



Notice to Parent/Guardian/Surrogate Notice of Procedural Safeguards



This notice is provided to you as parents, legal guardians, surrogate parents or court appointed educational rights holder, because your child is receiving special education services or has been referred for possible placement in special education. This information is your Notice of Procedural Safeguards (Notice) as required under the Individuals with Disabilities Education Act (IDEA). The IDEA is a federal law that requires school districts to provide a “free appropriate public education” (FAPE) to eligible children with disabilities, as defined further below. This Notice will also be provided to students who are entitled to these rights at age eighteen (18). The purpose of this Notice is to explain to you your rights as a parent of a child with disabilities under federal and state laws. In California, special education is provided to disabled students between birth and the student’s twenty-second (22nd) birthday. Federal and state laws protect you and your child throughout the procedures for evaluation and identification of special education placement and services. Parents of children with disabilities have the right to participate in the individualized education program (IEP) process, including development of the IEP, and be informed of the availability of FAPE and of all available alternate programs, including public and nonpublic programs.

A copy of this Notice will be given to you only one time a school year; except that a copy must also be given to you upon (1) initial referral or your request for evaluation; (2) upon the receipt of the first filing of a state complaint or due process complaint in a school year; (3) when a decision is made to make a disciplinary change of placement; or (4) upon your request. You have a right to receive this Notice in your primary/native language or other mode of communication, unless to do so is clearly not feasible. This Notice may also be translated orally to you if your primary/native language or other mode of communication is not a written language. The definitions below will help you understand the Notice of rights provided herein. (20 U.S.C. section 1415(d); 34 C.F.R. sections 300.29 and 300.504; Education Code sections 56021.1(a), 56301(d)(2), 56321(b), and 56506(a).)

DEFINITIONS

Children With Disabilities also referred to as individuals with exceptional needs is defined by federal and state law as including children with intellectual disabilities, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, specific learning disabilities, deaf-blindness, or multiple disabilities; and who by reason thereof, need special education and related services. (20 U.S.C. section 1402(3); 34 C.F.R. section 300.8; Education Code section 56026; 5 California Code of Regulations (CCR) section 3030.)

Evaluation means the assessment of your child using various tests and measures in accordance with state and federal laws to determine whether your child has a disability and the nature and extent of special education and related services needed by your child for his or her educational benefit. The assessment tools are individually selected for your child and are administered by trained and knowledgeable professionals employed or contracted by the school district. These tests do not include the basic tests given to all children in the school setting. (34 C.F.R. sections 300.15, 300.304 – 300.311; Education Code sections 56302.5 and 56320.)

Individualized Education Program (IEP) is defined as a written document developed by your child's IEP team that includes at least all of the following: (1) present levels of academic achievement and functional performance; (2) measurable annual goals; (3) a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on progress the child is making toward meeting the annual goals will be provided; (4) a statement of the special education and related services and supplementary aids and services to be provided to the child; (5) an explanation of the extent to which the child will not participate with non-disabled children in the general education programs; (6) a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state and district wide assessments; and (7) the projected date for initiation and the anticipated duration, frequency and location of the

1 programs, services and modifications included in the IEP. (20 U.S.C. section 1414(d);
2 34 C.F.R. sections 300.22, 300.320-300.324; Education Code section 56345.)

3
4 **Free Appropriate Public Education (FAPE)** is defined as special education and
5 related services that: (1) are provided at public expense, under public supervision and
6 direction, and without charge to you; (2) meet the standards of the California
7 Department of Education (CDE); (3) are provided in conformity with a written IEP
8 developed for your child to confer an educational benefit; and (4) are provided in an
9 appropriate preschool, elementary or secondary school program of the State, or in a
10 nonpublic school if there is no appropriate program available in a school district. (20
11 U.S.C. section 1402(9); 34 C.F.R. section 300.17; Education Code section 56040.)

12
13 **Least Restrictive Environment (LRE)** means that to the maximum extent appropriate,
14 children with disabilities will be educated with children who are not disabled, and that
15 special classes, separate schooling, or other removal of children with disabilities from
16 the regular education environment will occur only when the nature or severity of the
17 disability is such that education in regular classes with the use of supplementary aids
18 and services cannot be achieved satisfactorily. (20 U.S.C. section 1412(a)(5); 34
19 C.F.R. section 300.114; Education Code section 56040.1.)

20
21 **Related Services** means transportation and such developmental, corrective and
22 supportive services that may be required to assist a child with a disability to benefit from
23 special education, including the early identification and assessment of disabling
24 conditions.

25 Related services may also include:

- 26 1. Speech-language pathology and audiology services.
- 27 2. Interpreting services.
- 28 3. Psychological services.
- 29 4. Physical and occupational therapy.
- 30 5. Recreation, including therapeutic recreation.
- 31 6. Counseling services, including rehabilitation counseling.

- 1 7. Orientation and mobility services.
- 2 8. School health services and school nurse services.
- 3 9. Medical services for diagnostic or evaluation purposes only.
- 4 10. Social work services.
- 5 11. Parent counseling and training.

6 (20 U.S.C. section 1402(26); 34 C.F.R. section 300.34; Education Code section 56363.)

7

8 **Special Education** means specially designed instruction, at no cost to parents, to meet
9 the unique needs of a child with a disability, including instruction conducted in the
10 classroom, in the home, in hospitals and institutions, and in other settings, and
11 instruction in physical education. (20 U.S.C. section 1402(29); 34 C.F.R. section
12 300.39; Education Code section 56031.)

13

14 **CONFIDENTIALITY AND ACCESS TO EDUCATIONAL RECORDS**

15 All parents of a child enrolled in the school district have the right to inspect their
16 child's educational records under the federal Family Educational Rights and Privacy Act
17 (FERPA), and the California Education Code. Under the federal and state laws, parents
18 of a child with disabilities (including noncustodial parents whose rights have not been
19 limited) are presumed to and have the right to inspect and review all educational
20 records regarding their child unless the school district has been advised that the parent
21 does not have the authority to do so under applicable state laws. This includes the right
22 to inspect and review all educational records with respect to the identification,
23 evaluation, educational placement and the provision of a FAPE, as well as to receive an
24 explanation and interpretation of the records without unnecessary delay, including prior
25 to a meeting regarding your child's IEP or before a resolution session or due process
26 hearing. Under California statutes, parents have the right to review and to receive
27 copies of educational records. You also have the right to have a representative inspect
28 and review the records in accordance with FERPA. These rights transfer to a pupil upon
29 their eighteenth (18th) birthday unless the pupil has had a conservator appointed by a
30 court to assume the educational rights of the pupil.

