

Supplemental Information
Early Childhood Mental Health Information

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Cal. Ed. Code § 56026. "Individuals with exceptional needs"

"Individuals with exceptional needs" means those persons who satisfy all the following:

(a) Identified by an individualized education program team as a child with a disability, as that phrase is defined in Section 1401(3)(A) of Title 20 of the United States Code.

(b) Their impairment, as described by subdivision (a), requires instruction and services which cannot be provided with modification of the regular school program in order to ensure that the individual is provided a free appropriate public education pursuant to Section 1401(9) of Title 20 of the United States Code.

(c) Come within one of the following age categories:

(1) Younger than three years of age and identified by the local educational agency as requiring intensive special education and services, as defined by the board.

(2) Between the ages of three to five years, inclusive, and identified by the local educational agency pursuant to Section 56441.11.

(3) Between the ages of five and 18 years, inclusive.

(4) Between the ages of 19 and 21 years, inclusive; enrolled in or eligible for a program under this part or other special education program prior to his or her 19th birthday; and has not yet completed his or her prescribed course of study or who has not met proficiency standards or has not graduated from high school with a regular high school diploma.

(A) Any person who becomes 22 years of age during the months of January to June, inclusive, while participating in a program under this part may continue his or her participation in the program for the remainder of the current fiscal year, including any extended school year program for individuals with exceptional needs established pursuant to *Section 3043 of Title 5 of the California Code of Regulations* and *Section 300.106 of Title 34 of the Code of Federal Regulations*.

(B) Any person otherwise eligible to participate in a program under this part shall not be allowed to begin a new fiscal year in a program if he or she becomes 22 years of age in July, August, or September of that new fiscal year. However, if a person is in a year-round school program and is completing his or her individualized education program in a term that extends into the new fiscal year, then the person may complete that term.

(C) Any person who becomes 22 years of age during the months of October, November, or December while participating in a program under this act shall be terminated from the program on December 31 of the current fiscal year, unless the person would otherwise complete his or her individualized education program at the end of the current fiscal year.

(D) No local educational agency may develop an individualized education program that extends these eligibility dates, and in no event may a pupil be required or allowed to attend school under the provisions of this part beyond these eligibility dates solely on the basis that the individual has not met his or her goals or objectives.

(d) Meet eligibility criteria set forth in regulations adopted by the board, including, but not limited to, those adopted pursuant to Article 2.5 (commencing with Section 56333) of Chapter 4.

(e) Unless disabled within the meaning of subdivisions (a) to (d), inclusive, pupils whose educational needs are due primarily to limited English proficiency; a lack of instruction in reading or mathematics; temporary physical disabilities; social maladjustment; or environmental, cultural, or economic factors are not individuals with exceptional needs.

5 CCR § 3030. Eligibility Criteria

(a)

A child shall qualify as an individual with exceptional needs, pursuant to *Education Code section 56026*, if the results of the assessment as required by *Education Code section 56320* demonstrate that the degree of the child's impairment as described in subdivisions (b)(1) through (b)(13) requires special education in one or more of the program options authorized by *Education Code section 56361*.

The decision as to whether or not the assessment results demonstrate that the degree of the child's impairment requires special education shall be made by the IEP team, including personnel in accordance with *Education Code section 56341(b)*.

The IEP team shall take into account all the relevant material which is available on the child.

No single score or product of scores shall be used as the sole criterion for the decision of the IEP team as to the child's eligibility for special education.

(b) The disability terms used in defining an individual with exceptional needs are as follows:

(1) **Autism** means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, and adversely affecting a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

(A) Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in subdivision (b)(4) of this section.

(B) A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in subdivision (b)(1) of this section are satisfied.

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

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

(4) **Emotional disturbance** means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

- (A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.
- (B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- (C) Inappropriate types of behavior or feelings under normal circumstances.
- (D) A general pervasive mood of unhappiness or depression.
- (E) A tendency to develop physical symptoms or fears associated with personal or school problems.
- (F) Emotional disturbance includes schizophrenia.

The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance under subdivision (b)(4) of this section.

(5) **Hearing impairment** means 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.

(6) **Intellectual disability** means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance.

(7) **Multiple disabilities** means concomitant impairments, such as intellectual disability-blindness or intellectual disability-orthopedic impairment, the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments.

