



STEERING COMMITTEE

AGENDA

Wednesday September 21, 2016
 10:00 – 2:00 PM
 Oakland Marriott City Center
 1001 Broadway
 Oakland, CA 94607

TOPIC	SPEAKER
Welcome & Introductions	Group
Federal and State News	SELPA Leadership
<ul style="list-style-type: none"> • ESSA Update* • OSEP/OCR Letters* • US Department Letter* • CDE Notification* • Mental Health Legislative Updates • Autism rates* • State Finance* • Dyslexia Workgroup • SB277 Update 	
SELPA Updates	
<ul style="list-style-type: none"> • SELPA Support* • Business Updates <ul style="list-style-type: none"> ○ ERMHS ○ Low Incidence ○ 16-17 Funding Rates • CPI Changes* • DHH Guidelines* • Data & Compliance Update* • CAC & Parent Enrichment* • 16-17 Professional Learning* 	Ginese Bob/Ginese Crystal/Kevin Janelle/Kathleen Sharon Kathleen/Janelle Kevin
Lunch	
Group Activity	Group

*Denotes a handout included in the packet

Congress of the United States
Washington, DC 20510

August 1, 2016

The Honorable Dr. John King
Secretary of Education
U.S. Department of Education
400 Maryland Ave., S.W.
Washington, DC 20202

Attn: Meredith Miller

Re: Notice of Proposed Rulemaking Docket ID ED-2016-OESE-0032, Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act—Accountability and State Plans

Dear Secretary King:

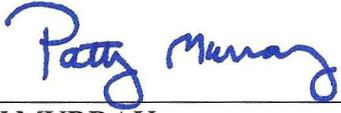
In negotiating the Every Student Succeeds Act (ESSA) with our colleagues, we fought to preserve the Department of Education’s (Department) full regulatory authority to promulgate rules and issue guidance. We applaud the Department’s notice of proposed rulemaking (NPRM) on 34 CFR parts 200 and 299 for balancing ESSA’s strong and clearly articulated federal guardrails with the new law’s flexibility for state and local decision-making.

The Department’s unique role in upholding the civil rights legacy of this law is critical to ensure implementation honors Congressional intent that states and local educational agencies sufficiently support improving outcomes for the nation’s disadvantaged students, including through improving equity of educational opportunity. While Congress replaced much of No Child Left Behind (NCLB) with new statutory requirements in ESSA, the new law maintains the historic and bipartisan focus of the Elementary and Secondary Education Act (ESEA) on improving educational outcomes for our nation’s disadvantaged students, including low-income students, students of color, students with disabilities, and English learners. In putting forth the proposed regulations, the Department employed its regulatory authority to articulate parameters that will empower states and school districts to use the new flexibility that ESSA affords. In particular, we applaud the Department’s efforts to clarify statutory requirements that will help states build new accountability systems that are focused on student learning and equity of educational opportunity and are transparent and actionable for educators, parents, and communities. Regulatory clarity of this nature will help ensure that additional resources reach high-need schools that need support to prepare all students for college and career.

The following is broken down into an addendum of draft regulatory provisions that we applaud and urge you to maintain in the final regulation, followed by draft provisions on which we seek additional clarity or correction to more closely align the final regulation with Congressional intent. Thank you for your attention to this matter and we look forward to continued partnership to ensure effective implementation of ESSA that honors Congressional intent to protect and

promote the right of every child to receive an education that prepares him or her for success in college and career.

Sincerely,



PATTY MURRAY
Ranking Member
U.S. Senate Committee on Health, Education
Labor and Pensions



ROBERT C. "BOBBY" SCOTT
Ranking Member
U.S. House of Representatives Committee on
Education and the Workforce

ADDENDUM

August 1, 2016

We applaud the Department's notice of proposed rulemaking (NPRM) on 34 CFR parts 200 and 299 in the following areas and request that your Department maintain each in the final rule.

Single Summative Rating: ESSA replaces NCLB's one-size-fits-all accountability system with a requirement for states to design multiple measure accountability systems that support closing the achievement gap and improving chronically struggling schools. In doing so, ESSA retains strong federal guardrails that ensure school identification is meaningful, based on a comprehensive examination of student learning and school quality, and understandable and actionable for parents, educators, and communities. Critically, ESSA requires that states identify schools for improvement based on "all indicators in the State's accountability system... for all students and for each subgroup of students" (section 1111(c)(4)(C)(i)). In addition, ESSA requires states to identify at least three statewide categories of schools: schools identified for comprehensive support and improvement, which includes at least the lowest-performing five percent of Title I schools in the state (section 1111(c)(4)(D)(i)(I)); schools receiving targeted support and interventions, which includes any school in which any subgroup of students is consistently underperforming (section 1111(c)(4)(C)(iii)); and all other schools. ESSA also allows the state, at its discretion, to identify additional statewide categories of schools. In drafting the totality of requirements contained within section 1111(c), it was our intent that the state provide all schools within the state with a "single summative rating" based on all the indicators (proposed § 200.18(c)).

We applaud the proposed regulation's clarity on this point, as a single summative rating is necessary to comply with the statutory requirements of the subsection that: (1) there be at least three statewide categories of schools, (2) each school's identification be based on all indicators used by the state, and (3) norms a school's performance relative to all other schools in the state to determine which low-performing Title I schools comprise at least the lowest-performing five percent of schools. Further, a single summative rating is understandable and actionable for parents, communities, and taxpayers, as it provides transparency on the decision-making concerning both school identification and the presence of additional supports to improve student learning and school quality. We recognize that previous rating systems that presented only a single summative rating often oversimplified the complex nature of multiple measures accountability; this is why nothing in the statutory text nor the draft regulation prevents states from presenting more detailed and diagnostic data beyond the school's single summative rating, via a dashboard or other innovative approach, so long as a single summative rating is also calculated for each school.

Indicator Quality: While ESSA requires states to use multiple measures in state accountability systems, including at least one measure of school quality, the statutory text clearly requires that schools must be identified for support and improvement based primarily on measures of student learning, as described in clauses (i) through (iv) of section 1111(c)(4)(B). In particular, ESSA requires that academic achievement, as measured by proficiency on statewide assessments in math and reading, high school graduation rates, the academic progress indicator at the

elementary and middle school level, and growth in English language proficiency are each of “substantial” weight (section 1111(c)(4)(C)(ii)(I)), and, in the aggregate, afforded “much greater weight” than the school quality or student success indicator or indicators required under section 1111(c)(4)(B)(v) (section 1111(c)(4)(C)(ii)(II)).

Taken together, the two requirements clearly demonstrate Congressional intent to both ensure that required indicators (i) through (iv) drive school identification and the distribution of federal resources for school improvement and also disallow the indicator or indicators of school quality to disproportionately influence a school’s identification or lack thereof. We applaud the Department for clarifying that the school quality or student success indicator, which can be another academic indicator, must meet a high bar for quality (proposed § 200.14(c-e)). In addition, we appreciate the Department has provided states with significant flexibility regarding the weight of each individual indicator, while still ensuring compliance with statutory requirements contained in section 1111(c)(4)(C)(ii) that will result in states driving additional resources to those schools where students’ learning outcomes need additional support to improve.

95 Percent Participation Threshold: The quality of a state’s system for differentiated accountability rests on the integrity of its data. As such, ESSA preserves the federal requirement that at least 95 percent of all students and at least 95 percent of students in each subgroup of students participate in the annual state assessments. In repealing NCLB’s requirements for adequate yearly progress (AYP), ESSA also repeals the federally-prescribed, school-level sanction for failure to meet the assessment participation threshold of 95 percent. The statute replaces the federally-prescribed sanction with a clear requirement that states meaningfully factor into their accountability systems whether or not schools have met this requirement.

It was the intent of Congress to replace AYP’s federal prescription and application of school-level sanctions due to a school’s failure to meet the participation rate requirement with school-level sanctions prescribed and applied by the state, as part of its accountability system. We recognize that the statute lacks the clarity needed to ensure compliance with this requirement, and we applaud the Department for delivering this much-needed clarity (proposed § 200.15) by preserving state flexibility to develop a school-level sanction of its choosing (proposed § 200.15(b)(2)(iv)) while also providing states with a clear menu of options that would fulfill the statutory requirement and ensure the integrity of the state’s measure of student academic achievement.

Subgroup Accountability: ESSA disallows the use of so-called “super-subgroups” for the purpose of accountability, a practice previously allowed by the Department under ESEA flexibility by requiring that each individual subgroup’s performance is included in state accountability systems (section 1111(c)(4)(B)) and disallowing combined subgroups or super-subgroups. We support the Department’s proposed regulations reiterating that states may not rely exclusively on a combined subgroup or a super-subgroup of students (proposed § 200.16(a)) for the purpose of reporting or school accountability. Doing so will ensure that a state may not mask subgroup performance or conflate the unique needs of particular groups of students, and it will therefore help drive resources to the highest need students and schools.

Transparency for Charter Schools: We applaud the Department’s efforts to improve transparency and accountability for public charter school authorizing. Proposed § 200.30(a)(2)(ii) requires that states provide important information for parents and community

members about the demographic makeup and academic achievement data for public charter schools by authorizer, empowering communities, parents, and taxpayers to hold public charter school authorizers accountable for their important role in ensuring charter school quality.

We are concerned about the Department's NPRM on 34 CFR parts 200 and 299 in the following areas, and request that your Department make the changes listed below in the final rule.

Consistent Underperformance: ESSA is clear that states must differentiate any school in which any subgroup of students is consistently underperforming (section 1111(c)(4)(C)(iii)) “based on all indicators” in the state accountability system and the system established to meaningfully differentiate schools. In drafting this language, we intended that states would analyze each subgroup’s performance individually and make a summative determination of student performance based on all indicators to discern whether the group of students is consistently underperforming. The Department’s proposed regulations under section § 200.19 would not meet the requirements of the law or adhere to congressional intent because states would be required to make determinations of consistent underperformance using only select indicators or flawed comparisons. For example, proposed § 200.19(c)(3)(ii) would allow states to make this determination based on only one indicator, and options § 200.19(c)(3)(iii) and § 200.19(c)(3)(iv) would allow states to compare an individual subgroup’s performance to the average student performance in the state.

Allowing states to use these calculations would allow a subgroup’s performance to decline for many years without invoking any action by the state to address underperformance. Additionally, the proposed regulation could result in a state judging student performance without taking into consideration the performance on each indicator, thus yielding a system of identification in clear violation of ESSA’s statutory requirements to ensure an accountability system that uses multiple measures of student performance. We urge the Department to rectify this error by changing the options that do not meet the letter of the law and instead ensuring that identification of consistent underperformance is based on all the indicators of the accountability systems, consistent with statutory requirements on indicator weighting articulated in section 1111(c)(4)(C) and discussed above, and including whether or not subgroups have met the states’ measurements of interim progress or long-term goals.

Number of Students in a Subgroup: While ESSA provides states with new flexibilities to include multiple measures in statewide accountability systems, it preserves focus on closing achievement gaps and pays particular attention to the achievement of our nation’s most vulnerable students. In drafting ESSA, Congress recognized the importance of how states determine the minimum number of students within a subgroup (commonly referred to as n-size) in holding schools accountable for the performance of low-income students, students of color, English learners, and students with disabilities. As such, Congress required the Director of the Institute of Education Sciences to provide states with information on how to comply with statutory requirements of section 1111(c)(3) through the publication of a report within 90 days of enactment on best practices for determining a valid, reliable, and statistically sound n-size for the purposes of inclusion within a school accountability system (section 9209). While this statutory

requirement has not yet been fulfilled, previously published research from the Institute for Education Sciences' (IES) National Center for Education Statistics indicates that using an n-size of 5 or 10 protects student privacy and demonstrates statistical reliability. Moreover, IES found that an n-size of 30 failed to capture 21 percent of students with disabilities in 14 states alone.

The statute also requires states to describe the n-size they will use and justify such number (section 1111(c)(3)). The quality of a state's system for differentiated accountability rests on the integrity of its data. Congress intended for n-size to be set in a manner that captures as many students as possible and holds every school accountable for the performance of each subgroup. Doing so will ensure that subgroups' performance is appropriately accounted for in the statewide accountability system. We appreciate the proposed regulatory requirement that sets an upper threshold for state-determined n-sizes (§ 200.17) that states must demonstrate sufficient justification to exceed. However, in the final regulation, we urge the Department to lower the upper threshold for n-size to more accurately reflect research and best practice for appropriate n-sizes, which is consistent with the statutory requirements. Proposed § 200.17, which would allow for a state to set an n-size of 30 and require detailed justification for a state seeking to utilize an n-size above 30, could needlessly remove millions of students from state accountability systems, creating a powerful disincentive to provide these students targeted, high-quality supports they need to meet challenging state standards. We urge the Department to lower its proposed upper threshold for n-size to more closely align with research and best practice.

Timeline for Identification: Under ESSA, states must develop and implement a single statewide accountability system that meets ESSA's statutory requirements by the 2017-2018 school year (section 5(e)(1)(B)). While we recognize ambiguity in the statutory text, it was the intent of Congress to require that the statewide system be in place in time to collect school-level performance data on all accountability indicators for the 2017-2018 school year, with such data serving as a base year upon which meaningful differentiation and resulting school identification would be made before the start of the 2018-2019 school year. For many states, developing a new accountability system that meets the totality of statutory requirements contained in ESSA will require many substantive adjustments to current practice, necessitating the participation and input of diverse stakeholders.

We are encouraged by the collaboration taking place in states and believe that states should take advantage of this important opportunity to build strong multiple measures systems informed by ongoing community and stakeholder input. We are concerned, however, that proposed § 200.19(d) will stifle this progress and instead, require states to largely use the systems that they currently have in place to identify schools under the new law, despite Congressional intent that identification under ESSA be driven by student learning, and informed by multiple measures of student success and school quality. Many states, including our home states of Washington and Virginia, have expressed concerns that requiring states to identify schools for interventions beginning in the 2017-2018 school year will result in relying on faulty data and setting unclear expectations for stakeholders. We encourage the Department to modify § 200.19(d) to require identification of schools for comprehensive and targeted support and improvement before the start of the 2018-2019 school year and require states and school districts to continue implementing interventions in schools previously identified for improvement under NCLB or ESEA flexibility during both the 2016-2017 and 2017-2018 school years (section 5(e)(2)).

Academic Achievement Indicator: ESSA moves away from NCLB’s narrow focus on meeting a proficiency cut score, and instead allows states to factor in student growth in state accountability systems. It was the intent of Congress to allow states to incorporate measurements of student growth within statewide accountability systems in two ways. A state may use a measure of student growth as the indicator for elementary and middle schools described in clause (ii) of section 1111(c)(4)(B)(ii). Additionally, a state may incorporate a measure of student growth as part of an index when calculating the required “academic achievement” indicator (section 1111(c)(4)(B)(i)). We recognize the ambiguity of the confluence of statutory requirements; however, Congressional intent in drafting this language was not to limit the use of student growth in the academic achievement indicator to high schools, but merely to explicitly allow for growth calculations in the high school proficiency measure since the indicator described in clause (ii) of the section applies only to elementary and middle schools. Furthermore, while the indicator described in clause (ii) can be solely a growth measure, the academic achievement indicator allows for a growth measurement as part of calculation that also incorporates proficiency. Unfortunately, the Department’s proposed regulations under § 200.14(b)(1) would prevent states from using growth calculations in combination with proficiency in elementary and middle schools for the purpose of the academic achievement indicator described in section 1111(c)(4)(B)(i). We urge the Department to clarify in § 200.14(b)(1) that states may use a composite index that combines proficiency and student growth for the academic achievement indicator and also to set broad parameters around what constitutes student growth in order to ensure that these measurements are meaningful and reflect student learning.

Foster Care: ESSA makes numerous changes to improve academic achievement and school stability for children in foster care. In particular, section 1112(c)(5)(B) requires that local educational agencies and state or local child welfare agencies collaborate to develop and implement clear written procedures to ensure that children in foster care receive transportation to their school of origin if it is in their best interest. We believe the Department should reiterate that the clear written procedures developed between local educational agencies and state or local child welfare agencies are mandatory and must be developed collaboratively. State Education Agencies (SEAs) have an important role to play in ensuring that this collaboration occurs. We are concerned that proposed § 299.13(c)(1)(ii) may be misconstrued to require that local educational agencies must fund transportation in all cases, which could disincentivize cross-agency collaboration to better serve these vulnerable students and stifle the good work currently happening in states to ensure that children in foster care have school stability. We recognize that there will be situations in which school districts and child welfare agencies may not agree on which agency must incur the additional costs of transportation for children in foster care. In these cases, we urge the Department to require SEAs to have in place clearly articulated dispute resolution procedures that are in accordance with policies or mechanisms established by the SEA in collaboration with the State Child Welfare Agency. Further, we also urge the Department to reiterate its recent guidance, issued on June 23rd, 2016, concerning transportation for children in foster care during the pendency of disputes.

Alternative high schools: ESSA requires any high school with a graduation rate below 67 percent to be identified for comprehensive support and improvement (section 1111(c)(4)(D)(i)(II)). Recognizing that there is a small subset of schools within each state that serves students who are “returning to education after dropping out of high school or who, based

on their grade or age, are significantly off track to accumulate sufficient academic credits to meet high school graduation requirements,” (as described in subclauses (I) and (II) of section 1111(d)(2)(C)(i)), Congress provided additional flexibility for “differentiated improvement activities that utilize evidence-based interventions” (section 1111(d)(1)(C)(i)) separate from statutory requirements for schools identified for comprehensive support and improvement. This flexibility was intended to be limited to only high schools identified under section 1111(c)(4)(D)(i)(II) that predominantly serve students described in subclauses (I) and (II) of section 1111(d)(1)(C)(i), not all high schools identified. We encourage the Department to correct proposed § 200.21(g), which allows any high school to use this flexibility, by clarifying that only schools that predominantly serve students that meet the statutory requirements described in subclauses (I) and (II) of section 1111(d)(1)(C)(i) should have this flexibility.

Resource Equity: ESSA replaces NCLB’s federally prescribed punitive accountability system with federal requirements for state-developed and reciprocal accountability systems. Under systems now required by ESSA, not only are schools accountable for improving student learning, but states and school districts will also now be accountable for improving equity of educational opportunity to support school improvement. Key to this reciprocal accountability is the requirement that schools identified for comprehensive support and improvement and schools identified for additional targeted supports identify and address, with support from the state and the local educational agency as appropriate, resource inequities contributing to the school’s identification in their improvement plans. It was the intent of Congress that school improvement plans address a wide array of resource inequities potentially contributing to low whole school or student subgroup performance. Unfortunately, proposed § 200.22(c)(7)(i) only requires these school-level plans to address two educational resources, which we fear would leave states and local educational agencies to ignore contributing factors to equity of educational opportunity. We urge the Department to expand its list of resource inequities that schools must address under § 200.22(c)(7)(i) to include, in addition to the resources described in clause (ii) of the draft, resources described in section 1111(h)(1)(C)(viii) of ESSA. Requiring interventions to take into account a broader base of educational resources will help rectify persistent resource inequities within and across schools serving vulnerable students and ultimately lead to improved student achievement and greater equity of educational opportunity.

Graduation Rate Calculations: We are pleased the Department, through use of a directed question in § 200.34, seeks feedback on whether or not additional regulatory clarity is needed to standardize the criteria for including certain subgroups of students, including homeless children, children in foster care, and students with disabilities, within the four year and, if used, the extended-year adjusted cohort graduation rate (§ 200.34). Homeless children and children in foster care are highly mobile, and often cycle in and out of homelessness and status as a child in foster care throughout their high school experience. Therefore, it is critical that regulations clarify that “homeless status” means a student who met the definition of homelessness in section 725 of Subtitle VII-B of the McKinney-Vento Act (42 U.S.C. 11434a) at any time during grades 9-12 and a “child in foster care” means any student who has spent any time as a “child in foster care” (defined as the proposed regulation under § 200.30(f)(1)(iii)) during grades 9-12. Doing so will ensure that graduation rate data is comparable across states.

School Improvement Funding: Dedicated school improvement funding provides critical resources to states and districts to improve low-performing schools. ESSA maintains language in NCLB that requires states to provide allotments to local educational agencies that are of

“sufficient size to enable a local educational agency to effectively implement selected strategies” (section 1003(b)(2)(A)(ii)). The Department’s proposed regulation interprets this phrase to require a minimum award of \$500,000 per year for schools identified for comprehensive support and improvement and a minimum award of \$50,000 per year for schools identified for targeted support and improvement. The proposed minimum awards fail to take into account the unique nature of small and/or rural schools and may lead states to overextend support for schools identified for comprehensive support and improvement, leaving little or no funding available to support targeted support and improvement strategies. We urge the Department to replace the draft minimum award amounts with minimum award amounts based on total student enrollment (i.e. small, medium, large school), accompanied by an option for states to offer and justify minimum award sizes based on the unique nature of the state.

Stakeholder Engagement: ESSA requires a diverse group of stakeholders, including parents, teachers, organizations representing the civil rights community, students with disabilities, and English learners, administrators, and others, to participate in the state and local plan development processes. Earlier this year, we asked the Department to provide meaningful guidance and regulations concerning stakeholder involvement in ESSA. We applaud the Department’s efforts to clarify the consultation and coordination requirements under § 299.13(b) by requiring the state educational agency to conduct certain activities to ensure that consultation is taking place. We encourage the Department to further strengthen its proposed requirements around stakeholder engagement by requiring collaboration efforts to be sustained and ongoing as the ESSA plan development and implementation process continues.

Private Funds: ESSA includes significant new requirements to improve transparency for parents, teachers, and taxpayers. In particular, ESSA requires states to report on per-pupil expenditures of federal, state, and local funds, including actual personnel expenditures and actual non-personnel expenditures of federal, state, and local funds, disaggregated by source of funds, for each local educational agency and each school (section 1111(h)(1)(C)(x)). While this information is useful, there are clear inequities in per-pupil expenditure due to supplemental educational funding from non-public sources. We urge the Department to clarify under § 200.35 that the regulatory requirements contained therein constitute only the minimum requirements for fiscal transparency. Further, we urge the Department’s final regulation to encourage states and local educational agencies to also report on funds from private sources when reporting on per-pupil expenditure. This information will provide a more complete picture of per-pupil expenditures across states, districts, and schools.



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

OSEP DEAR COLLEAGUE LETTER ON SUPPORTING BEHAVIOR OF
STUDENTS WITH DISABILITIES:
A SUMMARY FOR STAKEHOLDERS¹

The U.S. Department of Education's Office of Special Education Programs (OSEP) has released a Dear Colleague Letter to provide significant guidance for schools and other agencies to clarify their responsibility under the *Individuals with Disabilities Education Act (IDEA)* to provide children with disabilities appropriate behavioral interventions and supports that are necessary to ensure they have meaningful access to their education. Doing so ensures that eligible children with disabilities who have behavioral needs receive a free appropriate public education (FAPE) and placement in the least restrictive environment (LRE). This guidance is not intended to limit schools' and agencies' appropriate use of disciplinary removals that are necessary to protect children; instead, it is intended to provide alternatives, which schools can use to effectively support and respond to problem behaviors so that disciplinary removals are infrequent or unnecessary. By following this guidance, schools and agencies can increase the opportunity for children with disabilities with behavioral needs to participate in instruction, avoid the negative impacts of inappropriate disciplinary removals, and maintain access to their LRE. The main points of the guidance are summarized below.

- *IDEA* requires individualized education program (IEP) Teams to consider the use of positive behavioral interventions and supports for children with disabilities whose behavior interferes with their learning or the learning of others.
- When a child displays inappropriate behavior, such as violating a code of student conduct or disrupting the classroom, this may indicate that behavioral supports should be included in the child's IEP; this is especially true when the child displays inappropriate behavior on a regular basis or when the behavioral incidents result in suspensions or other disciplinary measures that exclude the child from instruction.
- If a child displays inappropriate behavior despite having an IEP that includes behavioral supports, this may indicate that the behavioral supports in the IEP are not being appropriately implemented, or the behavioral supports in the IEP are not appropriate for the child. In these situations, the IEP Team would need to meet to discuss amending the current IEP to ensure that the interventions and supports in the IEP can be implemented, or to revise the behavioral interventions and supports that are currently in place.
- *IDEA* requires that needed behavioral supports in the IEP, whether provided as special education, related services, or supplementary aids and services, be based on peer-reviewed research to the extent practicable. The supports chosen should be individualized to the child's needs. Some

¹ This document is a summary of the OSEP DCL on Supporting Behavior of Students with Disabilities to share with Stakeholders. To read the official DCL please see: www2.ed.gov/policy/gen/guid/school-discipline/files/dcl-on-pbis-in-ieps--08-01-2016.pdf.

examples of supports that schools may use include instruction on, and reinforcement of, school expectations for behavior, violence prevention programs, anger management groups, counseling for mental health issues, life skills training, social skills instruction, meetings with a behavioral coach, or other approaches.

- In addition to behavioral supports for children with disabilities, it may also be necessary, and consistent with *IDEA* requirements, to provide supports for school personnel and training on the use of positive behavioral interventions and supports in order to appropriately address the behavioral needs of a particular child.
- While providing individualized behavioral supports to students with disabilities who need them through the IEP process is required as part of *IDEA*, research has shown that these supports are typically most effective when they are delivered within a school-wide evidence-based multi-tiered behavioral framework that provides all children with clear expectations, targeted intervention for small groups who do not respond to the school-wide supports, and individualized supports for those children who need the most intensive behavioral services.
- It is important for schools and agencies to keep in mind that, in general, placement teams may not place a child with a disability in special classes, separate schooling, or other restrictive settings outside of the regular educational environment solely due to the child's behavior if the child's behavior can be effectively addressed in the regular education setting with the provision of behavioral supports. The failure to make behavioral supports available throughout a continuum of placements, including in a regular education setting, could result in an inappropriately restrictive placement and may violate *IDEA's* LRE requirements. Doing so may constitute failure to provide the child with access to the LRE.
- Schools should exercise caution in using disciplinary measures that remove a child from his or her current placement, such as suspension. Research has shown that exclusionary measures, in general, are not only ineffective at reducing or eliminating the reoccurrence of the misbehavior but may even be harmful to the child, possibly leading to lower academic performance, disengagement from school, and the decision to drop out.
- Parents have the right to request an IEP Team meeting at any time, and public agencies generally must grant a reasonable request from a parent for an IEP Team meeting.
- Parents may want to request an IEP Team meeting following disciplinary removal or changes in the child's behavior that impede the child's learning or that of others, as these likely indicate that the IEP may not be properly addressing the child's behavioral needs or is not being properly implemented.

A copy of the Dear Colleague Letter, which includes helpful resources, can be found here:

www2.ed.gov/policy/gen/guid/school-discipline/files/dcl-on-pbis-in-ieps--08-01-2016.pdf

The following resources were shared in the document:

- 1) *Supporting and Responding to Behavior: Evidence-Based Classroom Strategies for Teachers*
www.osepideasthatwork.org/evidencebasedclassroomstrategies
- 2) *Positive Behavioral Interventions and Supports: Implementation Blueprint and Self-Assessment*
www.pbis.org/blueprint/implementation-blueprint



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

August 1, 2016

Dear Colleague:

The U.S. Department of Education (Department) is committed to ensuring that all children with disabilities have meaningful access to a State's challenging academic content standards that prepare them for college and careers. Consistent with these goals, the Individuals with Disabilities Education Act (IDEA) entitles each eligible child with a disability to a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet the child's unique needs.¹ 20 U.S.C. §§1412(a)(1) and 1400(d)(1)(A). Under the IDEA, the primary vehicle for providing FAPE is through an appropriately developed individualized education program (IEP) that is based on the individual needs of the child. 34 CFR §§300.17 and 300.320-300.324. In the case of a child whose behavior impedes the child's learning or that of others, the IEP Team must consider – and, when necessary to provide FAPE, include in the IEP – the use of positive behavioral interventions and supports, and other strategies, to address that behavior. 34 CFR §§300.324(a)(2)(i) and (b)(2); and 300.320(a)(4).

The Department has determined that this letter is significant guidance under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007). See www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-07.pdf. Significant guidance is non-binding and does not create or impose new legal requirements. The Department is issuing this letter to provide LEAs and other responsible public agencies with information to assist them in meeting their obligations under the IDEA and its implementing regulations.

If you are interested in commenting on this letter, please email us your comment at iepgoals@ed.gov or contact Lisa Pagano at 202-245-7413 or Lisa.Pagano@ed.gov. For further information about the Department's guidance processes, please visit www2.ed.gov/policy/gen/guid/significant-guidance.html.

Recent data on short-term disciplinary removals from the current placement strongly suggest that many children with disabilities may not be receiving appropriate behavioral interventions and

¹While this letter focuses on requirements under the IDEA relating to FAPE in the least restrictive environment, students with disabilities also have rights under two civil rights laws that prohibit discrimination on the basis of disability—Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act (Title II). The Office for Civil Rights (OCR) in the U.S. Department of Education enforces Section 504 in public elementary and secondary schools. Also, in this context, OCR shares in the enforcement of Title II with the U.S. Department of Justice. More information about these laws is available at: www.ed.gov/ocr and www.ada.gov.

supports, and other strategies, in their IEPs.² During the 2013-2014 school year, 10 percent of all children with disabilities, ages 3 through 21, were subject to a disciplinary removal of 10 school days or less, with children of color with disabilities facing higher rates of removal.³ For instance, nineteen percent of black children with disabilities, ages 3 through 21, were subject to a removal of 10 school days or less within a single school year.⁴ In light of research about the detrimental impacts of disciplinary removals,⁵ including short-term disciplinary removals, the Department is issuing this guidance to clarify that schools, charter schools, and educational programs in juvenile correctional facilities must provide appropriate behavioral supports to children with disabilities who require such supports in order to receive FAPE and placement in the least restrictive environment (LRE). As a practical matter, providing appropriate behavioral supports helps to ensure that children with disabilities are best able to access and benefit from instruction.

The IDEA authorizes school personnel to implement a short-term disciplinary removal from the current placement, such as an out-of-school suspension, for a child with a disability who violates a code of student conduct. 34 CFR §300.530(b)(1). The Department strongly supports child and school safety, and this letter is not intended to limit the appropriate use of disciplinary removals that are necessary to protect children. Rather, the letter is a part of the Department’s broader work to encourage school environments that are safe, supportive, and conducive to teaching and learning, where educators actively prevent the need for short-term disciplinary removals by effectively supporting and responding to behavior.^{6,7} In keeping with this goal, this letter serves to remind school personnel that the authority to implement disciplinary removals does not negate their obligation to consider the implications of the child’s behavioral needs, and the effects of the use of suspensions (and other short-term removals) when ensuring the provision of FAPE.⁸

² For purposes of this letter, we use “behavioral supports” to generally refer to behavioral interventions and supports, and other strategies to address behavior.

³ U.S. Department of Education, EDData Data Warehouse (EDW), OMB #1875-0240: “IDEA Part B Discipline Collection,” 2014.

⁴ Id.

⁵ Council of State Governments Justice Center and the Public Policy Research Institute. (2011). Breaking schools’ rules: a statewide study of how school discipline relates to students’ success and juvenile justice involvement. Available at https://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking_Schools_Rules_Report_Final.pdf

⁶ “The Act and the regulations recognize that school officials need some reasonable degree of flexibility when disciplining children with disabilities who violate a code of student conduct. Interrupting a child’s participation in education for up to 10 school days over the course of a school year, when necessary and appropriate to the circumstances, does not impose an unreasonable limitation on a child with a disability’s right to FAPE.” 71 Fed. Reg. 46717 (Aug. 14, 2006).

⁷ More about the Department’s work is available at www.ed.gov/rethinkdiscipline

⁸ This letter does not address the obligations of school personnel following a disciplinary change in placement, including obligations to provide behavioral supports. This letter is intended to supplement the June 2009 Questions and Answers on Discipline Procedures (as revised) from OSERS, which provided guidance on discipline policies for school-age children to personnel in State educational agencies (SEAs) and local educational agencies (LEAs), and parents. Further, as the obligations of school personnel covered in this letter also apply to school personnel serving children with disabilities in juvenile correctional facilities, this letter is also intended to supplement the December 5,

Additionally, this letter provides alternatives to disciplinary removal which schools can apply instead of exclusionary disciplinary measures.

We are issuing this guidance to clarify that the failure to consider and provide for needed behavioral supports through the IEP process is likely to result in a child not receiving a meaningful educational benefit or FAPE. In addition, a failure to make behavioral supports available throughout a continuum of placements, including in a regular education setting, could result in an inappropriately restrictive placement and constitute a denial of placement in the LRE. While such determinations are necessarily individualized, this guidance is intended to focus attention on the need to consider and include evidence-based behavioral supports in IEPs that, when done with fidelity, often serve as effective alternatives to unnecessary disciplinary removals, increase participation in instruction, and may prevent the need for more restrictive placements.

This letter is organized into five areas:

- IDEA’s procedural requirements regarding evaluations, eligibility determinations, IEPs, and behavioral supports;
- IDEA’s IEP content requirements related to behavioral supports;
- Circumstances that may indicate potential denials of FAPE or of placement in the LRE;
- Implications for short-term disciplinary removals and other exclusionary disciplinary measures;⁹
- Conclusion, including additional information for parents and stakeholders.