1 Educational records are those records that are directly related to your child and
2 maintained by the school district, or an agency, or institution acting for the school district
3 that collects, maintains, or uses personally identifiable information, or from which
4 information is obtained. Both federal and state laws further define an educational
5 record or pupil record as any item of information directly related to an identifiable pupil,
6 other than directory information, which is maintained by a school district, whether
7 recorded by handwriting, print, computer media, video or audio tape, film, microfilm,
8 microfiche or by other means. If records contain information about more than one child,
9 you have access only to that portion of the record pertaining to your child. The school
10 district must keep a record of parties obtaining access to educational records collected,
11 maintained, or used under the IDEA, other than school district employees in accordance
12 with FERPA.

13
14 The school district must protect the confidentiality of personally identifiable
15 information at collection, storage, disclosure and destruction stages. All persons
16 collecting or using personally identifiable information must receive training or instruction
17 regarding the state's policies and procedures under the IDEA and FERPA. Each school
18 district must maintain, for public inspection, a current listing of the names and positions
19 of those employees who may have access to personally identifiable information.

20
21 The school district must inform you when personally identifiable information
22 collected, maintained or used under the IDEA is no longer needed to provide
23 educational services to your child. Upon receiving notice that the records are no longer
24 necessary to the school district, you may request destruction of the records, which will
25 take place either by physical destruction or by removing personal identifiers from the
26 records so that the information is no longer personally identifiable. However, the school
27 district is obligated to keep a permanent record for each child.

28
29 Personally identifiable information may include: (1) the name of the child, the
30 child's parent or family member; (2) the address of the child; (3) a personal identifier
31 such as the child's social security number, student number, court file number, or

1 biometric record; (4) other indirect identifiers such as the child's date of birth, place of
2 birth and mother's maiden name; (5) a list of personal characteristics or other
3 information that would make it possible to identify the child with a reasonable certainty.
4 Parental consent must be obtained before personally identifiable information is
5 disclosed to parties other than school district employees and in accordance with
6 FERPA.

7
8 The custodian of records at each school site is the principal of the school. The
9 district custodian of records is **Robin Gilligan**. Pupil records may be kept at the school
10 site or the district office, but a written request for records at either site will be treated as
11 a request for records from all sites. The custodian of records will provide you with a list
12 of the types and locations of pupil records (if requested). A request for a copy of your
13 child's special education records may be made to the District's Director of Student
14 Support Services.

15
16 A review and/or copies of educational records will be provided to the parent
17 within five (5) business days after the request is made by the parent, either orally or in
18 writing. A fee for copies, but not the cost to search and retrieve, is determined by local
19 policy and will be charged unless charging the fee would effectively prevent the parent
20 from exercising the right to receive the copies. Once a complete copy of the records
21 has been provided, a fee will be charged for additional copies of the same records.

22
23 If you believe that information in the education records collected, maintained or
24 used by the school district is inaccurate, misleading or violates the privacy or other
25 rights of the child, you may request in writing that the school district amend the
26 information. If the school district agrees with your request, the record will be amended
27 and you will be informed within a reasonable time after receipt of the request. Should
28 the school district refuse to amend the information as requested, the school district will
29 notify you of the right to a hearing to determine whether the challenged information is
30 inaccurate, misleading, or otherwise in violation of the privacy or other rights of your
31 child. If you request a hearing, the school district will provide a hearing, within a

1 reasonable time, which must be conducted according to the procedures for such
2 hearings under FERPA.

3
4 If as a result of the hearing the school district decides the record will not be
5 amended, you have a right to provide what you believe is a corrective written statement,
6 which will be permanently attached to the contested record and also provided if the
7 contested record is disclosed to any party. Additional information regarding your right to
8 access and challenge educational records is available in the District's Annual Notice of
9 Parent Student Rights and Responsibilities. (20 U.S.C. section 1232g; 34 C.F.R.
10 sections 99.1-99.67; 34 C.F.R. sections 300.610-300.625, 300.613; Education Code
11 sections 48980, 49060-49079; Education Code sections 56041.5, 56043(n) and 56504;
12 5 CCR section 432(b)(1).)

13 14 **PRIOR WRITTEN NOTICE**

15 The IDEA requires school districts to provide prior written notice to you as the
16 parent of a child with disabilities when the school district proposes or refuses to initiate
17 or change the identification, evaluation or educational placement of your child or the
18 provision of a FAPE to your child or if you revoke consent in writing for the continued
19 provision of special education and related services. The notice will be provided in your
20 native language or other mode of communication you use, unless it is clearly not
21 feasible to do so, and must be provided to you within a reasonable time.

22
23 The prior written notice must include:

- 24 1. A description of the action proposed or refused by the school district.
 - 25 2. An explanation of why the district proposes or refuses to take the action.
 - 26 3. A description of each evaluation procedure, assessment, record, or report
27 the school district used as a basis for the proposed or refused action.
 - 28 4. A description of other options that the IEP team considered and the
29 reasons why those options were rejected.
 - 30 5. A description of other factors relevant to the district's proposal or refusal.
- 31

1 6. A statement that the parents of a child with a disability have protection
2 under the procedural safeguards of the IDEA, and if this notice is not an
3 initial referral for evaluation, the means by which a copy of a description of
4 the procedural safeguards can be obtained.

5 7. Sources for parents to contact to obtain assistance in understanding the
6 provisions of this part.

7 (20 U.S.C. section 1415(c); 34 C.F.R. sections 300.503 and 300.300(b)(4); Education
8 Code section 56500.4.)