Multiple disabilities" does not include deaf-blindness.

(8) **Orthopedic impairment** means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

(9) **Other health impairment** means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment that:

(A) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and

(B) Adversely affects a child's educational performance.

(10) **Specific learning disability** means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may have manifested itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The basic psychological processes include attention, visual processing, auditory processing, phonological processing, sensory-motor skills, cognitive abilities including association, conceptualization and expression.

(A) Specific learning disabilities do not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(B) In determining whether a pupil has a specific learning disability, the public agency may consider whether a pupil has a severe discrepancy between intellectual ability and achievement in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning. The decision as to whether or not a severe discrepancy exists shall take into account all relevant material which is available on the pupil. No single score or product of scores, test or procedure shall be used as the sole criterion for the decisions of the IEP team as to the pupil's eligibility for special education. In determining the existence of a severe discrepancy, the IEP team shall use the following procedures:

1. When standardized tests are considered to be valid for a specific pupil, a severe discrepancy is demonstrated by: first, converting into common standard scores, using a mean of 100 and standard deviation of 15, the achievement test score and the intellectual ability test score to be compared; second, computing the difference between these common standard scores; and third, comparing this computed difference to the standard criterion which is the product of 1.5 multiplied by the standard deviation of the distribution of computed differences of students taking these achievement and ability tests. A computed difference which equals or exceeds this standard criterion, adjusted by one standard error of measurement, the adjustment not to exceed 4 common standard score points, indicates a severe discrepancy when such discrepancy is

corroborated by other assessment data which may include other tests, scales, instruments, observations and work samples, as appropriate.

2. When standardized tests are considered to be invalid for a specific pupil, the discrepancy shall be measured by alternative means as specified on the assessment plan.

3. If the standardized tests do not reveal a severe discrepancy as defined in subdivisions 1. or 2. above, the IEP team may find that a severe discrepancy does exist, provided that the team documents in a written report that the severe discrepancy between ability and achievement exists as a result of a disorder in one or more of the basic psychological processes. The report shall include a statement of the area, the degree, and the basis and method used in determining the discrepancy. The report shall contain information considered by the team which shall include, but not be limited to:

(i) Data obtained from standardized assessment instruments;

(ii) Information provided by the parent;

(iii) Information provided by the pupil's present teacher;

(iv) Evidence of the pupil's performance in the regular and/or special education classroom obtained from observations, work samples, and group test scores;

(v) Consideration of the pupil's age, particularly for young children; and

(vi) Any additional relevant information.

4. A severe discrepancy shall not be primarily the result of limited school experience or poor school attendance.

(C) Whether or not a pupil exhibits a severe discrepancy as described in subdivision (b)(10)(B) above, a pupil may be determined to have a specific learning disability if:

1. The pupil does not achieve adequately for the pupil's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the pupil's age or State-approved grade-level standards:

(i) Oral expression.

(ii) Listening comprehension.

(iii) Written expression.

(iv) Basic reading skill.

- (v) Reading fluency skills.
- (vi) Reading comprehension.
- (vii) Mathematics calculation.
- (viii) Mathematics problem solving, and

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- (i) The pupil does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in subdivision (b)(10)(C)(1) of this section when using a process based on the pupil's response to scientific, research-based intervention; or
- (ii) The pupil exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with *34 C.F.R. sections 300.304 and 300.305*; and

3. The findings under subdivisions (b)(10)(C)(1) and (2) of this section are not primarily the result of:

- (i) A visual, hearing, or motor disability;
- (ii) Intellectual disability;
- (iii) Emotional disturbance;
- (iv) Cultural factors;
- (v) Environmental or economic disadvantage; or
- (vi) Limited English proficiency.

4. To ensure that underachievement in a pupil suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group making the decision must consider:

- (i) Data that demonstrate that prior to, or as a part of, the referral process, the pupil was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
- (ii) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the pupil's parents.

5. In determining whether a pupil has a specific learning disability, the public agency must ensure that the pupil is observed in the pupil's learning environment in accordance with *34 C.F.R. section 300.310*. In the case of a child of less than school age or out of school, a qualified professional must observe the child in an environment appropriate for a child of that age. The eligibility determination must be documented in accordance with *34 C.F.R. section 300.311*.

