asmith@cde.ca.gov](mailto:asmith@cde.ca.gov).

Sincerely,

Mary Hudler, Director  
Special Education Division

MH:as

cc: The Honorable Dennis Hollingsworth, California State Senate

## BACKGROUND:

# THE IMPORTANCE OF SOCIAL EMOTIONAL LEARNING FOR ALL STUDENTS ACROSS ALL GRADES

**S**ocial and Emotional Learning (SEL) is the process through which children and adults acquire and effectively apply the knowledge, attitudes, and skills necessary to understand and manage emotions, establish and achieve positive goals, feel and show empathy for others, establish and maintain positive relationships and make responsible decisions. SEL is critical to developing competencies besides academic content knowledge that are necessary to succeed in college and in careers. Effective SEL programming begins in preschool and continues through high school. SEL programming is based on the understanding that the best learning emerges in the context of supportive relationships that make learning challenging, engaging, and meaningful.

Social and emotional skills are critical to being a good student, citizen, and worker. Workforce demands aside, many call for the 21st century classroom to be student-centered and to support individual learning needs. Moreover, students' ability to learn well depends not just on instruction, but also on factors such as the school climate, a sense of belonging with peers, positive relationships with educators, and the feedback they receive. Neuroscience research demonstrates that emotion and cognition are inextricably linked; emotions are critical for all people to understand, organize and make connections between even "pure" academic concepts.

Many risky behaviors (e.g., drug use, violence,

bullying, and dropping out) can be prevented or reduced when multiyear, integrated efforts are used to develop students' social and emotional skills. This is best done through effective classroom instruction, student engagement in positive activities in and out of the classroom, and broad parent and community involvement in program planning, implementation, and evaluation.

As Maurice Elias, the head of Rutgers University's Social Emotional Learning Lab, has stated, schools have a "moral and ethical imperative" to take responsibility for students' well-being, not just their academic knowledge.

## Core SEL Competencies



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## Outcomes Associated with the Five Competencies

The short-term goals of SEL programs are to:

- ▶ promote students' self-awareness, self-management, social-awareness, relationship and responsible decision-making skills
- ▶ improve student attitudes and beliefs about self, others, school, and community.

These, in turn, provide a foundation for better adjustment and academic performance as reflected in more positive social behaviors and peer relationships, fewer conduct problems, less emotional distress, improved grades and test scores.



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There is a growing awareness in the U.S. among educators and policymakers about the importance of social and emotional development for successful student performance, especially in preschool and elementary school. The five sets of SEL competencies are important from very early in life, but are especially relevant as children begin to spend time with adults outside the home and to socialize with peers.

Social and emotional skills play a role in determining how well-equipped children will be to meet the demands of the classroom and if they are able to engage fully in learning and benefit from instruction.

## Multi-Tier Systems of Support (MTSS)

"For SEL skills applied for students at the Tier 1 level, the access to these skills is embedded within the

authentic curricula. Some students may need more specific skill training and practice utilizing Tier 2 and Tier 3 interventions (such as small group or individual situations, settings or programs). "

*Mosley, IDEA Resource CADRE, 2016*

## Powerful Evidence Supporting the Impact of Enhancing Students' SEL

Research shows that SEL can have a positive impact on school climate and promote a host of academic, social, and emotional benefits for students. Durlak, Weissberg et al.'s recent meta-analysis of 213 rigorous studies of SEL in schools indicates that students receiving quality SEL instruction demonstrated:

- ▶ **better academic performance:** achievement scores an average of 11 percentile points higher than students who did not receive SEL instruction;
- ▶ **improved attitudes and behaviors:** greater motivation to learn, deeper commitment to school, increased time devoted to schoolwork, and better classroom behavior;
- ▶ **fewer negative behaviors:** decreased disruptive class behavior, noncompliance, aggression, delinquent acts, and disciplinary referrals; and
- ▶ **reduced emotional distress:** fewer reports of student depression, anxiety, stress, and social withdrawal.

## Resources

[www.CASEL.org](http://www.CASEL.org) *The Missing Piece*

A National Teacher Survey on How Social and Emotional Learning Can Empower Children and Transform Schools

[www.ASCD.org/ASCD/pdf/siteascd/policy/sel\\_policybrief\\_final\\_11-16-15.pdf](http://www.ASCD.org/ASCD/pdf/siteascd/policy/sel_policybrief_final_11-16-15.pdf)

## **§ 300.530 Authority of School Personnel.**

(a) Case-by-case determination. School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a child with a disability who violates a code of student conduct.