I. IDEA Procedural Requirements Regarding Evaluations, Eligibility, IEPs, and Behavioral Supports

The IDEA and its implementing regulations require IEP Teams to follow certain procedures to ensure that IEPs meet the needs, including the behavioral needs, of children with disabilities. See 20 U.S.C. §1414(d) and 34 CFR §§300.320-300.324. Those needs are generally identified during the initial evaluation or reevaluation, which must, among other matters, use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, and assess the child in all areas related to the suspected disability,

2014 OSERS Dear Colleague Letter on the Individuals with Disabilities Education Act requirements that apply to the education of students with disabilities in correctional facilities. The June 2009 guidance can be found at http://idea.ed.gov/object/fileDownload/model/QaCorner/field/PdfFile/primary_key/7 and the December 5, 2014 letter can be found at <http://www2.ed.gov/policy/gen/guid/correctional-education/index.html>

⁹ For purposes of this document, we use “exclusionary disciplinary measures” as a descriptive term to discuss the range of actions that school personnel implement – in response to a child’s misbehavior or violation of a code of student conduct – where the child is removed and excluded from their classroom, from school grounds, or school activities either formally (e.g., suspension) or informally (e.g., asking the parent to keep the student at home for a day or more). Additional information regarding exclusionary disciplinary measures may be found in Section IV of this document.

including, if appropriate, social and emotional status. 34 CFR §§300.304(b) and 300.304(c)(4); see also 34 CFR §§300.304-300.311. Further, the evaluation must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical and developmental factors. 34 CFR §300.304(b)(3). Parents, classroom teachers, and other service providers will also have formal and informal information about an eligible child's current functional (e.g., behavioral) performance for the IEP Team's consideration. 34 CFR §§300.321 and 300.324. Once the IEP is developed, IEP Teams must: (1) review the child's IEP periodically, but not less than annually, to determine whether the child's annual goals are being achieved (34 CFR §300.324(b)(1)(i)), and (2) revise the IEP, as appropriate, to address any lack of expected progress towards the annual goals in the child's IEP and in the general education curriculum, the child's anticipated needs, or other matters. 34 CFR §300.324(b)(1)(ii).

There are a number of special factors that IEP Teams must consider in developing, reviewing, or revising a child's IEP. The IDEA specifically requires IEP Teams to consider the use of positive behavioral interventions and supports, and other strategies, to address behavior for any child with a disability whose behavior impedes his or her learning or that of others. 20 U.S.C. §1414(d)(3)(B)(i). This requirement applies to all IEP Teams, regardless of the child's specific disability, and to the development, review, and revision of IEPs (34 CFR §300.324(a)(2) and (b)(2)). Incidents of child misbehavior and classroom disruptions, as well as violations of a code of student conduct, may indicate that the child's IEP needs to include appropriate behavioral supports. This is especially true when a pattern of misbehavior is apparent or can be reasonably anticipated based on the child's present levels of performance and needs. To the extent a child's behavior including its impact and consequences (e.g., violations of a code of student conduct, classroom disruptions, disciplinary removals, and other exclusionary disciplinary measures) impede the child's learning or that of others, the IEP Team must consider when, whether, and what aspects of the child's IEP related to behavior need to be addressed or revised to ensure FAPE. If the child already has behavioral supports, upon repeated incidents of child misbehavior or classroom disruption, the IEP team should meet to consider whether the child's behavioral supports should be changed.

In general, IEP Team meetings provide parents (who are required members of the team) critical opportunities to participate in the decision-making process, raise questions and concerns regarding their child's behavior, and provide input on the types of behavioral supports their children may need to facilitate their child's involvement and progress in the general education curriculum. 34 CFR §§300.320(a), 300.321(a)(1), and 300.324(a)(1)(ii). Parents have the right to request an IEP Team meeting at any time, and public agencies generally must grant a reasonable request from a parent for an IEP Team meeting.¹⁰ See 20 U.S.C.

¹⁰ Assistance to States for the Education of Children with Disabilities and Early Intervention Programs for Infants and Toddlers with Disabilities, Final Rule, 64 Fed. Reg. 12406, 12581 (Mar. 12, 1999) explains, in response to public comment, that "[A] [regulatory] provision is not necessary to clarify that public agencies will honor 'reasonable' requests

§1414(d)(4)(A)(i)(III) and 34 CFR §300.324(b)(1)(ii)(C). We believe it would be appropriate for a parent to request an IEP Team meeting following disciplinary removals or changes in the child’s behavior that impede the child’s learning or that of others, as these likely indicate that the IEP, as written or implemented, may not be properly addressing the child’s behavioral needs.¹¹ Whenever appropriate, the child with a disability should also be present during IEP Team meetings. 34 CFR §300.321(a)(7).

When an IEP Has Already Been Developed for a School Year

In instances where a child with a disability is subject to a disciplinary removal after the IEP for that school year has been developed and the parents and the relevant school officials agree that the IEP needs to be revised to address the behavior, but circumstances prevent the IEP Team from convening prior to the child’s return to school, the IDEA regulations permit the parent and public agency to agree not to convene an IEP Team meeting and instead to develop a written document to amend or modify the current IEP. 34 CFR §300.324(a)(4)(i). This option could be used to provide the child with the necessary behavioral supports upon the child’s return to school. However, if changes are made to the child’s IEP in this manner, the agency must ensure that the IEP Team is informed of those changes. 34 CFR §300.324(a)(4)(ii).

II. IDEA’s IEP Content Requirements Related to Behavioral Supports

Research shows that school-wide, small group, and individual behavioral supports that use proactive and preventative approaches, address the underlying cause of behavior, and reinforce positive behaviors are associated with increases in academic engagement, academic achievement, and fewer suspensions and dropouts.¹² In short, children are more likely to achieve when they are directly taught predictable and contextually relevant school and classroom routines and expectations, acknowledged clearly and consistently for displaying positive

by parents for a meeting to review their child’s IEP. Public agencies are required under the statute and these final regulations to be responsive to parental requests for such reviews.”

¹¹ T.K., S.K., individually and on behalf of L.K. v. New York City Department of Education, Brief of the United States as Amicus Curiae Supporting Appellees (2015). Available at <https://www.justice.gov/sites/default/files/crt/legacy/2015/03/16/tknycdoebrief.pdf>

¹² Christle, C. A., Jolivet, K., & Nelson, C. M. (2005). Breaking the school to prison pipeline: identifying school risk and protective factors for youth delinquency. *Exceptionality*, 13(2), 69-88. See also Crone, D. A., & Hawken, L. S. (2010). *Responding to problem behavior in schools: the behavior education program*. Guilford Press. See also Liaupsin, C. J., Umbreit, J., Ferro, J. B., Urso, A., & Upreti, G. (2006). Improving academic engagement through systematic, function-based intervention. *Education and Treatment of Children*, 29, 573-591. See also Luiselli, J. K., Putnam, R. F., Handler, M. W., & Feinberg, A. B. (2005). Whole-school positive behaviour support: effects on child discipline problems and academic performance. *Educational Psychology*, 25(2-3), 183-198. See also Putnam, R., Horner, R. H., & Algozzine, R. (2006). Academic achievement and the implementation of school-wide behavior support. *Positive Behavioral Interventions and Supports Newsletter*, 3(1), 1-6.

academic and social behavior, consistently prompted and corrected when behavior does not meet expectations, and treated by others with respect.¹³

However, when a child with a disability experiences behavioral challenges, including those that result in suspensions or other exclusionary disciplinary measures, appropriate behavioral supports may be necessary to ensure that the child receives FAPE. In the same way that an IEP Team would consider a child's language and communication needs, and include appropriate assistive technology devices or services in the child's IEP (34 CFR §300.324(a)(2)(iv) and (v)) to ensure that the child receives a meaningful educational benefit, so too must the IEP Team consider and, when determined necessary for ensuring FAPE, include or revise behavioral supports in the IEP of a child with a disability exhibiting behavior that impedes his or her learning or that of others. 34 CFR §§300.320(a)(4) and 300.324(a)(2)(i).

Therefore, as part of the development, review and, as appropriate, revision of the IEP, IEP Teams should determine whether behavioral supports should be provided in any of three areas:

(1) special education and related services, (2) supplementary aids and services, and (3) program modifications or supports for school personnel. 34 CFR §300.320(a)(4).

IEPs should contain behavioral supports supported by evidence—IDEA specifically requires that both special education and related services and supplementary aids and services be based on peer-reviewed research to the extent practicable. 34 CFR §300.320(a)(4). As a matter of best practice, we strongly encourage schools to consider how the implementation of behavioral supports within the IEP could be facilitated through a school-wide, multi-tiered behavioral framework, described at greater length below.

Special Education and Related Services

Behavioral supports provided as part of a child's special education and related services may be necessary to ensure that the child's IEP is designed to enable the child to advance appropriately toward attaining the annual goals specified in the IEP, to be involved in and make progress in the general education curriculum, and to participate in extracurricular and other nonacademic activities. 34 CFR §§300.320(a)(4)(i) and (ii). Interventions and supports that could assist a child with a disability to benefit from special education may include instruction and reinforcement of school expectations, violence prevention programs, anger management groups, counseling for mental health issues, life skills training, or social skills instruction. Please see the end of this section for additional tools and resources to assist with the implementation of behavioral supports.

¹³ Algozzine, B., Wang, C., & Violette, A. S. (2011). Reexamining the relationship between academic achievement and social behavior. *Journal of Positive Behavioral Interventions*, 13, 3-16. See also McIntosh, K., Chard, D. J., Boland, J. B., & Horner, R. H. (2006). Demonstration of combined efforts in school-wide academic and behavioral systems and incidence of reading and behavior challenges in early elementary grades. *Journal of Positive Behavioral Interventions*, 8, 146-154.

Supplementary Aids and Services

Public agencies must comply with the requirement to make available a continuum of alternative placements as required under 34 CFR §§300.114-300.116, which includes the provision of supplementary aids and services (e.g. behavioral supports) throughout the continuum. Under 34 CFR §300.42, supplementary aids and services are defined to include aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with 34 CFR §§300.114-300.116.

Appropriate supplementary aids and services could include those behavioral supports necessary to enable a child with a disability to be educated in regular classes or the setting determined to be the child's appropriate placement in the LRE. Such behavioral supports might include meetings with a behavioral coach, social skills instruction, counselor, or other approaches. In general, placement teams may not place a child with a disability in special classes, separate schooling, or other restrictive settings outside of the regular educational environment solely due to the child's behavior when behavioral supports through the provision of supplementary aids and services could be provided for that child that would be effective in addressing his or her behavior in the regular education setting.¹⁴ 34 CFR §§300.114-300.116. Children with disabilities may only be removed from the regular educational environment when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 34 CFR §300.114(a)(2)(ii).

Program Modifications or Supports for School Personnel

In addition to the behavioral supports that may be provided directly to children with disabilities, program modifications or supports for school personnel, provided on behalf of the child, may also be necessary to support the child's involvement and progress in the general education curriculum, advancement towards attaining the annual goals specified in the IEP, and participation in extracurricular and other nonacademic activities. 34 CFR §§300.320(a)(4)(i) and (ii). School personnel may need training, coaching, and tools to appropriately address the behavioral needs of a particular child. Supports for school personnel may be designed, as appropriate, to better implement effective instructional and behavior management strategies and specific behavioral interventions that are included in the child's IEP.

¹⁴ We refer to the "placement team," rather than the IEP Team, as IDEA's implementing regulations specify that placement decisions must be made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. 34 CFR §300.116(a)(1).

Implementation of a Multi-Tiered Behavioral Framework

Research shows that implementing evidence-based, multi-tiered behavioral frameworks can help improve overall school climate, school safety, and academic achievement for all children, including children with disabilities.¹⁵ In general, behavioral supports are most effectively organized within a multi-tiered behavioral framework that provides instruction and clear behavioral expectations for all children, targeted intervention for small groups not experiencing success, and individualized supports and services for those needing the most intensive support. In recent years, the Department has disseminated a number of tools and resources to assist schools in the creation of safe and supportive school climates conducive to learning, including the implementation of effective alternatives to disciplinary removal. These resources include:

- *Supporting and Responding to Behavior: Evidence-based Classroom Strategies for Teachers*, a document summarizing evidence-based, proactive, and responsive classroom behavior support and intervention strategies for teachers.¹⁶
- *Positive Behavioral Intervention and Supports: Implementation Blueprint and Self-Assessment*, a guide to develop local capacity for sustainable, culturally and contextually relevant, and high-fidelity implementation of multi-tiered practices and systems of support.¹⁷
- *2014 School Discipline Guidance Package*, including guidance on how public elementary and secondary schools can meet their legal obligations to administer discipline without discriminating on the basis of race, color or national origin and a set of guiding principles to assist communities in improving school climate and school discipline.¹⁸

These and other resources can be found at www.ed.gov/rethinkdiscipline and <http://ccrs.osepideasthatwork.org>.

III. Circumstances that May Indicate Potential Denials of FAPE or of Placement in the LRE

It is incumbent upon IEP Teams to implement IDEA's procedural and substantive requirements to ensure that children with disabilities receive the behavioral supports they need to enable them to advance appropriately toward attaining the annual goals specified in their IEPs and to be

¹⁵ Bradshaw, C., Koth, C.W., Thornton, L.A., & Leaf, P.J., (2009). Altering school climate through school-wide positive behavioral interventions and supports: findings from a group-randomized effectiveness trial. *Prevention Science* 10(2), 100-115.

¹⁶ Available at <https://www.osepideasthatwork.org/evidencebasedclassroomstrategies/>

¹⁷ Available at <http://www.pbis.org/blueprint/implementation-blueprint>

¹⁸ Available at <http://www2.ed.gov/policy/gen/guid/school-discipline/fedefforts.html#guidance>

involved in and make progress in the general education curriculum.

20 U.S.C. §§1414(d)(1)(A)(i)(IV); 1414(d)(3)(B)(i) and 1414(d)(3)(C). A failure to implement these procedural requirements or provide needed behavioral supports to a child with a disability could result in the child not receiving a meaningful educational benefit, and therefore constitute a denial of FAPE and/or a denial of placement in the LRE (i.e., an unduly restrictive placement).

A determination of whether there is a denial of FAPE is a fact-based determination, to be made on a case-by-case basis. Factors to consider include: whether the public agency has failed to follow the procedures IDEA requires when developing, reviewing, or revising the child's IEP, or has failed to consider and/or provide a child with a disability with necessary behavioral supports when the child's behavior impedes his or her learning or that of others; or whether the child's IEP is reasonably calculated to provide a meaningful educational benefit in the absence of behavioral supports.

Circumstances that may indicate either a procedural or substantive failure in the development, review, or revision of the IEP include, but are not limited to, the following¹⁹:

- The IEP Team did not consider the inclusion of positive behavioral interventions and supports in response to behavior that impeded the child's learning or that of others;
- School officials failed to schedule an IEP Team meeting to review the IEP to address behavioral concerns after a reasonable parental request;
- The IEP Team failed to discuss the parent's concerns about the child's behavior, and its effects on the child's learning, during an IEP Team meeting;
- There are no behavioral supports in the child's IEP, even when the IEP Team determines they are necessary for the child;
- The behavioral supports in the IEP are inappropriate for the child (e.g., the frequency, scope or duration of the behavioral supports is insufficient to prevent behaviors that impede the learning of the child or others; or consistent application of the child's behavioral supports has not accomplished positive changes in behavior, but instead has resulted in behavior that continues to impede, or further impedes, learning for the child or others);
- The behavioral supports in the child's IEP are appropriate, but are not being implemented or not being properly implemented (e.g., teachers are not trained in classroom

¹⁹ Under 34 CFR §300.513(a), a hearing officer's determination of whether a child received FAPE must be based on substantive grounds. In matters alleging a procedural violation, a hearing officer may find that a child did not receive FAPE only if the procedural inadequacies: (1) impeded the child's right to FAPE; (2) significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of FAPE to the parent's child; or (3) caused a deprivation of educational benefit. 34 CFR §300.513(a)(2)(i)–(iii). Although best viewed as a procedural requirement, a failure to follow 34 CFR §300.324(a)(2)(i) could result in a substantive denial of FAPE if any of the circumstances in 34 CFR §§300.513(a)(2)(i)–(iii) are present. As this is a fact-based determination, Section III provides examples of facts and circumstances that may indicate that a procedural failure has resulted in a denial of FAPE.

management responses or de-escalation techniques or those techniques are not being consistently implemented); or

- School personnel have implemented behavioral supports not included in the IEP that are not appropriate for the child.

Circumstances that may indicate that the child’s IEP is not reasonably calculated to provide a meaningful educational benefit include, but are not limited to, the following:

- The child is displaying a pattern of behaviors that impede his or her learning or that of others and is not receiving any behavioral supports;
- The child experiences a series of disciplinary removals from the current placement of 10 days or fewer (which do not constitute a disciplinary change in placement) for separate incidents of misconduct that impede the child’s learning or that of others, and the need for behavioral supports is not considered or addressed by the IEP Team;²⁰ or
- The child experiences a lack of expected progress toward the annual goals that is related to his or her disciplinary removals or the lack of behavioral supports, and the child’s IEP is neither reviewed nor revised.

A determination of whether there is a denial of placement in the LRE is also a fact-based determination. Factors to consider include whether the child’s IEP is designed to enable the child to be educated and participate with nondisabled children in extracurricular and other nonacademic activities in the absence of behavioral supports. Circumstances that may indicate that the child’s placement in the LRE may not be appropriate include, but are not limited to, a scenario in which a continuum of placements that provides behavioral supports is not made available (e.g., behavioral supports not provided in the regular educational setting), and, as a result, the IEP inappropriately calls for the child to be placed in special classes, separate schooling, or another restrictive placement outside the regular educational environment (e.g., home instruction, home tutoring program, or online learning program).

IV. Implications for Short-Term Disciplinary Removals and Other Exclusionary Disciplinary Measures

Schools should note that recent research demonstrates that disciplinary measures such as short-term removals from the current placement (e.g., suspension), or other exclusionary disciplinary measures that significantly impede the implementation of the IEP, generally do not help to

²⁰ Under 34 CFR §300.536 a series of disciplinary removals that constitute a pattern is a change in placement. A pattern of removals is a series of removals that total more than 10 school days within a school year, for behavior that is substantially similar to the child’s behavior in previous incidents that led to removals, with consideration for additional factors such as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

reduce or eliminate reoccurrence of the misbehavior. In fact, there is a growing awareness that school suspensions produce unintended and undesirable results. Longitudinal studies, for example, have found that suspension from school does not deter misbehavior. These studies found a high rate of repeat offending in out-of-school suspension, ranging from 35% to 42%.²¹ Research also shows that suspension from school is associated with significant adverse consequences for the children suspended.²² Suspensions from school are consistently associated with lower academic performance.²³ As a suspended child's education is interrupted, he or she is more likely to fall behind, to become disengaged from school, and to drop out.²⁴

Removals from the current placement generally do not address the needs of a child with a disability for positive behavioral interventions and supports. Accordingly, we remind States, LEAs, and IEP Teams that while 34 CFR §300.530 explicitly permits school personnel to implement short-term disciplinary removals from the current placement, such removals may indicate a need to review and revise the child's IEP to address his or her behavioral needs. In addition, exclusionary disciplinary measures that do not constitute a removal from the current placement may also indicate the need to review and revise the child's IEP.

Authority of School Personnel under 34 CFR §300.530

Under IDEA and its implementing regulations, school personnel have the authority to 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 up to 10 consecutive school days in a school year, to the extent those alternatives are applied to children without disabilities, and for additional removals of up to 10 school days in the same school year for separate incidents of misconduct, provided that the additional removals do not constitute a change of placement. 34 CFR §§300.530(b) and 300.536.²⁵

While the IDEA and its implementing regulations recognize that school officials need some reasonable degree of flexibility when disciplining children with disabilities who violate a code of student conduct and that school safety is paramount, the Department cautions that the use of short-term disciplinary removals from the current placement may indicate that a child's IEP, or

²¹ Skiba, R.J., Shure, L.A., Middelberg, L.V., & Baker, T.L. (2012). Reforming school discipline and reducing disproportionality in suspension and expulsion. In Jimerson, S.R., Nickerson, A.B., Mayer, M.J., & Furlong, M.J. (Eds.) *Handbook of School Violence and School Safety*, 2nd Ed. New York: Routledge.

²² Lee, T., Cornell, D., Gregory, A., & Xitao, F. (2011). High suspension schools and dropout rates for black and white students. *Education & Treatment Of Children*, 34(2), 167-192. See also Brooks, K., Schiraldi, V., & Zeidenberg, J. (2000). *School house hype: two years later*. Washington, DC: Justice Policy Institute / Covington, KY: Children's Law Center. See also Civil Rights Project. (2000). *Opportunities suspended: the devastating consequences of zero tolerance and school discipline policies*. Cambridge, MA.

²³ Id.

²⁴ Id.

²⁵ Disciplinary removals of more than 10 consecutive school days or a series of removals that cumulate to more than 10 school days in a school year that constitute a pattern are considered a change in placement. 34 CFR §300.536.

the implementation of the IEP, does not appropriately address his or her behavioral needs. This, in turn, may result in the child not receiving a meaningful educational benefit, which could constitute a denial of FAPE. As noted above, these determinations are highly factual, and would be made on a case-by-case basis. We are concerned, however, that some SEAs and LEAs may have erroneously interpreted the IDEA to provide school personnel with the broad authority to implement short-term removals without restriction and without regard to whether the child's IEP is properly addressing his or her behavioral needs. It has come to the Department's attention that there are a number of legal memos and technical assistance documents which have erroneously characterized the 10-day period as "free days."²⁶

This characterization may discourage school personnel from considering whether behavioral supports are needed to address or improve patterns of behavior that impede learning before, during, or after short-term disciplinary removals are implemented. The Department reminds SEAs and LEAs that, under IDEA, IEP Teams have an obligation to develop appropriate IEPs based on the individual needs of each child. Teachers must also be fully informed about their specific responsibilities related to implementation of the child's IEP, including the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP. 34 CFR §300.323(d). Further, IDEA requires States and LEAs to ensure that all personnel necessary to carry out the purposes of Part B of IDEA are appropriately and adequately prepared and trained. 34 CFR §§300.156 and 300.207. This responsibility would include appropriately training teachers and other school personnel to provide required behavioral supports to children with disabilities. Therefore, a failure to provide appropriate behavioral supports (because they are not offered or because teachers and other staff are not adequately trained to implement such supports) that results in the child not receiving a meaningful educational benefit may constitute a denial of FAPE.

Use of Exclusionary Disciplinary Measures

Schools should take care when implementing exclusionary disciplinary measures that significantly interfere with a child's instruction and participation in other school activities. In some schools, staff are properly trained to implement and document measures such as the use of study carrels, time outs, and restrictions in privileges, in a manner consistent with a child's right to FAPE.²⁷ However, in other schools, staff may not be properly trained in the appropriate use of

²⁶ National Council on Disability. (2015). Breaking the school-to-prison pipeline for students with disabilities. Available at https://www.ncd.gov/sites/default/files/Documents/NCD_School-to-PrisonReport_508-PDF.pdf. This report highlights an excerpt from a legal pamphlet designed for school districts: "Schools have free use of up to 10 school days of short-term removals per school year without IDEA implications. The days can be used in any combination, quickly or slowly, although caution would warrant using the 10 'free' days judiciously over the school year, and avoiding multiple suspension days if at all possible."

²⁷ The Department has previously stated that the use of measures such as study carrels, time outs, or other restrictions in privileges is permissible so long as such measures are not inconsistent with a student's IEP (OSEP Memorandum to Chief State School Officers, Questions and Answers on Disciplining Students with Disabilities, April 1995).

these measures; consequently, their improper use of these measures could rise to the level of a disciplinary removal. These exclusionary disciplinary measures also could include:

- A pattern of office referrals, extended time excluded from instruction (e.g., time out), or extended restrictions in privileges;
- Repeatedly sending children out of school on “administrative leave” or a “day off” or other method of sending the child home from school;
- Repeatedly sending children out of school with a condition for return, such as a risk assessment or psychological evaluation; or
- Regularly requiring children to leave the school early and miss instructional time (e.g., via shortened school days).²⁸

In general, the Department does not consider the use of exclusionary disciplinary measures to be disciplinary removals from the current placement for purposes of 34 CFR §300.530, so long as children with disabilities are afforded the opportunity to continue to be involved in and make progress in the general education curriculum, receive the instruction and services specified on their IEPs, and participate with nondisabled children to the extent they would have in their current placement.²⁹ It is likely that the exclusionary disciplinary measures listed above, if implemented repeatedly, would constitute a disciplinary removal from the current placement. For example, when school personnel regularly require a child with a disability to leave school early and miss instructional time due to their behavior, it is likely that the child’s opportunity to be involved in and make progress in the general education curriculum has been significantly impeded; in such circumstances, sending the child home early would constitute a disciplinary removal from the current placement. To the extent that schools implement exclusionary disciplinary measures in a manner tantamount to a suspension – or other removal from the

²⁸ We have deliberately omitted from this list of examples any reference to referrals to law enforcement authorities due to our recommendation to schools, described in the Department’s *Guiding Principles: A Resource Guide for Improving School Climate and Discipline*, that school resource officers not be involved in routine disciplinary matters. The Guiding Principles can be found at www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf

²⁹ The Department would apply the same analysis to the use of exclusionary discipline measures that apply to in-school suspensions, for purposes of 34 CFR §300.530. In the Preamble to the August 14, 2006 final Part B regulations, the Department explained: “It has been the Department’s long term policy that an in-school suspension would not be considered a part of the days of suspension addressed in 34 CFR §300.530 as long as the child is afforded the opportunity to continue to appropriately participate in the general curriculum, continue to receive the services specified on the child’s IEP, and continue to participate with nondisabled children to the extent they would have in their current placement. This continues to be our policy.” The explanation concludes by indicating that whether an in-school suspension would constitute a day of suspension would depend on the unique facts and circumstances of each case. 71 Fed. Reg. 46715 (Aug. 14, 2006).

child's current placement – they are required to fulfill their statutory obligation to report such removals,³⁰ and act within the authority of school personnel provided under 34 CFR §300.530.

Further, as we noted earlier, the use of exclusionary disciplinary measures may indicate that a child's IEP, or the implementation of the IEP, does not appropriately address his or her behavioral needs. To ensure that each child receives a meaningful educational benefit, IEP Teams must consider the need for positive behavioral interventions and supports for children with disabilities whose behavior impedes their learning or that of others, and, when determined necessary to ensure FAPE, include or revise needed behavioral supports in the child's IEP. Such behavioral supports also may include supports for school personnel, so that teaching staff are trained in best uses of such behavioral supports.

V. Conclusion

Children with disabilities are at a greater risk of disciplinary removals that significantly interrupt their learning, often unnecessarily. These risks are increased for children of color with disabilities. In many cases, we have reason to believe these removals are due to minor instances of misbehavior that are unrelated to issues of child or school safety, and can and should be addressed through supports and guidance.³¹

When behavioral supports are not provided and, as a result, a child with a disability is repeatedly removed from his or her current placement through suspensions for behavior that impedes his or her learning or that of others, a number of options are available to assist parents in challenging the appropriateness of their child's IEP. First, as noted earlier, parents have the right to request an IEP Team meeting at any time, and public agencies generally must grant a reasonable parental request for an IEP Team meeting. Parents may be particularly interested in making such a request following changes in the child's behavior that result in disciplinary removals. Further, parents, individuals, and organizations may also pursue child-specific or systemic remedies through the State complaint procedures outlined below.

³⁰ IDEA mandates that States provide data each year to the Secretary of Education and the public on the use of long-term suspensions and expulsions (20 U.S.C. §1418(a)(1)(A)(v)(III)) and on the incidence and duration of disciplinary actions, including suspensions of one day or more, by race, ethnicity, limited English proficiency status, gender, and disability category (20 U.S.C. §1418(a)(1)(D)). Further, States are required to collect and examine data to determine whether significant disproportionality based on race and ethnicity is occurring in the State and the LEAs of the State with respect to the incidence, duration, and type of disciplinary actions, including suspension and expulsions (34 CFR §300.646(d)(1)(C)), and whether significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities among LEAs in the State or compared to the rates for nondisabled children within LEAs (34 CFR §300.170).

³¹ Skiba, R. J., Chung, C. G., Trachok, M., Baker, T., Sheya, A., Hughes, R. L. (2014). Parsing disciplinary disproportionality: Contributions of infraction, student, and school characteristics to out-of-school suspension and expulsion. *American Educational Research Journal*, 51, 640-670.

When conditions persist and a denial of FAPE is suspected, a parent or a public agency may file a due process complaint to request a due process hearing on any matter relating to the identification, evaluation, or educational placement of a child with a disability, or the provision of FAPE to the child. 34 CFR §300.507(a). If the dispute cannot be resolved through the resolution process, the parent or public agency must have an opportunity for an impartial due process hearing. 34 CFR §§300.511(a), 300.512, 300.513 and 300.515.

A second important method for resolving disputes available under IDEA is the mediation process described in 34 CFR §300.506. The mediation process, which must be voluntary, offers a less formal opportunity for parents and public agencies to resolve disputes about any matter, including disciplinary removals, under 34 CFR part 300, including matters arising prior to the filing of a due process complaint. 34 CFR §300.506(a).

Lastly, States are also required to establish and implement their own State complaint procedures, separate from their due process procedures, for resolving any complaint that meets the requirements of 34 CFR §300.153. 34 CFR §300.151(a)(1). Any organization or individual, including one from another State, may file a signed written State complaint alleging that a public agency has violated a requirement of either Part B of the Act or the Part B regulations.

Additional information regarding dispute resolution is available at:

- Questions and Answers on IDEA Part B Dispute Resolution Procedures, revised July 2013 (OSEP Memo 13-08) (<http://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/accombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf>); and
- Dear Colleague Letter on a public agency's Use of Due Process Procedures After a Parent Has Filed a State Complaint, April 2015 (<https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/dcl04152015disputeresolution2q2015.pdf>)

The Office of Special Education and Rehabilitative Services (OSERS) is committed to ensuring that children with disabilities have access to learning environments that are safe, supportive, and conducive to learning. In such learning environments, educators have the skills and tools to prevent disciplinary incidents before they happen, use effective behavioral supports, teach behavioral expectations, and implement other behavioral management strategies. In many schools, effective behavioral supports have been implemented within a multi-tiered behavioral framework to organize school efforts to support children with disabilities and their peers. In this way, schools facilitate the provision of FAPE by providing children with disabilities with the behavioral supports they need to prevent, or bring an end to, disciplinary approaches that may unduly interfere with instruction and the implementation of IEPs. Further, this focus on prevention helps to ensure that educators receive the training, coaching, and other supports they

need to help children with disabilities, and their peers, to focus on learning and succeed in school.

To better develop and implement appropriate IEPs for children whose behavior impedes the child’s learning or that of others, and to ensure that behavioral supports are available throughout the continuum of placements, including in the regular education setting, OSERS has enclosed with this letter two technical assistance documents that we first released in November 2015 as part of the 40th Anniversary of IDEA:

- 1) Supporting and Responding to Behavior: Evidence-Based Classroom Strategies for Teachers:

<https://www.osepideasthatwork.org/evidencebasedclassroomstrategies>

- 2) Positive Behavioral Interventions and Supports: Implementation Blueprint and Self-Assessment:

<http://www.pbis.org/blueprint/implementation-blueprint>

These two documents provide additional information on evidenced-based classroom strategies to support and respond to behavior and on organizing practices in an integrated manner in a multi-tiered system of support.

If you have any questions or comments, please contact the Office of Special Education Programs Education Program Specialist, Lisa Pagano at 202-245-7413 or Lisa.Pagano@ed.gov.

Thank you for your support and your continued interested in improving education access and opportunity for children with disabilities.

Sincerely,

/s/

Sue Swenson
Acting Assistant Secretary
Special Education and Rehabilitative Services

/s/

Ruth E. Ryder
Acting Director
Office of Special Education Programs

U.S. Department of Education Specifies the Requirements of LEAs For Providing Special Education in Virtual Environments

In a [Dear Colleague](#) letter providing significant guidance*, the U.S. Department of Education Office of Special Education Programs clearly states that local educational agencies (LEAs) are required to apply all the requirements of the Individuals with Disabilities Education Act (IDEA) “regardless of whether a child is enrolled in a virtual school that is a public school of the LEA or a public school that is constituted as an LEA by the State.”

In particular, the guidance provides that LEAs should review policies and procedures regarding

- Monitoring and identifying areas of noncompliance including the implementation of IDEA in virtual schools;
- Timely collection and reporting of data; establishing and maintaining qualifications to ensure that personnel serving children with disabilities are qualified and possess the content knowledge and skills necessary to serve students with disabilities (SWD);
- The availability of dispute resolution procedures and state complaint procedures; and
- Provisions to ensure confidentiality of personally identifiable data

The guidance recognizes that Child Find activities for SWD in virtual schools will “create unique challenges” and that reliance on referrals by parents should not be the primary vehicle for meeting the Child Find requirements.

In ensuring that a free and appropriate public education (FAPE) is provided to all SWD the guidance outlines the responsibilities of an LEA to include, but not be limited to:

1. Ensuring each SWD has FAPE available to him or her.
2. Implementing the evaluation and eligibility requirements.
3. Carrying out the Individualized Education Program requirements.
4. Implementing the requirements regarding the least restrictive environment.

*Significant guidance is nonbinding and does not create or impose new legal requirements.

—*Debbie Fry and Suzanne Speck*



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

August 5, 2016

Dear Colleague:

Over the last decade, there has been a proliferation of educational models involving varying degrees of in-person and online instruction and practice. Many State educational agencies (SEAs) and local educational agencies (LEAs), including charter schools that operate as LEAs, provide a variety of Internet-based or online instruction to children, including children with disabilities under the Individuals with Disabilities Education Act (IDEA).¹ In addition, some LEAs have begun, or are considering, offering children the opportunity to attend virtual schools.²

In 2011, the U.S. Department of Education's (Department's) Office of Special Education Programs (OSEP) funded The Center for Online Learning and Students with Disabilities (Center) to research how online learning can be made more accessible. The Center also identifies promising practices for K-12 children with disabilities by investigating approaches that address variations in student learning styles within the range of online learning options.³ OSEP has received a number of questions from stakeholders, including State and school personnel and advocacy organizations, regarding the provision of a free appropriate public education (FAPE) to children with disabilities attending public virtual schools. Therefore, we are issuing this letter to clarify some of the critical requirements in Part B of IDEA that apply to virtual schools.⁴

The Department has determined that this letter is significant guidance under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (2007),

www.whitehouse.gov/sites/default/files/omb/fedreg/2007/012507_good_guidance.pdf.