(11) A pupil has a **language or speech disorder** as defined in *Education Code section 56333*, and it is determined that the pupil's disorder meets one or more of the following criteria:

(A) Articulation disorder.

1. The pupil displays reduced intelligibility or an inability to use the speech mechanism which significantly interferes with communication and attracts adverse attention. Significant interference in communication occurs when the pupil's production of single or multiple speech sounds on a developmental scale of articulation competency is below that expected for his or her chronological age or developmental level, and which adversely affects educational performance.

2. A pupil does not meet the criteria for an articulation disorder if the sole assessed disability is an abnormal swallowing pattern.

(B) Abnormal Voice. A pupil has an abnormal voice which is characterized by persistent, defective voice quality, pitch, or loudness.

(C) Fluency Disorders. A pupil has a fluency disorder when the flow of verbal expression including rate and rhythm adversely affects communication between the pupil and listener.

(D) Language Disorder. The pupil has an expressive or receptive language disorder when he or she meets one of the following criteria:

1. The pupil scores at least 1.5 standard deviations below the mean, or below the 7th percentile, for his or her chronological age or developmental level on two or more standardized tests in one or more of the following areas of language development: morphology, syntax, semantics, or pragmatics. When standardized tests are considered to be invalid for the specific pupil, the expected language performance level shall be determined by alternative means as specified on the assessment plan, or

2. The pupil scores at least 1.5 standard deviations below the mean or the score is below the 7th percentile for his or her chronological age or developmental level on one or more standardized tests in one of the areas listed in subdivision (A) and displays inappropriate or inadequate usage of expressive or receptive language as measured by a representative

spontaneous or elicited language sample of a minimum of 50 utterances. The language sample must be recorded or transcribed and analyzed, and the results included in the assessment report. If the pupil is unable to produce this sample, the language, speech, and hearing specialist shall document why a fifty utterance sample was not obtainable and the contexts in which attempts were made to elicit the sample. When standardized tests are considered to be invalid for the specific pupil, the expected language performance level shall be determined by alternative means as specified in the assessment plan.

(12) **Traumatic brain injury** means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech.

(A) Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

(13) **Visual impairment** including blindness means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

34 CFR § 300.34 Related services.

(a) General. Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.

(b) Exception; services that apply to children with surgically implanted devices, including cochlear implants.

(1) Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.

(2) Nothing in paragraph (b)(1) of this section --

(i) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this section) that are determined by the IEP Team to be necessary for the child to receive FAPE.

(ii) Limits the responsibility of a public agency to appropriately monitor and maintain 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 or is at school; or

(iii) Prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required in § 300.113(b).

(c) Individual related services terms defined. The terms used in this definition are defined as follows:

(1) Audiology includes --

(i) Identification of children with hearing loss;

(ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

(iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;

(iv) Creation and administration of programs for prevention of hearing loss;

(v) Counseling and guidance of children, parents, and teachers regarding hearing loss; and

(vi) Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

(2) Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

(3) Early identification and assessment of disabilities in children means the implementation of a formal plan for identifying a disability as early as possible in a child's life.

(4) Interpreting services includes --

(i) 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; and

(ii) Special interpreting services for children who are deaf-blind.

(5) Medical services means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.

(6) Occupational therapy --

(i) Means services provided by a qualified occupational therapist; and

(ii) Includes --

(A) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;

(B) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and

(C) Preventing, through early intervention, initial or further impairment or loss of function.

(7) Orientation and mobility services --

(i) Means services provided to blind or visually impaired children by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community; and

(ii) Includes teaching children the following, as appropriate:

(A) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or

regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);

(B) To use the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision;

(C) To understand and use remaining vision and distance low vision aids; and

(D) Other concepts, techniques, and tools.

(8)

(i) Parent counseling and training means assisting parents in understanding the special needs of their child;

(ii) Providing parents with information about child development; and

(iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.

(9) Physical therapy means services provided by a qualified physical therapist.

(10) Psychological services includes --

(i) Administering psychological and educational tests, and other assessment procedures;

(ii) Interpreting assessment results;

(iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;

(iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;

(v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and

(vi) Assisting in developing positive behavioral intervention strategies.