(b) General.

(1) School personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive schooldays (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under § 300.536).

(2) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under paragraph (d) of this section.

(c) Additional authority. For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to paragraph (e) of this section, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in paragraph (d) of this section.

(d) Services.

(1) A child with a disability who is removed from the child's current placement pursuant to paragraphs (c), or (g) of this section must -

(i) Continue to receive educational services, as provided in § 300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

(ii) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

(2) The services required by paragraph (d)(1), (d)(3), (d)(4), and (d)(5) of this section may be provided in an interim alternative educational setting.

(3) A public agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed.

(4) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is for not more than 10 consecutive school days and is not a change of placement under § 300.536, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed, as provided in § 300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

(5) If the removal is a change of placement under § 300.536, the child's IEP Team determines appropriate services under paragraph (d)(1) of this section.

(e) Manifestation determination.

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

(i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

(ii) If the conduct in question was the direct result of the LEA's failure to implement the IEP.

(2) The conduct must be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that a condition in either paragraph (e)(1)(i) or (1)(ii) of this section was met.

(3) If the LEA, the parent, and relevant members of the child's IEP Team determine the condition described in paragraph (e)(1)(ii) of this section was met, the LEA must take immediate steps to remedy those deficiencies.

(f) Determination that behavior was a manifestation. If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team must -

(1) Either -

(i) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or

(ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and

(2) Except as provided in paragraph (g) of this section, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.



**(g) Special circumstances.** School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child -

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

(h) Notification. On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must notify the parents of that decision, and provide the parents the procedural safeguards notice described in § 300.504.

(i) Definitions. For purposes of this section, the following definitions apply:

- (1) Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the **Controlled Substances Act** (21 U.S.C. 812(c)).
- (2) Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.
- (3) Serious bodily injury has the meaning given the term “serious bodily injury” under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.
- (4) Weapon has the meaning given the term “dangerous weapon” under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

(Authority: 20 U.S.C. 1415(k)(1) and (7))

### **Excerpt from the CTA School Safety Handbook (08/2008)**

#### **Removal For Up To Ten School Days**

School personnel may remove a child with a disability for up to 10 school days in a school year for any violation of school rules. and may remove for additional periods of up to 10 school days for separate acts of misconduct, as long as the removals do not constitute a pattern. Schools do not need to provide services during the first 10 school days in a school year that a child is removed.

## **Removal For More Than Ten Days**

School personnel can remove a child to an interim alternative educational placement for up to 45 days if the child brings a gun or a dangerous weapon to school or a school function, or for possession or sale of illegal drugs or controlled substances.

- Schools can also request a due process hearing officer in an expedited hearing to remove a child for up to 45 days if keeping the child in his or her current placement is substantially likely to result in injury to the child or to others.
- When commencing a removal ( after removal for more than 10 school days in a school year), the parents must be notified and a child's IEP team must meet to assess the child's troubling behavior and develop a behavioral assessment plan or review the child's behavioral intervention plan to address that behavior.
- Schools must provide services to the extent necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals of his or her IEP.
- Removal of a child for more than 10 school days in a school year is considered a change of placement, and a manifestation determination is required to determine whether the behavior was a manifestation of the child's disability. The parent may challenge the determination in an expedited due processing hearing.
- A child with a disability cannot be long-term suspended or expelled from school for behavior that is a manifestation of his or her disability. A pupil who has not been determined to be eligible for special education and who has engaged in behavior that violated any rule or code of conduct may assert the protections afforded to pupils in special education programs.
- Copies of the special education and disciplinary records of a pupil with exceptional needs must be transmitted for consideration by law enforcement authorities when a criminal act committed by that pupil is reported.

## **ED CODE 44014- PHYSICAL ATTACK OF AN LEA EMPLOYEE**

### **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.

### **Excerpt from the CTA School Safety Handbook (08/2008)**

**Notification of Law Enforcement Agency:** In case of assault with a deadly weapon or force likely to produce great bodily injury against any person, the principal is required to notify law enforcement authorities prior to suspension or expulsion.