Significant guidance is non-binding and does not create or impose new legal requirements. The Department is issuing this letter to provide SEAs, LEAs and other public agencies with information to assist them in meeting their obligations under the IDEA and implementing

¹ "Child with a disability" is a statutory term under IDEA and is defined in 20 U.S.C. 1401(3). See also 34 CFR §300.8.

² See *Keeping Pace with K-12 Online and Blended Learning: An Annual Report of Policy and Practice 2015*, Evergreen Education Group, available at <http://kpk12.com/reports/>.

³ In 2015, the Center published "Equity Matters: Digital and Online Learning for Students with Disabilities," which presents some emerging trends, outcomes, challenges, and promising practices in this developing field. This publication is available at: <http://centeronlinelearning.org/publications/annual-publication-2015>. Although this publication was funded under a grant from the Department, the conclusions are solely those of the authors. Reference to this document is not an endorsement by the Federal government or the Department of the authors' conclusions, and is provided for informational purposes only.

⁴ Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794, and its implementing regulation at 34 CFR part 104) and Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131–12134, and its implementing regulation at 28 CFR part 35) prohibit discrimination on the basis of disability and may impose additional requirements on SEAs and LEAs. The same nondiscrimination principles that apply to all schools under these laws also apply to virtual schools. Within the Department of Education, these laws are enforced by the Office for Civil Rights (OCR). This guidance does not address these laws; more information about these laws, however, is available on OCR's website at www.ed.gov/ocr, including a May 26, 2011 Dear Colleague Letter (with attached Frequently Asked Questions document) addressing the use of electronic book readers and other emerging technologies, available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201105-ese.html>.

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202-2500
www.ed.gov

The Department of Education's mission is to promote student achievement and preparedness for global competitiveness by fostering educational excellence and ensuring equal access.

regulations (34 CFR–part 300). This guidance also provides members of the public with information about their rights under the law and regulations. If you have questions or are interested in commenting on this guidance, please email us your comment at virtualschools@ed.gov or write to us at the following address:

U.S. Department of Education,
550 12th Street, S.W., Room 5122
Potomac Center Plaza
Washington, DC 20202-2641

For further information about the Department’s guidance processes, please visit www2.ed.gov/policy/gen/guid/significant-guidance.html

Background

In January 2014, the Department began collecting information from States on the status of virtual schools through the Annual Mandatory Collection of Elementary and Secondary Education Data, an *EDFacts* information collection, to enhance its knowledge of virtual education across the country.⁵ The *EDFacts* information collection defines “virtual school” as a public school that offers only virtual courses: instruction in which children and teachers are separated by time and/or location. In addition, interaction occurs via computers and/or telecommunications technologies, and the school generally does not have a physical facility that allows children to attend classes on-site. For the purpose of this letter, “virtual schools” refer to programs, consistent with the *EDFacts* definition, that are public schools of a traditional LEA or are public schools that operate as an LEA under State law.⁶ This letter does not address every IDEA requirement. Rather, it highlights issues that OSEP believes are likely to occur when certain key Part B requirements are implemented in a virtual school environment.

General Supervisory Responsibilities

The requirements of IDEA apply to SEAs and LEAs, regardless of whether a child is enrolled in a virtual school that is a public school of the LEA or a public school that is constituted as an LEA by the State.⁷ Each SEA must have policies and procedures in effect that are consistent with, and implement, IDEA requirements. In turn, each LEA, in providing for the education of children with disabilities within its jurisdiction, must have policies, procedures, and programs that are consistent with, or adopt, the SEA’s policies and procedures in order to establish its eligibility for a Part B subgrant from their SEA. 34 CFR-§§300.200–300.201.⁸ The SEA must

⁵ For more information on this information collection please see “Summary of Changes, Attachment C, EDFACTS” available at: http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201302-1875-001.

⁶ This letter does not address children with disabilities placed in non-public virtual schools by their parents pursuant to 34 CFR §§300.130-300.144. However, under 34 CFR 300.146, children with disabilities placed in a private virtual school by a public agency, as a means of providing special education and related services, must be provided with FAPE as part of their public placement at the private virtual school.

⁷ Letter to Barnes, 41 IDELR 35 (December 18, 2003).

⁸ A virtual school that is constituted as an LEA under State law, consistent with the definition of LEA in 34 CFR §300.28, may receive a subgrant of Part B funds from the SEA if that LEA establishes its eligibility under section 613 of IDEA for use of those funds in accordance with Part B. 34 CFR §300.705(a). The LEA must submit a

exercise general supervision over all educational programs for children with disabilities administered within the State to ensure that the education standards of the SEA and the requirements of Part B are met. 34 CFR-§§300.149 and 300.600. Accordingly, the SEA is responsible for ensuring that all LEAs, including virtual schools that operate as LEAs, implement the requirements of IDEA. If a virtual school is a public school of an LEA, the LEA is the entity that would generally be responsible for ensuring that the requirements of Part B are met by that virtual school for children with disabilities participating in the virtual school’s program.

Many virtual schools are also public charter schools.⁹ If the virtual charter school operates as an LEA and has established its eligibility under section 613 of IDEA and receives a subgrant of Part B funds from the SEA under 34 CFR-§300.705, the virtual charter school LEA is responsible for ensuring that the requirements of Part B are met, unless State law assigns responsibility to some other entity. 34 CFR-§300.209(c). Likewise, if the virtual school is a public charter school of an LEA that receives funding under 34 CFR-§300.705 and includes other public schools, then the LEA of which the virtual charter school is a part is responsible for ensuring that the requirements of Part B are met, unless State law assigns that responsibility to some other entity. 34 CFR-§300.209(b)(2)(i). The SEA, however, retains ultimate responsibility for ensuring that the requirements of Part B are met in all educational programs for children with disabilities administered within the State. 34 CFR-§§300.149 and 300.600.

If a State has virtual schools, including virtual charter schools, that the State considers to be LEAs, the SEA should carefully review its policies and procedures to ensure that the policies and procedures address virtual schools. Likewise, where applicable, LEAs should carefully review their policies and procedures to ensure that they address public virtual schools of the LEA. In particular, SEAs and, if applicable, LEAs, should review their policies and procedures regarding:

1. monitoring to identify and correct noncompliance with Part B requirements, including the implementation of IDEA in virtual schools (34 CFR-§§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E));
2. timely collection and reporting of data under section 618, and data to report on the indicators in the State Performance Plan/Annual Performance Report, that are (a) valid and reliable and (b) reflect actual practice and performance, including collecting and reporting data about children with disabilities who attend virtual schools and receive special education and related services (34 CFR-§§300.157(c), 300.601(b), and 300.640 through 300.646);
3. establishing and maintaining qualifications to ensure that personnel necessary to carry out the purposes of IDEA, including personnel serving children with disabilities in virtual

plan to the SEA that provides assurances that the LEA meets each of the conditions in §§300.201 through 300.213. 34 CFR §300.200. Section 300.201 provides that the LEA, in providing for the education of children with disabilities within its jurisdiction, must have policies, procedures, and programs in effect that are consistent with the State policies and procedures established under §§300.101 through 300.163 and §§300.165 through 300.174.

⁹ According to the report cited here, charter schools make up less than 6 percent of total enrollment in the United States, but full-time charter school enrollment accounted for the large majority of full-time online students and 3.3 million course enrollments. Full-time virtual charter schools operated in 25 States during School Year 2014-15 and served about 275,000 students. See *Keeping Pace with K-12 Online and Blended Learning: An Annual Report of Policy and Practice 2015*, Evergreen Education Group, available at <http://kpk12.com/reports/>.

schools, are appropriately and adequately prepared and trained, and that those personnel have the content knowledge and skills to serve children with disabilities (34 CFR-§300.156(a));

4. the availability of dispute resolution procedures to implement IDEA procedural safeguards, including the mediation and due process hearing provisions in 34 CFR-§§300.506 through 300.518, the discipline provisions in 300.530 through 300.536, as well as the Part B State complaint procedures in 34 CFR-§§300.151–300.153; and
5. provisions to ensure the confidentiality of personally identifiable data, information, and records (34 CFR-§§300.611 through 300.626).¹⁰

Each SEA also must have policies and procedures that ensure that children with disabilities who attend virtual school LEAs and virtual schools that are part of LEAs are included in all general State and district-wide assessment programs, including assessments described in section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments, where necessary and as indicated in their respective individualized education programs (IEPs). 34 CFR-§300.160.

Child Find Responsibilities

Each SEA must have child find policies and procedures in effect to ensure that all children with disabilities residing in the State, including those who attend virtual schools, who are in need of special education and related services, regardless of the severity of their disability, are identified, located, and evaluated. 34 CFR-§300.111(a). LEAs also must have child find policies and procedures in effect that are consistent with the State’s policies and procedures.

34 CFR-§§300.200-300.201. Therefore LEAs, including virtual schools that operate as LEAs, should review the State’s child find policies and procedures as well as their own implementing policies, procedures, and practices to ensure that children with disabilities who attend virtual schools are identified, located, and evaluated. See also 34 CFR-§§300.300–300.311.

We recognize that there are some children with IEPs who may transfer to virtual schools, while other children with disabilities may enroll in virtual schools before being identified as having a disability under IDEA. For children who have IEPs and have been determined eligible for special education and related services prior to their enrollment in the virtual school, child find responsibilities also include ensuring that periodic reevaluations are conducted.

34 CFR-§300.303. Because children who attend virtual schools generally may not have the same degree of face-to-face interactions and in-person contacts with a teacher or other school staff as children who attend brick and mortar schools, child find for children attending virtual schools may present unique challenges.

It is not uncommon for the child’s teacher to be the first person to suspect that the child may have a disability and to be the person to refer that child for an evaluation. Where the practices of the virtual school, whether it is an LEA or operated by an LEA, limit or prevent the teacher’s interaction and contacts with a child, the SEA’s child find policies should suggest additional

¹⁰ Students with disabilities attending public virtual schools and their parents are also protected by the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. 1232g and 34 CFR part 99. More information about FERPA is available at: www.ed.gov/fpc

ways that LEAs can meet this IDEA responsibility for children attending virtual schools (e.g., screenings to identify children who might need to be referred for an evaluation and questionnaires filled out by virtual school teachers and staff and children’s parents). In general, reliance on referrals by parents should not be the primary vehicle for meeting IDEA’s child find requirements.

Ensuring the Provision of a Free Appropriate Public Education

Some stakeholders report that there is confusion in the field regarding which entity is responsible for providing FAPE to children with disabilities attending virtual schools. Generally, States assign responsibility for making FAPE available—that is for ensuring that the requirements of Part B are met for a particular child—to the LEA of his or her parent’s residence. Where a virtual school is a public school operated by the LEA in which the parent resides, that LEA generally would be responsible for making FAPE available to an eligible child with a disability. LEAs retain this responsibility even if they choose to contract with virtual schools to provide educational services to children with disabilities. In situations where the State designates a virtual school as its own LEA, consistent with 34 CFR-§300.28, and the child attends that virtual school LEA, but the child’s family resides in a different LEA in the State, the State has the discretion to determine which LEA is responsible for ensuring that the requirements of Part B are met with respect to the child, so long as the State designates one LEA that is responsible for ensuring the provision of FAPE to the child.¹¹ Similarly, if the virtual school is a public charter school that operates as an LEA under State law and receives funding under 34 CFR-§300.705, the virtual charter school LEA is responsible for ensuring that the requirements of Part B are met, unless State law has assigned responsibility to some other entity for ensuring that the requirements of Part B are met. 34 CFR-§300.209(c). This could include assignment to another LEA in the State.

In addition to the requirements discussed above, we highlight below some particular requirements under IDEA that responsible LEAs must meet in order to ensure the provision of FAPE to children with disabilities in virtual schools. These LEA responsibilities include, but are not limited to:

1. ensuring that each eligible child with a disability has FAPE available to him or her in accordance with 34 CFR-§§300.101 and 300.17
2. implementing the evaluation and eligibility requirements in 34 CFR-§§300.300-300.311;
3. carrying out the IEP requirements in 34 CFR-§§300.320 through 300.324, including those governing IEP content, IEP Team participants, parent participation, when IEPs must be in effect, consideration of special factors, the development, review, and revision of IEPs, secondary transition services and participation in State and districtwide assessment programs; and
4. implementing the requirements in 34 CFR-§§300.114 through 300.117, regarding education in the least restrictive environment, including ensuring the availability of a continuum of alternative placements to provide special education and related services.

¹¹ Letter to Lutjeharms, 16 IDELR 554 (Mar. 5, 1990).

Conclusion

The educational rights and protections afforded to children with disabilities and their parents under IDEA must not be diminished or compromised when children with disabilities attend virtual schools that are constituted as LEAs or are public schools of an LEA. This letter addresses the general responsibilities of SEAs and LEAs with regard to children with disabilities attending virtual schools, and we intend to issue additional guidance addressing more specific questions regarding this topic in the future. If you have questions or comments on this issue, please email them to virtuelschools@ed.gov. Thank you for your continued interest in improving results for children with disabilities.

Sincerely,

/s/
Sue Swenson
Acting Assistant Secretary

/s/
Ruth E. Ryder
Acting Director
Office of Special Education Programs



Dear Colleague Letter and Resource Guide on Students with ADHD

Notice of Language Assistance

Notice of Language Assistance: If you have difficulty understanding English, you may, free of charge, request language assistance services for this Department information by calling 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-877-8339), or email us at: Ed.Language.Assistance@ed.gov.

Aviso a personas con dominio limitado del idioma inglés: Si usted tiene alguna dificultad en entender el idioma inglés, puede, sin costo alguno, solicitar asistencia lingüística con respecto a esta información llamando al 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-877-8339), o envíe un mensaje de correo electrónico a: Ed.Language.Assistance@ed.gov.

致英语能力有限人士: 如果您不懂英语, 或者使用英语有困难, 您可以要求获得向公众提供的免费语言协助服务, 帮助您了解教育部资讯。如您需要有关口译或笔译的详细资讯, 请致电1-800-USA-LEARN (1-800-872-5327) (听语障碍人士专线: 1-800-877-8339) 或致电邮: Ed.Language.Assistance@ed.gov。

給英語能力有限人士的通知: 如果您不懂英語, 或者使用英語有困難, 您可以要求獲得向大眾提供的語言協助服務, 幫助您理解教育部資訊。這些語言協助服務均可免費提供。如果您需要有關口譯或筆譯服務的詳細資訊, 請致電 1-800-USA-LEARN (1-800-872-5327) (聽語障人士專線: 1-800-877-8339), 或電郵: Ed.Language.Assistance@ed.gov。

Thông báo dành cho những người có khả năng Anh ngữ hạn chế: Nếu quý vị gặp khó khăn trong việc hiểu Anh ngữ thì quý vị có thể yêu cầu các dịch vụ hỗ trợ ngôn ngữ cho các tin tức của Bộ dành cho công chúng. Các dịch vụ hỗ trợ ngôn ngữ này đều miễn phí. Nếu quý vị muốn biết thêm chi tiết về các dịch vụ phiên dịch hay thông dịch, xin vui lòng gọi số 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-877-8339), hoặc email: Ed.Language.Assistance@ed.gov.

영어 미숙자를 위한 공고: 영어를 이해하는 데 어려움이 있으신 경우, 교육부 정보 센터에 일반인 대상 언어 지원 서비스를 요청하실 수 있습니다. 이러한 언어 지원 서비스는 무료로 제공됩니다. 통역이나 번역 서비스에 대해 자세한 정보가 필요하신 경우, 전화번호 1-800-USA-LEARN (1-800-872-5327) 또는 청각 장애인용 전화번호 1-800-877-8339 또는 이메일주소 Ed.Language.Assistance@ed.gov 으로 연락하시기 바랍니다.

Paunawa sa mga Taong Limitado ang Kaalaman sa English: Kung nahihirapan kayong makaintindi ng English, maaari kayong humingi ng tulong ukol dito sa inpormasyon ng Kagawaran mula sa nagbibigay ng serbisyo na pagtulong kaugnay ng wika. Ang serbisyo na pagtulong kaugnay ng wika ay libre. Kung kailangan ninyo ng dagdag na impormasyon tungkol sa mga serbisyo kaugnay ng pagpapaliwanag o pagsasalin, mangyari lamang tumawag sa 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-877-8339), o mag-email sa: Ed.Language.Assistance@ed.gov.

Уведомление для лиц с ограниченным знанием английского языка: Если вы испытываете трудности в понимании английского языка, вы можете попросить, чтобы вам предоставили перевод информации, которую Министерство Образования доводит до всеобщего сведения. Этот перевод предоставляется бесплатно. Если вы хотите получить более подробную информацию об услугах устного и письменного перевода, звоните по телефону 1-800-USA-LEARN (1-800-872-5327) (служба для слабослышащих: 1-800-877-8339), или отправьте сообщение по адресу: Ed.Language.Assistance@ed.gov.

Notice of Significant Guidance. The U.S. Department of Education (Department) has determined that this letter and the accompanying Resource Guide are significant guidance under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007). www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-07.pdf. Significant guidance is non-binding and does not create or impose new legal requirements.

The Department is issuing this letter and guide to provide State and local educational agencies, including charter schools, with information to assist them in meeting their obligations under Federal civil rights laws, including Section 504 of the Rehabilitation Act of 1973, and implementing regulations that it enforces. 29 U.S.C. § 794; 34 C.F.R. Part 104. This letter also provides members of the public with information about their rights under the law and regulations.

If you are interested in commenting on this letter or guide, or have questions, please send them to OCR by email at OCR@ed.gov, by phone at 800-421-3481 (TDD 800-877-8339), or by mail to the Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. For further information about the Department's guidance processes, please visit www.ed.gov/policy/gen/guid/significant-guidance.html.



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

July 26, 2016

Dear Colleague:

I write this letter to clarify and provide guidance on the Federal obligations of school districts that receive Federal financial assistance from the U.S. Department of Education (the Department) to students with attention-deficit/hyperactivity disorder (ADHD)¹ under Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Department's implementing regulations.² This Federal law prohibits discrimination on the basis of disability and requires school districts to provide an equal educational opportunity to students with disabilities.

Because the Americans with Disabilities Act Amendments Act (Amendments Act) clarified the broad scope and definition of the term "disability," more students with ADHD are now clearly

¹ ADHD is used throughout this letter to refer to students having either attention deficit disorder (ADD) or ADHD.

² 29 U.S.C. § 794; 34 C.F.R. Part 104. While this letter touches on the Individuals with Disabilities Education Act (IDEA), the Federal law through which the majority of children with ADHD receive special education and related services, the focus is on the requirements of Section 504, as set out in the Department's Section 504 implementing regulations at 34 C.F.R. Part 104. OCR does not administer the IDEA. The Office of Special Education Programs (OSEP) in the Department's Office of Special Education and Rehabilitative Services (OSERS) administers the IDEA. All students with disabilities who are eligible for special education and related services under the IDEA, however, are also protected by Section 504. Consequently, OCR enforces the Section 504 rights of students who are also covered by the IDEA. For general information about the IDEA, please see <http://idea.ed.gov>. This letter does not address the rights of students with disabilities under the Workforce Innovation and Opportunity Act (WIOA), Pub. L. No. 113-128, 128 Stat. 1425 (2014). For general information about the rights of students with disabilities under WIOA, please see <https://rsa.ed.gov/wioa.cfm> and <http://www.doleta.gov/WIOA>.

entitled to the protections under Section 504.³

Over the past five fiscal years (2011-2015), the Department’s Office for Civil Rights (OCR) has received more than 16,000 complaints alleging discrimination on the basis of disability in elementary and secondary education programs. Approximately 2,000, or one in nine, of these complaints involved allegations of discrimination against a student with ADHD. In resolving such complaints, OCR has found that many teachers and administrators often take appropriate action to ensure that students with ADHD receive the protections to which they are entitled under Federal law, but many others are not familiar with this disorder, or how it could impact a student’s equal access to a school district’s program.

Through our enforcement efforts, we have learned that many students with ADHD are still experiencing academic and behavioral challenges in the educational setting, and that policy guidance is needed to ensure that those students are receiving a free appropriate public education (FAPE) as defined in the Department’s regulations implementing Section 504. OCR investigations have revealed that students with ADHD could be denied FAPE because of problems that school districts have in identifying and evaluating students who need special education or related services because of ADHD. Some of these problems are as follows:

- students never being referred for, or identified by the school district as needing, an evaluation to determine whether the student has a disability and needs special education or related services;
- students not being evaluated in a timely manner once identified as needing an evaluation; or
- school districts conducting inadequate evaluations of students.

In addition, even if properly identified, a student with ADHD who is determined to have a disability may not always receive required services. OCR, through its enforcement efforts, has observed that school districts fail to meet their Section 504 obligations when they:

- make inappropriate decisions about the regular or special education, related aids and services, or supplementary aids and services the student needs, and the appropriate setting in which to receive those services based on a misunderstanding of ADHD and the requirements of Section 504;

³ OCR, *Dear Colleague Letter* (Jan. 19, 2012), <http://www.ed.gov/ocr/letters/colleague-201109.html>. See also OCR, *Questions and Answers on the ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools* (Jan. 19, 2012), <http://www.ed.gov/ocr/docs/dcl-504faq-201109.html>. Further discussion on the interplay between Section 504 and the Americans with Disabilities Act can be found in the accompanying Resource Guide in the section “Federal Disability Laws.”

- fail to distribute relevant documentation to appropriate staff; or
- consider inappropriate administrative and financial burdens in selecting and providing appropriate related aids and services.

The failure to provide needed services to students with disabilities can result in serious social, emotional, and educational harm to the students involved. It can also unnecessarily drain school district and family resources if the school is ineffectually attempting to meet the needs of students with disabilities through failed interventions or disciplinary consequences.

As outlined in the Department’s regulations implementing Section 504, school districts must conduct individualized evaluations of students who, because of disability, including ADHD, need or are believed to need special education or related services, and must ensure that qualified students with disabilities receive appropriate services that are based on specific needs, not cost, and not based on stereotypes or generalized misunderstanding of a disability.⁴ These and other Section 504 obligations apply to all students with disabilities and are discussed in this guidance as they specifically pertain to students with ADHD.⁵

Through this letter and the accompanying Resource Guide, OCR seeks to help educators, families, students, and other stakeholders better understand these laws as they pertain to students with ADHD in elementary and secondary schools in order to ensure that these students receive the regular or special education, related aids and services, or supplementary aids and services the student needs to be successful. I encourage you to use this information to ensure that your school district is properly evaluating and providing timely and appropriate services to students with ADHD.⁶

Sincerely,

/s/

Catherine E. Lhamon
Assistant Secretary for Civil Rights

⁴ 34 C.F.R. §§ 104.3(I)(2), 104.4, 104.33-35.

⁵ For further, generally applicable information about the rights of students with disabilities, due to any impairment, please see *Protecting Students With Disabilities Frequently Asked Questions About Section 504 and the Education of Children with Disabilities*, (Oct. 16, 2015), <http://www.ed.gov/ocr/504faq.html>. OCR also anticipates providing additional information for parents explaining these rights.

⁶ Even though this letter and Resource Guide focus on the elementary and secondary education contexts, educators should be aware that ADHD can impact a student’s access to a program at the preschool and postsecondary levels, and educators have obligations under Federal disability civil rights laws to these students as well. Section 504 obligations to preschool and postsecondary students with ADHD are not the same as the obligations to elementary or secondary school students with ADHD. 34 C.F.R. § 104.38 (preschool education) and 34 C.F.R. §§ 104.41-47 (postsecondary education).

Students with ADHD and Section 504: A Resource Guide



U.S. Department of Education
Office for Civil Rights
July 2016

400 MARYLAND AVE. S.W., WASHINGTON, DC 20202-1100
www.ed.gov

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

U.S. Department of Education
Office for Civil Rights
Catherine E. Lhamon
Assistant Secretary

July 2016

This resource guide is in the public domain. Authorization to reproduce it in whole or in part is granted. The guide's citation should be:

U.S. Department of Education, Office for Civil Rights, *Students with ADHD and Section 504: A Resource Guide* (July 2016).

This guide is also available on the Office for Civil Rights' website at <http://www.ed.gov/ocr>. Any updates to this guide will be available at this website.

If you need technical assistance, please contact the OCR regional office serving your State or Territory by:

- visiting <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>, or
- calling OCR's Customer Service Team at 1 800-421-3481; TDD 1-800-877-8339; or
- emailing OCR at ocr@ed.gov.

Availability of Alternate Formats: Requests for documents in alternate formats such as Braille or large print should be submitted to the Alternate Format Center by calling 202-260-0852 or by contacting the U.S. Department of Education's Section 508 Coordinator via email at om_eos@ed.gov.

Notice of Significant Guidance. The U.S. Department of Education (Department) has determined that this Resource Guide and the accompanying letter are significant guidance under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007). www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-07.pdf. Significant guidance is non-binding and does not create or impose new legal requirements.

The Department is issuing this guide and the accompanying letter to provide State and local educational agencies, including charter schools, with information to assist them in meeting their obligations under Federal civil rights laws, including Section 504 of the Rehabilitation Act of 1973, and implementing regulations that it enforces. 29 U.S.C. § 794; 34 C.F.R. Part 104. This Resource Guide and letter also provides members of the public with information about their rights under the law and regulations.

If you are interested in commenting on this guide or letter, or have questions, please send them to OCR by email at OCR@ed.gov, by phone at 800-421-3481 (TDD 800-877-8339), or by mail to the Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. For further information about the Department's guidance processes, please visit www.ed.gov/policy/gen/guid/significant-guidance.html.

TABLE OF CONTENTS

A. Federal Disability Laws	1
SECTION 504 OF THE REHABILITATION ACT	2
THE AMERICANS WITH DISABILITIES ACT AMENDMENTS ACT	5
INDIVIDUALS WITH DISABILITIES EDUCATION ACT	6
B. The Obligation to Identify, Evaluate, and Make Placement Determinations about Disability and Needed Services under Section 504	9
WHEN MUST A SCHOOL DISTRICT CONDUCT AN EVALUATION?	9
<i>Intervention Strategies Must Not Deny or Delay Evaluation of Students Suspected of Having a Disability</i>	15
<i>Summary</i> —School Districts’ Obligation to Identify and Evaluate Students with Disabilities	18
WHAT ARE THE STEPS IN CONDUCTING AN EVALUATION AND DETERMINING PLACEMENT UNDER SECTION 504?	19
<i>First Question: Does the student have a disability?</i>	20
Cautions for School Districts in the Section 504 Evaluation Process	20
School Districts Cannot Consider the Ameliorative Effects of Mitigating Measures When Determining Substantial Limitation.....	21
Medical Assessments Could Be Necessary to Conduct the Evaluation	23
<i>Summary</i> —Conducting Evaluations for Students with ADHD to Determine Whether the Student Has a Disability	24
<i>Second Question: Placement determination under Section 504: Does the student need regular or special education, related aids and services, or supplementary aids and services?</i>	25
<i>Summary</i> —Placement Determinations for Students with ADHD	29
C. Section 504 Due Process (Procedural Safeguards) Protections for Students with Disabilities and Their Parents	30
<i>Summary</i> —School Districts Must Provide Parents and Students with Procedural Safeguards.....	32
D. Looking Toward the Future	33
E. Appendix	34
DEPARTMENTAL RESOURCES	34
OTHER RESOURCES.....	35

A. Federal Disability Laws

The U.S. Department of Education’s (Department’s) Office for Civil Rights (OCR) enforces Federal laws protecting the rights of students facing discrimination on the bases of race, color, national origin, sex, age, and disability.

OCR has enforcement responsibilities to resolve complaints and conduct compliance reviews involving disability discrimination under two Federal anti-discrimination laws: (1) Section 504 of the Rehabilitation Act of 1973 (Section 504);¹ and (2) Title II of the Americans with Disabilities Act of 1990 (Title II).²

The Individuals with Disabilities Education Act (IDEA) requires States and school districts to ensure that eligible students with disabilities receive appropriate special education and related services at no cost to the parents,³ which is referred to as a free appropriate public education (FAPE) under the IDEA.⁴ These students may include those with attention-deficit/hyperactivity disorder (ADHD).⁵ OCR does not administer or enforce the IDEA. The Office of Special Education Programs (OSEP) in the Department’s Office of Special Education and Rehabilitative Services (OSERS) administers the IDEA. For information about the IDEA, please see <http://idea.ed.gov> and <http://www.ed.gov/osers/osep/index.html>. While the IDEA is the primary vehicle for identifying, evaluating, and educating students with disabilities who need special education and related services, the focus of this document is on the civil rights requirements of Section 504 as set out in the Department’s Section 504 implementing regulations at 34 C.F.R. Part 104.

Below are summaries of these three laws.

¹ 29 U.S.C. § 794, and its implementing regulation, at 34 C.F.R. Part 104.

² 42 U.S.C. §§ 12131-12134, and its implementing regulation at 28 C.F.R. part 35. For general information about the ADA, please see <https://www.ada.gov/>.

³ In this document, “parent” also includes “guardian” or “guardians.”

⁴ 20 U.S.C. §§ 1400-1482. The statutory authority for Part B of the IDEA is 20 U.S.C. §§ 1401, 1411-1419, and its implementing regulations are at 34 C.F.R. part 300. FAPE is a statutory term defined in Part B of IDEA in 20 U.S.C. § 1401(9) and the Department’s regulation in 34 C.F.R. § 300.17. The Department’s Section 504 implementing regulation also uses the phrase “free appropriate public education,” as discussed below under the heading “Section 504 of the Rehabilitation Act.”

⁵ ADHD includes: predominantly inattentive type, predominantly hyperactive-impulsive type, and combined type (where symptoms of the first two types are equally present) Centers for Disease Control and Prevention (CDC), *Attention-Deficit/Hyperactivity Disorder (ADHD), Facts About ADHD*, (updated April 2016) (“CDC Facts About ADHD”), <http://www.cdc.gov/ncbddd/adhd/facts.html>.

Section 504 of the Rehabilitation Act⁶

Section 504 prohibits discrimination on the basis of disability in programs or activities receiving Federal financial assistance, including school districts.⁷ (In this document, “school district” and “public elementary and secondary school systems” are used synonymously and include all local educational agencies (LEAs) and charter schools.)⁸

The definition of disability is the same under both Title II and Section 504. Under these laws, a person (including a student) with a disability is one who meets any of the following criteria:

- has a physical or mental impairment that substantially limits one or more major life activities;
- has a record of such an impairment; or
- is regarded as having such an impairment.⁹

Some examples of a major life activity that could be substantially limited by ADHD include concentrating, reading, thinking, and functions of the brain.¹⁰

⁶ For further discussion of these laws, please visit OCR’s website, at <http://www.ed.gov/policy/rights/guid/ocr/disability.html>.

⁷ Title II prohibits discrimination on the basis of disability by public entities, including public elementary and secondary school systems, regardless of receipt of Federal financial assistance. In the education context, OCR shares enforcement responsibility for Title II with the U.S. Department of Justice. 28 C.F.R. § 35.190(b)(2). Although this document primarily addresses Section 504 obligations, violations of Section 504 that result from a school district’s failure to meet the obligations identified in this letter also constitute violations of Title II. 42 U.S.C. § 12201(a). To the extent that Title II provides greater protection than Section 504, covered entities must comply with Title II’s requirements, see, e.g., *Guidance on Effective Communication for Students with Hearing, Vision, or Speech Disabilities in Public Elementary and Secondary Schools* (Nov. 12, 2014), <http://www.ed.gov/about/offices/list/ocr/letters/colleague-effective-communication-201411.pdf>. A discussion of any such additional requirements is beyond the scope of this guidance.

The requirements of Section 504 regarding the provision of FAPE also apply to any juvenile justice facility that receives federal financial assistance from the Department of Education, and the requirements of Title II apply to any juvenile justice facility that is a program or activity of a state or local government. See OCR and Department of Justice Civil Rights Division, *Dear Colleague Letter: Civil Rights in Juvenile Justice Residential Facilities* (Dec. 8, 2014), <http://www.ed.gov/policy/gen/guid/correctional-education/cr-letter.pdf>. For more information on Title II, please visit <https://www.ada.gov/>.

⁸ Charter schools are subject to the same Federal civil rights obligations as all other public schools. “Charter schools” includes schools that are public schools of a school district as well as charter schools that operate as LEAs under State law. For additional information about the applicability of Federal civil rights laws to charter schools, see OCR, *Dear Colleague Letter: Charter Schools* (May 14, 2014), <http://www.ed.gov/ocr/letters/colleague-201405-charter.pdf>.

⁹ 29 U.S.C. § 705(20)(B); 34 C.F.R. § 104.3(j). Those who are eligible for coverage under the “regarded as” prong of the disability definition are not entitled to FAPE under Section 504 (because they do not actually have a substantially limiting impairment), cf. 42 U.S.C. § 12201(h), but they are still protected by Section 504’s general nondiscrimination provisions, including protection from disability-based harassment, and retaliation.

¹⁰ 42 U.S.C. § 12102.

It is important to remember that an impairment that substantially limits any major life activity, not just a major life activity related to learning or school, would be considered a disability under Section 504.

Section 504 provides a broad spectrum of protections against discrimination on the basis of disability, including one key aspect on which this guidance focuses: the right to a free, appropriate public education (FAPE). All elementary and secondary school students who are individuals with disabilities as defined by Section 504 and need FAPE are entitled to FAPE.

Under Section 504, FAPE is the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met and that satisfy certain procedural requirements related to educational setting, evaluation and placement, and procedural safeguards.¹¹

(See pages 9 and 30 for further discussion of evaluation and placement, and procedural safeguards.)

An individualized education program (IEP) developed and implemented in accordance with the IDEA is one means of meeting the Section 504 FAPE standard.¹²

¹¹ 34 C.F.R. § 104.33.

¹² 34 C.F.R. § 104.33(b)(2). As used in the IDEA Part B regulations in 34 C.F.R. part 300, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with 34 C.F.R. §§ 300.320 through 300.324, and that must include: a statement of the child's present levels of academic achievement and functional performance; a statement of measurable annual goals, including academic and functional goals; for children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives; a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided; a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16) of the IDEA; and if the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why the child cannot participate in the regular assessment and why the particular alternate assessment selected is appropriate for the child. 34 C.F.R. § 300.320(a); 20 U.S.C. § 1414(d)(1)(A)(i). *See* <http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CTopicalBrief%2C10%2C>.