9
10 **INFORMED PARENTAL CONSENT**

11 The IDEA requires that school districts obtain informed consent from you before
12 the commencement of an initial evaluation of your child to determine if your child
13 qualifies as a child with disabilities. Informed consent means you have been fully
14 informed in your native language, or other mode of communication, of all information
15 about the action for which you are giving consent and that you understand and agree in
16 writing to the carrying out of the activity for which consent is sought, such as an
17 evaluation or educational placement decision for your child. Your consent is voluntary
18 and may be withdrawn at any time. Should you withdraw/revoke consent, the
19 revocation is not retroactive; it will not negate an action that has occurred after the
20 consent was given and before the consent was revoked.

21
22 Your consent for the initial evaluation does not imply or grant consent for
23 placement and receipt of special education and related services. The school district will
24 request your consent for special education and related services separately and at a
25 later date. The school district will also obtain your informed consent for reevaluations of
26 your child and will not conduct a reevaluation unless you fail to respond to requests for
27 your consent.

28
29 If you do not provide consent for an initial assessment or fail to respond to a
30 request to provide the consent, the school district may pursue the initial assessment by
31 using due process procedures.

1 If you refuse to consent to the initiation of special education and related services,
2 the school district must not provide special education and related services and shall not
3 seek to provide services through due process procedures.
4

5 If at any time after the initial provision of special education and related services,
6 you revoke consent in writing for the continued provision of special education and
7 related services after having consented to those services in the past, the school district
8 must provide you prior written notice before ceasing the provision of special education
9 and related services to your child and shall not seek to provide services through due
10 process procedures. If you submit a written revocation of consent after the initial
11 provision of special education and related services to your child, the school district is not
12 required to amend the education records of your child to remove any reference of your
13 child's receipt of special education and services.
14

15 If you consent in writing to the receipt of special education and related services
16 for your child but do not consent to all of the components of the IEP, those components
17 of the program to which you have consented must be implemented so as not to delay
18 providing instruction and services. If the school district determines that the proposed
19 special education program component to which you do not consent is necessary to
20 provide a free appropriate public education to your child, the school district must file a
21 request for a due process hearing. If a due process hearing is held, the hearing
22 decision shall be final and binding, unless appealed within 90 days from the date of the
23 decision.
24

25 In the case of reevaluations, the school district must document reasonable
26 measures to obtain your consent. If you fail to respond, the school district may proceed
27 with the reevaluation without your consent. (20 U.S.C. sections 1414(a)(1)(D), 1414(c)
28 and 1415; 34 C.F.R. sections 300.9 and 300.300, 300.514 and 300.516; Education
29 Code sections 56021.1, 56321(c) and (d), 56346, 56381(f) and 56506(e).)
30
31

1 When a parent cannot be identified and the school district cannot locate the
2 whereabouts of a parent to obtain consent, the school district must ensure that an
3 individual is assigned to act as a surrogate for the parents of a child with a disability. A
4 surrogate parent may also be appointed for unaccompanied homeless youth or a child
5 who is a dependent or ward and an educational representative has not been appointed
6 by the Court. (20 U.S.C. section 1415(b)(2); 34 C.F.R. section 300.519; Education
7 Code section 56050; CA Rules of Court Rule 5.650.)
8

9 **PROTECTION IN EVALUATION PROCEDURES**

10 Federal law refers to “evaluation” and California law refers to “assessment”.
11 Therefore, these words may be used interchangeably by employees of the school
12 district and in this Notice. The school district must provide you with a written
13 assessment plan or prior written notice within fifteen (15) days after a referral for special
14 education has been received, including your written request for evaluation. You will
15 have a minimum of fifteen (15) days in which to review the assessment plan and to
16 provide consent to the school district to conduct the written assessment. The proposed
17 assessment plan will be provided to you in your native language or other mode of
18 communication used, unless to do so is clearly not feasible, and will include the
19 following: the types of assessments to be conducted, notification that no education
20 program will be developed from the assessment without your consent, description of
21 any recent assessments conducted, including any available independent assessments
22 and any assessment information you want considered, and information indicating your
23 child’s primary language and your child’s proficiency in his/her primary language. You
24 may request assessment in additional areas of suspected disability. Thereafter, the
25 school district has sixty (60) days after receipt of your written consent to complete the
26 assessment and to develop an IEP to determine the educational needs of your child.
27 However, this timeline is extended by periods of school holiday or vacation, if you refuse
28 to make your child available for assessment, or if your child transfers to another school
29 district and you and the receiving school district agree to a specific time when the
30 assessment will be completed.
31

1 The IDEA states that in conducting the evaluation the school district will:

- 2 1. Use a variety of assessment tools and strategies to gather relevant
3 functional, developmental and academic information, including information
4 provided by the parent, that may assist in determining whether the child is
5 a child with a disability and the content of the child's IEP, including
6 information related to enabling the child to be involved in and progress in
7 the general curriculum or, for preschool children, to participate in
8 appropriate activities;
- 9 2. Not use any single procedure as the sole criterion for determining whether
10 a child is a child with a disability or determining an appropriate educational
11 program for the child; and
- 12 3. Use technically sound instruments that may assess the relative contribution
13 of cognitive and behavioral factors, in addition to physical or developmental
14 factors.

15
16 The school district will also make sure that tests and other evaluation materials
17 used to assess your child are selected and administered so as not to be racially,
18 culturally or sexually discriminatory and are provided and administered in the child's
19 native language or other mode of communication, unless it is clearly not feasible to do
20 so. Any standardized tests that are given to the child will have been validated for the
21 specific purpose for which they are used, administered by trained and knowledgeable
22 personnel, and administered in accordance with any instructions provided by the
23 producer of such tests. Your child will be assessed in all areas of suspected disability
24 and the school district will use assessment tools and strategies that provide relevant
25 information that will directly assist the school district in determining the educational
26 needs of your child. Upon completion of the administration of evaluation materials, the
27 determination of whether the child is a child with a disability will be made by you and
28 qualified professionals comprising the IEP team. A copy of the evaluation report and
29 documentation of the determination of eligibility will be given to you.