In cases of unlawful possession, use, sale, furnishing, or being under the influence of any controlled substance, alcoholic beverage or intoxicant, the principal may notify law enforcement authorities prior to suspension or expulsion.

The willful failure of a principal to make such a report is an infraction punishable by a fine to be paid by the principal of not more than \$500. A principal is immune from civil or criminal liability for such report unless the report was false, and the principal knew the report was false or the report was made.



# Using the BCTF social justice lens to focus our work

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revised by CASJ, May 2010

The BCTF's Committee for Action on Social Justice (CASJ) has developed a lens that applies social justice and critical theory to all aspects of our professional lives. This tool provides a framework in our union and in our schools to help guide policy, plan actions, and evaluate resources for social change. Social justice theory focuses on equity for all and critical theory requires action and systemic change. These two concepts form the basis of the BCTF social justice lens.

Central to all is a commitment to equity requiring systemic change. Often bandage-type solutions are inadequately used to solve urgent and emerging problems. Our social justice lens was developed to assist us to both zoom in to sharpen our focus, to broaden our perspective, and to develop and expand the scope of our work within the bigger picture. It provides a common language to communicate about our work and ensures that we are moving beyond short-term, immediate reactions. It is applicable to the classroom and to our work within and beyond our own union.

The lens has four distinct interconnecting filters—access, agency, advocacy, and solidarity action. Each represents an aspect of social justice work, and, while we may focus on one filter at a time, the true potential of these filters lies in engaging with all four simultaneously. Participatory democracy, civil

society, transformative practice, and systemic change found on the rotating outer ring of the lens are necessary to achieve the ultimate goal of equity found at the centre of the lens.

**Access** is the gateway to inclusion and participation. It hinders or enables an individual or group to take part. As teachers, we recognize the inherent socially just nature of the public education system and strongly voice our concerns to ensure that all students have real access to all programs and educational opportunities. Institutions only open to a privileged or select few have a high social injustice quotient. Restricted societies close off opportunities.

**Agency** means that individuals know their rights. They have the capacity and the ability to voice their concerns and to take actions that create change for the better. Learning how to think critically about the world is a key strategy to develop their agency. In conjunction, a social justice education is imperative for developing socially responsible, democratic participation in a civil society.

**Advocacy** is a deliberate process of influencing outcomes so that change can occur. It requires a set of skills that allows a person to understand a problem and effect change using varied strategies and tactics. Developing the skills to successfully advocate for oneself or on behalf of

others involves awareness (knowing what's happening), analysis (seeing the different parts, their impact, and the importance to the whole), and action plans (knowing what to do and how to do it). Action plans include a purpose, a message, a way to express the message, and an audience. Advocacy can be done individually or in groups.

**Solidarity action** refers to working with others to act for the collective betterment. It requires us to recognize injustice, to work across differences to find a common ground, and to achieve equity. Solidarity action requires coalition building within a group and networking with other groups. Examples of skills that help to achieve solidarity action can include empathy, co-operation, coalition building, and effective mediation and conflict-resolution skills.

Participatory democracy, transformative practice, systemic change, and civil society, like the ultimate goal of equity, are to be kept in mind when developing plans to advance access, agency, advocacy, and solidarity action. Invoking these concepts, we challenge the control of elites, whether they are ruling classes in society or the power structures in our work places. We also must look inside to examine how our own privilege affects our values and actions. These are some ways we choose to do socially just work and the means by which we will achieve greater equity.

# A social justice lens checklist

by Marianne Neill, CASJ—Peace and Global Education Action Group member

Here is a checklist that you can use to assess whether programs, resources, events, and so forth meet the criteria of the social justice lens. If not, you may want to identify alternatives that do satisfy these criteria. Note that some criteria may not apply to the specific item you are evaluating. A scenario using the social justice lens follows the checklist.