Section 504 also requires that a student with a disability be educated with students without disabilities to the maximum extent appropriate to the needs of the student with the disability and that a student with a disability be educated in the regular education setting unless the district can demonstrate that the education of that student in the regular educational environment with the use of supplementary aids and services cannot be achieved satisfactorily.¹³

Though not explicitly required by the Department’s Section 504 regulations, school districts often document the elements of an individual student’s FAPE under Section 504 in a document, typically referred to as a “Section 504 Plan.” While there is no specific Section 504 requirement for such a plan or what the plan should contain, a Section 504 Plan often includes the regular or special education and related aids and services a student needs, and the appropriate setting in which the student should receive those services, also called the student’s “placement.” A written plan is often a useful way to document that the school district engaged in a process to identify and address the needs of a student with disabilities and to communicate, to school personnel, the information needed for successful implementation. A Section 504 Plan for a student with ADHD, for example, could include behavioral interventions, assistance with organization, and additional time to complete assignments or tests.

If a student has a written Section 504 Plan, it is vital that teachers and appropriate staff have access to it so that the plan is implemented consistently. In OCR’s experience, the failure to ensure appropriate access to that plan or otherwise inform staff of their specific responsibilities under Section 504 for a particular student often results in a failure to provide FAPE and equal educational opportunity.

Section 504 also requires that any placement decisions about a student with a disability be made by a group that includes persons knowledgeable about the student, the meaning of the evaluation data, and placement options, and this group is often referred to as a “Section 504 team.”¹⁴ It is helpful if that group includes a school district or agency representative who can ensure the district provides, or is able to provide, all services that are identified as necessary. The absence of such a representative on the Section 504 team could result in a denial of FAPE if the Section 504 team determines certain services are necessary and the district is unable to provide them. Such a determination would depend on the particular facts and circumstances.

¹³ 34 C.F.R. § 104.34.

¹⁴ 34 C.F.R. § 104.35(c)(3). Parents could be an important source of information to the school district about what techniques, interventions, services and supports would be most effective in meeting that student’s needs.

The Americans with Disabilities Act Amendments Act

In the Americans with Disabilities Act Amendments Act of 2008 (Amendments Act), which amended both the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, Congress directed that the definition of disability be construed broadly and that the determination of whether an individual has a disability not demand extensive analysis.¹⁵ (The Amendments Act did not alter or affect the administration of the IDEA.)

The Amendments Act materially broadened the interpretation of the terms that define disability in two ways of particular significance for students with ADHD.¹⁶ First, it expanded the list of examples of major life activities by adding, among other things, concentrating, reading, thinking, and functions of the brain.¹⁷

Second, the Amendments Act stated that mitigating measures shall not be considered in determining whether an individual has a disability. Mitigating measures include, for example, medications, coping strategies, and adaptive neurological modifications that an individual could use to eliminate or reduce the effects of an impairment.¹⁸

School districts cannot consider the ameliorative effects of mitigating measures when determining how the impairment impacts the major life activities under consideration.¹⁹ The impact, therefore, of a student's ADHD on a given major life activity, such as concentrating or thinking, must be considered in the student's unmitigated state to determine whether a substantial limitation exists. For example, if a student requires medication to address an impairment, the ameliorative effects of the medication cannot be considered when evaluating the student for a disability.²⁰ (See page 9 for further discussion of the evaluation process.)

¹⁵ ADA Amendments Act of 2008, Pub. L. No. 110-325, § 2, 122 Stat. 3554 (2008).

¹⁶ For a more detailed discussion of the Amendments Act and its effects upon the disability laws OCR enforces, please see OCR, *Dear Colleague Letter* (Jan. 19, 2012), <http://www.ed.gov/ocr/letters/colleague-201109.html>. See also OCR, *Questions and Answers on the ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools* (Jan. 19, 2012), <http://www.ed.gov/ocr/docs/dcl-504faq-201109.html>.

¹⁷ 42 U.S.C. § 12102(2).

¹⁸ Amendments Act § 4(a) (codified as amended at 42 U.S.C. § 12102) (“The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as— (I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies; (II) use of assistive technology; (III) reasonable accommodations or auxiliary aids or services; or (IV) learned behavioral or adaptive neurological modifications.”).

¹⁹ *Id.*

²⁰ Section 504 does not require that a student stop taking needed medication in order to receive an evaluation for disability and need for special education or related services.

Individuals with Disabilities Education Act

Part B of the IDEA²¹ provides Federal funds to State educational agencies, and through them to eligible LEAs, to assist in providing special education and related services to eligible students with disabilities.²²

States receiving IDEA funds must ensure that school districts locate, identify, and evaluate students who are suspected of having disabilities as defined by the IDEA and who need special education and related services.²³

Each eligible student must have an IEP, developed by an IEP Team that includes school officials and the student's parents, and whenever appropriate, the student. An IEP must include, among other things, a statement of annual goals, including academic and functional goals, and the special education and related services, and supplementary aids and services that the school district will provide to the student, and the program modifications or supports for school personnel, to enable the student to advance appropriately toward attaining his or her annual IEP goals and to be involved, and make progress in the general education curriculum, and to participate in extracurricular and other nonacademic activities.²⁴

Implementation of an IEP, developed in accordance with the IDEA, is one means of meeting the FAPE standard under Section 504.²⁵

²¹ 20 U.S.C. §§ 1401, 1411-1419; 34 C.F.R. part 300. The IDEA does not restrict or limit the rights, procedures, and remedies available under the U.S. Constitution, the ADA, Section 504, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under those laws seeking relief that is also available under the IDEA, IDEA's administrative due process procedures in subsections (f) and (g) of 20 U.S.C. § 1415 must be exhausted to the same extent as would be required had the action been brought under IDEA. 20 U.S.C. § 1415(l).

²² Under the IDEA, a child must be evaluated, subject to parental consent, in accordance with 34 C.F.R. §§ 300.304 through 300.311 and found to have a disability and to need special education and related services because of that disability. The IDEA includes 13 disability categories: autism, deaf-blindness, deafness, emotional disturbance, hearing impairment, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment including blindness. 20 U.S.C. § 1401(3) and 34 C.F.R. § 300.8. Although a child's need for special education is a critical part of IDEA's definition of "child with a disability" and thus a child's entitlement to FAPE under IDEA, a child who has an impairment listed in the IDEA can be considered a child with a disability if the child needs a related service that consists of specially designed instruction that is considered special education rather than a related service under State standards. 34 C.F.R. § 300.8(a)(2)(ii).

²³ 34 C.F.R. § 300.111.

²⁴ 34 C.F.R. § 300.320(a).

²⁵ 34 C.F.R. § 104.33(b)(2).

School districts also must ensure that FAPE, under the IDEA, is provided to all eligible students with disabilities in the least restrictive environment (LRE). LRE means that, to the maximum extent appropriate, students with disabilities are educated with students without disabilities, and removal of students with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a student is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.²⁶

In general, students with ADHD may be eligible for special education and related services under the IDEA if, following an evaluation that meets the requirements set forth in the IDEA regulations, they meet the criteria applicable to one or more specific disability categories, and if they need special education and related services because of their disability. (As noted in footnote 22, a student can still be determined to be a child with a disability under IDEA if the student needs only a related service, if it consists of specially designed instruction and is considered special education, rather than a related service, under applicable State standards.)

Under the IDEA Part B regulations, a student may be eligible under the category *other health impairment* if the student has limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment due to a chronic or acute health problem that adversely affects the student's educational performance. IDEA's regulatory definition of "other health impairment" was specifically amended in 1999 to include ADHD as an example of a chronic or acute health problem that could be found to adversely affect a child's educational performance.²⁷

Eligibility under the IDEA for a student with ADHD is not limited, however, to the *other health impairment* category. For example, students with ADHD can be eligible for services under the *specific learning disability* or *emotional disturbance* categories if they meet the criteria applicable to those categories set forth in the IDEA regulations.²⁸

²⁶ 34 C.F.R. §§ 300.114-117.

²⁷ 34 C.F.R. § 300.8(c)(9).

²⁸ 34 C.F.R. §§ 300.8(c)(4), (10). See also U.S. Department of Education, Office of Special Education and Rehabilitative Services, Office of Special Education Programs, *Identifying and Treating Attention Deficit Hyperactivity Disorder: A Resource for School and Home*, Washington, D.C., (Aug. 2008) ("OSEP ADHD Resource"), 5, <http://www2.ed.gov/rschstat/research/pubs/adhd/adhd-identifying.html>.

Finding a student with ADHD ineligible for special education under the IDEA, however, does not relieve the school district of its obligation to evaluate the student, as appropriate, under Section 504.

If a student is evaluated for the provision of services under the IDEA and is found ineligible because he or she does not need special education and related services because of the disability, the school district must still consider if the student could be covered by Section 504.

This means the school district must determine whether or not the student has a disability for which he or she still might need regular education and related aids and services in order to receive FAPE under Section 504.²⁹ This determination could require an evaluation under Section 504.³⁰

The remainder of this Resource Guide discusses how schools must identify, evaluate, make placement determinations about students with ADHD, and otherwise ensure nondiscrimination under Section 504.

²⁹ 34 C.F.R. §§ 104.33(b), 104.35.

³⁰ In some circumstances, the IDEA evaluation process may provide the school district with the necessary information, required by Section 504, to determine whether or not a student has a disability, and whether that student needs related aids and services or supplementary aids and services in the regular education environment because of that disability.

B. The Obligation to Identify, Evaluate, and Make Placement Determinations about Disability and Needed Services under Section 504

When Must a School District Conduct an Evaluation?

Under Section 504, a school district must identify, locate, and conduct a free evaluation of any student who because of a disability “needs or is believed to need” special education or related services.³¹ This obligation may be more commonly known as “Child Find.”³² A school district must conduct an individual evaluation:

- before taking any action with respect to the student’s initial placement; and
- before making any subsequent significant change in placement.

Here, and as used elsewhere in this document, placement means whatever regular or special education, related aids and services, or supplementary aids and services the student needs and the appropriate setting in which the student is to receive those services.³³

³¹ 34 C.F.R. §§ 104.32, 104.35(a).

³² “Child find” is a concept derived from the IDEA. 20 U.S.C. § 1412(a)(3); 34 C.F.R. § 300.111.

³³ 34 C.F.R. § 104.35(c)(4) (requiring that the placement decision is made in conformity with § 104.34, concerning educational setting).

According to the Centers for Disease Control and Prevention (CDC), there are three different types of ADHD, which are categorized depending on which symptoms are strongest.³⁴

- (1) **predominantly inattentive type;**
- (2) **predominantly hyperactive-impulsive type;** and
- (3) **combined type** (where symptoms of the first two types are equally present).³⁵

Every type of ADHD affects the functioning of the parts of the brain related to thinking, concentrating, and planning. A determination that a student has any type of ADHD, therefore, is a determination that a student has an impairment for purposes of meeting one of the prongs of Section 504's definition of disability.³⁶

Further, a diagnosis of ADHD is evidence that a student may have a disability.³⁷ OCR will presume, unless there is evidence to the contrary, that a student with a diagnosis of ADHD is substantially limited in one or more major life activities.³⁸

If district staff perceive or receive information to lead them to suspect that a student has a disability – for example, that a student has ADHD and needs or is believed to need special education or related aids and services in addition to regular education³⁹ – the school district must evaluate to determine if the impairment substantially limits that student in a major life activity.⁴⁰

In the context of students with ADHD, it is important that school districts consider conducting an evaluation when students demonstrate to teachers or parents signs of needing special education or related aids and services to meet their individual educational needs as adequately as the needs of their nondisabled peers are met.

³⁴ CDC Facts About ADHD.

³⁵ *Id.*

³⁶ *Id.*

³⁷ “Diagnosis of ADHD requires a comprehensive evaluation by a licensed clinician, such as a pediatrician, psychologist, or psychiatrist with expertise in ADHD.” National Institutes of Mental Health (NIMH publication), Attention Deficit Hyperactivity Disorder (Revised Mar. 2016), http://www.nimh.nih.gov/health/topics/attention-deficit-hyperactivity-disorder-adhd/index.shtml#part_145448. For more information, see discussion on Medical Assessments, at page 23 of this Resource Guide.

³⁸ As noted above, since the enactment of the Amendments Act, the question of whether an individual's impairment is a disability should not demand extensive analysis as the law requires broad coverage.

³⁹ For further discussion of factors that may indicate a student needs special education or related aids and services, please see footnote 41 and the associated text.

⁴⁰ 34 C.F.R. § 104.35.

Such signs may be:

- considerable restlessness or inattention inappropriate for their age and grade level;
- trouble organizing tasks and activities; or
- communication or social skill deficits.⁴¹

No particular combination of the above is necessary for an evaluation to be required. For example, a school district must evaluate a student if it believes the student has a disability and believes the student needs special education or related services as a result of that disability, even if the student only exhibits behavioral (and not academic) challenges.

For example, those students who have a high number of discipline referrals, as compared to their peers, for incidents such as disruptions in class, could also be students with a disability in need of services.

Some students, due to their unaddressed disability-related needs, may engage in behaviors that do not conform to school codes of conduct.

These and other indications that the student's behavior is out of the expected range of behaviors of students that age could trigger a school district's obligation to evaluate under Section 504.

School districts should also consider conducting evaluations when students demonstrate significant difficulty related to beginning a task, organizing and recalling information, and completing assignments such as homework and multi-step class projects.

An evaluation can also identify other coexisting disorders, such as depression or anxiety, which may be related to the ADHD and impact the kinds of services a student needs.⁴² Some disorders may be hidden by the symptoms of ADHD, or vice versa.

⁴¹ A student with ADHD might also exhibit the following behaviors, to a greater extent than expected for his or her age and grade level: excessive daydreaming; distracting oneself by socializing to the degree that doing so prevents, or significantly interferes with, completing work; inability to stay still or stay in a seat; recurring difficulties in organizing, or inability to follow through on instructions and failing to finish schoolwork; repeatedly missing details or having difficulty processing information as quickly or accurately as expected for his or her age and grade level; repeatedly losing things; routinely interrupting conversations or other activities. See CDC Facts About ADHD, <http://www.cdc.gov/ncbddd/adhd/facts.html>.

⁴² Research estimates that students with ADHD have coexisting psychiatric disorders at a much higher rate than students without ADHD. U.S. Department of Education, *Teaching Children with Attention Deficit Hyperactivity Disorder: Instructional Strategies and Practices* (Feb. 2004), www.ed.gov/teachers/needs/speced/adhd/adhd-resource-pt2.doc.

A school district, therefore, must evaluate students who are suspected of having a disability in all related or all specific areas of educational need.⁴³ For example, a student who is easily distracted and unfocused may very well be manifesting an unaddressed ADHD that indicates the need for behavioral and executive function supports to improve focus and organizational skills, such as support in organizing a task, getting started, and remaining engaged in a task. But a student could also present with ADHD and depression, which would indicate additional or different needs. Under these circumstances, an evaluation is the best means for a district to make an informed determination of the student’s individual educational needs.

Someone with ADHD may achieve a high level of academic success but may nevertheless be substantially limited in a major life activity due to his or her impairment because of the additional time or effort he or she must spend to read, write, or learn compared to others.⁴⁴ In OCR’s investigative experience, school districts sometimes rely on a student’s average, or better-than-average, grade point average (GPA) and make inappropriate decisions.

For example, a school district might erroneously assume that a student with an above-average GPA does not have a disability, or has no unaddressed needs related to the disability, and therefore fail to conduct a Section 504 evaluation of that student, even if that student is suspected of having or has been diagnosed with ADHD and receives family provided academic supports outside of school.

In passing the Amendments Act, some Members of Congress emphasized that “it is critical to reject the assumption that an individual who has performed well academically cannot be substantially limited in activities such as learning, reading, writing, thinking, or speaking.”⁴⁵

Thus, for example, when making the determination as to whether to evaluate a student suspected of having a disability under Section 504 because of ADHD, or in conducting such an evaluation, school districts should ask how difficult it is or how much time it takes for a student with ADHD, in comparison to a student without ADHD, to plan, begin, complete, and turn in an essay, term paper, homework assignment, or exam.

⁴³ Under Section 504, an evaluation must: consist of more than mere intelligence quotient (IQ) tests; and measure specific areas of educational need, such as speech processing issues, inability to concentrate, and behavioral concerns. Also, as part of the evaluation, Section 504 requires that tests are selected and administered to the student in a manner that best ensures that the test results accurately reflect the student’s aptitude or achievement or other factor being measured, rather than reflect the student’s disability, except where those are the factors being measured; that tests and other evaluation materials are validated for the specific purpose for which they are used; and that tests are appropriately administered by trained personnel. 34 C.F.R. § 104.35(b)(2)-(3).

⁴⁴ Cf. 29 C.F.R. part 1630, App. “Interpretive Guidance on Title I of the Americans With Disabilities Act” (Mar. 25, 2011) (“Equal Employment Opportunity Commission (EEOC) Interpretive Guidance”).

⁴⁵ 154 Cong. Rec. S8342, 8346 (daily ed. Sept. 11, 2008) (statement of the Managers to Accompany S. 3406, The Americans with Disabilities Act Amendments Act of 2008).

The failure to evaluate under Section 504 may be particularly acute for students with the inattentive-type ADHD; such students are less likely to come to the attention of school district personnel because they are less likely to engage in impulsive or disruptive behavior.⁴⁶ Nonetheless, their substantial functional limitations, including those pertaining to starting a task or organizing and recalling information, can present them with overwhelming challenges to learning.

School districts that are reluctant to evaluate students who exhibit behaviors consistent with inattentive-type ADHD could be doing a disservice to teachers who feel frustration about not being able to reach a generally quiet and cooperative student. These school districts could also be doing a disservice to families who are making extraordinary efforts to compensate for what is not learned in school by assisting the student and struggling nightly over homework and other assignments.

The fact that these students do not show the same impulsivity or overactivity as some other students with or without ADHD does not in any way diminish the substantial limitations that may warrant a Section 504 individual evaluation to address specific areas of educational need and any need for special education or related aids and services. Similarly, the ability of a student to hyper-focus on a particular activity, such as a computer-based assignment, may not be sufficient to confirm that the student does not have ADHD and does not have needs associated with the disorder.

The development of neutral policies – meaning policies that do not mention race, color, national origin, or sex – that specify when a Section 504 evaluation is needed, and careful evaluations that aim for objectivity, may help a school district avoid operating on the basis of making generalizations, assumptions, prejudices, or stereotypes about disability generally, or ADHD in particular. Nondiscriminatory implementation of such policies and careful, objective evaluations also help to ensure that a school district is not impermissibly relying on sex-based or racial/ethnic stereotypes.⁴⁷

⁴⁶ Arcia, E., Frank, R., Sánchez-LaCay, A., Fernández, M.C., *Teacher Understanding of ADHD As Reflected in Attributions and Classroom Strategies*, 4 J. ATTENTION DISORDERS 91, 98 (2000).

⁴⁷ Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in educational programs and activities operated by recipients of Federal financial assistance. 20 U.S.C. §§ 1681-1688; 34 C.F.R. Part 106. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color or national origin by recipients of Federal financial assistance. 42 U.S.C. §§ 2000d-2000d-7; 34 C.F.R. Part 100.

Parents can also request that the school district conduct an evaluation to determine if their child needs special education or related services because of ADHD.⁴⁸ For example, a parent might request an evaluation, if the student has received a diagnosis of ADHD outside of school, to ensure that the school is aware of the student's disorder and recognizes the ADHD as a disability under Section 504. Once the school district determines that a student has a disability under Section 504, and needs special education or related aids and services because of that disability, the school district must provide the needed instruction or services.

If a parent requests an evaluation to address a student's academic or behavioral difficulty that is the result of a suspected disability, then a district must either conduct an evaluation to determine whether the student has a disability and, because of the disability, needs special education or related services, or explain its refusal to evaluate the student to the requesting parent and notify parents of their right to dispute that decision through the due process procedures that must be made available under Section 504's implementing regulation.⁴⁹

If the school district suspects the student's needs have changed – if there is reason to believe the student's current set of regular or special education and related aids and services is not meeting his or her needs, the student's underlying disability or disabilities have changed, or the student has an additional disability – Section 504 requires that any needed changes be made promptly in order to ensure the continued provision of FAPE to that student. (The Section 504 regulations do not set a specific timeframe within which students with disabilities must be reevaluated to make sure that they are receiving the appropriate services. Section 504, however, requires reevaluations to be conducted periodically, and before a significant change in placement.)⁵⁰

⁴⁸ 34 C.F.R. Part 104, app. A (discussion of Subpart D) (enable parents or guardians to influence decisions regarding the evaluation and placement of their children.) OCR interprets Section 504 to require parental consent for the initial evaluation. OCR also urges schools to allow for parental participation when considering any change in the student's Section 504 provision of FAPE, including location of services. OCR, *Protecting Students With Disabilities: Frequently Asked Questions About Section 504 and the Education of Children with Disabilities*, Q&As 27, 41-43, <http://www2.ed.gov/ocr/504faq.html#evaluation>.

⁴⁹ 34 C.F.R. § 104.36. (See Section C for more information about due process requirements.)

⁵⁰ 34 C.F.R. §§ 104.33, 104.35.

Intervention Strategies Must Not Deny or Delay Evaluation of Students Suspected of Having a Disability

If a school district believes a student has a disability and because of the disability needs special education or related aids and services, then Section 504 requires the school district to conduct a preplacement evaluation of that student.⁵¹ School districts violate this Section 504 obligation when they deny or delay conducting an evaluation of a student when a disability, and the resulting need for special education or related services, is suspected.

As a first response to address the needs of any student experiencing challenges at school or in the classroom and prior to conducting an evaluation, many school districts choose to implement different intervention strategies, regardless of whether or not the student is suspected of having a disability. Interventions can be very effective and beneficial in addressing both academic and behavioral challenges. These intervention strategies can vary.

In OCR's experience, school districts have not generally adopted a uniform definition of what constitutes an intervention strategy, protocol, or process, and they have been described in a variety of ways, including, but not limited to: Response to Intervention (RTI);⁵² multi-tiered system of supports (MTSS); positive behavioral interventions and supports and other strategies; and referral to intervention teams.

The interventions could include informal classroom interventions, evidence-based screening and classroom interventions, such as multiple levels (tiers) of instruction that are progressively more intense, based on the student's response to instruction. Interventions could also be provided outside of the classroom or after school hours, such as after-school programs, tutoring, mentoring, or any other program a school district chooses to implement as a means to assist students.

⁵¹ 34 C.F.R. § 104.35(a).

⁵² RTI is referred to in the IDEA regulations at 34 C.F.R §§ 300.307, 300.309 and 300.311 (Procedures for Identifying Children with Specific Learning Disabilities). For further information about RTI, please see <http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C8%2C>.

The Department supports the use of an evidence-based⁵³ system of interventions to help a school district identify and address learning and behavioral challenges in its students at the earliest opportunity, improving student achievement and reducing behavioral problems whether or not they are related to a disability.⁵⁴

When a school district is considering employing a targeted or intensive intervention under the school district's intervention strategy for a particular student, it should ensure that any intervention used is designed to address the particular behavior, the obstacles to accomplishing schoolwork, or the underachievement in question.

For example, an intervention designed to address focus, such as seating a student in the front of the classroom, may be of little or no value in improving homework tardiness, or peer interactions during recess.

Implementing an intervention strategy and evaluating for a disability do not have to occur sequentially, but could be implemented at the same time, as parallel responses in an attempt to identify and address a student's needs. Interventions could be implemented while a student is being evaluated, and information gathered during the intervention protocol could be useful in the evaluation process.⁵⁵

If a student continues to experience academic or behavioral problems, even after the implementation of intervention strategies, this may indicate that the student has a disability (substantial limitation of a major life activity) and that because of the disability he or she needs special education or related aids and services. School districts are in a better position to comply with their Section 504 obligations if they consider this evidence within a reasonable period of time in determining whether a Section 504 evaluation could be necessary.

⁵³ The term "evidence-based" means an activity, strategy, or intervention that demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on evidence; or demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes; and includes ongoing efforts to examine the effects of such activity, strategy, or intervention. *See* Every Student Succeeds Act, Pub. L. No. 114-95, Section 8108(21) (2015).

⁵⁴ Memorandum from the Director of U.S. Department of Education's Office of Special Education Programs to State Directors of Special Education, *A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA)* (Jan. 21, 2011), (OSEP Memorandum), <http://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/osep11-07rtimemo.pdf>.

⁵⁵ The interventions also can be implemented as part of the school district's overall preplacement evaluation of the student, so long as the interventions yield data that satisfy the Section 504 regulation concerning evaluation materials, and do not delay the completion of the evaluation. 34 C.F.R. § 104.35(b). Once a student has been identified as having a disability, the school must then determine what, if any, regular or special education and related aids and services the student needs because of the disability. If the Section 504 team believes an intervention strategy would be effective in addressing the student's needs, then the district could consider including those interventions as part of the student's Section 504 Plan.

If the district suspects that a student has a disability and because of the disability needs special education or related aids and services, it would be a violation of Section 504 to delay the evaluation in order to first implement an intervention that is unrelated to the evaluation, or to determining the need for special education or related aids and services.⁵⁶

In OCR's experience, school districts run afoul of the Section 504 obligation to evaluate for disability and need for special education or related services when they:

- 1) rigidly insist on first implementing interventions before conducting an evaluation, or that each tier of a multi-tiered model of intervention must be implemented first, regardless of whether or not a disability is suspected and there are needs based on the disability; or
- 2) categorically require that data from an intervention strategy must be collected and incorporated as a necessary element of an evaluation.

It is important that school districts appropriately train their teachers and staff to identify academic and behavioral challenges that may be due to a disability so a student is referred for an evaluation under Section 504, if needed.

Once a school district believes a student has a disability and needs special education or related services because of that disability, it must evaluate the existence of a disability by considering whether the student is substantially limited in his or her unmitigated state. This means, for example, that the school district cannot consider the ameliorative effects of any mitigating measures, for instance the ameliorative effects of the school district's intervention strategies, such as improved grades resulting from peer-tutoring in math, in determining whether the student has a disability but could consider them in determining the individual educational needs.⁵⁷

⁵⁶ 34 C.F.R. § 104.35. Similarly, school districts must not use the intervention system to delay or fail to make a decision to grant or refuse a parent's or teacher's request for an evaluation of a student under the IDEA. *See* OSEP Memorandum, p. 2.

⁵⁷ 42 U.S.C. § 12102 (reasonable accommodations or auxiliary aids are examples of mitigating measures). It should not be necessary to suspend mitigating measures (including any ameliorative intervention strategies) in order to evaluate what the condition of the student would be in his or her unmitigated state.

Summary—School Districts’ Obligation to Identify and Evaluate Students with Disabilities

- Section 504 requires a school district to identify and conduct an evaluation of any student who needs or is believed to need special education or related services because of a disability.
- A school district must evaluate students who are suspected of having any kind of disability in all specific or all related areas of educational need, even if the students do not fit into one suspected disability category or fit into multiple disability categories.
- Students who achieve satisfactory, or even demonstrate above-average, academic performance may still have a disability that substantially limits a major life activity and be eligible for special education or related aids and services because the school district is not meeting their needs as adequately as the needs of nondisabled students are met.
- Implementation of intervention strategies, such as interventions contained within a school’s RTI program, must not be used to delay or deny the Section 504 evaluation of a student suspected of having a disability and needing regular or special education and related aids and services as a result of that disability.⁵⁸

⁵⁸ 34 C.F.R. §§ 104.33(b), 104.35(a).

What Are the Steps in Conducting an Evaluation and Determining Placement Under Section 504?

Generally, the evaluation and placement determinations regarding whether a student is eligible to receive services under Section 504 must address two questions:

- (1) Does the student have a disability under Section 504?
- (2) If so, does the student need regular or special education under Section 504, related aids and services, or supplementary aids and services because of the disability, and in what setting should the student receive them?

In interpreting evaluation data and in making placement decisions concerning students who have ADHD, school districts must gather and analyze information from a variety of sources, which can include “aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.”⁵⁹ Additionally, school districts could discover necessary and helpful information from the student, the student’s parents and caregivers, teachers, and other professionals, such as psychologists and physicians. Although the district could request relevant information from parents, the district cannot require the parent to provide certain data or information before conducting an evaluation.⁶⁰ It is the district’s obligation to evaluate; it cannot shift the burden of that cost or obligation onto the parent.⁶¹

Remember, post-Amendments Act, the definition of disability is to be construed broadly and the determination of whether an individual has a disability should not demand extensive analysis.

⁵⁹ 34 C.F.R. § 104.35(c). Medical information can help inform the school about the student’s physical condition.

⁶⁰ Please see footnote 48 for further information about parental consent under Section 504.

⁶¹ 34 C.F.R. § 104.35.

First Question: Does the student have a disability?

Cautions for School Districts in the Section 504 Evaluation Process

A student has a disability under Section 504 if a major life activity is substantially limited by his or her impairment.

Nothing in Section 504 limits coverage or protection to those whose impairments concern learning.

A number of major life activities should be considered in determining whether a student has a disability within the meaning of Section 504, including, for example, thinking, reading, concentrating, or neurological or brain functions.

OCR has learned that some school districts mistakenly believe that the major life activity of learning must be substantially limited in order for a student to be eligible for FAPE services under Section 504, and that no other major life activity is relevant in the evaluation process.

A student's ability to learn may certainly be substantially limited by ADHD, but that is not the only way a student could be considered to have a disability and be eligible for services under Section 504. For example, one student with ADHD may be substantially limited in the ability to learn, but another student with ADHD may be substantially limited in the ability to concentrate.

In addition, because of the individualized nature of evaluations, school districts must be sure not to act on the basis of stereotypes or generalizations about the nature of ADHD in general, or its incidence in particular groups. While research has shown that boys are more likely than girls to have ever been diagnosed with ADHD (13.2 percent of boys were diagnosed with ADHD as opposed to 5.6 percent of girls),⁶² and that black and Hispanic children are less likely to be diagnosed with ADHD than white children,⁶³ a school district could inappropriately ignore the incidence of ADHD in girls, or in students of color, if it makes assumptions about sex, race or ethnicity.⁶⁴ More importantly, in acting upon such assumptions, school districts put such students at risk of delayed referral for evaluation, which would violate Section 504.

⁶² OSEP ADHD Resource, 2. See also CDC, *Key Findings: Trends in the Parent-Report of Health Care Provider-Diagnosed and Medicated ADHD: United States, 2003–2011*, <http://www.cdc.gov/ncbddd/adhd/features/key-findings-adhd72013.html>.

⁶³ Paul L. Morgan, et al., *Racial and Ethnic Disparities in ADHD Diagnosis From Kindergarten to Eighth Grade*, PEDIATRICS, June 24, 2013, <http://pediatrics.aappublications.org/content/pediatrics/early/2013/06/19/peds.2012-2390.full.pdf>.

⁶⁴ This would be a violation of Title IX and Title VI, as well. See footnote 47.

School Districts Cannot Consider the Ameliorative Effects of Mitigating Measures When Determining Substantial Limitation

When a school district suspects a student has ADHD and conducts an evaluation to determine disability, it must consider the student, in an unmitigated state, both in and out of school.⁶⁵ A student might not exhibit serious academic or behavioral challenges at school – perhaps due to self-management skills, or medication of which the school district may or may not be aware, or the nature of the impairment – but, in other settings, or later in the day, the limitations become more apparent and substantial.

As noted above, if the student is taking medication, the school district cannot consider any ameliorative effects of that medication, or any other mitigating measure, when evaluating whether the student is substantially limited in a major life activity.

Evidence showing that an impairment would be substantially limiting in the absence of the ameliorative effects of mitigating measures, e.g., medication, could include evidence of limitations that a person experienced prior to using a mitigating measure, or evidence concerning the expected course of a particular disorder absent mitigating measures. This is why it is also beneficial to involve the parent in the evaluation process, as parents would be an excellent resource to provide such evidence.

A student's use of mitigating measures can treat the impairment, thereby obscuring the substantial limitations of the impairment. In OCR's experience, school districts have sometimes discounted off-campus, but school-related, activities that a student engaged in to mitigate the effects of his or her ADHD. For example, a student with ADHD might take extra time to complete one homework assignment because it takes the student longer to employ the strategies developed over time to break down a study question, conduct the research, and write an essay. Even though that student may be timely in turning in homework assignments, she or he may still be substantially limited in a major life activity, such as thinking or organizing, because of ADHD. In fact, the student's use of those mitigating measures could be an indication to the school district that the student may have a disability.⁶⁶

⁶⁵ 29 U.S.C. §§ 705(20), 794.

⁶⁶ The *non*-ameliorative effects of mitigating measures, such as negative side effects of medication or burdens associated with following a particular treatment regimen, may be considered when determining whether an individual's impairment substantially limits a major life activity.

A student with ADHD may perform a major life activity in a different condition, manner, or amount of time than a student without ADHD.⁶⁷ This can explain why students who make satisfactory academic progress and are achieving good grades in academically rigorous classes may still have a disability and could be eligible for special education or related services.

School districts should not assume that a student’s academic success necessarily means that the student is not substantially limited in a major life activity and, therefore, is not a person with a disability.

A student may receive good grades, but only as a result of having extra time on exams, or receiving help at home in completing assignments, or studying for extraordinarily long periods of time.⁶⁸ The student’s need for these mitigating measures could be evidence that the student has a substantially limiting impairment.

Remember, a student with ADHD is a person with a disability if, in an unmitigated state, he or she has a physical or mental impairment that substantially limits a major life activity, has a record of such an impairment, or is regarded as having such an impairment.