1 In making a determination of eligibility, your child will not be determined to be a
2 child with a disability due to a lack of instruction in reading or math or as a result of
3 limited English proficiency.
4

5 As part of an initial evaluation (if appropriate) and as part of any reevaluation
6 under this section, the IEP Team and other qualified professionals, as appropriate, will:

- 7 1. Review existing evaluation data on the child, including evaluations and
8 information provided by you, current classroom-based assessments and
9 observations, and teacher observation; and
- 10 2. On the basis of that review, and input from you, identify what additional
11 data, if any, are needed to determine:
 - 12 a. Whether the child has a particular disability, or, in case of
13 reevaluation of a child, whether the child continues to have such a
14 disability and such educational needs;
 - 15 b. The present levels of performance and related developmental
16 needs of the child;
 - 17 c. Whether the child needs special education and related services, or
18 in the case of a reevaluation of a child, whether the child continues
19 to need special education and related services; and
 - 20 d. Whether any additions or modifications to the special education and
21 related services are needed to enable the child to meet the
22 measurable annual goals set out in the IEP of the child and to
23 participate, as appropriate, in the general curriculum.
24

25 Generally, a reevaluation is required every three (3) years. However, if the IEP
26 Team determines that no additional data is needed to determine whether your child
27 continues to be a child with a disability and to determine the child's educational needs
28 the school district will notify you as to the reasons the school district believes a
29 reevaluation is not necessary. After receiving this notice, you may request a
30 reevaluation of your child. If the school district does not receive a reevaluation request
31 from you, the school district will not conduct a reevaluation of your child.

1 Before determining that your child is no longer a child with a disability, the school
2 district must conduct an assessment in accordance with the procedures discussed
3 above. (20 U.S.C. sections 1414, 1415; 34 C.F.R. sections 300.301 – 300.306;
4 Education Code sections 56320, 56321, 56329, and 56381; 5 CCR section 3022.)
5

6 **INDEPENDENT EDUCATIONAL EVALUATION**

7 After the school district has completed its evaluation, if you disagree with the
8 school district's evaluation of your child and notify the school district of your
9 disagreement, you have the right to request an independent educational evaluation at
10 school district expense. Upon your request for an independent educational evaluation,
11 the school district will provide you with information about where to obtain an
12 independent educational evaluation and the district's criteria applicable for independent
13 educational evaluations. A parent is entitled to only one (1) independent educational
14 evaluation at public expense each time the district conducts an evaluation with which
15 the parent disagrees. However, if the school district disagrees that an independent
16 educational evaluation is necessary, the school district must request a hearing before a
17 due process hearing officer to dispute your request for an independent educational
18 evaluation and to show that the school district's assessment is appropriate. If the school
19 district prevails, you still have the right to an independent evaluation but not at public
20 expense. If you choose to obtain an independent educational evaluation at your own
21 expense, the results of the assessment must be considered by the district. The
22 independent educational evaluation must comply with all of the requirements that apply
23 to school district evaluations.
24

25 If the school district observes your child in his or her classroom during an
26 assessment, or if the school district procedures provide for in-class observations, an
27 equivalent opportunity must be provided for any independent educational evaluation in
28 the current and any proposed educational placement.
29

30 If you unilaterally place your child in a nonpublic school and you propose the
31 placement in the nonpublic school to be publicly financed, the school district must be

1 given the opportunity to first observe the proposed placement and your child in the
2 proposed placement. (20 U.S.C. section 1415(b)(1); 34 C.F.R. section 300.502;
3 Education Code section 56329.)
4

5 **IEP MEETINGS**

6 As the parent of a special education student, you have the right to be a part of
7 the IEP Team and participate in any meeting regarding the identification, assessment
8 and educational placement of your child. The term IEP or Individualized Education
9 Program means a written document for each child with a disability that is developed,
10 reviewed and revised in accordance with federal and state law. The IEP includes the
11 child's present levels of academic achievement and functional performance and must
12 consider your concerns as a parent for improving the education of your child. As a
13 parent, you have the right to be a member of any group that makes decisions with
14 respect to the educational placement of your child. You also have the right to bring
15 individuals who have knowledge or special expertise regarding your child to an IEP
16 meeting. The school district will provide you with a copy of the IEP in your primary
17 language upon request. If you are a parent of a child age three through five years, the
18 individualized family service plan (IFSP) may serve as the IEP if agreed to by the parent
19 and the school district.
20

21 Federal and state law requires that the first IEP to be in effect beginning at age
22 sixteen include a statement of the transition service needs of the child and that the IEP
23 be updated annually thereafter. Beginning at age sixteen or younger, if determined
24 appropriate by the IEP Team, appropriate measurable postsecondary goals related to
25 training, education, employment, and where appropriate, independent living skills, a
26 statement of needed transition services for the child, including, when appropriate, a
27 statement of the interagency responsibilities or linkages between the agencies is
28 required. Beginning at least one year before the child reaches age eighteen (18), a
29 statement must be included in the IEP that the child has been informed of his or her
30 rights that will transfer to the child on reaching the age of majority. Under California law,
31 when a child turns age eighteen (18), he or she is considered an adult and unless the

1 parent obtains a conservatorship or guardianship over the child through court
2 proceedings, the child may make decisions regarding his or her education.

3
4 In developing an IEP for your child, the IEP Team must include positive
5 behavioral intervention strategies and supports in cases where the child's behavior
6 prevents the child from learning and consider, when appropriate, strategies, including
7 positive behavioral intervention strategies and supports to address the child's behavior.
8 The regular education teacher of your child, as a member of the IEP Team, must to the
9 extent appropriate, participate in the development of the IEP of your child, including the
10 determination of appropriate, positive behavioral intervention strategies and the
11 determination of supplementary agency services, program modifications and support for
12 the school personnel.