## Access

- values a welcoming and inclusive approach to all people equally
- values openness to the ideas and opinions of others as equal participants
- teaches the value of multiple perspectives
- demonstrates respect for democratic processes and civil society
- values community and co-operation
- responsive to all others equally

## Agency

- develops understanding of one's right to create change
- encourages belief in one's ability to affect one's own reality
- nurtures action and empowerment of everyone equally
- develops ability to think critically about social problems
- develops leadership skills
- values recognition and respect for the agency of others

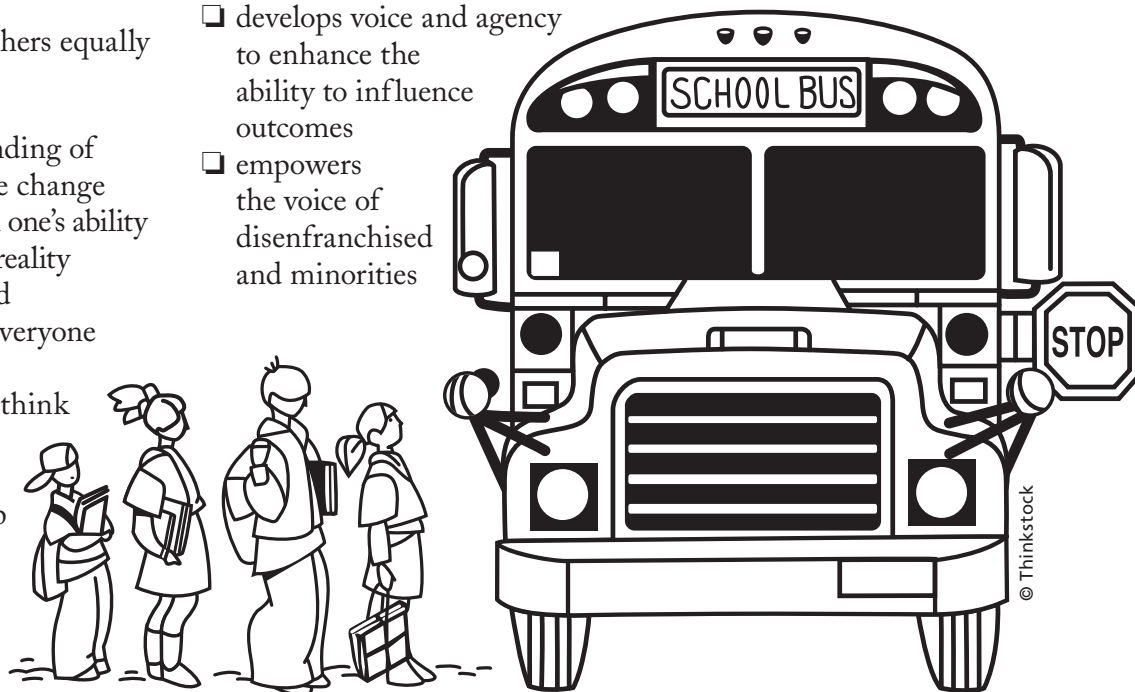
- actively encourages leadership in working towards positive change that benefits everyone
- encourages people to find their own voice
- empowers people
- values participatory democracy
- contributes to the development of ability to participate in the world
- contributes to the development of ability to change the world

## Advocacy

- builds skills needed to effect systemic change using various strategies
- develops an understanding of one's position and privilege in society
- develops awareness of social realities
- develops analytical ability
- develops awareness of how to respond to make change
- develops voice and agency to enhance the ability to influence outcomes
- empowers the voice of disenfranchised and minorities

## Solidarity action

- promotes transformative work for the betterment of others
- nurtures an understanding that an injury to one is an injury to all
- values co-operation and coalition-building
- works across differences to find common ground
- advocates broad interconnections and common goal-setting and actions
- shows recognition of the strength in unity
- shows effectiveness in mediating and resolving conflict to build alliances
- encourages collaboration with disenfranchised or minorities
- nurtures ability to take action with empathy





# How socially just is my classroom?

by Sasha Wiley-Shaw, CASJ—Status of Women Action Group member

When I look at my classroom through my teacher’s eyes, I see a wide variety of individual circumstances, learning needs, and skills. On the surface, it may appear to be just an average

classroom; however, when I look at it applying the social justice lens, a range of challenges and opportunities emerge, and by addressing the question of how socially just my classroom is, I can provide a richer learning

environment that fuels positive social change.

Here, divided into the areas of the lens, are issues I would look at in my classroom.