If the student has a disability, but does not need any special education or related aids or services from the school district, e.g., the student is taking medication that adequately treats the student’s ADHD, the school district is not required to provide aids or services. But, the student is still a person with a disability (that is, still has an impairment that substantially limits a major life activity), and so is protected by Section 504’s general nondiscrimination prohibitions and Title II’s statutory and regulatory requirements.⁶⁹

⁶⁷ “Condition, manner, or duration may also suggest the amount of time or effort an individual has to expend when performing a major life activity because of the effects of an impairment, even if the individual is able to achieve the same or similar result as someone without the impairment. For this reason ... the outcome an individual with a disability is able to achieve is not determinative of whether he or she is substantially limited in a major life activity.” (EEOC Interpretive Guidance).

⁶⁸ This concept, which has been explicitly stated by the EEOC concerning individuals with learning disabilities, applies with equal force to individuals with ADHD. “Individuals diagnosed with dyslexia or other learning disabilities will typically be substantially limited in performing activities such as learning, reading, and thinking when compared to most people in the general population, particularly when the ameliorative effects of mitigating measures, including therapies, learned behavioral or adaptive neurological modifications, assistive devices (e.g., audio recordings, screen reading devices, voice activated software), studying longer, or receiving more time to take a test, are disregarded as required under the ADA Amendments Act.” EEOC Interpretive Guidance; *see also* H.R. Rep. No. 110-730, p. 1, at 15 (2008). While the EEOC enforces Title I of the ADA, which prohibits disability discrimination in employment, all of the titles of the ADA have the same definition of disability.

⁶⁹ 34 C.F.R. §§ 104.4(b), 104.21-23, 104.37, 104.61 (incorporating 34 C.F.R. § 100.7(e)); 28 C.F.R. § 35.130(b).

Medical Assessments Could Be Necessary to Conduct the Evaluation

Another issue school districts should consider in evaluating students with ADHD is the need for a medical assessment.

For example, a parent might request the school district conduct a Section 504 individual evaluation of his or her child without having a prior diagnosis of any disorder. If a school district determines, based on the facts and circumstances of the individual case, that a medical assessment is necessary to conduct a Section 504 individual evaluation in order to determine whether a child suspected of having ADHD has a disability under Section 504 and, therefore, needs special education or related services,⁷⁰ the school district must ensure that the student receives this assessment at no cost to the student's parents.⁷¹

Note, there is nothing in Section 504 that requires a medical assessment as a precondition to the school district's determination that the student has a disability and requires special education or related aids and services due to his or her disability.⁷² (In fact, as mentioned earlier, the determination of whether an individual has a disability need not demand extensive analysis.)

If, however, a district believes a medical assessment is necessary and the parent volunteers to pay for a private assessment, the district must make it clear that the parent has a choice and can choose to accept a school-furnished assessment.⁷³ Compliance problems could arise when school districts and parents do not communicate clearly on this requirement.

⁷⁰ A specific diagnosis is not actually necessary if the school determines a student is substantially limited in a major life activity and that limitation is caused by a mental or physical impairment.

⁷¹ 34 C.F.R. §§ 104.33, 104.35, App. A (discussing Subpart D, ¶ 23) (“Recipients must also pay for psychological services and those medical services necessary for diagnostic and evaluative purposes.”). *See also* OSEP ADHD Resource, 9. If a school district does not have the appropriate personnel on staff to conduct a medical assessment for diagnostic and evaluative purposes, the district must make arrangements for the medical assessment at no cost to the parent.

⁷² 34 C.F.R. § 104.33(c).

⁷³ For example, Medicaid may cover the cost of a medical assessment through the “Early Periodic Screening, Diagnostic and Treatment” benefit (EPSDT) of Medicaid. For more information about how EPSDT relates to covering the costs of medical assessments, please visit <https://www.medicaid.gov/federal-policy-guidance/downloads/CIB-03-27-2013.pdf>.

Summary—Conducting Evaluations for Students with ADHD to Determine Whether the Student Has a Disability

- In determining if a student has a disability and needs special education or related services because of disability, school districts must consider all the potential major life activities that may be impacted by the student’s impairment, *not just learning*, and review facts concerning the condition, manner, or duration of a student’s performance of a major life activity.
- Never act on stereotypes and generalizations about students with ADHD. For example:
 - Monitor both male and female students carefully for ADHD, without relying on sex-based stereotypes.
 - Monitor students of all races carefully for ADHD, without relying on race-based stereotypes. Race could influence how a school perceives student behavior and thereby affect whether a student is evaluated for ADHD.
- School districts must interpret the term disability broadly and cannot consider the positive effects of mitigating measures in evaluating for disability.
- If the school district believes that a medical assessment is necessary to determine whether the student has ADHD and needs special education or related aids and services because of the ADHD, the student’s parents cannot be required to pay for it.

Second Question: Placement determination under Section 504: Does the student need regular or special education, related aids and services, or supplementary aids and services?

Many of the same steps and tools used to determine whether a student has a disability are also pertinent to determining the placement of the student. Under Section 504, a school district must ensure that the placement decision is made by a group of individuals that includes individuals who are knowledgeable about the student (often called a Section 504 team as discussed above), the meaning of the evaluation data, and the various placement options.⁷⁴ Further, the services must be tailored to the individual needs of the student.⁷⁵

Not every student with ADHD needs the same set of services, or any services at all.

If a school district determines that a student with ADHD has a disability as defined by Section 504, it could consider whether the student uses mitigating measures and whether those mitigating measures have an impact on the student's disability. This information could help the district determine whether the student needs special education or related services.

One student may require extra time on an examination, while another may have difficulty with multiple-choice testing and require a different testing format.

A third student may not require any academic services, but a behavioral intervention plan that teaches the student how to substitute her problematic behavior for more appropriate responses.

If, as a result of a properly conducted evaluation, the school district determines that the student does not need special education or related services, the district is not required to provide them. Section 504 does not obligate a school district to provide special education or related aids or services that the student does not need. But the school district must still conduct an evaluation before making that determination. Further, that student is still a person with a disability, because the student has an impairment that substantially limits a major life activity, and so is protected by Section 504's general nondiscrimination prohibitions (e.g., no retaliation, harassment, unlawful different treatment, etc.).⁷⁶

⁷⁴ This process is outlined in the Section 504 regulations at 34 C.F.R. § 104.35(c). OCR will view compliance with the IDEA's placement procedures at 34 C.F.R. §§ 300.114 through 300.117 as compliance with Section 504's placement procedures.

⁷⁵ 34 C.F.R. § 104.33(b).

⁷⁶ 34 C.F.R. §§ 104.4(b), 104.21-23, 104.37, 104.61 (incorporating 34 C.F.R. § 100.7(e)). Under Section 504, a recipient shall also make reasonable modifications in its policies, practices, or procedures when necessary to avoid discrimination on the basis of disability. *See Alexander v. Choate*, 469 U.S. 287, 300-01 (1985); *see also Se. Cmty. Coll. v. Davis*, 442 U.S. 397 (1979). Even if a school district determines that a student does not need special education or related services

If, as a result of a properly conducted evaluation, the school district determines that the student needs a related aid or service, the school district must provide it.

The administration of medication (or permitting a student to self-administer), for example, could be a related aid or service, or supplementary aid or service, that is part of the placement that must be addressed by the Section 504 team. The subject of medication administration could require consideration and a Section 504 Plan. If medication prescribed by a doctor needs to be taken during the school day, and a student cannot self-administer the medication, the school district must provide medication administration assistance to the student, as a part of FAPE.⁷⁷ If a student can self-administer the medication, school districts must ensure the student is provided with whatever aid or service he or she needs in order to allow the self-administration.⁷⁸ Medication alone might not mitigate the effects of the impairment sufficiently and related aids and services may still be required. Consequently, the subject of medication management, even absent any other issues, could require participation by the parents, student, and school district in the FAPE placement process under Section 504.

Section 504 requires that placement decisions be made by a group of persons, including persons knowledgeable about the child.⁷⁹ In general, school districts could ensure they are providing the necessary placement procedures required by Section 504 by considering and documenting parental input on what a student needs.

For instance, not every student with ADHD needs extra time on examinations taken in a quiet room, or placement at the front of a classroom. Some might require direct instruction to address the needs created by their disabilities, such as teaching how to break up a large, multi-step assignment into smaller parts, or ordering strategies.

School districts cannot simply group together a few aids and services and provide them in a blanket fashion to any student with ADHD.

because of a disability, it must still determine whether the student needs a reasonable modification of policies, practices, or procedures to ensure equal educational opportunities. The extent of a school district's obligation to make reasonable modifications is fact-dependent and requires a case-by-case analysis. For example, a school could consider modifying its homework policy and providing greater flexibility in meeting deadlines to a student with ADHD who consistently forgets his homework because of ADHD. (For a different student, one who does need special education or related services, this modification could be in a Section 504 Plan. As a related aid or service in a Section 504 Plan, the school also could teach the student skills or strategies for organizing his homework to ensure that it is completed and submitted. The school could also work with the student's parents to help establish that routine.)

⁷⁷ 34 C.F.R. § 104.33(b).

⁷⁸ *Id.*

⁷⁹ 34 C.F.R. § 104.35(c).

Each student’s needs may be different, and Section 504 requires school districts to provide for those individual educational needs.⁸⁰

Furthermore, parents can be an important source of information to the school district about what techniques, interventions, services and supports would be most effective in meeting that student’s needs.

Through investigating complaints and providing technical assistance to school districts, OCR has learned that some educators have the mistaken impression that placement options under Section 504 are limited to free or low-cost services, that provide limited, additional resources to students but may not be as robust or comprehensive as the special education and related services a student could receive under the IDEA. Likewise, some educators mistakenly equate reasonable modifications with low-cost or free services.

In making Section 504 FAPE determinations, the Section 504 team cannot limit its placement recommendations to those related aids or services that are free or low-cost, and cannot exclude them just because of their expense (although, of course, if there are equally effective related aids and services, nothing in Section 504 precludes a school district from choosing the less costly alternative).

If a student with a disability, including a student with ADHD, is eligible for FAPE under Section 504 but is not receiving FAPE services under the IDEA, that student is entitled to the provision of any services the placement team decides are appropriate to meet their individual educational needs, regardless of cost or administrative burden, and especially where such services have been provided to IDEA-eligible students in the past.⁸¹ Those services can be as varied and as comprehensive as necessary to meet a student’s need.⁸²

⁸⁰ 34 C.F.R. § 104.33(b).

⁸¹ 34 C.F.R. § 104.33. For discussion of a school district’s obligation to students with disabilities outside of the FAPE requirement, please see OCR, *Dear Colleague Letter: on Schools’ Obligation to Provide Equal Opportunity to Students with Disabilities to Participate in Extracurricular Athletics* (Jan. 25, 2013), <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201301-504.html>. For discussion of students with disabilities transitioning from secondary to postsecondary education, please see *Transition of Students With Disabilities To Postsecondary Education: A Guide for High School Educators*, (rev. March 2011), available at <http://www2.ed.gov/ocr/transitionguide.html>.

⁸² Cf. *Cedar Rapids Cmty. Sch. Dist v. Garret F.*, 526 U.S. 66, 77 (1999) (despite “legitimate financial concerns,” a school district is obligated under the IDEA to pay for any related service, including nursing services, that are necessary to enable a child with a disability to attend school.)

Because many of the complaints filed with OCR alleging discrimination on the basis of disability involve allegations that school district personnel failed to implement a Section 504 Plan or IEP, OCR cannot overemphasize the importance of making sure that school district personnel understand their obligations to implement appropriate plans for students with disabilities once the plans have been developed.

OCR has found that complaints of this type are often the result of either the student or teachers and other staff being unaware that a plan exists or the plan being so vaguely worded that the parties are unclear or disagree about what the plan requires.

In relation to students with ADHD, a school district may erroneously believe the related aids and services in an IEP or Section 504 Plan are optional, or unnecessary because the student is academically gifted, or that the student must specifically request these aids and services on an as-needed basis. A gifted student may still need specific and explicit instruction on how to reliably record homework assignments, organize information into class notes, start a multi-stage project, write more efficiently, or respond to challenges to his or her attention or concentration in day-to-day activities.

It is not the responsibility of the student with a disability to request FAPE. It is a school district's obligation to provide special education and/or related aids and services to students if the group of persons knowledgeable about the student has decided that the student needs such instruction, and/or those aids and services, and includes them in the student's Section 504 Plan or IEP.

Finally, it is important that school districts remember that a student's needs can change over time, and what once may have been an appropriate array of educational and/or related aids and services may no longer meet that student's needs. A student with ADHD might experience changes in his or her academic performance or behavior as he or she learns to cope with the impairment, adjust to medication, or learn new behavioral techniques, for example. Section 504 requires that a school district meet the individual educational needs of its students with disabilities. Therefore, reevaluations of a student with ADHD, and changes in placement, could become necessary.

Summary—Placement Determinations for Students with ADHD

The following are key principles that school districts could keep in mind when educating students with ADHD:

- Evaluate and provide supports for students with ADHD. Students who are evaluated properly and receive appropriate supports will often meet the challenge of school, including advanced course placement and honors classes.
- School districts must tailor services to the individual needs of the student, and must not limit placement options under Section 504 for students with disabilities to a predetermined universe of options that are unrelated to an individual determination of what particular students need, or because the school district already offers certain options.
- Students with ADHD who are eligible for FAPE under Section 504 are entitled to the provision of services the placement team decides are appropriate, regardless of cost or administrative burden, and especially where such services have been provided to IDEA-eligible students in the past.
- The special education or related aids and services a student needs that are included in a Section 504 Plan, or other document,⁸³ should be clear and as detailed as necessary so that the school and parents both understand what the plan requires.

⁸³ Implementation of an IEP developed in accordance with the IDEA is one means of meeting the Section 504 FAPE standard. 34 C.F.R. § 104.33(b)(2).

C. Section 504 Due Process (Procedural Safeguards) Protections for Students with Disabilities and Their Parents

In addition to school districts' obligation to establish grievance procedures that provide for the prompt and equitable resolution of complaints,⁸⁴ school districts must establish and implement a system of procedural safeguards for parents to appeal district actions regarding the identification, evaluation, or educational placement of students with disabilities, including students with ADHD, who need or are believed to need special education or related services.⁸⁵ This obligation may be more commonly known as “due process.”⁸⁶

The school district must tell parents and guardians about this due process system, notify them of any evaluation or placement actions, allow them to examine their child's records, afford them an impartial hearing with opportunity for parent or guardian participation and representation by counsel, and provide them a review procedure.⁸⁷

Note, a school district cannot satisfy the requirement to have due process procedures by relying on its grievance procedure, nor can a district require a parent to pursue a FAPE-related complaint through the grievance procedure before a hearing under the system of procedural safeguards will be granted. Districts must ensure that they have due process procedures that are available to parents, as required.⁸⁸

Districts also must ensure that they have properly identified the designated Section 504 coordinator.⁸⁹

⁸⁴ 34 C.F.R. § 104.7(b) (limited to school districts that employ 15 or more persons).

⁸⁵ 34 C.F.R. § 104.36.

⁸⁶ “Due process” is a concept derived from the IDEA. 20 U.S.C. § 1415(f); 34 C.F.R. §§ 300.507-511.

⁸⁷ 34 C.F.R. § 104.36. *See* footnote 91 regarding the obligation of school districts to effectively communicate with Limited English Proficient parents.

⁸⁸ 34 C.F.R. § 104.36.

⁸⁹ 34 C.F.R. § 104.7.

A school district that denies a parent’s request for a Section 504 evaluation of a student, regardless of the grounds for the denial, must inform the student’s parent of its decision and of the parent’s procedural safeguard rights, as set forth in the Section 504 regulations.⁹⁰ For example, if a parent requests an evaluation for disability for his or her child but is informed that the school district disagrees that the student should be evaluated, because the school district does not believe that the student has ADHD or needs special education or related services because of ADHD, that is in fact a denial, and the school district must inform the parent about these due process procedures.

A due process issue frequently raised in OCR complaints pertains to lack of notice of the Section 504 due process procedures. Many school districts publish notice of the availability of their Section 504 due process procedure in a student handbook and on their websites.⁹¹ But general notice of due process procedures does not relieve districts of their responsibility to give timely notice of due process rights when an event occurs for which parents may wish to avail themselves of the due process procedure.⁹² For example, if a parent requests that a school district evaluate her son for disability because she suspects he has ADHD, and the school district refuses to evaluate, the school district must ensure that the parent is aware of her due process right to appeal that district’s refusal.

This due process system requires providing the opportunity for parents to be heard on these issues by an impartial person who is knowledgeable about Section 504 requirements. The impartial person, often a hearing officer, cannot be an employee of the school district.⁹³ This due process responsibility may be satisfied by use of the IDEA hearing procedure if the due process system in the State in which the student lives allows consideration of students with Section 504-only disabilities without regard to IDEA considerations.⁹⁴ Regardless of the system used, it is the responsibility of each school district to ensure that an impartial due process hearing is promptly available when requested by a parent.

⁹⁰ 34 C.F.R. § 104.36.

⁹¹ School districts and SEAs have an obligation to take affirmative steps to ensure meaningful communication with Limited English Proficient (LEP) parents in a language they can understand and to adequately notify LEP parents of information about any program, service, or activity of a school district or SEA that is called to the attention of non-LEP parents. For more information see OCR, *Dear Colleague Letter: English Learner Students and Limited English Proficient Parents* (Jan. 7, 2015), <https://www.ed.gov/ocr/letters/colleague-el-201501.pdf>.

⁹² 34 C.F.R. § 104.36.

⁹³ *Id.* See also *Nondiscrimination in Federally Assisted Programs*, 43 Fed. Reg. 18630 (May 1, 1978), <http://www.ed.gov/policy/rights/reg/ocr/fm-1978-08-14.html>.

⁹⁴ 34 C.F.R. § 104.36. If a district chooses to use IDEA hearing procedure, the procedure must nevertheless adhere to the standards and requirements set forth in the Section 504 regulations concerning identification, evaluation, and placement.

Summary—School Districts Must Provide Parents and Students with Procedural Safeguards

- Parents may appeal district actions regarding the identification, evaluation, or educational placement of students with disabilities who need or are believed to need special education or related services.
- A school district that denies a parent’s request for a Section 504 evaluation of a student, regardless of the grounds for the denial, must inform the student’s parent of its decision and of the parent’s procedural safeguard rights, as set forth in the Section 504 regulations.
- School districts must ensure they provide notice of a parent’s due process protections.

D. Looking Toward the Future

OCR is available to support school districts in their ongoing civil rights compliance efforts. School districts could improve access and educational outcomes for students with ADHD by:

- Properly evaluating students and providing supports, and reevaluating when necessary. This means using appropriate evaluation tools depending on the student, not necessarily requiring the use of a particular assessment tool each time, and convening the entire Section 504 team to make placement decisions.
- Understanding that they cannot act on stereotypes or generalizations about students with ADHD, nor limit placement options to a predetermined universe of options that are unrelated to an individual determination of what a particular student needs.
- Providing the regular or special education and related aids and services the Section 504 placement team decides are appropriate, regardless of cost or administrative burden, or whether such services may have been provided only to IDEA-eligible students in the past.
- Creating clear, detailed, and individualized Section 504 Plans so that school districts and parents both understand what the plan requires.
- Training staff on the requirements of Section 504, including evaluating for disability and which behaviors may be linked to a disability, like ADHD.

If you would like more information about Section 504, Title II, or the other Federal civil rights laws enforced by OCR or would like to request technical assistance, please contact the enforcement office that serves your State or jurisdiction. Contact information for these offices is available at <https://wdcrobcolp01.ed.gov/cfapps/OCR/contactus.cfm>

Information about discrimination based on disability is on OCR's website at <http://www.ed.gov/policy/rights/guid/ocr/disability.html>.

Or, for further information, please contact OCR's Customer Service Team toll-free at 1-800-421-3481; TDD: 877-521-2172.

For more information on the IDEA requirements, please contact OSERS at:

Office of Special Education Programs

Office of Special Education and Rehabilitative Services

U.S. Department of Education

400 Maryland Ave., S.W.

Washington, DC 20202-7100

Telephone: (202) 245-7459

<http://idea.ed.gov>

<http://www.ed.gov/osers/osep/index.html>

E. Appendix

Departmental Resources

- OCR, *Dear Colleague Letter concerning ADA Amendments Act of 2008* (Jan. 19, 2012), <http://www.ed.gov/ocr/letters/colleague-201109.html>; OCR, *Questions and Answers on the ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools* (Jan. 19, 2012), <http://www.ed.gov/ocr/docs/dcl-504faq-201109.html>.
- OSEP, *Identifying and Treating Attention Deficit Hyperactivity Disorder: A Resource for School and Home* (Aug. 2008), <http://www2.ed.gov/rschstat/research/pubs/adhd/adhd-identifying-2008.pdf>.
- OSEP, *Teaching Children with Attention Deficit Hyperactivity Disorder: Instructional Strategies and Practices*, Washington, D.C., (Reprinted Aug. 2008), <http://www2.ed.gov/rschstat/research/pubs/adhd/adhd-teaching-2008.pdf>.
- OCR, *Student Placement in Elementary and Secondary Schools and Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act* (Aug. 2010), <http://www.ed.gov/ocr/docs/placpub.html>.
- OCR, *Dear Colleague Letter: English Learner Students and Limited English Proficient Parents* (Jan. 7, 2015), <https://www.ed.gov/ocr/letters/colleague-el-201501.pdf>.
- OSEP, Memorandum to State Directors of Special Education, *A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA)* (Jan. 21, 2011), <http://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/osep11-07rtimemo.pdf>.
- OSEP, *Letter to Ferrara*, 112 LRP 52101 (Feb. 29, 2012), <http://www2.ed.gov/policy/speced/guid/idea/letters/2012-1/ferrara022912rti1q2012.pdf>.
- OCR, *Nondiscrimination in Federally Assisted Programs*, 43 Fed. Reg. 18630 (May 1, 1978), <http://www.ed.gov/policy/rights/reg/ocr/frn-1978-08-14.html>.
- OCR, *Free Appropriate Public Education for Students with Disabilities: Requirements Under Section 504 of The Rehabilitation Act of 1973* (Aug. 2010), <http://www.ed.gov/ocr/docs/edlite-FAPE504.html>.

OCR, *Dear Colleague Letter concerning Equal Access to Extracurricular Athletics for Students with Disabilities* (Jan. 25, 2013), <http://www.ed.gov/ocr/letters/colleague-201301-504.html>. See also OSEP, *Creating Equal Opportunities for Children and Youth with Disabilities to Participate in Physical Education and Extracurricular Athletics* (Aug. 2011), <http://www.ed.gov/policy/speced/guid/idea/equal-pe.pdf>

OCR, *Transition of Students with Disabilities to Postsecondary Education: A Guide for High School Educators* (Mar. 2011), <http://www.ed.gov/ocr/transitionguide.html>.

OCR and DOJ, *Joint Dear Colleague Letter: Electronic Book Readers* (June 29, 2010), <http://www.ed.gov/about/offices/list/ocr/letters/colleague-20100629.html>; OCR, *Frequently Asked Questions about the June 29, 2010 Dear Colleague Letter: Electronic Book Readers* (May 26, 2011), <http://www.ed.gov/ocr/letters/colleague-201105-pse.html>.

OCR, *Dear Colleague Letter: Charter Schools* (May 14, 2014), <http://www.ed.gov/ocr/letters/colleague-201405-charter.pdf>.

OCR and DOJ, *Joint Dear Colleague Letter: Nondiscriminatory Administration of School Discipline* (Jan. 8, 2014), <http://www.ed.gov/ocr/letters/colleague-201401-title-vi.html>.

Other Resources

Attention-Deficit/Hyperactivity Disorder (ADHD): (Centers for Disease Control and Prevention, CDC), <http://www.cdc.gov/ncbddd/adhd>

The National Resource Center (NRC) on ADHD: Fact Sheets (funded by CDC), <http://www.chadd.org/Understanding-ADHD/About-ADHD/Fact-Sheets-on-ADHD.aspx>

Interventions for Children with ADHD (Office of Special Education Technical Assistance Center), <https://www.pbis.org/resource/702/interventions-for-children-with-adhd-apbs-08>.

ADHD by the Numbers: Facts, Statistics, and You (Center for Parent Information and Resources, CPIR), <http://www.parentcenterhub.org/repository/adhd-facts-statistics-you/>.

Attention-Deficit/Hyperactivity Disorder (ADHD) (Center for Parent Information and Resources, CPIR), <http://www.parentcenterhub.org/repository/adhd/>.

U.S. DEPARTMENT OF EDUCATION

**DETERMINATION LETTERS ON
STATE IMPLEMENTATION OF IDEA**

JUNE 2016

The U.S. Department of Education's Office of Special Education and Rehabilitative Services released State determinations on implementation of the Individuals with Disabilities Education Act (IDEA) for Part B and Part C for fiscal year 2014. The 2004 Amendments to the IDEA require each State to develop a State Performance Plan (SPP) and Annual Performance Report (APR) that evaluates the State's efforts to implement the requirements and purposes of the IDEA, and describes how the State will improve its implementation. The Part B SPP/APR and Part C SPP/APR include Indicators that measure child and family results, and other indicators that measure compliance with the requirements of the IDEA. Beginning in 2015, the Part B SPP/APR and Part C SPP/APR include a State Systemic Improvement Plan through which each State focuses its efforts on improving a State-selected child or family outcome.

The IDEA also requires each State to report annually to the Secretary on its performance under the SPP. Specifically, the State must report in its APR, the progress it has made in meeting the measurable and rigorous targets established in its SPP. The Secretary is required to issue an annual determination to each State on its progress in meeting the requirements of the statute. The determinations are part of the ongoing efforts to improve education for America's 7 million children with disabilities.

IDEA details four categories for the Secretary's determinations. A State's determination may be:

- **Meets** the requirements and purposes of IDEA;
- **Needs assistance** in implementing the requirements of IDEA;
- **Needs intervention** in implementing the requirements of IDEA; or
- **Needs substantial intervention** in implementing the requirements of IDEA.

For the first time in 2014, and again in 2015 and 2016, the Department made Part B determinations using both compliance and results data, giving each equal weight in making a State's determination. For the first time in 2015 and again in 2016, the Department made Part C determinations using both compliance and results data, giving each equal weight in making a State's determination. OSEP's accountability framework, called Results Driven Accountability (RDA), brings into focus the educational results and functional outcomes for children with disabilities while balancing those results with the compliance requirements of IDEA. Protecting the rights of children with disabilities and their families is a key responsibility of State educational agencies (SEAs) and local educational agencies (LEAs) for Part B, and Lead Agencies and early intervention service programs for Part C, but it is not sufficient if children are not attaining the knowledge and skills necessary to accomplish the ideals of IDEA: equality of opportunity, full participation, independent living, and economic self-sufficiency.

IDEA identifies specific technical assistance or enforcement actions that the Department must take under specific circumstances for States that are not determined to “meet requirements.” If a State “needs assistance” for two consecutive years, the Department must take one or more enforcement actions, including, among others, requiring the State to access technical assistance, designating the State as a high-risk grantee, or directing the use of State set-aside funds to the area(s) where the State needs assistance. If a State “needs intervention” for three consecutive years, the Department must take one or more enforcement actions, including among others, requiring a corrective action plan or compliance agreement, or withholding further payments to the State. Any time a State “needs substantial intervention” the Department must take immediate enforcement action, such as withholding funds or referring the matter to the Department’s inspector general or to the Department of Justice.

IDEA PART B DETERMINATIONS:

Following is a list of each State’s performance in meeting the requirements of IDEA Part B, which serves students with disabilities, ages 3 through 21:

- **MEETS REQUIREMENTS**

Alabama, Connecticut, Florida, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, North Carolina, North Dakota, Pennsylvania, Republic of Palau, Republic of the Marshall Islands, South Dakota, Virginia, Wisconsin, Wyoming

- **NEEDS ASSISTANCE (one year)**

Maryland, Oklahoma, Rhode Island, Texas, Vermont

- **NEEDS ASSISTANCE (two or more consecutive years)**

Alaska, American Samoa, Arkansas, Arizona, California, Colorado, Commonwealth of the Northern Mariana Islands, Delaware, Federated States of Micronesia, Georgia, Guam, Hawaii, Idaho, Illinois, Louisiana, Maine, Michigan, Mississippi, New Mexico, New York, Ohio, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Virgin Islands, Washington, West Virginia

- **NEEDS INTERVENTION (one year)**

Nevada

- **NEEDS INTERVENTION (five consecutive years)**

Bureau of Indian Education

- **NEEDS INTERVENTION (ten consecutive years)**

District of Columbia

IDEA PART C DETERMINATIONS:

Following is a list of each State's performance in meeting the requirements of IDEA Part C, which serves infants and toddlers birth through age 2:

- **MEETS REQUIREMENTS**

Alabama, Arkansas, Colorado, Connecticut, District of Columbia, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Maryland, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, Nevada, North Carolina, Pennsylvania, Puerto Rico, Rhode Island, Texas, Utah, Washington, West Virginia, Wisconsin, Wyoming

- **NEEDS ASSISTANCE (one year)**

Delaware, New Jersey, Oklahoma

- **NEEDS ASSISTANCE (two or more consecutive years)**

Alaska, American Samoa, Arizona, California, Commonwealth of the Northern Mariana Islands, Florida, Guam, Hawaii, Illinois, Louisiana, Maine, Massachusetts, Michigan, New York, North Dakota, Ohio, Oregon, South Dakota, Tennessee, Vermont, Virgin Islands, Virginia

- **NEEDS INTERVENTION (six consecutive years)**

South Carolina

Prior Written Notice

Date: September 1, 2016

Subject: Official Message from the State Director of Special Education

The California State Auditor recently completed an audit of selected local educational agencies (LEAs) and the California Department of Education (CDE). The focus of this audit was to determine the effectiveness of the state's transition of responsibilities for the provision of mental health related services from mental health agencies to LEAs, pursuant to Assembly Bill 114, Statutes of 2011. California State Auditor Report 2015–12, Student Mental Health Services, issued in January 2016, noted concerns about the lack of documentation in some cases for the reason(s) for a change in a student's placement or services as established in the student's Individualized Education Program (IEP). The report noted, "When IEP teams do not record... the reasons why IEP service levels change, they may affect a parent's ability to participate in the IEP process and create difficulties for subsequent educators and IEP teams in understanding the reasons why a student does or does not receive a particular service." (Report, p. 23). The report made a recommendation that the CDE, "Should require [LEAs] to ... document reasons for any changes to student placement or services." (Report, p. 42). This correspondence is to clarify requirements for LEAs to document the reasons for changes to a student's placement or services, and to inform the student's parent or guardian of such changes. The process of documenting changes in a student's placement or services, and informing parents and guardians of those changes, is to be implemented through the Prior Written Notice (PWN) requirement, which is described in detail below.

The requirements for a PWN are found in the Individuals with Disabilities Act (IDEA) at 20 U.S.C. 1415(b)(3), (b)(4) and (c)(1), the federal regulations implementing the IDEA at Title 34 of the *Code of Federal Regulations (CFR)* section 300.304(a) and 300.503, and California *Education Code (EC)* 56500.4, which incorporates the federal requirements. The law creates requirements for:

- When a public agency, LEA must provide a PWN
- The contents of a PWN

Requirements for when a Local Educational Agency must provide a Prior Written Notice

According to federal and state law, an LEA must provide a PWN a reasonable time before the LEA *proposes* to initiate or change, or *refuses* to initiate or change, any of the following:

- i. Identification of the student as requiring special education and related services;
- ii. Assessment of the student;
- iii. Educational placement of the student; or,
- iv. Provision of a free appropriate public education (FAPE) to the student.

Required Contents of a Prior Written Notice

To be compliant with federal and state law, a PWN must contain the following elements.

1. A description of the action proposed, or refused, by the LEA.
2. An explanation of why the LEA proposes, or refuses, to take the action.
3. A description of each assessment procedure, assessment record, or report the LEA used as a basis for the proposed or refused action.
4. A statement that the parents or guardians of a child with exceptional needs have protection under the procedural safeguards of Part B of the IDEA and, if the PWN is not for an initial referral for assessment for eligibility, the means by which a copy of a description of the procedural safeguards can be obtained.
5. Sources for parents and guardians to contact to obtain assistance in understanding the provisions of Part B of the IDEA.
6. A description of other options that the IEP team considered and the reasons why those options were rejected.
7. A description of other factors that are relevant to the proposal or refusal of the LEA.

According to the federal Office of Special Education Programs, there is nothing in the law that would prevent the LEA from using the IEP as part of PWN so long as the document(s) the parent receives meet all requirements of PWN [71 Federal Register 46691 (August 14, 2006)].

Additional Requirements and Considerations When Providing a Prior Written Notice

Under 34 *CFR* 300.503(c) the PWN must be provided to parents and guardians in language that is understandable. This requires that the PWN be:

- Written in a language that is understandable to the general public (34 *CFR* 300.503 [c][1][i]).
- Provided in the native language of the parent or guardian or other mode of communication used by the parent or guardian, unless it is clearly not feasible to do so (34 *CFR* 300.503[c][1][ii]).

If the native language, or mode of communication, of the parent or guardians is not a written language the LEA must take steps to ensure that:

- The notice is translated orally or by other means to the parent or guardian in his or her native language or other mode of communication (34 *CFR* 300.503[c][2][i]).
- The parent or guardian understands the content of the PWN (34 *CFR* 300.503[c][2][ii]), and
- There is written evidence that the requirements relating to translation and understanding of content, described immediately above, have been met (34 *CFR* 300.503[c][2][iii]).

For more information regarding the requirements of a PWN please visit the following CDE Web pages:

- <http://www.cde.ca.gov/sp/se/qa/pseng.asp>
- <http://www.cde.ca.gov/sp/se/qa/pssummary.asp>
- <http://www.cde.ca.gov/sp/se/ac/prntrsrvyltr.asp>

If you have any questions regarding this subject, please contact Renzo Bernales, Education Programs Consultant, Special Education Division, by phone at 916-327-3637 or by e-mail at rbernales@cde.ca.gov.



PRIOR WRITTEN NOTICE

What is prior written notice (PWN)?

