

**Santa Ana Unified School District
Education Services Division
Special Education Department**

Notice to Parent/Guardian/Surrogate

This notice is provided to you because your child has been referred for possible placement in special education. The purpose of this notice is to explain to you your rights as a parent of a child with disabilities under federal and state law. In California, special education is provided to disabled students between birth and twenty-one years of age. Federal and state laws protect you and your child throughout the procedures for evaluation and identification of special education placement and services. The definitions below will help you understand the statement of rights:

DEFINITIONS

Children With Disabilities is defined by federal law as a child with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (hereinafter referred to as emotional disturbance), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and who by reason thereof, need special education and related services. (20 U.S.C. Section 1401(3)).

Evaluation means the assessment of your child using various tests and measures in accordance with Education Code Section 56320-56339 and 34 C.F.R. Section 300.530-300.543 to determine whether your child has a disability and the nature and extent of special education and related services needed by your child for his or her educational benefit. The assessment tools are individually selected for your child and are administered by competent professionals employed by the school district. These tests do not include the basic tests given to all children in the school setting. (34 C.F.R. Sections 300.530-300.543, Education Code Sections 56320-56339).

Free Appropriate Public Education (FAPE) is defined by the federal law as an education (1) provided at the public expense, under public supervision and direction, and without charge to you; (2) meets the standards of the California Department of Education; and (3) is provided in conformity with a written individualized education program developed for your child to confer an educational benefit and to be implemented in a preschool, elementary or secondary school program of the State. This education may be provided in a nonpublic or private school if there is no appropriate program available in a school district. (20 U.S.C. Section 1401(8)).

Least Restrictive Environment (LRE) means that to the maximum extent appropriate, children with disabilities will be educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular education program will occur only 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. (20 U.S.C. Section 1412(a)(5)).

Related Services means transportation and such developmental, corrective and supportive services that may be required to assist a child with a disability to benefit from special education, including the early identification and assessment of disabling conditions. Supportive services may include:

1. Speech-language pathology and audiology services.
2. Psychological services.
3. Physical and occupational therapy.
4. Recreation, including therapeutic recreation.
5. Social work services.
6. Counseling services, including rehabilitation counseling.
7. Orientation and mobility services.
8. Medical services for diagnostic and evaluation purposes only.

(20 U.S.C. Section 1401(22)).

Special Education means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings and instruction in physical education. (20 U.S.C. Section 1401(25)).

ACCESS TO EDUCATIONAL RECORDS

All parents of a child enrolled in the school district have the right to inspect records under the federal Family Rights and Privacy Act (FRPA), 99.67, which has been implemented in the California Education Code. Under the federal and state law, parents of a child with disabilities (including noncustodial parents whose rights have not been limited) are presumed to and have the right to review all educational records regarding the identification, evaluation, and educational placement of the child, the provision of a free appropriate public education and to receive an explanation and interpretation of the records. Under California statutes, the parents have the right to review and to receive copies of educational records. These rights transfer to a pupil who is eighteen years old or attending an institution of post secondary education unless the pupil has had a conservator appointed by a court to assume the educational rights of the pupil.

"Education record" means those records that are directly related to a pupil and maintained by an educational agency or a party acting for the agency or institution. Both federal and state laws further define a pupil record as any item of information directly related to an identifiable pupil, other than directory information, which is maintained by a school district or required to be maintained by an employee in the performance of his duties whether recorded by handwriting, print, tapes, film, microfilm, computer or by other means. Pupil records do not include informal personal notes prepared and kept by a school employee for his or her own use or the use of a substitute. If records contain information about more than one student, a parent can have access only to that portion of the record pertaining to his or her child.

The custodian of records at each school site is the principal of the school. The district custodian of records is the Director of Special Education. Pupil records may be kept at the school site or the district office, but a written request for records at either site will be treated as a request for records from all sites. The custodian of records will provide you with a list of the types and locations of pupil records (if requested).

A review and/or copies of educational records will be provided to the parent within five (5) days of a request. A fee for copies, but not the cost to search and retrieve, is determined by local policy and will be charged unless charging the fee would effectively deny access to the parent. Once a complete copy of the records has been provided, a fee will be charged for additional copies of the same records.