(11) Recreation includes --

(i) Assessment of leisure function;

(ii) Therapeutic recreation services;

(iii) Recreation programs in schools and community agencies; and

(iv) Leisure education.

(12) Rehabilitation counseling services means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to a student with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, *29 U.S.C. 701 et seq.*

(13) School health services and school nurse services means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.

(14) Social work services in schools includes --

- (i) Preparing a social or developmental history on a child with a disability;
- (ii) Group and individual counseling with the child and family;
- (iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;
- (iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
- (v) Assisting in developing positive behavioral intervention strategies.

(15) Speech-language pathology services includes --

- (i) Identification of children with speech or language impairments;
- (ii) Diagnosis and appraisal of specific speech or language impairments;
- (iii) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;
- (iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and
- (v) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.

(16) Transportation includes --

- (i) Travel to and from school and between schools;
 - (ii) Travel in and around school buildings; and
 - (iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.
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Cal. Ed. Code § 56043. Primary timelines affecting special education programs

The primary timelines affecting special education programs are as follows:

- (a) A proposed assessment plan shall be developed within 15 calendar days of referral for assessment, not counting calendar days between the pupil's regular school sessions or terms or calendar days of school vacation in excess of five schooldays, from the date of receipt of the referral, unless the parent or guardian agrees in writing to an extension, pursuant to subdivision (a) of Section 56321.
- (b) A parent or guardian shall have at least 15 calendar days from the receipt of the proposed assessment plan to arrive at a decision, pursuant to subdivision (c) of Section 56321.
- (c) Once a child has been referred for an initial assessment to determine whether the child is an individual with exceptional needs and to determine the educational needs of the child, these determinations shall be made, and an individualized education program team meeting shall occur within 60 days of receiving parental consent for the assessment, pursuant to subdivision (a) of Section 56302.1, except as specified in subdivision (b) of that section, and pursuant to Section 56344.
- (d) The individualized education program team shall review the pupil's individualized education program periodically, but not less frequently than annually, pursuant to subdivision (d) of Section 56341.1.
- (e) A parent or guardian shall be notified of the individualized education program team meeting early enough to ensure an opportunity to attend, pursuant to subdivision (b) of Section 56341.5. In the case of an individual with exceptional needs who is 16 years of age or younger, if appropriate, the meeting notice shall indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the individual with exceptional needs, and the meeting notice described in this subdivision shall indicate that the individual with exceptional needs is invited to attend, pursuant to subdivision (e) of Section 56341.5.
- (f)
 - (1) An individualized education program required as a result of an assessment of a pupil shall be developed within a total time not to exceed 60 calendar days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's or guardian's written consent for assessment, unless the parent or guardian agrees in writing to an extension, pursuant to Section 56344.
 - (2) A meeting to develop an initial individualized education program for the pupil shall be conducted within 30 days of a determination that the child needs special education and related services pursuant to *Section 300.323(c)(1) of Title 34 of the Code of Federal Regulations* and in accordance with Section 56344.
- (g)
 - (1) Beginning not later than the first individualized education program to be in effect when the pupil is 16 years of age, or younger if determined appropriate by the

individualized education program team, and updated annually thereafter, the individualized education program shall include appropriate measurable postsecondary goals and transition services needed to assist the pupil in reaching those goals, pursuant to paragraph (8) of subdivision (a) of Section 56345.

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

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

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

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

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

(k) A reassessment of a pupil shall occur not more frequently than once a year, unless the parent and the local educational agency agree otherwise in writing, and shall occur at least once every three years, unless the parent and the local educational agency agree, in writing, that a reassessment is unnecessary, pursuant to Section 56381, and in accordance with Section 1414(a)(2) of Title 20 of the United States Code.

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

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

(1) If the child has an individualized education program and transfers into a district from a district not operating programs under the same local plan in which he or she was last

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

(2) If the child has an individualized education program and transfers into a district from a district operating programs under the same special education local plan area of the district in which he or she was last enrolled in a special education program within the same academic year, the new district shall continue, without delay, to provide services comparable to those described in the existing approved individualized education program, unless the parent and the local educational agency agree to develop, adopt, and implement a new individualized education program that is consistent with state and federal law, pursuant to paragraph (2) of subdivision (a) of Section 56325.