Prior written notice is a legal requirement per IDEA, and is a protection afforded to parent(s)/ guardian(s) per their Procedural Safeguards. IDEA includes prior written notice as a measure to ensure that parents have adequate notification and understanding of special education decisions made about their child, including elements of a Free Appropriate Public Education (FAPE).

A prior written notice should provide comprehensive documentation of any and all actions proposed and/or refused by an LEA/district. The information included should be sufficient to ensure that parents understand the rationale by which decisions were made, and all things that were considered. Providing prior written notice affords parents an additional opportunity to consider and/or object to decisions that were made prior to implementation by an LEA/district.

Under what circumstances is prior written notice required?

Prior written notice is a document that is required following the proposal and/or refusal related to the initiation or change in the identification, evaluation, educational placement, or offer of FAPE (34 CFR 500.503).

An IEP team may make decisions regarding the identification of a student including, but not limited to:

- Determination of initial identification (eligibility) for special education
- Refusal to identify a student as eligible
- Changing the identification of a student (eligibility category)
- Termination if identification (student no longer found eligible)

An IEP team may make decisions regarding the evaluation of a student including, but not limited to:

- Requesting consent for initial evaluation
- Requesting consent for reevaluation
- Refusal to conduct an evaluation requested by a parent
- Proposal or refusal to provide a requested independent educational evaluation (IEE)

An IEP team may make decisions regarding the placement of a student including, but not limited to:

- Offering initial placement
- Proposing a change in educational placement
- Refusal to change placement as requested by a parent
- Termination of special education placement due to student being found no longer eligible
- Proposal or refusal to offer placement to parent who has unilaterally placed a student with an IEP in a residential facility or nonpublic school

Graduation with a regular high school diploma is also considered a change of placement, though not through IEP team decision, thus requiring the provision of prior written notice. Additionally, any

disciplinary removal of more than 10 consecutive days, or a series of removals accumulating more than 10 days is considered a change of placement, triggering the prior written notice requirement.

An IEP team may make decisions regarding the provision of Free Appropriate Public Education (FAPE) to a student including, but not limited to:

- Changes in IEP services, including addition, deletion, change in minutes, frequency location, or refusal to change a service
- Changes in accommodations/modifications or refusal to change per parent request
- Change(s) in annual goals or refusal to change goals per parent request
- Changes in how a student will participate in statewide and districtwide assessments
- Refusal to provide a specific instructional methodology requested by a parent

Any changes made to FAPE in an IEP through the amendment process also generate the requirement to provide prior written notice.

Parents may submit a letter revoking consent for special education services when they no longer wish for their child to receive special education services or be considered a child with a disability. An LEA/district must terminate provision of special education services upon receipt of a revocation of consent, thus generating the requirement to provide prior written notice. When an LEA/district receives revocation of consent from a parent, they may offer a meeting to discuss the request, but the parent may not be required to attend any additional meetings, and are not required to provide an explanation for their request. The U.S. Department of Education requires that an LEA/ district “promptly” respond to a parent written revocation letter with a PWN (34 CFR 300.503).The PWN must be provided prior to ending any services, and allows parents the opportunity to consider the change(s) that will result from revoking consent.

What are the required elements of prior written notice?

In order to be considered compliant, a prior written notice must include 7 required elements, including:

1. A description of the action proposed or refused by the LEA/district;
2. An explanation of why the LEA/district proposes or refuses to take the action;
3. A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
4. A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
5. Sources for parents to contact to obtain assistance in understanding the provisions of this part;
6. A description of other options considered by the IEP Team and the reason why those options were rejected; and
7. A description of the factors that are relevant to the LEA’s/district’s proposal or refusal.

In addition to including these elements, PWN must be provided in language that is understandable to parents and the general public, and should be provided in the native language of the parent unless it is not feasible to do so. In order to ensure that the PWN is understandable, it is recommended that it be written without the use of acronyms or abbreviations. It should serve as a stand-alone document that can

be understood by a person who does not have other reports and/or IEP documents to which they may refer. Phrases such as “N/A” and “see above” should be avoided.

How soon after educational decisions should prior written notice be sent?

Though there aren't any specific timelines around when to provide prior written notice, it must be provided “within a reasonable timeline prior to action (34 CFR 300.503(a)).” This means PWN must be given to parents in a reasonable time before the LEA/district implements that action, but after the LEA's/district's decision on the proposal or refusal has been made. It is recommended that the LEA/district use common sense when considering the timeline for providing a PWN. It should be provided after the meeting but soon enough so that a parent has time to review and voice a response prior to the change in the IEP takes place.

How should prior written notice be formatted?

Neither federal nor state special education regulations specify the format in which prior written notice must be provided. Permissible formats include formal letter on letterhead, use of fill in the blank forms (located in the SEIS document library), and use of the IEP document. It is recommended that an LEA/district exercise caution when considering the use of an IEP document to provide prior written notice. Though “there is nothing in the IDEA that would prohibit a public agency from using the IEP as part of the prior written notice so long as the document(s) the parent receives meet all the requirements,” it is not generally the case that an IEP document contains the 7 elements that are required for PWN to be considered compliant. If the LEA/district is not confident that all the required elements for PWN exist in the IEP document, it is strongly recommended that a separate prior written notice be provided along with a copy of the IEP.

How should the LEA/ district document that prior written notice has been provided?

IDEA does not require that a parent acknowledge receipt of prior written notice. Since the LEA/district will not be in receipt of copies of prior written notices with parent signatures or other confirmations of receipt, it is recommended that the LEA/district develops a system and record-keeping mechanism to document that the prior written notices have been provided.

Service Provider Qualifications

Date: July 8, 2016

Subject: Official Message from the Interim Director of Special Education

The California State Auditor recently completed an audit of selected local educational agencies (LEAs) and the California Department of Education (CDE). The focus of this audit was to determine the effectiveness of the state's transition of responsibilities for the provision of mental health related services from mental health agencies to LEAs, pursuant to Assembly Bill 114, Statutes of 2011. California State Auditor Report 2015-12, Student Mental Health Services, issued in January 2016, found that the LEAs reviewed "did not always maintain records to document the qualifications of their contracted personnel" (Report, p. 43). The report made a recommendation that the CDE "Should require all LEAs and SELPAs that hold [mental health services] contracts to annually obtain and retain copies of contractor personnel lists and the credentials or licenses for contractor personnel who provide mental health services to students in their respective LEA or SELPA" (Report, p. 61). This correspondence is to clarify the CDE's expectation that LEAs maintain documentation of the qualifications of individuals who provide related services, including mental health services, to students with disabilities.

California law establishes certification and licensure requirements for the provision of specific related services. *California Code of Regulations*, Title 5, Section 3051, et seq., provides a list of related services and the type(s) of certification and/or licensure authorizing the provision of each related service. The related services included in that regulatory section does not represent an exhaustive list, but it provides authorizing licensure information for most related services commonly provided. Also, other sections of state law may establish additional licensure and certification options for employers. LEAs assigning staff to provide related services are responsible for ensuring that all individuals providing related services to students meet state requirements.

The CDE is responsible for monitoring LEA implementation of federal and state requirements concerning the provision of instruction and related services to students with disabilities as established in those students' Individualized Education Program. Included in this responsibility is ensuring that individuals providing related services are appropriately qualified. In addressing this responsibility, the CDE must have the ability to identify the specific individuals assigned to provide related services and to review their certification, licensure, or other documentation demonstrating their qualification under state law. Consequently, effective July 1, 2016, the CDE will expect each LEA employing or contracting staff to provide related services to maintain appropriate documentation as noted below, available for CDE staff to review upon request.

LEAs Employing Individuals to Provide Related Services

For instances in which the LEA directly employs staff to provide related services, the LEA will need to maintain:

1. A list of all individuals assigned to provide related services to students on behalf of the LEA, including each individual's name, title, type(s) of related services they are

assigned to provide, and certification, licensure, or other education or training authorizing the provision of the related service(s) assigned;

2. For each individual listed pursuant to item 1, a copy of the current certification, licensure, or other documentation of appropriate education or training, authorizing the provision of the related service(s) assigned.

LEAs Contracting Nonpublic Schools or Agencies to Provide Related Services

For instances in which an individual assigned by the LEA to provide related services is an employee of a nonpublic school or agency with which the LEA contracts for such services, the LEA will need to maintain:

1. A copy of the nonpublic school or agency's current CDE-issued certification document that includes an authorization to provide the related service(s) assigned; and,
2. A copy of the nonpublic school or agency's current list of staff qualified to provide related services, and the service(s) that each staff member is qualified to provide.

For instances in which an individual or entity assigned to provide related services is an employee or vendor of the state Department of Health Care Services (DHCS), or a local mental health agency that is a designee of DHCS, the LEA will need to maintain:

1. Documentation from the state or local mental health agency with whom the individual or entity is a contractor or vendor verifying that the contracting or vending relationship is current, and is for the same type(s) of related service as the individual or entity is providing for the LEA; and,
2. If the entity assigned to provide related services employs multiple individuals to provide related services, a current list of staff that the state or local mental health agency with whom the individual or entity is a contractor or vendor has confirmed are qualified to provide related services, and the service(s) that each staff member is qualified to provide.

SELPA's Providing Related Services On Behalf of LEAs

For instances in which the LEA's Special Education Local Plan Area (SELPA) directly provides, or contracts for, the provision of related services to students for whom the LEA is responsible, the SELPA is identified as the LEA employing or contracting staff to provide related services. In these cases the SELPA will need to maintain documentation of service provider qualifications. Specifically, in instances in which the SELPA directly employs staff to provide related services, the SELPA will need to maintain:

1. A list of all individuals assigned to provide related services to students on behalf of the SELPA, including each individual's name, title, type(s) of related services they are assigned to provide, and certification, licensure, or other education or training authorizing the provision of the related service(s) assigned;

2. For each individual listed pursuant to item 1, a copy of the current certification, licensure, or other documentation of appropriate education or training, authorizing the provision of the related service(s) assigned.

For instances in which the SELPA contracts for services with a nonpublic school or agency, or a contractor or vendor of DHCS or a local mental health agency that is a designee of DHCS, the SELPA will need to maintain the same documentation as other LEAs are required to maintain, as described above.

If you have any questions regarding this subject, please contact Jim Alford, Education Programs Consultant, Special Education Division, by phone at 916-327-8877 or by e-mail at jalford@cde.ca.gov.

Autism Rates in California Public Schools Jumped 7 Percent In 2016

By: Phillip Reese
The Sacramento Bee
July 18, 2016

More than 97,000 California public school students have been diagnosed as autistic, a number that has risen seven-fold since 2001, according to the latest special education data from the California Department of Education.

The figure represent a jump of about 6,500, or 7 percent, from 2014-15 to 2015-16.

The increase was especially sharp among kindergartners, where autism cases grew by 17 percent last year. More than one of every 65 kindergartners in California public schools is classified as autistic.

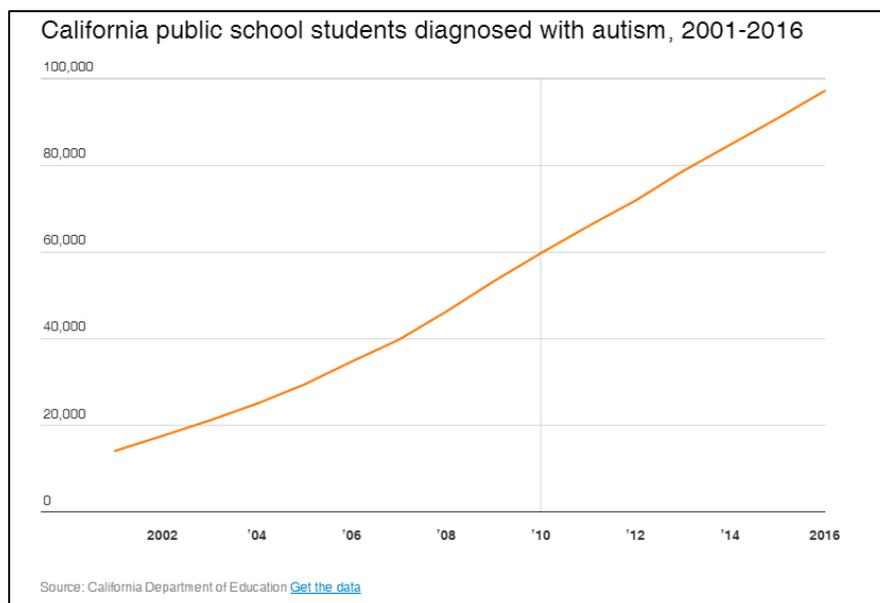
Since 2006, the number of autistic students statewide has risen by between 5,000 and 7,000 every year, state figures show.

In the four-county Sacramento region, the number of autistic students rose by about 660, or 12 percent, to roughly 6,400 from 2014-15 to 2015-16.

Theories for the rise, which has been seen nationwide, include improved autism screening, broader definitions of the condition and more children who were either born with autism or who developed the condition due to environmental factors.

Fears that modern vaccines cause autism have led some parents to forego vaccinating their children. The American Academy of Pediatrics [says no evidence exists](#) linking autism to vaccines. A new state law eliminates "personal belief exemptions" allowing parents to opt their children out of vaccinations before starting school.

This chart shows the number of students with autism statewide since 2001.



SELPA ADMINISTRATORS OF CALIFORNIA
FINANCE COMMITTEE
September 2016

State News

- Fiscal Year End figures for California showed that revenues ended about 706 million below the revenue forecast in the May Revise.
- July showed a continuation of the shortfalls in projected revenue. July figures were 5% (\$330 million) below the May Revise levels. Combined with year-end, this shows the State with an over \$1 billion shortfall. Tax revenues (personal income tax, withholding taxes, and capital gains) were below estimates. Sales tax revenue was the only one that came in slightly above the projections.
- The State is still adding jobs, however, not enough to keep up with growth in population. California unemployment is still above the national average of 4.9% at 5.4%.
- State is hopeful that Proposition 55, the tax extension on high earners, will be successful in November.
- The figures for the College and Career Readiness funds that were approved in the State Budget have been posted. All WASC accredited high school programs will be receiving funds with no agency receiving less than \$75,000. The preliminary rate is \$149.32 per ADA and any LEA that has 500 or less ADA in 9th-12th grades will receive the minimum amount of \$75,000.

Federal News

- 2016-2017 – There was a very small increase around 30 million. This is insignificant and it is likely that we will see very little change in our allocations. Remember, Federal Grants are calculated on 85% CBEDS count and 15% poverty.
- 2017-2018 – None of the 12 Appropriation Bills have been approved by Congress. They have until the middle of October to approve them or issue a Continuing Resolution.



El Dorado County Charter SELPA Program Support Team



Director of Program Support



Kevin Schaefer

kschaefer@edcoe.org

(530) 295 - 4532

SELPA Coordinator - Data & Compliance



Sharon Smit

ssmit@edcoe.org

(530) 295 - 4531

Program Specialists

Alison Rose

arose@edcoe.org - (530) 957 - 7549



Albert Einstein Academy Charter Middle
 America's Finest Charter
 Arroyo Paseo Charter High School
 Audeo Charter
 Charter School of San Diego
 City Heights Preparatory Charter
 Classical Academy
 Classical Academy High
 Coastal Academy
 Coleman Tech Charter High
 e3 Civic High
 Einstein Academy
 Elevate Elementary
 Empower Charter
 Epiphany Prep Charter
 Gompers Preparatory Academy
 Guajome Learning Center

Guajome Park Academy Charter
 Harriet Tubman Village Charter
 Holly Drive Leadership Academy
 Howard Gardner Community Charter
 Innovations Academy
 Kavod Elementary Charter School
 Keiller Leadership Academy
 King-Chavez Academy of Excellence
 King-Chavez Arts Academy
 King-Chavez Athletics Academy
 King-Chavez Community High School
 King-Chavez Preparatory Academy
 King-Chavez Primary Academy
 KIPP Adelante Preparatory Academy
 Laurel Preparatory Academy
 Learning Choice Academy
 MAAC Community Charter School

Magnolia Science Academy San Diego
 McGill School of Success
 Mirus Secondary
 Museum
 Old Town Academy K-8 Charter
 Preuss School UCSD
 San Diego Global Vision Academy
 Urban Discovery Academy Charter

Christina French

cfrench@edcoe.org - (530) 919 - 2737



Academy of Arts and Sciences Fresno
 Academy of Arts and Sciences Los Angeles 9-12
 Academy of Arts and Sciences Los Angeles K-8
 Academy of Arts and Sciences San Joaquin
 Academy of Arts and Sciences: Del Mar Middle and High
 Academy of Arts and Sciences: Sonoma
 Academy of Arts and Sciences: Thousand Oaks & Simi Valley
 Alta Vista Public
 Alta Vista South Public Charter School
 Ambassador Phillip V. Sanchez Public Charter
 Antelope Valley Learning Academy
 Assurance Learning Academy
 Crescent Valley Public Charter
 Crescent View South Charter
 Crescent View West Charter
 Desert Sands Charter
 Diego Hills Charter

Diego Springs Academy
 Diego Valley Charter
 Empower Generations Charter
 iLead Hybrid
 iLEAD Lancaster Charter
 Kings Valley Academy
 Life Source International Charter
 Mission View Public
 Mosaica Online Academy of Los Angeles
 Mosaica Online Academy of Southern California
 Paseo Grande Charter
 San Diego Workforce Innovation High School
 Santa Clarita Valley International Charter School
 The Palmdale Aerospace Academy
 The School of Arts and Enterprise
 Trivium Charter
 Vista Real Charter High



El Dorado County Charter SELPA Program Specialist Assignments



Crystal Keith

ckeith@edcoe.org - (530) 957 - 5804



ACE Charter High
ACE Charter Middle School San Jose
ACE Empower Academy (ACE Charter)
ACE Franklin McKinley
ASPIRE Alexander Twilight College Prep
ASPIRE Benjamin Holt College Prep
ASPIRE Antonio Maria Lugo Academy
ASPIRE APEX Academy
ASPIRE Benjamin Holt College Prep
ASPIRE Benjamin Holt College Prep 2
ASPIRE Berkley Maynard Academy
ASPIRE Capitol Heights Academy

ASPIRE College Academy
ASPIRE East Palo Alto Charter School
ASPIRE Eres Academy
ASPIRE Golden State College Prep
ASPIRE High School
ASPIRE Junior Collegiate Academy
ASPIRE Langston Hughes Academy
ASPIRE Lionel Wilson College Prep
ASPIRE Monarch Academy
ASPIRE Olin University Preparatory
ASPIRE Port City Academy
Aspire Richmond CA College Prep
Aspire Richmond Technology Academy

ASPIRE River Oaks
ASPIRE Rosa Parks Academy
ASPIRE Summit Charter Academy
ASPIRE Titan Academy
ASPIRE Triumph Technology Academy
ASPIRE University Charter
ASPIRE Vanguard College Prep
ASPIRE Vincent Shalvey Academy
Edison Charter Academy
Envision Academy for Arts & Technology (EA)
Envision City Arts & Tech High
Envision Impact Academy of Arts and Technology (Impact)
The New School of San Francisco

Daina Mahaffey

dmahaffey@edcoe.org - (530) 313 - 3288



Achieve Academy
ASCEND
Caliber Beta Academy
Caliber Vallejo K-8 Charter
Cox Academy
Dr. Lewis Dolphin Stallworth Sr. Charter
Epic Charter
Lazear Charter Academy
Learning Without Limits
Lighthouse Community Charter
Lighthouse Community Charter High
Lodestar - Lighthouse
Stockton Collegiate International Elementary
Stockton Collegiate International Secondary
Vista Oaks Charter

Janelle Mercado

jmercado@edcoe.org - (530) 957 - 5660



Alameda Community Learning Center
Baypoint Preparatory Academy
Baysshore Preparatory Charter
Capitol Collegiate Academy
Darnall Charter School
Downtown Charter Academy
Ingenuity Charter School
John Henry High
Nea Community Learning Center
Oak Park Preparatory Academy
Oakland Charter Academy
Oakland Charter High School
Paramount Collegiate Academy

Richmond Charter Academy
Richmond Charter Academy Benito Juarez
Sacramento Charter High
San Diego Cooperative Charter School
San Diego Cooperative Charter School 2
St. HOPE Public School 7
Sutter Peak Charter Academy
The Language Academy of Sacramento
The O'Farrell Charter
Thrive Public Schools
Valley View Charter Prep
Westlake Charter

Katelyn James

kjames@edcoe.org - (530) 957 - 2641



ARISE High
Community School for Creative Education
East Bay Innovation Academy
Francophone Charter School of Oakland
KIPP Bayview Academy
KIPP Bridge Charter
KIPP Excelencia Community Prep
KIPP Heartwood Academy
KIPP Heritage Academy
KIPP King Collegiate High
KIPP Prize Academy
KIPP San Francisco Bay Academy
KIPP San Francisco College Preparatory

KIPP San Jose Collegiate
KIPP Summit Academy
Leadership Public Schools - Hayward
Leadership Public Schools: Oakland R & D Campus
Leadership Public Schools: Richmond
North Oakland Community Charter
Oakland Military Institute College Preparatory Academy
Oakland School for the Arts
REALM Charter High School
REALM Charter Middle School
Roses in Concrete Community School
Urban Montessori Charter
Vincent Academy
Yu Ming Charter School

Kathleen Kendall

kkendall@edcoe.org - (530) 313 - 3729



Aspen Public
Citrus Springs Charter
Empowering Possibilities Charter
Gateway College and Career Academy
Gateway International
Imagine Schools, Riverside County
Inland Leaders Charter School
Oxford Preparatory Academy - Chino Valley
Oxford Preparatory Academy - Saddleback Valley
Oxford Preparatory Academy - South Orange County

Sierra Charter
Summit Leadership Academy-High Desert
Sycamore Academy of Science and Cultural Arts
Temecula Preparatory
Temecula Valley Charter School
Valley Preparatory Academy Charter



El Dorado County Charter SELPA Program Specialist Assignments



Kathy Smiley

ksmiley@edcoe.org - (530) 313 - 3290



Dixon Montessori Charter
Eleanor Roosevelt Community Learning Center
Fortune School
Hardy Brown College Prep
Iftin Charter
Kairos Public School Vacaville Academy
Pivot - North Bay
Pivot - North Valley
Pivot - Riverside County
Pivot - San Diego
River Montessori Elementary Charter
Ross Valley Charter School
Sherwood Montessori
Woodland Star Charter School

Kirstin Comstock

kcomstock@edcoe.org - (530) 457 - 7010



Academy of Personalized Learning
Clayton Valley Charter High
Contra Costa School of Performing Arts
Inspire Charter School
Inspire Charter School - Kern
Inspire Charter School - North
Inspire Charter School - South
Inspire Fresno
Inspire Monterey
Olive Grove Charter
Redding School for the Arts II
Redding STEM Academy
Winship Community School

Lena Williamson

lwilliamson@edcoe.org - (530) 313 - 8045



Acacia Elementary Charter
Acacia Middle Charter
California Virtual Academy @ Fresno
California Virtual Academy @ Kings
California Virtual Academy @ San Mateo
Delta Bridges Charter School
Delta Charter
Delta Charter Online

Delta Home Charter
Delta Keys Charter
Delta Launch Charter
John Adams Academy
Livermore Valley Charter
Livermore Valley Charter Preparatory High
New Jerusalem Charter
Paragon Collegiate Academy
Rocklin Academy at Meyers Street

Moises Buhain

mbuhain@edcoe.org - (530) 957 - 4394



Alpha: Jose Hernandez Middle School
Alpha: Blanca Alvarado Middle
Alpha: Cindy Avitia High
Ceiba College Prep Academy
Escuela Popular Accelerated Family Learning
Escuela Popular Center for Training and Careers
Gilroy Prep
Hollister Prep
Mission Preparatory
OnePurpose School

Rocketship 14
Rocketship Academy Brilliant Minds
Rocketship Alma Academy
Rocketship Concord
Rocketship Discovery Prep
Rocketship Fuerza
Rocketship Los Suenos Academy
Rocketship Mateo Sheedy Elementary
Rocketship Mosaic Elementary
Rocketship Redwood City
Rocketship Si Se Puede Academy
Rocketship Spark Academy

Silicon Valley FLEX Academy
Summit Public School K2
Summit Public School: Denali
Summit Public School: Rainier
Summit Public School: Shasta
Summit Public School: Tahoma
Summit Public School: Tamailpais
Sunrise Middle

Sean Andrew

sandrew@edcoe.org - (530) 957 - 4711



Anahuacalmecac International Preparatory High School of North America
Barack Obama Charter
Da Vinci Communications
Da Vinci Science
El Rancho Charter School
EPIC
Five Keys Adult School (SF Sheriff's)
Five Keys Charter (SF Sheriff's)
Five Keys Independence High School (SF Sheriff's)
GOALS Academy
Kinetic Academy

Lifeline Education Charter
Orange County Academy of Sciences and Arts
Prepa Tech
Samueli Academy
Santiago Charter Middle School
SBE-Magnolia Science Academy Santa Ana
Scholarship Prep
Today's Fresh Start
Unity Middle College High
USC College Prep - Santa Ana Campus
Valiente College Preparatory Charter School
Vista Heritage Charter Middle School



El Dorado County Charter SELPA Program Technician Assignments



Amanda Anderson



amanderson@edcoe.org
(530) 295 - 4527

<p>Academy of Personalized Learning Alameda Community Learning Center Albert Einstein Academy Charter Middle America's Finest Charter Anahuacalmecac International Preparatory High School of North America Arroyo Paseo Charter High School Audeo Charter Barack Obama Charter Baypoint Preparatory Academy Bayshore Preparatory Charter Capitol Collegiate Academy Charter School of San Diego City Heights Preparatory Charter Classical Academy Classical Academy High Clayton Valley Charter High Coastal Academy Coleman Tech Charter High Contra Costa School of Performing Arts Da Vinci Communications Da Vinci Science Darnall Charter School Downtown Charter Academy e3 Civic High Einstein Academy El Rancho Charter School Elevate Elementary Empower Charter EPIC Epiphany Prep Charter Five Keys Adult School (SF Sheriff's) Five Keys Charter (SF Sheriff's) Five Keys Independence High School (SF Sheriff's) GOALS Academy Gompers Preparatory Academy Guajome Learning Center</p>	<p>Guajome Park Academy Charter Harriet Tubman Village Charter Holly Drive Leadership Academy Howard Gardner Community Charter Ingenuity Charter School Innovations Academy Inspire Charter School Inspire Charter School - Kern Inspire Charter School - North Inspire Charter School - South Inspire Fresno Inspire Monterey John Henry High Kavod Elementary Charter School Keiller Leadership Academy Kinetic Academy King-Chavez Academy of Excellence King-Chavez Arts Academy King-Chavez Athletics Academy King-Chavez Community High School King-Chavez Preparatory Academy King-Chavez Primary Academy KIPP Adelante Preparatory Academy Laurel Preparatory Academy Learning Choice Academy Lifeline Education Charter MAAC Community Charter School Magnolia Science Academy San Diego McGill School of Success Mirus Secondary Museum Nea Community Learning Center Oak Park Preparatory Academy Oakland Charter Academy Oakland Charter High School Old Town Academy K-8 Charter Olive Grove Charter</p>	<p>Orange County Academy of Sciences and Arts Paramount Collegiate Academy Prepa Tech Preuss School UCSD Redding School for the Arts II Redding STEM Academy Richmond Charter Academy Richmond Charter Academy Benito Juarez Sacramento Charter High Samueli Academy San Diego Cooperative Charter School San Diego Cooperative Charter School 2 San Diego Global Vision Academy Santiago Charter Middle School SBE-Magnolia Science Academy Santa Ana Scholarship Prep St. HOPE Public School 7 Sutter Peak Charter Academy The Language Academy of Sacramento The O'Farrell Charter Thrive Public Schools Today's Fresh Start Unity Middle College High Urban Discovery Academy Charter USC College Prep - Santa Ana Campus Valiente College Preparatory Charter School Valley View Charter Prep Vista Heritage Charter Middle School Westlake Charter Winship Community School</p>
---	---	---

Amanda Ramirez



aramirez@edcoe.org
(530) 295 - 2461

<p>Antelope Valley Learning Academy ARISE High Aspen Public Assurance Learning Academy Citrus Springs Charter Community School for Creative Education Crescent Valley Public Charter Crescent View South Charter Crescent View West Charter Desert Sands Charter Diego Hills Charter Diego Springs Academy Diego Valley Charter Dixon Montessori Charter East Bay Innovation Academy Eleanor Roosevelt Community Learning Center Empower Generations Charter Empowering Possibilities Charter Fortune School Francophone Charter School of Oakland Gateway College and Career Academy Gateway International Hardy Brown College Prep Iftin Charter iLead Hybrid iLEAD Lancaster Charter Imagine Schools, Riverside County Inland Leaders Charter School Kairos Public School Vacaville Academy Kings Valley Academy KIPP Bayview Academy KIPP Bridge Charter KIPP Excelencia Community Prep KIPP Heartwood Academy KIPP Heritage Academy KIPP King Collegiate High KIPP Prize Academy KIPP San Francisco Bay Academy KIPP San Francisco College Preparatory KIPP Summit Academy</p>	<p>Leadership Public Schools - Hayward Leadership Public Schools: Oakland R & D Campus Leadership Public Schools: Richmond Life Source International Charter Mission View Public Mosaica Online Academy of Los Angeles Mosaica Online Academy of Southern California North Oakland Community Charter Oakland Military Institute College Preparatory Academy Oakland School for the Arts Oxford Preparatory Academy - Chino Valley Oxford Preparatory Academy - Saddleback Valley Oxford Preparatory Academy - South Orange County Paseo Grande Charter Pivot - North Bay Pivot - North Valley Pivot - Riverside County Pivot - San Diego REALM Charter High School REALM Charter Middle School River Montessori Elementary Charter Roses in Concrete Community School Ross Valley Charter School San Diego Workforce Innovation High School Santa Clarita Valley International Charter School Sherwood Montessori Sierra Charter Summit Leadership Academy-High Desert Sycamore Academy of Science and Cultural Arts Temecula Preparatory Temecula Valley Charter School The Palmdale Aerospace Academy The School of Arts and Enterprise Trivium Charter Urban Montessori Charter Valley Preparatory Academy Charter Vincent Academy Vista Real Charter High Woodland Star Charter School Yu Ming Charter School</p>
---	---

Academy of Arts and Sciences Fresno
Academy of Arts and Sciences Los Angeles 9-12
Academy of Arts and Sciences Los Angeles K-8
Academy of Arts and Sciences San Joaquin
Academy of Arts and Sciences: Del Mar Middle and High
Academy of Arts and Sciences: Sonoma
Academy of Arts and Sciences: Thousand Oaks & Simi Valley
Alta Vista Public
Alta Vista South Public Charter School
Ambassador Phillip V. Sanchez Public Charter



El Dorado County Charter SELPA Program Technician Assignments



Kate Hewett



kgalea@edcoe.org
(530) 295 - 2478

Acacia Elementary Charter
Acacia Middle Charter
ACE Charter High
ACE Charter Middle School San Jose
ACE Empower Academy (ACE Charter)
ACE Franklin McKinley
Achieve Academy
Alpha Middle School 2 (Alpha: Jose Hernandez Middle School)
Alpha: Blanca Alvarado Middle
Alpha: Cindy Avitia High
ASCEND
ASPIRE Alexander Twilight College Preparatory Academy
ASPIRE Alexander Twilight Secondary Academy
ASPIRE Antonio Maria Lugo Academy
ASPIRE APEX Academy
ASPIRE Benjamin Holt College Preparatory Academy

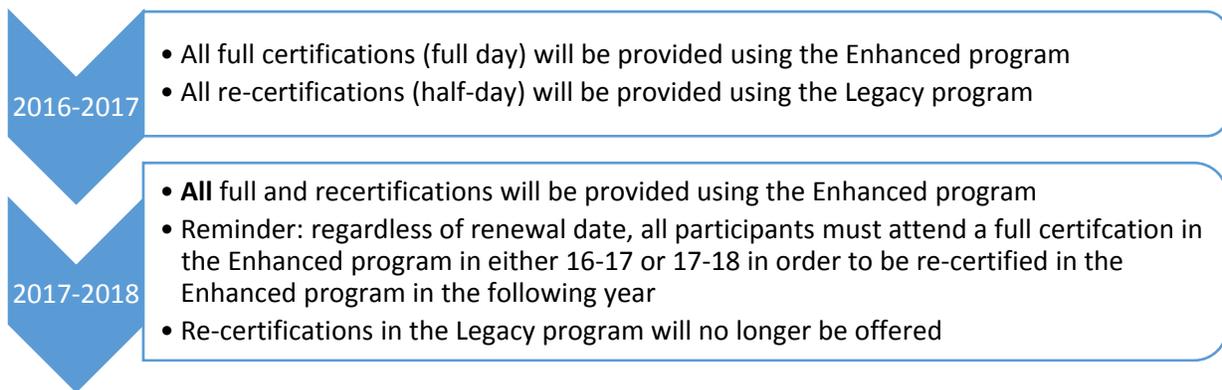
ASPIRE Benjamin Holt College Preparatory Academy 2
ASPIRE Berkley Maynard Academy
ASPIRE Capitol Heights Academy
ASPIRE College Academy
ASPIRE East Palo Alto Charter School
ASPIRE Eres Academy
ASPIRE Golden State College Preparatory Academy
ASPIRE High School
ASPIRE Junior Collegiate Academy
ASPIRE Langston Hughes Academy
ASPIRE Lionel Wilson College Preparatory Academy
ASPIRE Monarch Academy
ASPIRE Ollin University Preparatory Academy
ASPIRE Port City Academy
Aspire Richmond CA College Preparatory Academy
Aspire Richmond Technology Academy
ASPIRE River Oaks
ASPIRE Rosa Parks Academy
ASPIRE Summit Charter Academy
ASPIRE Titan Academy
ASPIRE Triumph Technology Academy
ASPIRE University Charter
ASPIRE Vanguard College Preparatory Academy
ASPIRE Vincent Shalvey Academy
Caliber Beta Academy
Caliber Vallejo K-8 Charter
California Virtual Academy @ Fresno
California Virtual Academy @ Kings
California Virtual Academy @ San Mateo
Ceiba College Prep Academy
Cox Academy
Delta Bridges Charter School
Delta Charter
Delta Charter Online
Delta Home Charter
Delta Keys Charter
Delta Launch Charter
Dr. Lewis Dolphin Stallworth Sr. Charter
Edison Charter Academy
Envision Academy for Arts & Technology (EA)
Envision City Arts & Tech High
Envision Impact Academy of Arts and Technology (Impact)
Epic Charter
Escuela Popular Accelerated Family Learning

Escuela Popular Center for Training and Careers, Family Learning
Gilroy Prep
Hollister Prep
John Adams Academy
Lazear Charter Academy
Learning Without Limits
Lighthouse Community Charter
Lighthouse Community Charter High
Livermore Valley Charter
Livermore Valley Charter Preparatory High
Lodestar - Lighthouse
Mission Preparatory
New Jerusalem Charter
OnePurpose School
Paragon Collegiate Academy
Rocketship 14
Rocketship Academy Brilliant Minds
Rocketship Alma Academy
Rocketship Concord
Rocketship Discovery Prep
Rocketship Fuerza
Rocketship Los Suenos Academy
Rocketship Mateo Sheedy Elementary
Rocketship Mosaic Elementary
Rocketship Redwood City
Rocketship Si Se Puede Academy
Rocketship Spark Academy
Rocklin Academy at Meyers Street
Rocklin Academy at Turnstone
Rocklin Academy Gateway
Stockton Collegiate International Elementary
Stockton Collegiate International Secondary
Summit Public School K2
Summit Public School: Denali
Summit Public School: Rainier
Summit Public School: Shasta
Summit Public School: Tahoma
Summit Public School: Tamailpais
Sunrise Middle
The New School of San Francisco
Vista Oaks Charter
Western Sierra Collegiate Academy

CPI Transition Guidance Document: From Legacy to Enhanced

The Non-Violent Crisis Prevention Intervention training developed by the Crisis Prevention Institute (CPI) is designed to provide participants with knowledge and resources to respond early and effectively to individuals who are experiencing crisis. CPI has recently released the **Enhanced Program**, an updated version of its widely known Legacy program. The Enhanced program includes the first significant revisions since the Legacy program's introduction in 1980 and incorporates several new learning models, physical intervention options, and effective tools to expand staff capabilities. Through a multi-year transition process, the Enhanced training is intended to replace the Legacy program as the primary Non-Violent Crisis Prevention Intervention training.