13
14 The IEP will be reviewed by the IEP Team at least annually in order to determine
15 whether the annual goals for your child are being achieved and revise the IEP as
16 appropriate to: (1) address any lack of anticipated progress toward the annual goals and
17 in the general curriculum, where appropriate, (2) to address the results of any
18 reevaluation conducted, (3) to address information about your child provided by you,
19 and 4) to address your child's anticipated needs, if necessary. Your child will also
20 receive report cards in the same manner as regular education students. You and the
21 school district may agree in writing that the attendance of an IEP Team member is not
22 necessary because the member's area of curriculum or related service is not being
23 modified or discussed at the meeting. In addition, if you and the school district agree in
24 writing to excuse a member of the IEP team from the IEP Team meeting, in whole or in
25 part, when the meeting involves a modification to or discussion of the member's area or
26 the curriculum or related service, the member must submit in writing to you and the IEP
27 Team, input into the development of the IEP prior to the meeting. Under state law, you
28 have the right to electronically record IEP meetings by audio tape if you give 24 hours
29 notice to other members of the IEP Team. After the annual IEP meeting for a school
30 year, you and the school district may agree in writing not to convene an IEP meeting to
31 make changes to the annual IEP, and instead may develop a written document to

1 amend or modify the current IEP. (20 U.S.C. section 1414(d); 34 C.F.R. sections
2 300.320-300.324; Education Code sections 56032, 56304, 56341, 56341.1, 56341.5,
3 56342.5 and 56345; 5 CCR section 3040.)
4

5 **PLACEMENT (“STAY-PUT”) DURING THE PENDENCY OF**
6 **DUE PROCESS PROCEDURES**

7 As a parent of a child with disabilities, should you get involved in a disagreement
8 with the school district over the identification, evaluation or placement of your child and
9 you file a request for a due process hearing, your child will remain (“stay-put”) in the
10 current educational placement during the pendency of the proceedings. Unless you and
11 the school district agree to a change in placement, or the school district obtains a court
12 order or an order from a hearing officer, your child will remain in his or her current
13 educational placement during the pendency of the proceedings. For initial admission to
14 school, your child will be placed in a public school program, with parental consent, until
15 the proceedings have been completed. There are exceptions to this general rule which
16 allow the school district to place your child in an alternative educational setting for a
17 limited period of time. These exceptions will be discussed in the next section on interim
18 alternative educational settings. (20 U.S.C. section 1415(j); 34 C.F.R. section 300.518;
19 Education Code section 56505(d).)
20

21 **INTERIM ALTERNATIVE EDUCATIONAL SETTINGS**
22 **DISCIPLINE PROCEDURES**

23 School personnel may change the placement of your child if he or she violates a
24 code of student conduct to (1) an appropriate interim alternative educational setting; (2)
25 another educational setting, or (3) suspend your child for not more than ten (10)
26 consecutive school days (to the extent such alternatives would be applied to children
27 without disabilities) and for additional removals of not more than ten (10) consecutive
28 school days in that same school year for separate incidents of misconduct. If school
29 personnel seek a change in placement that exceeds more than ten (10) school days in
30 the same school year, school personnel must determine if the behavior that gave rise to
31 the violation of the code of student conduct is a manifestation of your child’s disability. If

1 a determination is made that the behavior is not a manifestation of your child's disability,
2 school personnel may discipline your child under the same procedures applicable to
3 children without disabilities.
4

5 In order to determine if the behavior that gave rise to the violation of the code of
6 student conduct is a manifestation of your child's disability, the school district, you and
7 relevant members of the IEP Team must review all relevant information in your child's
8 file, including the IEP, any teacher observations, and any relevant information provided
9 by you to determine if the conduct in question was caused by, or had a direct and
10 substantial relationship to your child's disability. This meeting must take place within
11 ten (10) school days of any decision to take disciplinary action. If the IEP Team
12 determines that the conduct is a manifestation of your child's disability, the IEP Team
13 must either conduct a functional behavioral assessment, and implement a behavioral
14 intervention plan for your child, or review and modify as necessary the existing
15 behavioral intervention plan.
16

17 School personnel may also place your child in an interim alternative educational
18 setting for up to forty-five (45) school days without regard to whether the behavior is
19 determined to be a manifestation of your child's disability, in cases where: (1) your child
20 carries or possesses a weapon to or at school, on school premises, or to or at a school
21 function or activity; (2) your child knowingly possesses or uses illegal drugs, or sells or
22 solicits the sale of a controlled substance while at school, on school premises, or a
23 school function or activity; or (3) your child inflicts serious bodily injury upon another
24 person while at school, on school premises, or at a school function or activity. The IEP
25 team determines the interim alternative education setting for services.
26

27 After a child with a disability has been removed from his or her current placement
28 for ten (10) school days in the same school year, during any subsequent days of
29 removal the school district must provide services to enable the child to continue to
30 participate in the general education curriculum, although in another setting, and to
31 progress toward meeting the IEP goals. If appropriate, the child may receive a

1 functional behavioral assessment and behavior intervention services and modifications
2 designed to address the behavior violation so that it does not recur.

3
4 No later than the date on which the decision to take disciplinary action against
5 your child is made, the school district must notify you of that decision and notify you of
6 your procedural safeguards. If you disagree with any decision regarding placement, or
7 the manifestation determination of your child, you may request an expedited due
8 process hearing which must occur within twenty (20) school days of the date of the
9 hearing request. During the pendency of the due process hearing, your child will remain
10 in the interim alternative education setting pending the decision of the hearing officer or
11 for forty-five (45) school days, whichever occurs first, unless you and the school district
12 agree otherwise. If the school district believes it is dangerous for your child or others for
13 your child to return to the current educational placement, the school district may request
14 an expedited hearing.

15
16 A hearing officer may order a change in the placement of your child to an
17 appropriate interim alternative educational setting for not more than forty-five (45) days,
18 if the hearing officer determines that maintaining your child in his or her current
19 placement is substantially likely to result in injury to your child or to others. (20 U.S.C.
20 section 1415(k); 34 C.F.R section 300.530; Education Code section 48915.5.)

21
22 **CHILDREN WITH DISABILITIES**
23 **ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOLS**

24 A school district's obligation to children with disabilities enrolled in private schools
25 is limited. Under the IDEA "*no parentally-placed private school child with a disability*
26 *has an individual right to receive some or all of the special education and related*
27 *services that the child would receive if enrolled in a public school.*" School districts
28 must locate, identify and assess all private school children with disabilities, including
29 religiously affiliated school age children, who have disabilities and are in need of special
30 education and related services, referred to as "child find". The school district in which
31 the private school is located, also referred to as the "District of Location" is responsible

1 for conducting child find activities for children enrolled by their parents in private
2 schools. If the District of Location is not the same school district in which the parents of
3 the private school student reside, then the District of Location may contract with the
4 school District of Residence to assess the child.