Parents who believe that information in the education records collected, maintained or used by the school district is inaccurate, misleading or violates the privacy or other rights of the pupil may request in writing that the school district amend the information. If the district concurs, the record will be amended and the parent will be informed. Should the district refuse to make the amendment requested within thirty (30) days, the district shall notify the parent of the right to and provide a hearing, if requested, to determine whether the challenged information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the pupil. If, after the hearing, it is decided by the governing board that the record will not be amended, the parent shall have a right to provide what the parent believes is a corrective written statement to be permanently attached to the record. The parent's statement will be attached if the consented record is disclosed. (20 U.S.C. Section 1232g, 34 C.F.R. Section 99.1-99.67; Education Code Sections 49060-49079).

PRIOR WRITTEN NOTICE AND PARENTAL CONSENT

Section 1415(b)(3) of the Individuals with Disabilities Education Act (IDEA) requires school districts to provide written prior notice to you as the parent of a child with disabilities before the school district proposes to initiate or change or before refusing to initiate or change the identification, evaluation or educational placement of your child or in the provision of a free appropriate public education to your child. The notice will be provided in your native language, unless it is clearly not feasible to do so.

Section 1415(c) outlines the requirements for the content of prior written notices. These notices must include:

1. A description of the action proposed or refused by the school district.
2. An explanation of why the school district proposes or refuses to take the action.
3. A description of any other options that the school district considered and the reasons why those options were rejected.
4. A description of each evaluation procedure, test, record, or report the school district used as a basis for the proposed or refused action.
5. A description of any other factors that are relevant to the school district's proposal or refusal.
6. 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.
7. Sources for parents to contact to obtain assistance in understanding the provisions of this part.

This notice will be given to you, at a minimum, upon initial referral for evaluation, upon each notification of an Individualized Education Program (IEP) meeting, upon reevaluation of the child and upon registration of a complaint with the California Department of Education or the school district.

Section 1414(a)(1)(C) of the IDEA requires that school districts obtain informed consent from you before the commencement of an initial evaluation of your child to determine if your child qualifies as a child with disabilities. Your consent for the initial evaluation does not imply or grant consent for placement and receipt of special education and related services. The school district will request your consent for placement separately and at a later date. If you refuse to provide consent, the school district may request mediation and/or a due process hearing in an effort to resolve any disagreements between you and the school district. The school district will also obtain your informed consent for reevaluations of your child and will not conduct a reevaluation unless you fail to respond to requests for your consent. (20 U.S.C. Section 1414, 1415).

PROTECTION IN EVALUATION PROCEDURES

Federal law refers to "evaluation" and California law refers to "assessment". Therefore, these words may be used interchangeably by employees of the school district. The school district must provide you with a written assessment plan within fifteen (15) days after a referral for special education has been received. You will have a minimum of fifteen (15) days in which to review the plan and to consent to the assessment. You may request assessment in additional areas of suspected disability. Thereafter, the school district has fifty (50) days to complete an assessment. However, this timeline is extended by periods of school holiday or vacation.

The school district must use a variety of assessment tools and strategies, including information from the parent, to obtain relevant functional and developmental information in order to determine eligibility and to develop an IEP that will permit the child to benefit from the general curriculum.

Section 1414(b)(2) of the IDEA states that in conducting the evaluation the school district will:

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

The school district will also make sure that tests and other evaluation materials used to assess your child are selected and administered so as not to be discriminatory on a racial or cultural basis and are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible

to do so. Any standardized tests that are given to the child will have been validated for the specific purpose for which they are used, administered by a trained and knowledgeable personnel, and administered in accordance with any instructions provided by the producer of such tests. Your child will be assessed in all areas of suspected disability and the school district will use assessment tools and strategies that provide relevant information that will directly assist the school district in determining the educational needs of your child. Upon completion of the administration of evaluation materials, the determination of whether the child is a child with a disability will be made by you and a team of qualified professionals. A copy of the evaluation report and documentation of the determination of eligibility will be given to you.

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

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

1. Review existing evaluation data on the child, including evaluations and information provided by you, current classroom-based assessments and observations, and teacher observation; and
2. On the basis of that review, and input from you, identify what additional data, if any, are needed to determine:
 - a. Whether the child has a particular category of disability, or, in case of reevaluation of a child, whether the child continues to have such a disability;
 - b. The present levels of performance and educational needs of the child;
 - c. Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and
 - d. Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general curriculum.

Generally, a reevaluation is required every three years. However, if the IEP team determines that no additional data is needed to determine whether your child continues to be a child with a disability, the school district will notify you as to the reasons the school district believes a reevaluation is not necessary. After receiving this notice, you may request a reevaluation of your child. If the school district does not receive a reevaluation request from you, the school district will not conduct a reevaluation of your child. (20 U.S.C. Section 1414, 1415, 34 C.F.R. Section 300.530-300.543).