In a continued effort to provide high-quality, meaningful and up-to-date professional development to our partners, the EDCOE SELPA/Charter SELPA will begin providing full-day certifications using the Enhanced program content during the 2016-2017 school year. **All current certifications through the Legacy program continue to be valid through the end date indicated on the participant's blue certification card.** The graphic below outlines the EDCOE SELPA/Charter SELPA schedule for the transition to the Enhanced program:



Important Reminders

It is recommended that site-based teams collaborate to identify staff that have been trained in the Legacy versus Enhanced content to ensure consistency in responses to students in crisis. Additionally, schools may elect to train all CPI certified personnel in the full day Enhanced program in the 16-17 school year, if desired.

Staff is encouraged to attend CPI training annually. Districts/LEAs shall determine requirements for re-certification and/or full certification in the years following the initial full certification.

As an additional resource, the EDCOE SELPA/Charter SELPA has developed a Verbal De-Escalation training which is available upon request as an onsite professional learning opportunity. This is not a CPI certification course, but rather a 3-hour training in which staff will learn preventative techniques as well as verbal de-escalation strategies for supporting students at differing levels of behavioral escalation. All are welcome and encouraged to attend. Please contact your Program Specialist for more information.

For additional questions please contact your SELPA Program Specialist



nonviolent crisis intervention®

Enhanced – Because We Have More to Share

We are excited about the enhancements to *Nonviolent Crisis Intervention*® training – a proven effective program with core content that has seen no major revision since its introduction in 1980.

These enhancements have been driven by feedback from Certified Instructors, industry trends, research, collaboration, and content CPI acquired in 2011 by integrating with a UK-based company. The additional content offers a new perspective in all program units and helps increase the program's relevance for a wider spectrum of staff who face challenging behavior. The enhancements include:

ADDITIONAL LEARNING MODELS

These models complement the existing *Nonviolent Crisis Intervention*® models and expand them to a greater level of detail. They give staff more tools to organize their thinking around risk behavior and guide their day-to-day decision making. The additional learning models include:

- **Decision-Making Matrix** to help staff analyze the degree, likelihood, and potential outcomes of risk behavior.
- **RESPONSE Continuum**™ to help staff consider how they can best support an individual to decelerate when behaviors have potential risk.
- **Opt-Out Sequence**™ to help staff reduce the duration and restrictiveness of physical engagement.
- **Physical Skills Evaluation Framework** to help staff consider the safety, effectiveness, acceptability, and transferability of any physical intervention.

GREATER DEPTH WITHIN COURSE UNITS

Through discussion, presentation of content, the raising of questions, and activity debriefing, the program directly addresses the “So what?” behind the concepts taught. Each unit takes a more intentional look at the thoughts and feelings that drive behaviors. The introduction of several new terms offers a richer understanding of how staff's nonverbal communication can impact those around them.

NEW PHYSICAL INTERVENTION OPTIONS

The enhanced program adds new physical intervention options for responding to various levels of risk behavior. Extensive development within the physical units examines low, medium, and high levels of risk and restrictiveness. Additionally, there are several new principles to put into practice and to apply to a wide variety of scenarios, including seated intervention options so that responders can meet or enter a situation at the appropriate time. The holding and disengagement skills presented have been taught within the MAPA® (Management of Actual or Potential Aggression) program.

FACILITATION DYNAMICS

The enhanced content in the *Nonviolent Crisis Intervention*® program utilizes a multitude of learning activities and formats that align with current best practices. These facilitation dynamics are designed to best meet the needs and expectations of adult learners.

ADDED CONTENT

Several new learning models and physical intervention options give you highly effective tools to better guide your day-to-day decision making.

Nonviolent Crisis Intervention® Training

A UNIT-BY-UNIT COMPARISON OF CONTENT ENHANCEMENTS

1980 - JULY 2015

ENHANCED JULY 2015

UNIT I: THE CPI CRISIS DEVELOPMENT MODELSM

Provides the foundation of the *Nonviolent Crisis Intervention*® training program.

UNIT 1: THE CPI CRISIS DEVELOPMENT MODELSM

Exploration of the familiar *Crisis Development Model*SM considers risk behavior that may be presented and previews a range of severity and decision-making considerations later addressed in Unit 7.

UNIT II: NONVERBAL BEHAVIOR

Raises awareness of nonverbal communication and how it may positively or negatively impact an individual's behavior.

UNIT 2: NONVERBAL COMMUNICATION

Expands upon kinesic behavior and what is communicated through *haptics*, or touch. The potential implication of staff position, posture, and proximity add dimension to the *Supportive Stance*SM classroom model.

UNIT III: PARAVERBAL COMMUNICATION

Demonstrates *how* you say what you say can influence the outcome of a potential crisis.

UNIT 3: PARAVERBAL COMMUNICATION

The significance of paraverbal communication components are established and linked to verbal communication in staff interventions.

UNIT IV: VERBAL INTERVENTION

Identifies and applies verbal techniques and effective listening strategies that can help de-escalate a crisis situation.

UNIT 4: VERBAL COMMUNICATION

A *Verbal Escalation Continuum*SM activity incorporates feedback loops to illustrate team inter-dependence. Additional limit-setting information, skills, and practice are also presented.

UNIT V: PRECIPITATING FACTORS, RATIONAL DETACHMENT, INTEGRATED EXPERIENCE

Identifies factors that may lead to acting-out behaviors and explores the value of understanding aspects of antecedent behaviors in helping staff maintain a professional attitude.

UNIT 5: PRECIPITATING FACTORS, RATIONAL DETACHMENT, INTEGRATED EXPERIENCE

Enhanced connectivity among the three concepts taught within this unit magnifies the significance of the Integrated Experience.

UNIT VI: STAFF FEAR AND ANXIETY

Explores the causes of staff fear and anxiety and helps staff maximize the effectiveness of their interventions during a crisis.

UNIT 6: STAFF FEAR AND ANXIETY

Staff fear and anxiety links back to the Integrated Experience and bridges ahead to Unit 7 discussions. Modifications to facilitation approaches add clarity for adult learners.

UNIT VII: CPI'S PERSONAL SAFETY TECHNIQUESSM

Demonstrates and applies the principles and techniques for personal safety to avoid injury and maximize the *Care, Welfare, Safety, and SecuritySM* for all stakeholders if behavior becomes physical.

UNIT 7: DECISION MAKING

Discussion around professional standards and legal themes frame the addition of CPI's *Decision-Making Matrix*. Learning from Unit 2 is incorporated into principles taught as disengagement skills for personal safety.

UNIT VIII: NONVIOLENT PHYSICAL CRISIS INTERVENTIONSM AND TEAM INTERVENTION

Explores how to control and transport physically aggressive individuals in a safe, nonharmful manner and how to use an effective team approach during intervention.

UNIT 8: PHYSICAL INTERVENTIONS - DISENGAGEMENT SKILLS

A range of risk behaviors is considered and correspond to the level of restriction utilized in applying *Nonviolent Physical Crisis InterventionSM* skills. Additional physical intervention skills expand options for responding to risk behavior.

UNIT IX: SITUATIONAL ROLE-PLAYS

Provides the opportunity for practical application of program information.

UNIT 9: PHYSICAL INTERVENTIONS - HOLDING SKILLS

The *Opt-Out SequenceSM* is introduced as a staff consideration when involved in a physical intervention. The Risks of Restraint discussion is included. Additional holding strategies and transitions for responding to low, medium, and high levels of risks are explored and practiced.

UNIT X: POSTVENTION

Provides a model for using the time after a crisis to re-establish and maintain rapport with the person who has acted out, bring closure for staff involved, and learn from the crisis incident.

UNIT 10: POSTVENTION

New learning from the enhanced components are incorporated into staff exploration of skills needed for effective Therapeutic Rapport.





Deaf and Hard of Hearing Guidelines

Tools and Resources for Schools and IEP Teams

Table of Contents

Click on any section of this Table of Contents to navigate to that page. Additionally, this document contains hyperlinks to online resources. By printing this document, you will no longer have access to those resources.

Deafness, Hearing Impairment, and Deaf-Blindness Defined	Pg. 1
Assembly Bill 1836: Rights for Children who are Deaf or Hearing Impaired	Pg. 1
Assessment for Students who are Deaf or Hard of Hearing	Pg. 2
Related Services for the Deaf and Hard of Hearing	Pg. 2
Specialized Services for Low Incidence Disabilities	Pg. 3
Language, Speech, and Hearing Services	Pg. 3
Interpreter	Pg. 4
Audiology	Pg. 5
Audiological Equipment	Pg. 6
Assistive Technology Services	Pg. 6
Educational Audiologist	Pg. 7
Deaf and Hard of Hearing versus Audiological Services	Pg. 8
Exception to Related Services for Students with Surgically Implanted Devices	Pg. 9
Auxiliary Aides and Services	Pg. 9
IEP Team Meeting Resources for Students who are Deaf or Hard of Hearing	Pg. 10
Determining the Necessary Accommodations and Modifications for Students who are Deaf or Hard of Hearing	Pg. 11
Instructional Strategies and Best Practices	Pg. 12
Accommodations for a Student who is Deaf or Hard of Hearing	Pg. 13
Children with Hearing Loss - Helpful Adaptations in the School Environment	Pg. 14
Appendix	Pg. 17
Glossary of Terms	Pg. 18
National Resources	Pg. 18
Resources in California	Pg. 19

Deafness, Hearing Impairment and Deaf-Blindness

Students who may require deaf and hard of hearing specialized services and supports may be eligible for special education by meeting the criteria for deafness, a hearing impairment, or deaf-blindness.

Deafness (DF): A hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing with or without amplification, and that impairment adversely affects a child's educational performance.

Hearing Impairment (HI): An impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance, but that is not included under the definition of deafness in this section. SEIS refers to a Hearing Impairment as Hard of Hearing (HH).

Deaf-blindness (DB): Concomitant hearing and visual impairments the combination of which causes such severe communication and other developmental and educational needs that cannot be accommodated in special education programs solely for children with deafness or children with blindness.

Assembly Bill 1836: Rights for Children who are Deaf or Hearing Impaired

In September of 1994, Assembly Bill 1836 (AB 1836) was signed into law (EC 56000.5). AB 1836 acknowledges the essential need for children who are deaf and hearing impaired to be educated in an environment that respects and uses their preferred mode of communication. The goal in developing the passage of AB 1836 was to change the way education and related services were delivered to deaf and hard of hearing children.

AB 1836 addresses the need for Deaf and Hard of Hearing (DHH) students to:

- Have access to teachers, psychologists, assessment staff, and other professionals who are fluent in the language being used by the student.
- Be educated with a sufficient number of other deaf and hard of hearing students to allow free, open, and spontaneous communication.
- Allow free, open and spontaneous communication by providing deaf and hard of hearing students regular contact with other children, and professionals, who are proficient in the language utilized by the student.
- Participate in all school programs, including after-school social and athletic functions, lunch, and recess.
- Have access to vocational programs and preparation for life beyond the school experience.

AB 1836 does not promote any one form of communication for deaf students.

- AB 1836 calls for IEP teams to develop goals and objectives for a child with DHH needs and consider the following issues:
 - Does the student have a sufficient number of schoolmates who are similar in age, language, and learning ability?
 - Are teachers and other professionals who work with the child skilled in the child's language and way of communicating?
 - Are the critical elements of the educational program (e.g. academic instruction, school services, and extracurricular activities) available in the child's language and their way of communicating?

Assessment for Students who are Deaf and Hard of Hearing

As with any student, thorough assessments must be completed in order to inform the education team as to what the child's needs are and what supports are needed in the education setting. Appropriate evaluation of children with hearing loss means assessing the performance areas most vulnerable to challenges due to the access issues resulting from hearing loss or deafness. Assessment results should provide decision makers with information from a variety of sources.

Many formal evaluation tools require some form of modification which must be noted in the student's record. Many assessment tools that are utilized when evaluating a student that is deaf or hard of hearing are only usable in parts; such as the use of only visual or performance subtests from a more comprehensive standardized evaluation.

Assessments for students who are DHH may include, but are not limited to:

- Cognitive/intellectual assessments
- Auditory/listening skills
- Audiological
- Assistive technology
- Speech skills
- Psycho-social assessments
- Behavior
- Occupational therapy
- Expressive and receptive language
- Vocabulary
- Basic concepts
- Sign language
- Hearing technology (i.e. hearing aids, cochlear implants, and hearing assistive technology)

Related Services for the Deaf and Hard of Hearing

In accordance with California Education Code, instruction and services for students that are deaf and hard of hearing shall be provided by an individual holding an appropriate credential, who has competencies to provide services to the hearing impaired and who has training, experience, and proficient communication skills for educating individuals with hearing impairments.

Related services for the DHH students may include, but are not limited to:

- Speech, speech reading, and auditory training.
- Instruction in oral, sign, and written language development.
- Rehabilitative and educational services for hearing impaired individuals to include monitoring amplification, coordinating information for the annual review, and recommending additional services.
- Adapting curricula, methods, media, and the environment to facilitate the learning process.
- Consultation to students, parents, teachers, and other school personnel to maximize the student's experience in the regular education program.
- A specially trained instructional aide, working with and under the direct supervision of the credentialed teacher of the student, may assist in the implementation of the student's IEP.

Specialized Services for Low Incidence Disabilities

A low incidence disability is defined as a severe disabling condition with an expected incidence rate of less than one percent of the total statewide enrollment in special education. For purposes of this definition, severe disabling conditions are hearing impairments, vision impairments, severe orthopedic impairments, or any combination thereof.

Please refer to the El Dorado Charter SELPA Low Incidence Guidelines for more information about guidance and funding for low incidence services.

Low incidence disabilities are:

- Hearing impairments (hard of hearing, deaf)
- Vision impairments
- Severe orthopedic impairments
- Any combination thereof (e.g., deaf-blind)

Specialized services for low incidence disabilities may include:

- Specially designed instruction related to the unique needs of the student with a low incidence disability provided by a qualified specialist.
- Specialized services related to the unique needs of pupils with low incidence disabilities provided by qualified individuals such as interpreters, note takers, readers, transcribers, and other individuals who provide specialized materials and equipment.
- An “educational interpreter” facilitates communication between the DHH student, and other students in the general education classroom as well as other school-related activities; this includes extracurricular activities designated in the student’s IEP.
- An “educational interpreter” shall be certified by the national Registry of Interpreters for the Deaf (RID), or equivalent. In lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the Educational Interpreter Performance Assessment (EIPA), the Educational Sign Skills Evaluation-Interpreter and Receptive (ESSE-I/R), or the National Association of the Deaf/American Consortium of Certified Interpreters (NAD/ACCI) assessment. If providing Cued Language transliteration, a transliterator shall possess a Testing/Evaluation and Certification Unit (TECUnit) certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.

Specialized services for pupils with low incidence disabilities shall be provided only by personnel who possess a credential that authorizes services in special education or clinical rehabilitation services in the appropriate area of disability.

Language, Speech, and Hearing Services

Students who are deaf or hard of hearing may require support in the areas of language, speech or hearing. The areas of need and the supports required are defined based on appropriate assessment.

Language, speech, and hearing development and remediation may include:

- 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 of a Speech and Language Pathologist unless an IEP is developed and services are provided.
- 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.

- Consultative services to pupils, parents, teachers, or other school personnel.
- Coordination of speech and language services with an individual's regular and special education program.

Caseloads of full-time equivalent (FTE) 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.

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

- A license in Speech-Language Pathology issued by a licensing agency within the Department of Consumer Affairs; or
- A credential authorizing language or speech services.

Services may also be provided by speech-language pathology assistants working under the direct supervision of a qualified language, speech, and hearing specialist, 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 the qualified specialist shall not be increased by the use of assistants.

Interpreter

Interpreting services may include the following, when used with respect to children who are deaf or hard of hearing:

- Oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell.
- Special interpreting services for children who are deaf-blind.

The state board of education requires that educational interpreters for students who are deaf or hard of hearing meet state-approved or state-recognized requirements for certification, licensing and registration or other comparable requirements. The regulations further define "educational interpreters" as any person who provides communication facilitation between students who are deaf or hard of hearing, and others, in the general education classroom and for other school related activities, including extracurricular activities. These services shall be designated in the students' IEP.

In order to meet the state requirement for education interpretation, an individual shall be certified by, or meet an equivalent level of competency, established by the national Registry of Interpreters for the Deaf (RID). In lieu of the RID certification, an educational interpreter shall have achieved a score of 4.0 or above on one of the following assessments:

- Educational Interpreter Performance Assessment (EIPA)
- Educational Sign Skills Evaluation- Interpreter and Receptive (ESSE-I/R)
- National Association of the Deaf/American Consortium of Certified Interpreters (NAD/ACCI) assessment

If providing Cued Language transliteration, a transliterator must possess certification in the Testing / Evaluation and Certification Unit (TECUnit) or have achieved a 4.0 or above on the Educational Sign

Skills Evaluation (EIPA)- Cued Speech.

LEAs/districts may employ or contract with outside agencies for educational interpreters, and must ensure that they meet the minimum qualifications listed above.

When working with an educational interpreter, some tips to consider:

- When communicating with a student that is deaf or hard of hearing, look at the student, not the interpreter when talking.
- Speak directly to the student using person first language. For example, “Do you have your assignment?” rather than “Does he/she have their assignment?”
- When possible, share notes, outlines, or handouts with the interpreter in advance, or at minimum, provide the interpreter with a visual cue during the lesson/assignment/activity.
- Allow the interpreter to focus on facilitating communication for the student rather than utilizing them for clerical or teacher support in the classroom.
- Allow the interpreter to request specific seating/positioning to facilitate the best viewing angles for himself/herself and for the client.
- When separated from the student, avoid giving messages to the interpreter to relay at a later time to the individual.
- Avoid private conversations with the interpreter or others in the presence of the student who is deaf or hard of hearing as everything that is spoken shall be interpreted.
- Speak naturally at a reasonable, modest pace- the interpreter will let you know if it is needed to speak slower.
- Consider including breaks for the interpreter. Interpreting can be taxing, both mentally and physically, so the interpreter will need adequate ‘down time.’
- Ensure there is adequate lighting when using an interpreter. If the lights are dimmed to use technology in the classroom, make sure the lighting is adequate for the deaf student to see the interpreter.
- The interpreter will typically stand near the teacher. Then, the student will have an option to view both the teacher and the interpreter and visual aids being used for instruction.

Audiology

Students who are deaf or hard of hearing usually require support in the areas of audiology assessment, instruction and services. The areas of need and the supports required are defined based on appropriate assessment.

Based on the provisions of 34 C.F.R. Section 300.34 and 5CCR 3051.2 audiological instruction and services may include:

- The identification of a child with a hearing loss.
- Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing.
- Consultative services regarding test findings, amplification needs and equipment, otological referrals, home training programs, acoustic treatment of rooms, and coordination of educational services to hearing-impaired individuals.
- Delivery of habilitative activities, such as language habilitation, auditory training, speech reading

[<< Back to Table of Contents | Page 5](#)

(lip-reading), hearing evaluation, and speech conservation.

- Planning, organizing, and implementing an audiology program for individuals with auditory dysfunctions, as specified in the IEP.
- Creation and administration of programs for the prevention of hearing loss.
- Counseling and guidance of children, parents, and teachers regarding hearing loss.
- Monitoring hearing levels, auditory behavior, and amplification in the instructional setting.
- Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

Audiological services shall be provided only by personnel who possess:

- A license in Audiology issued by a licensing agency within the Department of Consumer Affairs; or
- A credential authorizing audiology services.

Assistive Technology Equipment

Students with low incidence disabilities require highly specialized services, equipment and materials.

An “assistive technology device” is any item, piece of equipment, or product system (whether acquired commercially off the shelf, modified, or customized), that is used to increase, maintain, or improve the functional capabilities of a child with a disability. For a child with a speech-related disability, a common example of an assistive technology device is a communication board.

An “assistive technology service” is any service that directly assists an individual with exceptional needs in the selection or use of an assistive technology device that is educationally necessary. The term includes:

- A functional evaluation of the individual in their customary environment.
- Coordinating and using other therapies, interventions, or services with assistive technology devices.
- Training or technical assistance for an individual with exceptional needs or, where appropriate, their family.
- Training or technical assistance for professionals substantially involved in the major life functions of individuals with exceptional needs.

Assistive Technology Services

Assistive technology services include:

- Evaluations, including a functional evaluation of the student in the educational environment.
- Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with the student's education programs and rehabilitation plans and programs;
- Training or technical assistance for the student, family, and professionals, who are substantially involved in the major life functions of the student.

IDEA 2004 regulations require schools to ensure that hearing aids and external components of cochlear implants are functioning properly [§300.113(a)(b)].

Assistive technology services shall be provided only by personnel who possess a:

- A license in Physical Therapy issued by a licensing agency within the Department of Consumer Affairs, where the utilization of assistive technology services falls within the scope of practice of physical therapy as defined in Business and Professions Code section 2620 and implementing regulations.
- A license in Occupational Therapy issued by a licensing agency within the Department of Consumer Affairs.
- A license in Speech-Language Pathology issued by a licensing agency within the Department of Consumer Affairs or a valid document, issued by the California CTC, where the function of the assistive technology service is augmentative communication.
- A baccalaureate degree in engineering with emphasis in assistive technology.
- A baccalaureate degree in a related field of engineering with a graduate certificate in rehabilitation technology or assistive technology.
- A certification from the Rehabilitation Engineering and Assistive Technology Society of North America and Assistive Technology Provider (RESNA/ATP).
- A certificate in assistive technology applications issued by a regionally accredited post-secondary institution.
- A credential that authorizes special education of physically impaired, orthopedically impaired, or severely impaired pupils.

Educational Audiologist

Educational audiologists are uniquely qualified to facilitate support for students with hearing loss in the educational system.

In addition to identifying a student's hearing loss, the educational audiologist has knowledge and skills regarding the impact of hearing loss on learning, ability to suggest relevant educational goals and benchmarks in developing an Individualized Education Program (IEP), and experience with strategies and technology for support within the classroom for both the student and the teacher. Educational audiologists are also trained in diagnosing auditory processing disorders and recommending remediation or compensation strategies.

The Individuals with Disabilities Education Act (IDEA) defines the practice of audiology in educational settings as follows:

- Identification of children with hearing loss
- Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing
- Provision of habilitative activities, such as language habilitation, auditory training, speechreading, hearing evaluation and speech conservation
- Creation and administration of programs for hearing loss prevention
- Counseling and guidance of children, parents and teachers regarding hearing loss
- Determination of children's needs for group and/or individual amplification, and selecting and fitting appropriate amplification

Deaf and Hard of Hearing versus Audiological Services

Educational Audiologists	Collaborative Activities	Teachers of the Deaf & Hard of Hearing
<ul style="list-style-type: none"> • Manage school-based hearing screening programs. • Lead efforts with students, teachers, and parents to provide education regarding the impact of noise exposure and hearing loss prevention measures. • Manage audiological equipment and hearing assistive devices including maintenance and calibration. • Collect and review audiological evaluations for children evaluated in other audiological facilities. • Perform comprehensive, educationally relevant hearing evaluations, interpret results and implications, and make recommendations to enhance communication access and learning. • Assess auditory processing function and make recommendations to manage APD, issues in the classroom. • Assess classroom acoustics and make recommendations to improve classroom listening environments. • Evaluate and make recommendations for personal hearing instruments, classroom, and other hearing-assistive technology • Perform fitting, validation, and management of hearing assistance technology. • Provide hearing-assistive technology services including educating students, teachers of the deaf/ hard of hearing, and other school personnel regarding technology performance and expectations. • Provide training to perform listening checks and basic trouble shooting to maintain proper functioning of personal hearing instruments and hearing-assistance technology. • Participate in initial and review IEP and 504 meetings to address audiological and communication access needs, services, and placement determination. • Provide instruction in audiology-related areas to students. • Participate as member of the school multidisciplinary special education team. 	<ul style="list-style-type: none"> • Observe classroom and school environments to evaluate communication access, classroom acoustics, and how children who are deaf or hard of hearing, or who have other auditory disorders are functioning. • Make recommendations to improve access to communication, participation and instruction including use of assistive technologies for alerting, messaging, and other routine functions. • Use audiological data, coupled with academic and communication data, to determine appropriate use of visual technologies for equitable access to language, instruction, and the curriculum (e.g., ASL, signed systems, cued speech, CART and voice-to-text translations). • Collaborate with interpreters, transliterators and/or CART providers regarding expressive and receptive preferences and abilities of students accessing those services. • Lead discussion of the Special Factors requirements at annual IEP meetings. • Educate school personnel about language, communication, social, and educational effects of hearing loss/deafness, technology options, and associated accommodations. • Ensure appropriate implementation of services and delivery of instructional accommodations. • Provide emotional support to children who are deaf or hard of hearing or who have other auditory disorders. • Organize support groups for children who are deaf or hard of hearing or who have other auditory disorders. • Educate students and their families regarding hearing status, associated accommodations, technology options, and self-advocacy. • Promote programs for speech reading, listening, communication strategies and use and care of amplification devices. • Provide community leadership to enhance awareness of hearing, hearing impairment, and deafness to ensure all children and youth with hearing loss are promptly identified, evaluated, provided resources, and appropriate intervention services. 	<ul style="list-style-type: none"> • Assess educational performance of children who are deaf or hard of hearing or who have other auditory problems. When possible, distinguish learning issues that are related to hearing status and from those related to other issues. • Provide instruction to children who are deaf or hard of hearing or who have other auditory learning problems, including preview and review of academic material to help optimize learning. • Provide specialized instruction in expanded core curricular areas such as communication, career education, self-determination and advocacy, social emotional skills, technology, and family education. • Act as liaison to school-based instructional staff and personnel. • Perform listening checks and basic troubleshooting to monitor personal hearing instruments and hearing-assistive technology. Contact school-based audiologist when problems require additional attention or repair. • Participate in initial and review IEP and 504 meetings to address communication, education and access needs. • Participate as member of school multidisciplinary special educational team.

Exception to Related Services for Students with a Surgically Implanted Device

According to the California Code of Regulations (CFR Title 34 Section 300.34), related services that apply to children with surgically implanted devices, including cochlear implants, do not include optimization of the device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.

However, nothing limits the right of a child with a surgically implanted device from receiving related services, as outlined in the California Code of Regulations, that are determined by the IEP team as necessary for a child to receive FAPE. Nothing precludes the LEA/district from appropriately monitoring and maintaining medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school. Lastly, nothing prevents the LEA/district from their responsibility to routinely check the external component of a surgically implanted device to make sure it is functioning properly.

Auxiliary Aides and Services

Under Title II of the Americans with Disabilities Act, public school districts shall ensure that communication for a student that has a DHH disability is as effective as communication with students without disabilities.

It is important to note that Title II and Section 504 also protect students with disabilities, regardless if they are not eligible for special education and related services under IDEA, but still have the right to effective communication as stated in the Title II federal requirements of ADA. Because a vast majority of students that have a DHH disability qualify for special education under IDEA, LEA/districts often meet FAPE requirement through IDEA.

Public schools must apply both IDEA and Title II regulations on effective communication requirements for individuals with disabilities. In some instances, in order to comply with Title II requirements, a district may have to provide the student with services that are not required under the IDEA. However, in other instances, communication services provided under IDEA may meet the requirements of both laws of individual students. Schools need to be aware of both federal laws in order to meet the communication needs of students with disabilities.

Auxiliary aids and services include a wide range of services, devices, technologies, and methods for providing effective communication, as well as the acquisition or modification of equipment or devices. It is the obligation of the district to provide auxiliary aids or services to the maximum extent appropriate, but if the school is able to prove that providing auxiliary aids or services would be a fundamental alteration in the nature of a service, program, or activity, or be an undue financial and administrative burden, the school does not need to provide the auxiliary aid or service.

Title II regulations require that when a school is deciding what types of auxiliary aids and services are necessary to ensure effective communication, the school shall give primary consideration to the aid or service requested by the person with the disability (or an appropriate family member, such as the parent or guardian). The LEA/district must honor the choice of the student with a disability (or appropriate family member) unless the LEA/district can prove that an alternative auxiliary aid or service provides communication that is as effective as that provided to students without disabilities.

For a student who is deaf, deaf-blind or hard of hearing, some examples of aids or services may include, but are not limited to:

- Exchange of written materials
- Qualified interpreter
- Note takers
- Real-time computer-aided transcript services (i.e. Communication Access Real-time Translation (CART))
- Real-time captioning
- Assistive listening systems/devices
- Accessible electronic and information technology
- Open and closed captioning
- Written materials
- Exchange of written notes
- Telephone handset amplifiers
- Telephone compatible with hearing aides
- Video-based telecommunication systems

In general, the services, devices, technologies, and methods for providing effective communication that are “auxiliary aids and services” under Title II could also be provided under IDEA as a part of FAPE.

IEP Team Meeting Resources for Students who are Deaf and Hard of Hearing

A multi-disciplinary team is encouraged to address all of the unique needs of a child that is deaf or hard of hearing. Some of the key questions for the IEP team to address when making decisions regarding services, supports, and the Least Restrictive Environment (LRE) for a student that is DHH are:

- What is the student’s preferred method of communication?
- What are the student’s communication needs?
- What are the student’s opportunities for direct communication with peers and professional personnel in the child’s language and communication mode?
- What are the student’s academic level, strengths, and needs?
- What are the student’s language skills (including expressive and receptive language), strengths and needs? Possible impact of the hearing loss on understanding of Language and Speech?
- What are the student’s social strengths and needs? Possible social impact of hearing loss?
- What are the student’s self-advocacy skills, strengths, and needs?
- What are the student’s hearing loss and audiology needs?
- What are the student’s needs as it relates to hearing devices, assistive technology, or auxiliary aides and services?
- How does the student access Common Core State Standards?
- What instructional services, supports and accommodations does the student need to access curriculum?

Determining the Necessary Accommodations and Modifications for Students who are Deaf or Hard of Hearing

Questions for the IEP Team to discuss when determining accommodations or modifications for a student that is deaf or hard of hearing are:

- Classroom routines
 - Is the student aware of classroom routines?
 - Does the student require adult assistance or prompting to follow classroom routines?
 - Is the student able to observe others or independently follow classroom routines?
- Comprehension of instruction
 - Does the student comprehend grade level instruction? What supports the student with comprehending grade-level instruction?
 - What supports are needed for the student to understand and comprehend grade level instruction?
- Participation during whole-class instruction
 - How does the student engage during whole-class instruction?
 - Does the student respond when called upon? Is the student's response on topic/off topic? What does the student need to be more involved during whole-class instruction?
 - What is the student's level of independence when initiating a response during whole class discussions?
- Participation during small group discussions/cooperative learning
 - How does the student engage in small group discussion/cooperative learning environments?
 - What is the student's level of attention in the small group discussions/cooperative learning environments?
 - What level of participation does the student have in small group discussions/cooperative learning environments?
- Self-advocacy skills
 - What is the student's level of awareness of their hearing-related needs?
 - What level of prompting or support does the student need in order to inform others of their hearing-related needs?
 - What is the level of the student's awareness of their preferential seating needs?
 - What supports the student in selecting the most appropriate seating position within the classroom?
 - Is the student aware when/if information presented to the whole class is misunderstood?
 - Does the student ask for assistance when information is misunderstood? Does the student ask for instruction to be repeated when it is misunderstood?
- Visual attention during instruction
 - What percentage of the time does the student visually attend to the speaker?
 - What supports are needed to improve the percentage of time the student visually attends to the speaker?