5
6 Children with disabilities enrolled in private school may receive equitable special
7 education services as determined through consultation with private schools and
8 parents. In order to receive such equitable services, a “Service Plan” must be
9 developed for the private school student and consented to by the parents. The school
10 district in which the private school is located, the District of Location, is responsible for
11 developing and implementing the Service Plan.

12
13 A parent of a child enrolled by that parent in a private school has the right to file a
14 due process complaint only regarding the school district’s child find activities. A due
15 process complaint must be filed with the school district in which the private school is
16 located, the District of Location, and the California Department of Education (CDE).
17 However, because there is no individual right to services for children enrolled by their
18 parents in private school, any complaints regarding a Service Plan can only be filed in
19 accordance with the CDE’s compliance complaint procedures. (20 U.S.C. section
20 1412(a)(10)(A); 34 C.F.R. section 300.130–300.144; Education Code sections 56170–
21 56177.)

22 23 **UNILATERAL PLACEMENT BY PARENTS IN PRIVATE SCHOOL**

24 If you decide to unilaterally enroll your child in a private school after the school
25 district made a FAPE available to your child, the school district is not required to pay for
26 the cost of your child’s education. In order to obtain reimbursement for the cost of the
27 private school from the school district, including special education and related services,
28 you must first attempt to obtain the consent of the school district, and establish that the
29 school district does not have an appropriate program for your child. Reimbursement
30 may be denied or reduced if: 1) at the most recent IEP meeting that you attended prior
31 to removal of your child from the public school, you did not inform the IEP Team that

1 you were rejecting the placement proposed by the school district to provide a FAPE to
2 your child, including a statement of your concerns and your intent to enroll your child in
3 a private school at public expense; or 2) at least 10 business days prior to the removal
4 of your child from the public school, you did not give written notice to the school district
5 of your concerns regarding the school district's proposed placement and your intent to
6 enroll your child in a private school at public expense.

7
8 If the school district notifies you prior to the removal of your child from the public
9 school that the school district wishes to evaluate your child and indicates the purpose of
10 the evaluation, you should make your child available for the evaluation. If you have not
11 complied with these requirements, a court or hearing officer may find that you acted
12 unreasonably in unilaterally removing your child from the public school and in placing
13 your child in a private school. The court or hearing officer may deny you reimbursement
14 unless you can show one or more of the following: 1) you are illiterate and cannot write
15 in English, or 2) the school district's placement would result in physical or serious
16 emotional harm to your child. (20 U.S.C. section 1412(a)(10)(C); 34 C.F.R. section
17 300.148; Education Code sections 56175-56177.)

18 19 **OPPORTUNITY TO PRESENT AND RESOLVE COMPLAINTS**

20 **A. STATE COMPLAINT PROCEDURES**

21 The IDEA grants parents an opportunity to present and resolve complaints with
22 respect to any matter relating to the identification, evaluation or educational placement
23 of your child or the provision of a FAPE. Written complaints may be filed with the school
24 district or the state or federal agencies at the addresses listed below. Compliance
25 complaints must allege a violation that occurred not more than one (1) year prior to the
26 date the complaint is received. A copy of the written complaint must also be provided to
27 the school district serving the child at the same time it is filed with the state agency. The
28 school district, state or federal agency has sixty (60) days from the date of receipt of the
29 complaint to render a decision in the matter. For complaints filed with the school
30 district, within fifteen (15) days of receiving the school district's decision, you may
31

1 appeal the school district's decision to the California Department of Education (CDE).
2 Complaints may also be filed directly with the CDE.

3
4 You may also avail yourself of the compliance complaint process to report an
5 instance of discrimination, harassment, intimidation or bullying. A complaint must be
6 filed with the school district no later than six months from the date the incident occurred,
7 or the date you first obtained knowledge that the incident occurred. The timelines for
8 conducting and completing an investigation of the complaint and rendering a decision
9 are listed in the previous paragraph.

10
11 Fullerton School District - **Robin Gilligan**, Director of Student Support Services
12 1401 W. Valencia Drive
13 Fullerton, CA 92833
14 (714) 447-7500
15 (714) 447-7793 fax
16

17 California Department of Education - Special Education Division
18 Procedural Safeguards Referral Service
19 1430 N Street, Suite 2401
20 Sacramento, California 95814
21 (800) 926-0648
22 (916) 327-3704 fax
23 <http://www.cde.ca.gov/re/cp/uc/index.asp>
24

25 United States Department of Education - Office for Civil Rights
26 50 Beale Street, Suite 7200
27 San Francisco, CA 94105
28 Phone: (415) 486-5555
29 Fax: (415) 486-5570
30 TDD: (800) 877-8339
31 <http://www2.ed.gov/about/offices/list/ocr/index.html>

1 The school district encourages you to file your complaint with the school district.
2 We will meet with you and investigate your complaint in a timely manner and attempt to
3 resolve any concerns. The school district has established confidential procedures for
4 the filing of complaints. A complaint form is available from the school district. (20
5 U.S.C. Section 1415(b)(6); 34 C.F.R. section 300.153; Education Code section 56500.2;
6 5 CCR section 4600.)
7

8 **B. MEDIATION AND DUE PROCESS HEARING PROCEDURES**

9 The IDEA requires states to establish procedures for mediation and impartial due
10 process hearings regarding the identification, assessment, and educational placement
11 of your child or the provision of a FAPE. You or the school district may file a request for
12 mediation-only or a due process hearing complaint.
13

14 Your request for mediation-only or a due process hearing must include the name
15 and address of the child, date of birth, grade level and name of the school the child is
16 attending, parent information, parties to the mediation, a description of the nature of the
17 problem, including facts relating to such problem, and a proposed resolution of the
18 problem. The CDE has developed model forms to assist you in filing a request for
19 mediation-only or a due process hearing. You may access these model forms at:

20 <http://www.dgs.ca.gov/oah/home/forms.aspx>
21

22 You must serve the mediation-only or due process hearing complaint on the
23 school district and file a copy with the Office of Administrative Hearings at the address
24 listed below:

25 Office of Administrative Hearings
26 Attn: Special Education Division
27 2349 Gateway Oaks Drive, Suite 200
28 Sacramento, CA 95833-4231
29 Phone: (916) 263-0880
30 Fax: (916) 376-6319
31 SEFilings@dgs.ca.gov

1 In California, mediation is voluntary. You may request a due process hearing or
2 mediation-only. Mediation-only means you are asking for mediation without asking for a
3 due process hearing. Mediation is an informal proceeding conducted in a
4 nonadversarial manner. If you request mediation-only you and the school district will
5 receive a notice that mediation has been scheduled, and the notice will contain the time,
6 date and location of the mediation as well as the name, address, and phone number of
7 a knowledgeable and impartial mediator assigned to the case. The mediation must be
8 scheduled within 15 days of the Office of Administrative Hearing's receipt of the request.
9 Attorneys cannot attend mediation-only. However, you or the school district may be
10 accompanied and advised by non-attorney representatives. Statements made by you
11 and the school district during mediation are confidential and may not be used in a due
12 process hearing or court action. Any agreement reached during mediation must be in
13 writing and signed by all parties. You may also ask the school district to resolve
14 disputes through alternative dispute resolution (ADR), which is also less adversarial
15 than a due process hearing. ADR and mediation are voluntary methods of resolving a
16 dispute. If the dispute is not resolved during mediation or through ADR, you may
17 proceed to a due process hearing. Mediation or ADR are not prerequisites to
18 requesting a due process hearing.

19
20 A due process hearing is a formal proceeding where you and the school district
21 are given the opportunity to present witnesses, documentary evidence, and oral and
22 written argument in support of your respective positions on disputed special education
23 issues. You may request a mediation conference at any point during the due process
24 hearing. A request for a due process hearing must be filed within (2) years from the
25 date you or the school district knew or should have known about the alleged action that
26 forms the basis of the due process hearing complaint. Upon receiving a request for a
27 due process hearing, you and the school district will receive a notice from the Office of
28 Administrative Hearings with the time, date and location of the due process hearing. If
29 your primary language is other than English, or other mode of communication, an
30 interpreter will be provided for you at the hearing.

1 Prior to the opportunity for an impartial due process hearing, within fifteen (15)
2 days of receiving your due process hearing complaint, the school district is required to
3 convene a mandatory resolution meeting with you and the relevant members of the IEP
4 Team who have specific knowledge of the facts raised in your complaint, where you can
5 discuss your complaint and the facts that form the basis of your complaint, and the
6 school district is provided the opportunity to resolve the complaint. The resolution
7 meeting must include a representative from the school district who has decision making
8 authority on behalf of the school district, but may not include an attorney for the school
9 district unless the parent is also accompanied by an attorney. Attorneys' fees may not
10 be awarded relating to a resolution meeting. Unless the school district agrees, you may
11 not waive the mandatory resolution meeting. If resolution is reached to resolve the
12 complaint at the mandatory resolution meeting, the parties must sign a legally binding
13 agreement. If the school district has not resolved the complaint to your satisfaction
14 within thirty (30) days of the receipt of the complaint, the due process hearing may
15 move forward and all applicable timelines for a due process hearing shall commence.

16
17 The due process hearing is limited to those issues raised in your due process
18 hearing complaint. An impartial hearing officer presides over the due process hearing.
19 You have the right to be accompanied and advised by an attorney and by individuals
20 with special knowledge or training related to the problems of children with exceptional
21 needs; the right to present evidence, written and oral arguments; the right to confront,
22 cross-examine and compel attendance of witnesses; the right to a written or electronic
23 verbatim record of the hearing; and the right to written findings of fact and decision.

24
25 At least ten (10) days prior to the hearing you and the school district must inform
26 each other of the issues to be decided at the hearing and the proposed resolution of
27 those issues as well as whether the parties will be represented by an attorney at the
28 hearing. At least five (5) business days prior to the hearing you and the school district
29 must disclose all your witnesses and evidence you intend to introduce at the hearing
30 including evaluations completed to the other party, or the witnesses, evidence or
31 evaluations cannot be introduced as evidence at the hearing.

1 In general, a hearing officer's decision should be made on substantive grounds
2 based on a determination of whether your child received FAPE. The hearing officer
3 must reach a final decision and mail a copy of the written decision to you and the school
4 district within forty-five (45) days of the receipt of the request for a hearing by the Office
5 of Administrative Hearings or State Superintendent of Public Instruction, unless a
6 continuance has been granted for good cause. The decision made in a due process
7 hearing is final, except that any party involved in the hearing may appeal the decision by
8 filing a civil action with respect to the findings and decision in the due process
9 complaint. (20 U.S.C. sections 1415(b)(7)(a)–1415(j); 34 C.F.R. sections 300.506–
10 300.518; Education Code sections 56500.3, 56502–56507; 5 CCR section 3082.)
11

12 **CIVIL ACTIONS**

13 Either you or the school district may appeal the hearing officer's decision by filing
14 a civil action. This appeal must be made within ninety (90) days after the date of the
15 decision of the hearing officer. In a civil action, the records and transcription of the
16 administrative proceedings shall be filed with the court. The court may hear additional
17 evidence at the request of either party and must base its decision on the preponderance
18 of the evidence. The action may be filed in the United States District Court or in Orange
19 County Superior Court. (20 U.S.C. section 1415(i); 34 C.F.R. sections 300.514,
20 300.516; Education Code section 56505(k).)
21

22 **ATTORNEYS' FEES**

23 The United States District Court or the Orange County Superior Court has the
24 authority to award you reasonable attorneys' fees if you are the prevailing party in a due
25 process hearing or civil action; or to award the school district reasonable attorneys' fees
26 if your attorney files a complaint or subsequent cause of action that is frivolous,
27 unreasonable, or without foundation, or the complaint or subsequent action was filed to
28 harass, cause unnecessary delay, or to needlessly increase the cost of litigation. The
29 fees awarded are based on rates prevailing in the community in which the action or
30 proceeding arose. No attorneys' fees may be awarded to you following a written offer of
31 settlement from the school district made at least ten (10) days prior to hearing, if the

1 court or hearing officer finds that the relief you ultimately obtained is not more favorable
2 than the written offer of settlement. However, attorneys' fees will not be reduced if you
3 were substantially justified in rejecting the settlement offer, or the school district
4 unreasonably prolonged the proceedings.