Before determining that your child is no longer a child with a disability, the school district must conduct an assessment in accordance with the procedures discussed above. (20 U.S.C. Section 1414, 1415, 34 C.F.R. Section 300.530-300.543; Education Code section 56321).

INDEPENDENT EDUCATIONAL EVALUATION

After the school district has completed its evaluation and if you disagree with the school District's evaluation of your child, you may have the right to an independent educational evaluation at school district expense. However, the school district may request a hearing before a hearing officer to dispute your request for reimbursement. The hearing officer will then decide whether reimbursement is appropriate. The independent educational evaluation must comply with all of the requirements that apply to school district evaluations. (20 U.S.C. Section 1415(b)(1); 34 C.F.R. Section 300.502)

District assessment procedures allow in-class observation of students. If the school district observes your child in his or her classroom during an assessment, or if the school district would have been allowed to observe your child, an individual conducting an independent educational assessment must also be allowed to observe your child in the classroom. If the school district proposes a new school setting for your child and an independent educational assessment is being conducted, the independent assessor must be allowed to observe the proposed new setting. (Education Code section 56329(b) and (c)).

If you unilaterally place your child in a nonpublic school and you propose the placement in the nonpublic school to be publicly financed, the school district must be given the opportunity to first observe the

proposed placement and your child in the proposed placement. The school district may not observe or assess any other child at the nonpublic school without permission from the other child's parent or guardian. (Education Code section 56329(d)).

IEP MEETINGS

As the parent or legal guardian of a special education student, you have the right to be a part of the IEP team. The term IEP or Individualized Education Program means a written statement for each child with a disability that is developed, reviewed and revised in accordance with federal and state law. The IEP includes the child's present levels of educational performance and must consider your concerns as a parent for enhancing the education of your child. As a parent or legal guardian, you have the right to be a member of any group that makes decisions with respect to the educational placement of your child. You also have the right to bring individuals who have knowledge or special expertise regarding the child to an IEP meeting. If you are a parent of a child age three through five years, the individualized Family Service Plan may serve as the IEP if agreed to by the parent and the school district.

Beginning at age fourteen, federal law requires that the IEP be updated annually and include a statement of the transition service needs of the child. Beginning at age sixteen or younger, if determined appropriate by the IEP team, a statement of needed transition services for the child, including, when appropriate, a statement of the interagency responsibilities or linkages between the agencies is required. Beginning at least one year before the child reaches the age eighteen, a statement must be included in the IEP that the child has been informed of his or her rights that will transfer to the child on reaching the age of majority. Under California law, when a child turns age eighteen, he or she is considered an adult and unless the parent obtains a conservatorship or guardianship over the child through court proceedings, the child may make decisions regarding his or her education.

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

The IEP will be reviewed at least annually to determine whether the annual goals for your child are being achieved. Your child will also receive report cards in the same manner as regular education students. The IEP team will revise the IEP as appropriate to address any lack of expected progress toward the annual goals and progress in the general curriculum, to address the results of any reevaluation conducted and to address information about the child provided by you. Under state law, you have the right to electronically record IEP meetings by audio tape if you give 24 hours notice to other members of the IEP team.

OPPORTUNITY TO PRESENT COMPLAINTS

Section 1415(b)(6) of the IDEA grants parents an opportunity to present complaints with respect to any matter relating to the identification, evaluation or educational placement of your child or the provision of a free appropriate public education to your child. Complaints may be filed with the school district or the federal or state government at the address below:

Santa Ana Unified School District 1601 E. Chestnut Ave. Santa Ana, California 92701 Attn: Director, Special Education	California Department of Ed 721 Capitol Mall Sacramento, California 95814-4785	United States Department of Ed Office for Civil Rights Old Federal Building 50 United Nations Plaza San Francisco, CA 94102
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The school district encourages you to file your complaint with the school district. We will meet with you and investigate your complaint in a timely manner and attempt to resolve any concerns.

The school district has established confidential procedures for the filing of complaints. A complaint form is available from the district office and requests the following information:

1. The name of the child, the address of the residence of the child and the name of the child's school.
2. A description of the nature of the problem.
3. A proposed solution.

(20 U.S.C. Section 1415(b)(6) 1415(b)(7)).