- Auditory skills
 - What are the student’s auditory skills in a quiet classroom? What distances does the student demonstrate auditory skills in a quiet classroom?
 - What are the student’s auditory skills within a normal noise level? What distances does the student demonstrate auditory skills within this environment?
 - What are the student’s auditory skills within noisy classroom? What distances does the student demonstrate auditory skills within this environment?

Instructional Strategies and Best Practices

There are a few key characteristics to be aware of when interacting with students who are deaf or hard of hearing. First, the level of “usable” hearing varies greatly from person to person. Second, they may or may not speak, and communication may or may not require an American Sign Language (ASL) interpreter. It is important to remember that each student with hearing loss is unique, and should receive supports and services based on their unique needs.

Each child with hearing loss requires supports and services to access all classroom activities and social and educational opportunities. Some strategies to consider include:

- Check classroom acoustics to minimize typical classroom noise and maximize sound amplification for student.
- Ensure student is seated appropriately to have best access to teacher’s instruction.
- Student may need attention to auditory skills, speech and language development, and support with vocabulary and reading.
- Student may use hearing aids and an FM system for amplification of sound. Check regularly for proper working condition.
- Self-esteem and peer acceptance may be areas of concern. Support and encourage proactively.
- Student may use sign language or a visual communication system. An educational interpreter may be necessary. Communication systems should be used consistently.
- Student may benefit from note-taking assistance.
- Closed captioning in films and videos may be necessary.
- If student uses sign language, access to other ASL users is beneficial.

The classroom itself can help or hinder the student’s success in a class. Most students who are deaf or hard of hearing depend on their vision to either lipread the teacher or to watch an interpreter, so the physical aspects of the classroom become very important.

- Standing in front of a light source puts the teacher’s face in a shadow, making it very difficult to lipread for the student.
- Try to avoid speaking any time the student can’t see your face, such as when writing on the board or walking around the room.
- When using an overhead projector, the teacher should stand to the side of the projector so that it doesn’t block the face.
- If a PA microphone is used in a large classroom, the microphone should be held below the mouth to facilitate lipreading.
- Classroom staff should use visual aids whenever possible.
- When referring to items on the board, the teacher should be specific about the word or phrase being referenced to by pointing directly to it.
- When showing a videotape to the class, classroom staff should ensure it is captioned and that the television has a decoder. Any videos you purchase should be captioned. Videos may be ‘open captioned’ (always visible) or ‘closed captioned’ (visible only when a decoder reveals them).
- For small classrooms, arranging desks in a semicircle will allow the student to watch for physical cues.
- The deaf or hard of hearing student may want

to sit in front of the classroom and to the side to better see the teacher, the interpreter, and the rest of the class.

- Staff should be aware of the noise level in the classroom. Hard of hearing students, whether or not they are using an assistive listening device, may be very sensitive to environ-

mental (background) sounds, which tend to 'mask' speech. Background noise should be kept to a minimum.

- Deaf or hard of hearing students may also have visual disabilities, thus each situation with a student may have different solutions.

Accommodations for a Student who is Deaf or Hard of Hearing

Possible accommodations for a student that is deaf or hard of hearing:

There are a number of accommodations that can be provided to a student with DHH needs that can be implemented by administrators, teachers, support staff, and related service providers. Alteration to amplification, assistive devices, communication, instruction, the physical environment and assessment may be warranted in order for a student who is deaf or hard of hearing to gain access to their education. Refer to the [Appendix](#) for the following resource:

- A sample a IEP Checklist of Recommended Accommodations and Modifications for Students who are Deaf and Hard of Hearing

Children with Hearing Loss - Helpful Adaptations in the School Environment

The following was developed by Karen L. Anderson, PhD for the Minnesota Department of Education Parents Know website, 2011 (<http://parentsknow.state.mn.us>).

Adaptations to the classroom environment need to be considered individually for each child. Adaptations 'level the playing field' for children with learning challenges. Every learner should be able to fully access educational information in the classroom. Challenges and appropriate classroom adaptations will vary depending on a child's age.

Challenges to Classroom Communication for Children with Hearing Loss

Learning at home is different than learning at school. At home most people are within a few feet of each other as they communicate. It is often pretty quiet and there are only a few people together. In school the room is large, there are many children present and it is noisy. Children learn from their teachers and from other children. Children without hearing loss can listen across distance, even when it's noisy. They can catch the fast-paced conversation of other children, even if it is only a whisper. They can listen, learn and hold a conversation even when they aren't watching who is talking and it is noisy. And these conditions are changing all the time. Communication under some or all of these conditions can be very difficult for children with hearing loss. The challenges of each child should be considered for necessary adaptations in the classroom. These adaptations should be included in the student's IEP or 504 Plan. Teachers for deaf/hard of hearing students and audiologists who work in Minnesota's public schools can help evaluate a child's learning environment and make recommendations.

Classroom Considerations that Help Most Students

- Keep the classroom door closed to minimize noise in the hallway from interfering with learning.
- Teacher avoids standing in front of a window so that his/her face can be seen without glare from the sun or outside distractions.
- All new directions, concepts and information should be presented from the front of the room, not when the teacher is moving between desks or during noisy classroom transition times.
- Adhere to a classroom routine; if a student misses something they will be better able to predict what they should be doing or what will happen next.
- Maintain quiet during lecture times and classroom discussion when students will be expected to understand information
- During classroom discussions ask students to speak one at a time.
- Summarize key points made by students' answers or comments during class discussion.
- Write all assignments on the board, including textbook page numbers the class will be turning to in each lesson period.
- If a visual is used, like a map, graph or a projected image, allow students a chance to look at the visual, describe what they are seeing, and provide short silences so they can process the meaning of both the visual and what is being said.

Classroom Adaptations to Help Children with Hearing Loss Listen Better

- Assign children to classrooms that have acceptable acoustics. Open-plan schools are not appropriate settings for children with hearing loss who are auditory learners. Noisy ventilation system, rooms next to noisy gym or band areas and classrooms that lack acoustic ceiling tile and/or carpeting are likely to add to the child's listening and learning challenges. Felt pads or tennis balls on the legs of the chairs/desks will cut down on noise made by students.
- Make sure the child's hearing aids or cochlear implants are functioning each day. A school staff member should be responsible for checking the devices daily and/or for working with the student as they gain responsibility for performing daily checks of their own devices. Students who are unable to repeat 90% or more of words in background noise should be considered for personal FM devices that work with their own hearing aids or cochlear implants. The teacher wears a microphone transmitter and the child is able to hear the teacher's voice through the FM device as though s/he was speaking only a few inches from the student's ears. If the microphone is passed around during classroom discussions and small group learning then the child will be able to hear other student's voices too.
- Use FM devices to allow the child to be able to hear school assemblies and daily announcements. Provide a way to use FM with Smart Boards, computers and videos.
- Seat the student in the second row and a little off to one side of the classroom. If he or she has a better hearing ear, that ear should be facing the teacher. Recognize that the student may need to turn to watch other students as they speak or to gather visual cues if they miss directions.
- The student and teacher can work out a signal that can be used when the student is having a hard time understanding. For example, cupping a hand behind one ear, putting a finger on the side of the nose or hanging a hand over the front of the desk and wiggling the fingers could all be confidential signals between the student and the teacher. With this reminder, the teacher can control the noise, distance or summarize what has recently been presented.
- Encourage the student to close the classroom door if it is open to interfering noise.
- Some children benefit from use of a 'buddy system' in which the student asks another student to repeat directions or help them get started on seat work. This should not interfere with the student taking responsibility for letting the teacher know that they didn't understand. Becoming an independent communicator is an important lifelong skill.

Classroom Adaptations to Help Children with Hearing Loss with Visual Learning or Visual Cues

- Allow the child to move to another seat, chair or place in the room that allows him or her to see better as classroom activities change.
- Adults and children should be reminded to not speak with hands or other things in front of their mouths. Long mustaches can also interfere and should be trimmed short or shaved off.
- Student notetakers can be used so that the student with hearing loss can focus on the instruction. Unlike children without hearing loss, listening while taking notes at the same time is often not possible.
- All videos need to be captioned for the student to access the same information as other students.
- Voice-to-text adaptations can be explored for students who are unable to access verbal instruction auditorily (or via sign language or cued speech) at a rate similar to students without hearing loss.

- Sign language interpreters, spoken language facilitators or cued speech transliterators can be used. Children must be trained to pay attention to the interpreter starting by late preschool or kindergarten.

Expectations of the Child as an Active Learner

- Communication is a 2-way street. Everyone mishears or misunderstands communication some of the time. We are all responsible for repairing these broken communication situations. Children with hearing loss need to recognize that 'bluffing' is not okay when they do not understand.
- The student can work out a signal system with teachers, community sports coaches or group leaders (e.g., Boy Scouts) to let the adults know when communication is difficult.
- Students need to gradually learn to take responsibility for their own devices until they can check them independently every day and report any problems immediately.
- Students should remind adults to use FM devices and let them know when noise is interfering with learning.

Resources and Information

All students

- Education – Including Deaf and Hard of Hearing Children in the Classroom

<http://deafness.about.com/od/schooling/a/inclassroom.htm>

Developed by Karen L. Anderson, PhD for the Minnesota Department of Education Parents Know website, 2011 (<http://parentsknow.state.mn.us>).

IEP CHECKLIST: RECOMMENDED ACCOMMODATIONS AND MODIFICATIONS FOR STUDENTS WHO ARE DEAF AND HARD OF HEARING

Name: _____

Date: _____

Note: Accommodations provide access to communication and instruction; Modifications alter the content, the expectations, and the evaluation of academic performance.

Amplification Accommodations

- ___ Personal hearing instrument (hearing aid, cochlear implant, tactile device)
- ___ Personal FM (hearing aid + FM or FM only)
- ___ FM hearing assistance technology system (without personal hearing instrument)
- ___ Classroom amplification/sound distribution system

Assistive Devices Accommodations

- ___ Videophone or TDD
- ___ Alerting devices
- ___ Other: _____

Communication Accommodations

- ___ Priority seating arrangement:

- ___ Obtain student's attention prior to speaking
- ___ Reduce auditory distractions (background noise)
- ___ Reduce visual distractions
- ___ Enhance speechreading conditions (avoid hands in front of face, mustaches well-trimmed, no gum chewing)
- ___ Present information in simple, structured, sequential manner
- ___ Clearly enunciated speech
- ___ Extra time for processing information
- ___ Repeat or rephrase information when necessary
- ___ Frequent checks for understanding
- ___ Speech to text software (speech recognition)
- ___ Interpreting (ASL, signed English, cued speech, oral)

Instructional Accommodations & Modifications

- ___ Visual supplements (overheads, charts, vocabulary lists, lecture outlines)
- ___ Interactive whiteboard (e.g., Smart Board, Mimio)
- ___ Classroom captioning (CART, _____)
- ___ Captioning and/or scripts for television, videos, movies
- ___ Buddy system for notes, extra explanations/directions
- ___ Check for understanding of information
- ___ Down time/break from listening/watching
- ___ Extra time to complete assignments
- ___ Step-by-step directions
- ___ Interpreting (ASL, signed English, cued speech, oral)
- ___ Speech to text software (speech recognition)
- ___ Tutoring
- ___ Notetaker
- ___ Direct instruction (indicate classes):

Physical Environment Accommodations

- ___ Noise/reverberation reduction (carpet & other sound absorption materials) reANSI.s12.60
- ___ Special lighting
- ___ Room design modifications: _____
- ___ Flashing fire alarms/smoke detectors

Curricular Modifications

- ___ Modified reading assignments (shorten length, adapt or eliminate phonics assignments)
- ___ Modified written assignments (shorten length, adjust evaluation criteria)
- ___ Extra practice
- ___ Pre-teach, teach, re-teach vocabulary, concepts
- ___ Strategies to adapt oral/aural curriculum/instruction to accommodate lack of auditory access
- ___ Supplemental materials to reinforce concepts of curriculum
- ___ Alternate curriculum

Evaluation Accommodations & Modifications

- ___ Reduce quantity of tests
- ___ Alternate tests
- ___ Reading assistance with tests for clarification of directions, language of test questions (non-reading items)
- ___ Extra time
- ___ Special setting
- ___ Other: _____

Other Needs/Considerations

- ___ Expanded core curriculum instruction (speech, language, pragmatic language/communication, audition and listening, speechreading, sign language, self-advocacy, transition planning, deaf studies)
 - ___ Counseling
 - ___ Vocational Rehabilitation services
 - ___ Deaf/Hard of Hearing peers
 - ___ Deaf/Hard of Hearing role models
 - ___ Recreational/Social opportunities
 - ___ Sign language instruction for family
 - ___ Family supports and training
 - ___ Financial assistance
 - ___ Transition services
-
-

¹ Johnson, CD, Benson, P, & Seaton, J. 1997. Educational Audiology Handbook, Appendix 11, Revised 2007- CDJ

Glossary of Terms

Accommodation — A service or modification provided to a student with a disability that enables the student to participate in the classroom (or other) experience on an equal basis.

ASL — American Sign Language.

Closed Caption — Text that appears on the television screen that conveys the spoken information – requires a decoder.

Code of Ethics — Guidelines for ethical behavior that all interpreters must follow.

C-Print — Computerized speech to text transcription.

Cued Speech — The use of hand shapes and placements around the mouth to aid in the recognition of spoken words – used in some parts of the country extensively, and not much in other areas.

Cumulative Trauma Disorder — A painful physical condition, such as Carpal Tunnel Syndrome, that is caused by overuse and repetitive motion without sufficient breaks for resting.

Deaf Person — A person whose hearing loss makes it impossible to understand speech.

Decoder — A device which allows closed captioning to be seen on a television screen.

National Resources

Alexander Graham Bell Association for the Deaf and Hard of Hearing

3417 Volta Place NW
Washington DC 20007-2778
Phone: 202-337-5220
TTY/TDD: Same
www.agbell.org

Auditory-Verbal International, Inc. (AVI)

2121 Eisenhower Avenue, Suite 402
Alexandria, VA 22314
Phone: 703-739-0395
TTY/TDD: same
www.auditory-verbal.org

Hard of Hearing Person — One whose hearing loss makes it difficult, but not impossible, to understand speech with or without the use of hearing aids

Note-taker — Someone designated to provide written notes to the student who is deaf or hard of hearing.

Open Caption — Text that appears on the television screen that conveys the spoken information and does not require a decoder.

Oral Interpreting — A form of interpreting in which the interpreter mouths without voice what is being said so the person who is deaf or hard of hearing can speech read more easily.

Real-time Captioning — Verbatim captioning that is produced live as words are spoken.

RID — Registry of Interpreters for the Deaf, the organization responsible for testing and certifying interpreters, and the formation of the Code of Ethics.

Tactile Interpreting — A form of interpreting with individuals who are deaf blind which involves them receiving information by placing their hand(s) on the interpreter's hand(s) during the interpretation.

BEGINNINGS for Parents of Children who are Deaf or Hard of Hearing, Inc.

3900 Barrett Drive, Suite 100
Raleigh, NC 27609
Phone: 800-541-4327 and 919-571-4843
TTY/TDD: Same
www.ncbegin.com

Hands and Voices

A parent driven, non-profit organization dedicated to providing unbiased support to families
Phone: (866)422-0422 V/TTY
www.handsandvoices.org

National Information Center for Deafness (NICD), Gallaudet University

800 Florida Avenue NE
Washington, DC 20002-3695
Phone: 202-651-5051
TTY/TDD: 202-651-5052
www.gallaudet.edu

National Information Clearinghouse on Children Who Are Deaf-Blind

354 North Monmouth Avenue
Monmouth, OR 97361
Phone: 800-438-9376
TTY/TDD: 800-854-7013
<https://nationaldb.org/>

Resources in California

**California Department of Social Services:
Office of Deaf Access**

744 P Street
Sacramento, CA 95814
Phone: (916) 653-8320
TTY/TDD: (916) 653-7651
www.cdss.ca.gov/cdssweb/entres/pdf/ODA/EntireDeafDirectory.pdf

California Department of Education

www.cde.ca.gov/sp/ss/dh/

California Educators of the Deaf and Hard of Hearing

<http://cal-ed.org/>

California Public Utilities Commission: Deaf and Disabled Telecommunications Program (CTAP)

Mailing address: 505 Van Ness Avenue
San Francisco, CA 94102
Phone: 1-800-806-1191
TTY/TDD: 1-800-806-4474
Refer to the website for regional CTAP Service Center contact information
<http://ddtp.cpuc.ca.gov/homepage.aspx>

California Department of Rehabilitation: Deaf and Hard of Hearing Services

721 Capitol Mall
Sacramento, CA 95814
Phone: (916) 558-5670
TTY/TDD: (916) 558- 5673
www.rehab.cahwnet.gov/SSD/Deaf-Hard-of-Hearing-Services.html

Data Monitoring

CHARTER SELPA's Transition from CASEMIS to CALPADS

Sharon Smit, Data & Compliance Coordinator

1



Change is Painful!

The CASEMIS to CALPADS transition has created more questions than answers for all Districts in California.



Times – They Are Slowly Changing...

Rest assured, however, that the transition timeline provides us with time to develop, implement, and test our systems:

- 2016-2017 - CDE Development of requirements and business processes;
- 2017-2018 - CDE Development & Implementation;
- 2018-2019 - Pilot Year;
- 2019-2020 - Full Implementation.



Preparing for the Transition Requires Collaboration

- Develop systems & processes that ensure data integrity between data systems;
- Make time to collaborate - special education and CALPADS staff;
- Engage in Active Planning and Collaboration with your Program Specialists, Program Technicians, and SELPA Staff.



CDE Monitoring Indicators

- Graduation & Drop-Out Rates
- Statewide Assessment (AYP & Participation)
- Suspensions & Expulsions
- LRE
- Preschool LRE & Assessments
- % of Parents Reporting Parental Involvement
- Disproportionate Representation
- Disproportional Representation by Disability Category



CDE Monitoring Indicators

- Transition (Post-Secondary & Preschool)
- Post-School Outcomes
- Audits
- Timely Correction
- Timely Reporting
- Annual & Tri IEP Timelines
- Child Find



What Can We Do NOW?

- As we embark upon the 2016-2017 school year, the first step you can take is to examine your data.
- What Data?
 - SSID #s
 - Demographic Information (Gender, Age, Ethnicity, Race)
 - Address
 - Misspellings
 - Multiple Entries
 - Resident School/County
 - IEP Dates



What Can We Do NOW?

- Why look at the small things? Eliminating minor input errors can drastically impact your performance indicator results and keep you OUT of compliance monitoring;
- When the Data Department sends reminders and requests for information and completed forms, please ensure you meet the deadlines.

2016

January

Sun	Mon	Tue	Wed	Thu	Fri	Sat
27	28	29	30	31	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31	1	2	3	4	5	6

February

Sun	Mon	Tue	Wed	Thu	Fri	Sat
31	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	1	2	3	4	5
6	7	8	9	10	11	12

March

Sun	Mon	Tue	Wed	Thu	Fri	Sat
28	29	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31	1	2
3	4	5	6	7	8	9

April

Sun	Mon	Tue	Wed	Thu	Fri	Sat
27	28	29	30	31	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
1	2	3	4	5	6	7

May

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31	1	2	3	4
5	6	7	8	9	10	11

June

Sun	Mon	Tue	Wed	Thu	Fri	Sat
29	30	31	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	1	2
3	4	5	6	7	8	9

July

Sun	Mon	Tue	Wed	Thu	Fri	Sat
25	27	28	29	30	1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31	1	2	3	4	5	6

August

Sun	Mon	Tue	Wed	Thu	Fri	Sat
31	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31	1	2	3
4	5	6	7	8	9	10

September

Sun	Mon	Tue	Wed	Thu	Fri	Sat
28	29	30	31	1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	1
2	3	4	5	6	7	8

October

Sun	Mon	Tue	Wed	Thu	Fri	Sat
25	26	27	28	29	30	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31	1	2	3	4	5

November

Sun	Mon	Tue	Wed	Thu	Fri	Sat
30	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	1	2	3	4
5	6	7	8	9	10	11

December

Sun	Mon	Tue	Wed	Thu	Fri	Sat
27	28	29	30	31	1	2
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31
1	2	3	4	5	6	7

Important Upcoming Dates

Educational Related Mental Health Services- Monthly Updates in September and October to prepare for November 1st Annual Mental Health Plan and December 1st data count, which drives pupil funding.

Data Informed Non-Compliance - CASEMIS Data from June 30th is reviewed and analyzed to determine non-compliance. September to November, Districts are notified of non-compliance findings. Districts have three months to correct areas of non-compliance prior to the December 1st CASEMIS pull.

2016

January							February							March							April						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
27	28	29	30	31	1	2	31	1	2	3	4	5	6	26	27	1	2	3	4	5	27	28	29	30	31	1	2
3	4	5	6	7	8	9	7	8	9	10	11	12	13	6	7	8	9	10	11	12	3	4	5	6	7	8	9
10	11	12	13	14	15	16	14	15	16	17	18	19	20	13	14	15	16	17	18	19	10	11	12	13	14	15	16
17	18	19	20	21	22	23	21	22	23	24	25	26	27	20	21	22	23	24	25	26	17	18	19	20	21	22	23
24	25	26	27	28	29	30	28	29	1	2	3	4	5	27	28	29	30	31	1	2	24	25	26	27	28	29	30
31	1	2	3	4	5	6	6	7	8	9	10	11	12	3	4	5	6	7	8	9	1	2	3	4	5	6	7

May							June							July							August						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7	29	30	31	1	2	3	4	25	27	28	29	30	1	2	31	1	2	3	4	5	6
8	9	10	11	12	13	14	5	6	7	8	9	10	11	3	4	5	6	7	8	9	7	8	9	10	11	12	13
15	16	17	18	19	20	21	12	13	14	15	16	17	18	10	11	12	13	14	15	16	14	15	16	17	18	19	20
22	23	24	25	26	27	28	19	20	21	22	23	24	25	17	18	19	20	21	22	23	21	22	23	24	25	26	27
29	30	31	1	2	3	4	26	27	28	29	30	1	2	24	25	26	27	28	29	30	28	29	30	31	1	2	3
5	6	7	8	9	10	11	3	4	5	6	7	8	9	31	1	2	3	4	5	6	4	5	6	7	8	9	10

September							October							November							December						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
28	29	30	31	1	2	3	25	26	27	28	29	30	1	30	1	2	3	4	5	27	28	29	30	1	2	3	
4	5	6	7	8	9	10	2	3	4	5	6	7	8	6	7	8	9	10	11	12	4	5	6	7	8	9	10
11	12	13	14	15	16	17	9	10	11	12	13	14	15	13	14	15	16	17	18	19	11	12	13	14	15	16	17
18	19	20	21	22	23	24	16	17	18	19	20	21	22	20	21	22	23	24	25	26	18	19	20	21	22	23	24
25	26	27	28	29	30	1	23	24	25	26	27	28	29	27	28	29	30	1	2	3	25	26	27	28	29	30	31
2	3	4	5	6	7	8	30	31	1	2	3	4	5	4	5	6	7	8	9	10	1	2	3	4	5	6	7

Important Upcoming Dates

December 1st CASEMIS Pull - All of November, the Data & Compliance Department will be examining your LEA's CASEMIS errors and be in direct contact with your DLUs and Teachers to correct errors. It is crucial that errors communicated to your teams are resolved prior to December 1st. After December 1st, the CDE uses the December CASEMIS data to verify correction of previous non-compliance.

Our Team is here to help...

Community Advisory Committee (CAC)



What is the El Dorado Charter SELPA CAC?

The El Dorado Charter SELPA's Community Advisory Committee is a group formed to advise the Charter SELPA about the Special Education Local Plan, annual priorities, parent education, and other special education related activities. The CAC is designed to be a dynamic collaborative partnership of educators, parents, and community members.

The CAC holds three business meetings annually to address topics of interest to families of children with disabilities and to gather information to advise our Special Education Local Plan.

What is the Function of the CAC?

- Build communication between schools, parents and related agencies.
- Encourage community and parental involvement in the review of the Local Plan.
- Provide families an opportunity to share resources and support within their school community.

Who Should Attend?

CAC meetings are open to parents, family members, educators, agency representatives, and community members who are interested in supporting children with special needs.

- Every charter school is entitled to have one CAC representative. A CAC representative must be appointed and approved by their charter school's governing board. The CAC committee should be composed of a majority of parents of students with disabilities.

How to Virtually Attend a CAC Meeting?

CAC meetings will be held online via Adobe Connect. To receive information on how to register for CAC meetings or for questions related to the meetings, please e-mail Tara Stout at tstout@edcoe.org.

Where Do I Find More Information about CAC?

For additional information about CAC, please visit the El Dorado Charter SELPA Community Advisory webpage at <http://www.edcoecharterselpa.com/parents/community-advisory-committee>

Meeting Dates

All meetings will be held online via Adobe Connect

October 4
9 – 10:00 AM

January 10
9 – 10:00 AM

April 11
9 – 10:00 AM

Parent Resources and Trainings

Parent Resources:

The SELPA is proud to offer a growing collection of informational resources, specifically for parents. Please visit the SELPA Online Parent Learning Center at <http://www.edcocharterselpa.com/parents/resources>

2016-2017 Parent Training Opportunities:

The SELPA will be offering a series of online *Lunchtime Wednesday Webinar Parent Trainings* throughout the year. The goal is for parents to learn strategies to support their child. Each training will be hosted by the SELPA via Adobe Connect.

Wednesday, October 12 | 11:30 AM- 12:15 PM

Understanding the IEP Process and Assessment

Register: <https://selpa.adobeconnect.com/e1wtae8b4pr/event/registration.html>

Wednesday, November 9 | 11:30 AM- 12:15 PM

How to Effectively Communicate with your IEP team

Register: <https://selpa.adobeconnect.com/e5zx2rf4czf/event/registration.html>

Wednesday, January 11 | 11:30 AM- 12:15 PM

Transition Training for Parents of Students in High School

Register: <https://selpa.adobeconnect.com/e23jqvhr2xa/event/registration.html>

Wednesday, February 8 | 11:30 AM- 12:15 PM

Strategies to Increase Positive Behavior

Register: <https://selpa.adobeconnect.com/e55fmwnl1tj/event/registration.html>

Wednesday, March 8 | 11:30 AM- 12:15 PM

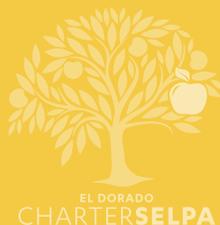
Executive Functioning: the Key to Academic Success and Homework Completion

Register: <https://selpa.adobeconnect.com/e5fppbpktjf/event/registration.html>

Wednesday, April 12 | 11:30 AM- 12:15 PM

Understanding Statewide Assessment Accessibility Supports

Register: <https://selpa.adobeconnect.com/e6f5sov42jz/event/registration.html>





Professional Learning Opportunities

September – December 2016

Program	Date	Location
Creating Inclusive Environments	September 28 8:00 am – 11:00 am	Lifesource 44339 Beech Avenue Lancaster, CA
Designing and Implementing Co-Teaching Models	September 28 12:00 pm – 3:00 pm	Lifesource 44339 Beech Avenue Lancaster, CA
Creating Inclusive Environments	September 29 8:00 am – 11:00 am	The O' Farrell Charter School 6130 Skyline Drive San Diego, CA
Designing and Implementing Co-Teaching Models	September 29 12:00pm – 3:00pm	The O' Farrell Charter School 6130 Skyline Drive San Diego, CA
Creating Inclusive Environments	September 29 8:00am – 11:00am	Rocketship 2001 Gateway Place, Ste. 230E San Jose, CA
Designing and Implementing Co-Teaching Models	October 4 12:00pm – 3:00pm	Rocketship 2001 Gateway Place, Ste. 230E San Jose, CA
SEIS Basics 201	October 4 8:00am – 11:00am	Caliber Schools 4301 Berk Avenue (Library) Richmond, CA

For any questions about upcoming professional learning offerings, contact Tara Stout
tstout@edcoe.org | 530.295.2462



Professional Learning Opportunities

September – December 2016

Program	Date	Location
Verbal De-escalation Techniques	October 4 12:00pm – 3:00pm	Caliber Schools 4301 Berk Avenue (Library) Richmond, CA
SEIS Basics 201	October 5 8:00am – 11:00am	The O' Farrell Charter School 6130 Skyline Drive San Diego, CA
Verbal De-escalation Techniques	October 5 12:00pm – 3:00pm	The O' Farrell Charter School 6130 Skyline Drive San Diego, CA
SEIS Basics 201	October 6 8:00 am – 11:00am	Total Education Solutions 625 Fair Oaks Avenue Ste. 300 South Pasadena, CA
Verbal De-escalation Techniques	October 6 12:00pm – 3:00pm	Total Education Solutions 625 Fair Oaks Avenue Ste. 300 South Pasadena, CA
Administrative Designee	October 11 8:00am – 11:00am	Fortune School of Education 2890 Gateway Oaks Drive Sacramento, CA
Building Effective IEP Teams	October 11 12:00pm – 3:00pm	Fortune School of Education 2890 Gateway Oaks Drive Sacramento, CA
Administrative Designee	October 11 8:00am – 11:00am	REALM 2023 8 th Street Berkeley, CA

For any questions about upcoming professional learning offerings, contact Tara Stout
tstout@edcoe.org | 530.295.2462



Professional Learning Opportunities

September – December 2016

Building Effective IEP Teams	October 11 12:00pm – 3:00pm	REALM 2023 8 th Street Berkeley, CA
Administrative Designee	October 13 8:00am – 11:00am	The O' Farrell Charter School 6130 Skyline Drive San Diego, CA
Building Effective IEP Teams	October 13 12:00pm – 3:00pm	The O' Farrell Charter School 6130 Skyline Drive San Diego, CA
Crisis Prevention Intervention (CPI) Recertification	October 18 8:00am – 12:00pm	Caliber Schools 4301 Berk Avenue (Library) Richmond, CA
Crisis Prevention Intervention (CPI) Certification Full Day	October 25 8:00am – 4:00pm	Total Education Solutions 625 Fair Oaks Avenue Ste. 300 South Pasadena, CA
Crisis Prevention Intervention (CPI) Certification Full Day	October 25 8:00am – 4:00pm	Aspire 1001 22 nd Avenue Oakland, CA
Crisis Prevention Intervention (CPI) Certification Full Day	October 27 8:00am – 4:00pm	The O' Farrell Charter School 6130 Skyline Drive San Diego, CA
Crisis Prevention Intervention (CPI) Certification Full Day	October 27 8:00am – 4:00pm	Fortune School of Education 2890 Gateway Oaks Drive Sacramento, CA

For any questions about upcoming professional learning offerings, contact Tara Stout
tstout@edcoe.org | 530.295.2462



Professional Learning Opportunities

September – December 2016

Crisis Prevention Intervention (CPI) Recertification	October 28 8:00am – 12:00pm	Fortune School of Education 2890 Gateway Oaks Drive Sacramento, CA
Crisis Prevention Intervention (CPI) Recertification	October 28 8:00am – 12:00pm	The O' Farrell Charter School 6130 Skyline Drive San Diego, CA
Unpacking Evidence-Based Practices / Autism	October 31 8:00am – 11:00am	Fortune School of Education 2890 Gateway Oaks Drive Sacramento, CA
Impactful Interventions/Autism	October 31 12:00pm – 3:00pm	Fortune School of Education 2890 Gateway Oaks Drive Sacramento, CA
Unpacking Evidence-Based Practices / Autism	November 1 8:00am – 11:00am	The O' Farrell Charter School 6130 Skyline Drive San Diego, CA
Impactful Interventions/Autism	November 1 12:00pm – 3:00pm	The O' Farrell Charter School 6130 Skyline Drive San Diego, CA
Unpacking Evidence-Based Practices / Autism	November 3 8:00am – 11:00am	Rocketship 2001 Gateway Place, Ste. 230E San Jose, CA
Impactful Interventions/Autism	November 3 12:00pm – 3:00pm	Rocketship 2001 Gateway Place, Ste. 230E San Jose, CA

For any questions about upcoming professional learning offerings, contact Tara Stout
tstout@edcoe.org | 530.295.2462

2016-17 Charter SELPA Steering Meetings

Participants

A steering representative who has direct oversight over the day-to-day special education operations of the charter school. The representative is designated by the CEO for each charter LEA partner. Organization Partners, that operate more than one charter school, may have a single representative for all schools. Participation by charter LEAs at steering committee meetings is strongly encouraged.

Meeting Information

We encourage physical attendance at these meetings. If you are unable to attend, the Steering Meetings are also available via the “Adobe Connect” videoconferencing platform. Participants are able to hear/participate in the meeting - it does not require special software/equipment, just a computer with audio capability and an internet connection. Log-in information to participate, along with the meeting agenda and supporting documents, will be made available one week prior to the meeting.

MEETING SCHEDULE

WEDNESDAY, SEPT. 21, 2016

Oakland Marriott City Center
1001 Broadway
Oakland, CA 94607

WEDNESDAY, OCT. 26, 2016

DoubleTree by Hilton
San Diego Mission Valley
7450 Hazard Center Drive
San Diego, CA 92108

WEDNESDAY, NOV. 30, 2016

Oakland Marriott City Center
1001 Broadway
Oakland, CA 94607

WEDNESDAY, DEC. 14, 2016

Meeting held online via
Adobe Connect

WEDNESDAY, JAN. 25, 2017

DoubleTree by Hilton
San Diego Mission Valley
7450 Hazard Center Drive
San Diego, CA 92108

WEDNESDAY, APRIL 26, 2017

Hilton Garden Inn
San Francisco/Oakland Bay Bridge
1800 Powell Street
Emeryville, CA 94608

WEDNESDAY, MAY 24, 2017

DoubleTree by Hilton
San Diego Mission Valley
7450 Hazard Center Drive
San Diego, CA 92108

NOTE:

All Steering Committee Meetings will take place from 10 a.m. to 2:30 p.m.

You will receive an email invitation prior to the meeting with further details.

LUNCH IS PROVIDED