5
6 You may not be awarded attorneys' fees and related costs if you unreasonably
7 prolonged the final resolution of the controversy or the amount of the fees requested is
8 unreasonable. In addition, attorneys' fees or related costs may not be awarded for
9 attorney time spent attending resolution meetings or IEP Team meetings, unless the
10 IEP team meeting is convened as a result of an administrative proceeding or judicial
11 action. (20 U.S.C. section 1415(i)(3); 34 C.F.R. section 300.517; Education Code
12 section 56507(b).)

13 14 **STATE SPECIAL SCHOOLS**

15 The State Special Schools operated by CDE provide services to students who
16 are deaf, hard of hearing, blind, visually impaired, or deaf-blind at each of its three
17 facilities: the California Schools for the Deaf in Fremont and Riverside and at the
18 California School for the Blind in Fremont. Residential and day school programs are
19 offered to students from infancy to age 21 at both State Schools for the Deaf and from
20 ages five through 21 at the California School for the Blind. The State Special Schools
21 also offer assessment services and technical assistance. For more information about
22 the State Special Schools, please visit the California Department of Education Web site
23 at <http://www.cde.ca.gov/sp/ss/> or ask for more information from the members of your
24 child's IEP team. (Education Code section 56321.6.)

25 26 **NOTIFICATION OF RIGHTS REGARDING** 27 **USE OF PUBLIC BENEFITS OR INSURANCE**

28 This notice is provided to you as parents, legal guardians, surrogate parents or
29 court appointed educational rights holder, because your child is or may be receiving
30 special education services under the IDEA. The IDEA requires school districts to
31 provide prior written notice of your rights and protections when it seeks to use your

1 child's public benefits (i.e., Medi-Cal) or insurance to pay for special education and
2 related services. This notice will be given to you before the school district seeks to use
3 your child's public benefits or insurance for the first time, and annually thereafter.
4

5 With your written consent, the school district may submit claims to your child's
6 public benefits or insurance program, such as the California Medi-Cal program.
7

8 The school district cannot require you to sign-up for or enroll in a public benefits
9 or insurance program in order for your child to receive FAPE under the IDEA. The
10 school district cannot require you to pay out-of-pocket expenses such as the payment of
11 a deductible or co-pay. The school district cannot use your child's benefits under a
12 public benefits or insurance program if to do so would (1) decrease available life time
13 coverage or any other insured benefit; (2) cause you to pay for services that would
14 otherwise be covered by your public benefits or insurance program because your child
15 also requires those services outside of the school day; (3) increase premiums or lead to
16 the discontinuation of your public benefits or insurance; or (4) cause you to risk loss of
17 eligibility for home and community based waivers based on your total health-related
18 expenditures. (34 CFR Section 300.154(d)(1)(2)(i)-(v) and (e); Education Code section
19 56363.5.)
20

21 **You Have The Right To:**
22

- 23 • Voluntarily provide the school district with written consent to disclose educational
24 records containing your child's personally identifiable information such as IEPs or
25 assessment reports to Medi-Cal, or other public benefits or insurance programs
26 for billing purposes.
27
- 28 • Withdraw your consent to the disclosure of your child's personally identifiable
29 information to Medi-Cal, or other public benefits or insurance programs **at any**
30 **time** in accordance with your rights under the Family Educational Rights and
31 Privacy Act (FERPA; Title 20 of the United States Code, Section 1232 (g), Title

1 34 Code of Federal Regulations Part 99) and the IDEA (Title 20 of the United
2 States Code, Section 1400), Title 34 Code of Federal Regulations Part 300).

- 3
- 4 • Refuse to provide consent to the disclosure of your child’s personally identifiable
5 information to Medi-Cal, or other public benefits or insurance programs for billing
6 purposes. Without your consent the school district may not use your or your
7 child’s public benefits or insurance.
 - 8
 - 9 • Have your child continue to receive a FAPE **at no cost to you**, if you withdraw
10 consent or refuse to provide consent to disclose your child’s personally
11 identifiable information to Medi-Cal, or other public benefits or insurance
12 programs for billing purposes.
 - 13

14 If you withdraw your consent or refuse to provide consent for the school district to
15 use Medi-Cal or other public benefits or insurance programs to pay for eligible special
16 education and related services, the school district must continue to ensure that all
17 required special education and related services are provided **at no cost to you**.

18

19 If you authorize the school district to disclose personally identifiable information,
20 please sign and date the Consent to Disclose Personally Identifiable Information form
21 below, and specify the personally identifiable information the school district may
22 disclose, the purpose of the disclosure, and the agency to which the school district may
23 disclose the information.

Consent to Disclose Personally Identifiable Information

I understand and agree that the Fullerton School District may use my or my child's public benefits or insurance to pay for special education and related services under the IDEA. I further provide consent for the Fullerton School District to exchange and disclose my child's personally identifiable information contained in records or information about the services that may be provided to my child, as well as

[INSERT ANY OTHER INFORMATION REQUIRED TO BE DISCLOSED] for billing purposes, to Medi-Cal, _____

[INSERT ANY ADDITIONAL PUBLIC BENEFITS PROVIDER OR INSURANCE].

Insurance or Medi-Cal identification number: _____.

_____ Parent/Guardian/Adult Student Print Name	_____ Parent/Guardian/Adult Student Signature	_____ Date
--	---	---------------

_____ Parent/Guardian/Adult Student Print Name	_____ Parent/Guardian/Adult Student Signature	_____ Date
--	---	---------------

Name of Child: _____ D.O.B. _____