PROCEDURAL SAFEGUARDS

Prior to initiating a change or refusing to initiate a change in the identification, evaluation, educational placement or the provision of a free appropriate public education to your child, the school district is required to provide you with prior written notice. The notice will be provided in your native language unless clearly not feasible to do so. The prior written notice must include:

1. A description of the action proposed or refused by the school district.
2. An explanation of why the school district proposed or refused to take the action.
3. A description of any other options the school district considered and the reasons why those options were rejected.
4. A description of each evaluation procedure, test, record or report the school district used as a basis for the proposed or refused action.
5. A description of any other factors that are relevant to the school district's proposal or refusal.
6. A statement that you have protection under the procedural safeguards of the IDEA.
7. Sources for you to contact to obtain assistance in understanding the IDEA.

PLACEMENT DURING THE PENDENCY OF DUE PROCESS PROCEDURES

As a parent of a child with disabilities, should you get involved in a disagreement with the school district over the identification, evaluation or placement of your child and you file a request for a due process hearing, your child will remain in the current educational placement of your child during the pendency of the proceedings. Unless you agree to a change in placement or the school district obtains a court order or an order from a hearing officer, your child will remain in his or her current educational placement. For initial admission to school, the child will be placed in a public school program, with parental consent, until the proceedings have been completed. There are exceptions to this general rule which allow the school district to place your child in an alternative educational setting for a limited period of time. These exceptions will be discussed in the next section on interim alternative educational settings.

(20 U.S.C. Section 1415(j)).

INTERIM ALTERNATIVE EDUCATIONAL SETTINGS

Under 1997 Amendments to the IDEA, school district personnel may change the placement of your child to an appropriate interim alternative educational setting, to another educational setting or suspend your child for not more than 10 school days (to the extent such alternatives would be applied to children without disabilities). School district personnel may also place your child in an appropriate interim alternative educational setting for up to forty-five (45) days if you child carries a weapon to school, to a school activity or if your child knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school or a school activity. Not later than ten (10) days after taking such disciplinary action, the school district will conduct a functional behavioral assessment and implement a behavior intervention plan for your child to address the behavior that resulted in the disciplinary action or if your child has a behavioral intervention plan, the IEP team will review the plan and modify it as necessary to address your child's behavior.

A hearing officer may order a change in the placement of your child to an appropriate interim alternative educational setting for not more than forty-five (45) days, if the hearing officer determines that maintaining your child in his or her current placement is substantially likely to result in injury to your child or to others. The hearing officer will consider the appropriateness of your child's current placement, whether the school district has made reasonable efforts to minimize the risk of harm in your child's current placement,

including the use of supplementary aids and services, and will determine whether the interim alternative educational setting meets the requirements of the law.

The alternative educational setting will be determined by the IEP team. The interim alternative educational setting will be selected so as to enable your child to continue to participate in the general curriculum, although in another setting, and so that your child can continue to receive the services and modifications currently in your child's IEP. The interim alternative educational setting should enable your child to meet the goals in your child's IEP and include services and modifications designed to address your child's behavior that resulted in the disciplinary action.

In addition, if disciplinary action in excess of ten (10) days is contemplated for your child, a manifestation determination review will be conducted by the IEP team and other qualified personnel. The IEP team will review all relevant information, including evaluation and diagnostic results including information from you, observations of the child, and the child's IEP and placement. The IEP team will then determine:

1. Whether the child's IEP and placement were appropriate.
2. Whether the services being provided were appropriate.
3. Whether the behavior intervention strategies that were provided were consistent with the child's IEP and placement.
4. Whether there was a relationship between the disability and the behavior.
5. Whether the child's disability impaired the ability of the child to understand the impact and consequences of his or her behavior subject to disciplinary action.
6. Whether the child's disability impaired the ability of the child to control his or her behavior that resulted in the disciplinary action.

If you disagree with the manifestation determination review or with any decision regarding placement, you may request a due process hearing. You may request an expedited hearing from the state agency which conducts the due process hearings. During the pendency of the due process hearing, your child will remain in the interim alternative educational setting pending the decision of the hearing officer or for forty-five (45) days, whichever occurs first, unless you and the school district agree otherwise. If the school district believes it is dangerous for your child to return to the current educational placement, the school district may request an expedited hearing.

If the IEP team determines that your child's behavior was not a manifestation of the disability, the regular disciplinary procedures may be applied but educational services must continue. These services may be continued at an alternative educational placement which may include a continuation school or a community school operated by the Orange County Department of Education. (20 U.S.C. Section 1415 (k))

UNILATERAL PLACEMENT BY PARENTS IN PRIVATE SCHOOL

You may enroll your child in a private school. However, in order to obtain reimbursement for the cost of private school from the school district, including special education and related services, you must first attempt to obtain the consent of the school district. You must also establish that the school district does not have an appropriate program for your child. Reimbursement may be denied or reduced if, at the most recent IEP meeting that you attended prior to removal of your child from the public school, you did not inform the IEP team that you were rejecting the placement proposed by the school district to provide a free appropriate public education to your child.