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

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

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

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

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

(1) Have a time limit of 60 calendar days after a complaint is filed with the state educational agency to investigate the complaint.

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

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

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

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

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

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

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

(u) Any party to a due process hearing shall have the right to be informed by the other parties to the hearing, at least 10 calendar days before the hearing, as to what those parties believe are the issues to be decided at the hearing and their proposed resolution of those issues, pursuant to paragraph (6) of subdivision (e) of Section 56505.

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

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

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

Cal. Ed. Code § 56504. Parent's access to school records

The parent shall have the right and opportunity to examine all school records of his or her child and to receive copies pursuant to this section and to Section 49065 within five business days after the request is made by the parent, either orally or in writing.

The public agency shall comply with a request for school records without unnecessary delay before any meeting regarding an individualized education program or any hearing pursuant to *Section 300.121, 300.301, 300.304, or 300.507 of Title 34 of the Code of Federal Regulations* or resolution session pursuant to *Section 300.510 of Title 34 of the Code of Federal Regulations* and in no case more than five business days after the request is made orally or in writing.

The parent shall have the right to a response from the public agency to reasonable requests for explanations and interpretations of the records.

If a school record includes information on more than one pupil, the parents of those pupils have the right to inspect and review only the information relating to their child or to be informed of that specific information.

A public agency shall provide a parent, on request of the parent, a list of the types and locations of school records collected, maintained, or used by the agency.

A public agency may charge no more than the actual cost of reproducing the records, but if this cost effectively prevents the parent from exercising the right to receive the copy or copies, the copy or copies shall be reproduced at no cost.

OAH CASE NO	FINDING
2005071023	finding IEP appropriate D developed a transition from an NPA to school without the NPA data and P's agreement, because D sought NPA goals and data but did not receive any, over the course of 10 meetings, offered an alternative NPA, eventually offering its own goals and staff, after parent chose to leave meetings early and not attend in an effort to impose his own will.
2007050302-2007050762	finding District offer appropriate, despite Parent and District staff relationship deteriorated to a point where it took a toll on Student, an adversarial relationship developed, Student and Parent became distrustful of staff, Parent insisted on all communication in writing or email, and occasional terminated calls with District personal.
2007110823	finding District's cooperation in adding goals suggested by outside provider(s) does not mean the goals were essential to Student's educational needs. Nothing stops the District from going beyond the basic floor of educational opportunity required by law. District's willingness to work with Parents to address "concerns" was in keeping with the spirit of the cooperative spirit of the IEP process.
2009060940	finding Parents' participatory rights were unaffected because they had only a single placement in mind; had no interest in assisting the District to develop another proposal; never participated in that effort when they had opportunities to do so; and were obstructing the development of the District's proposal by withholding needed information and would have refused the District's offer whenever it was made.
2009081105	finding parental non-cooperation provides an additional and independent basis to deny Student's requests for reimbursement or compensatory education where Parents refused to provide consent for assessments that they had asked for; signed assessment plans and IEPs only after cursory reviews; and withheld a report from the IEP team for their consideration.
2010020587	finding no relief where Parent failed to complete home hospital (HH) medical forms properly that were necessary to continue home hospital and where District reassigned the HH instruction and Parent refused her replacement on the mistaken belief that changes in staff negatively effected student.
2010081062	finding Parent did not have unclean hands, such that reimbursement should be reduced or denied, when she delayed consent to District's non-public school offer and District argued an unspecified lack of parental cooperation where the facts indicated otherwise.
2011020609	finding the District did not procedurally offer a FAPE where Parent left a meeting with the belief a continuation would be held, while the District felt Parent was not cooperating and filed a complaint without reconvening, the failure to hold a meeting and consider additional information resulted in the District predetermining placement.
2011050739-2011040320	finding the District did not deny meaningful participation where Parent's did not adhere to mutually agreed upon meeting schedule, changed representation on at least three occasions, failed to disclose that she filed a complaint while retaining and going forward with a new advocate which resulted in a delay in completing the triennial review.
2011060184-2011050574-2011050289	finding District did not deny Parent's meaningful participation where it was an attention to detail that sparked the dispute over the refusal consent to social emotional assessing and caused a breakdown in cooperation between the parties, however, the ALJ ordered the SO testing as necessary.
2011070771	finding factually that the District thoroughly assessed Student's behavioral needs where and, at Parent's request agreed to conduct more comprehensive behavioral assessments, despite accurately having identified those needs in a psych-educational evaluation prior to the request.