ACCESS	AGENCY
<p><b>Do all students have access to learning and success in my classroom?</b></p> <ul style="list-style-type: none"> <li>•Do I use multiple presentation methods to try to address the needs of different learning styles or challenges?</li> <li>•Do all students have access to the supplies they are expected to use in my classroom?</li> <li>•Are there students who have life situations that may get in the way of their ability to live up to my homework policies or standards?</li> <li>•Do all students feel safe and supported in asking questions when they need clarification or don’t understand?</li> </ul>	<p><b>Is my classroom a place where students see themselves and are treated as individuals with the right and ability to cause change?</b></p> <ul style="list-style-type: none"> <li>•Do students have a genuine voice that is heard when it comes to setting classroom policies?</li> <li>•Do I make sure to include stories of individuals in my teaching materials so that my students are exposed to models of personal agency?</li> <li>•Do I support my students in finding effective ways to take action, whether they encounter injustice in society or chafe against a non-progressive school policy?</li> <li>•Do I explicitly value and emphasize the importance of students developing their own opinions on issues?</li> </ul>
SOLIDARITY ACTION	ADVOCACY
<p><b>Do we study issues of social injustice with an eye to transforming hierarchies and eliminating inequity?</b></p> <ul style="list-style-type: none"> <li>•When generalizations are made that presume levels of affluence or membership in dominant groups, do I problematize them and encourage students to consider how things might be different for other groups or in other places?</li> <li>•When students experience problems or injustice, do I guide them to make connections to global issues or systems?</li> <li>•Do I actively undertake to help students understand the power of collective action?</li> <li>•Do we examine hierarchies and power structures with regard to how they privilege certain groups or world views over others?</li> <li>•Do we deconstruct inequality and view it as systemic rather than accidental or individually constructed?</li> </ul>	<p><b>Do students gain the skills needed to improve the lived experiences of others?</b></p> <ul style="list-style-type: none"> <li>•Do I have classroom policies that promote cooperation and students supporting one another?</li> <li>•Do I explicitly emphasize empathy skills and encourage students to imagine themselves in someone else’s position?</li> <li>•Do students have the framework necessary to understand individual hardship as resulting from systemic inequity?</li> <li>•Are students aware of legal frameworks and decision-making processes that shape our society and are they aware of how to have a voice in them?</li> <li>•Are students informed about political organizations, advocacy groups, and NGOs through which they can help work for social change?</li> </ul>

# Our social justice lens as a tool

## THEME/IDEA/QUESTION/CONCERN

IEP Practices in my district/school site.

### ACCESS

Are everyone's perspectives and opinions considered in the decision-making?

- Is every IEP member listened to and treated in a respectful manner?
- Does every IEP member talk respectfully about the student/situations?

### AGENCY

What mechanisms are used so that everyone understands how they can participate in the process and have a voice?

- For example, round table discussion, Robert's Rules of Order, talking stick.
- How does the organization overcome systemic or hierarchical barriers to ensure that all points of view are considered?

### SOLIDARITY ACTION

What processes are in place to include all members in the outcome?

- How does the team effectively come to an agreement when conflict arises?
- Do the teachers of the student work together behind the scenes to create a better learning environment for the student?
- When there is disagreement, how does the team make a decision about what is best for the child?

### ADVOCACY

What is the process for considering multiple solutions to a final response/solution?

- How is the voice of the student considered in the final team decision?
- What mechanisms are in place to ensure that decisions are implemented?
- How do IEP team members participate in supporting the needs of the student?

# Our social justice lens as a tool

<b>THEME/IDEA/QUESTION/CONCERN</b>	
<b>ACCESS</b>	<b>AGENCY</b>
<b>SOLIDARITY ACTION</b>	<b>ADVOCACY</b>

## IEP Meeting Practices

<p>Describe a successful IEP meeting you have been in? Why do you think it was successful?</p>	<p>Describe an unsuccessful IEP meeting? Why do you think it wasn't successful?</p>
<p>Describe your role in the IEP meeting.</p>	<p>What practices have worked for you in the past to help an IEP meeting be successful?</p>
<p>What is one concern or question you want addressed today?</p>	<p>What is one piece of advice from this training you could offer your colleagues?</p>

	<b>What's Working</b>	<b>What Needs Improvement</b>
<b>IEP Practices</b>		
<b>Classroom Practices</b>		
<b>Workload</b>		

## Additional Notes