At the IEP meeting, you should state your concerns regarding the school district's proposed placement and your intent to enroll your child in a private school at public expense or at least 10 business days prior to the removal of your child from the public school, you should give written notice to the public agency of your concerns regarding the school district's proposed placement and your intent to enroll your child in a private school at public expense.

If the school district notifies you prior to the removal of your child from the public school that the school district wishes to evaluate your child and indicates the purpose of the evaluation, you should make your

child available for the evaluation. If you have not complied with these requirements, a court may find that you acted unreasonably in unilaterally removing your child from the public school and in placing your child in a private school. The court may deny you reimbursement unless you can show that you are illiterate and cannot write in English, that the school district's placement would result in physical or serious emotional harm to your child, the school district prevented you from receiving such notice or that you did not receive a notice from the school district regarding your rights with respect to unilateral placement. (20 U.S.C. Section 1412 (a)(10))

MEDIATION AND DUE PROCESS HEARINGS

The IDEA requires states to establish procedures for mediation and impartial due process hearings. In California, there is a voluntary mediation process which you may waive. The purpose of mediation is to encourage negotiations and voluntary settlement of disputes through the use of a third party who is knowledgeable and impartial and is appointed by the state. The state maintains a list of individuals who are qualified mediators and knowledgeable in the laws and regulations relating to the provision of special education and related services. These mediators are maintained at state cost and will meet with you and the school district in an attempt to resolve any disagreements. An agreement reached by you and the school district will be set forth in writing. Any discussions that occur during the mediation process are confidential and may not be used as evidence in a later due process hearing or civil proceedings.

The IDEA also requires states to establish an impartial due process hearing process before an impartial hearing officer knowledgeable of the laws governing special education and who is not an employee of the state education agency or the school district. In California, the hearing process does not include an administrative appeal. At least five (5) business days prior to a hearing, you and the school district must disclose all evaluations to the other party or the evaluation cannot be introduced as evidence at the hearing.

Under state law, you have the right to be accompanied and advised by counsel and by individuals with special knowledge or training related to the problems of children with disabilities. You have the right to present evidence, written argument and oral argument, the right to confront, cross-examine and compel the attendance of witnesses, the right to a written or electronic verbatim record of the hearing and the right to written findings of fact and decision. State law requires both parties, at least ten (10) days prior to the hearing, to inform the other party as to the issues to be decided at the hearing and their proposed resolution of those issues. State law also requires both parties, at least five (5) days before the hearing to disclose to the other party all evidence to be introduced at hearing or it may be excluded. If you are not represented by an attorney, the state will provide a mediator to assist you in identifying the issues and the proposed resolution of the issues.

The hearing officer will issue a written decision within forty (40) days of the conclusion of the hearing. You or the school district may request an extension of this requirement and the hearing officer may grant or deny the request upon a finding of good cause. The due process hearing is the final administrative determination and is binding upon all parties. As discussed in the next section, you may appeal the hearing officer's decision by filing a civil action in federal or state court. (20 U.S.C. Section 1415 (e), 1415 (f), Education Code Section 56505)

CIVIL ACTIONS

In order to file a civil action in federal or state court on behalf of your child, you must hire an attorney who is licensed to practice law before that court. In a civil action, the records and transcription of the administrative proceedings shall be filed with the court. The court may hear additional evidence at the request of either party and must base its decision on the preponderance of the evidence. The action may be filed in the United States District Court or in Orange County Superior Court. The action must be filed within ninety (90) days of the receipt of the hearing officer's decision. (20 U.S.C. Section 1415(i); Education Code Section 56505 (i))

ATTORNEYS' FEES

The United States District Court or the Orange County Superior Court has the authority to award you attorneys' fees if you are the prevailing party in a due process hearing or civil action. The fees awarded are based on rates prevailing in the community in which the action or proceeding arose. No attorneys' fee may be awarded following a written offer of settlement made at least ten (10) days prior to hearing if the court or hearing officer finds that the relief you ultimately obtained is not more favorable than the written offer. However, attorneys' fees will not be reduced if the school district unreasonably prolonged the proceedings. You may not be awarded attorneys' fees and related costs if you unreasonably prolonged the final resolution of the controversy or the amount of the fees requested is unreasonable. In addition, attorneys' fees may not be awarded for attending IEP meetings unless ordered by a hearing officer or after the filing of a complaint. (20 U.S.C. Section 1415(i)(3)).