2012020778	finding the District denied Student a FAPE when it engaged in "self-help" by providing prior written notice and refusing to provide special education and related services, documented in multiple letters which negatively impacted and exacerbated the dispute(s).
2012060009-2012060628	finding that District staff misled Parents with misinformation that made Parents fearful of participating, and did not participate, in a manifestation determination, but placement was not changed therefore therefore a harmless error.
2012110106	finding Parent's failure to comply with an order to cooperate in a triennial will constitute a waiver of right to special education where for years Parents have unreasonably and actively obstructed and failed to cooperate by not permitting reevaluation on numerous occasions, conditioned consent on concessions sought from District, refused without notice to attend meetings even when requested by Parent, refused to complete and return necessary documents, and photographed, recorded, yelled at or otherwise harassed at least one District employee.
2013010704	finding that in the spirit of cooperation to obtain consent to assess the District agreed to conduct the assessments at Student's private school setting even though the disagreed he would suffer emotional harm at a District location and the District has a right to use qualified assessors of its choosing where Parent failed to present evidence the proposed assessors posed a risk of harm.
2013030530	finding conditioned consent to an assessment plan acted as a revocation were Parent's were not cooperative and acted unreasonable by requiring Parent's presence during testing and refusing to allow observation in the home hospital setting.
2013031004-2013040364-2013060755	finding Parents did not cooperate with the District where they refused to consent to assessment unless Parent could observe, thereby improperly preventing the District from collecting needed baseline data, and the District reviewed what was available to develop an offer of a FAPE.
2013040872	finding Parent did not obstruct the IEP process in declining to attend meetings where the District arbitrarily set start times where Parent was unable to attend, refused to answer questions about why they were going to redo a proposed BIP, attempted to use the refusal to attend voluntary mediation as a basis for holding an IEP meeting with Parent in attendance, and asked for the meeting to be reschedule while waiting for a written report by an NPA for information the District refused to provide which would have been beneficial to the entire team.
2013060562	finding unilaterally created IEP void where, even though Parent refused to cooperate in the meetings, to set aside complaints, listen, and review progress, cancelled or did not attend meetings, without evidence of a "bona fide conflict," the District failed to provide proper notice or document attempts to hold a meeting, however Parent was barred from claiming a denial of a FAPE where the District cancelled a meeting Parent refused to attend.
2013080296-2013050805	finding for District where Parent's lack of cooperation and unilateral demands obstructed the District's ability to appropriately place Student or hold an IEP team meeting and where Parent removed Student from NPS and failed to return Student to a school setting constituted intervening circumstances that relieved District from the obligation to implement goals outside of the ED setting for which they were designed.
2013110547	finding District did not fail to properly respond to Parent's IEE request where District didn't refuse to pay for an IEE but Parent failed to cooperate with a request for clarification and information on the desired independent assessor.

2014110365	finding no fault by failing to timely hold an IEP meeting where Parent refused to participate and concluded a prior meeting, when the District did not agree to a mental health assessment, and Student failed to present evidence of a willingness to reconvene and discuss placement and services; however, where District did not timely offer assessments in January, a later refusal to consent to assessments in April did not excuse the District earlier failures.
2015010431	finding Parent could not fault the District for not convening an IEP meeting within the one year time frame where over the course of three months Parent ignored at least three proposed dates, did not offer alternative dates, stated work conflicts but did not indicate an interest in meeting, but indicated services they believed Student should receive and filed for due process within the same time period to which they complained.
2015010878	finding the District did not deprive Parents of their right to participate when developing an IEP at two unilateral meetings where the District had proposed 13 meetings, Parent significantly protracted the process and delayed the completion of the IEP by refusing to meet, cancelled four, attended six within three months, treating meetings as adversarial proceedings, tending to fixate on procedural matters instead of focusing on Student's needs and how to address them.
2015090860	finding District cannot eschew its affirmative duties under the IDEA by blaming student or parents for not requesting what is complained of, where Parent was cooperative throughout the process but the District showed a general lack of care towards students needs.