

DAILEY ELEMENTARY CHARTER SCHOOL

SPECIAL EDUCATION POLICY

Scope

The Board of Directors of Morris E. Dailey Elementary Charter School (“Charter School”) recognizes the need to actively seek out and evaluate students who are enrolled at the school who have disabilities in order to provide them with appropriate educational opportunities in accordance with state and federal law. Accordingly, this Policy has been adopted consistent with Education Code section 56195.8.

For purposes of special education services, Fresno Unified School District (“FUSD” or “District”) is the responsible Local Education Agency (“LEA”) for serving students attending Charter School. Accordingly, Charter School has adopted the following District policies in their entirety:

- A. Administrative Regulation (“AR”) 6164.4 “Identification Of Individuals For Special Education,”
- B. AR 6159 “Individualized Education Program,”
- C. Board Policy (“BP”) and AR 6159.2 “Nonpublic Nonsectarian School and Agency Services For Special Education,” and
- D. AR 6159.1 “Procedural Safeguards and Complaints For Special Education”[MMH2]

Charter School shall work with District to ensure compliance with applicable state and federal law and regulations, and Special Education Local Plan Area (“SELPA”) policy with respect to the identification and referral of students for special education and related services.

* * *

A. Identification Of Individuals For Special Education (FUSD AR 6164.4)

A student shall be referred for special educational instruction and services only after the resources of the regular education program have been considered and used where appropriate. (Education Code § 56303)

All referrals from school staff shall include a brief reason for the referral and describe the regular program resources that were considered and/or modified for use with the student, and their effect. (5 CCR § 3021)

Initial Evaluation for Special Education Services

Before the initial provision of special education and related services to a student with a disability, the school shall conduct a full and individual initial evaluation of the student. (Education Code § 56320; 34 CFR § 300.301)

Upon receipt of a referral of any student for special education and related services, a proposed evaluation plan shall be developed within 15 days, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days, unless the parent/guardian agrees, in writing, to an extension. If the referral is made within 10 days or less prior to the end of the student's regular school year or term, the proposed evaluation plan shall be developed within 10 days after the beginning of the next regular school year or term. (Education Code §§ 56043, 56321)

The proposed evaluation plan shall meet all of the following requirements:

1. Be in a language easily understood by the general public;
2. Be provided in the native language of the parent/guardian or other mode of communication used by the parent/guardian unless it is clearly not feasible;
3. Explain the types of evaluation to be conducted;
4. State that no individualized education program (IEP) will result from the evaluation without parent/guardian consent.

(Education Code § 56321)

Before conducting an initial evaluation, the District shall provide the parent/guardian with prior written notice in accordance with 34 CFR § 300.503. In addition, as part of the evaluation plan, the parent/guardian shall receive written notice that includes all of the following information:

1. Upon completion of the administration of tests and other evaluation materials, an IEP team meeting that includes the parent/guardian or his/her representative shall be scheduled pursuant to Education Code § 56341. At this meeting, the team shall determine whether or not the student is a student with disabilities, as defined in Education Code § 56026, and shall discuss the evaluation, the educational recommendations, and the reasons for the recommendations.
2. When making a determination of eligibility for special education, the district shall not determine that the student is disabled if the primary factor for such determination is lack of appropriate instruction in reading, including the essential components of reading instruction as defined in 20 USC § 6368(3), lack of appropriate instruction in mathematics, or limited English proficiency.
3. A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent/guardian.

4. If the parent/guardian disagrees with an evaluation obtained by the district, he/she has the right to obtain, at public expense, an independent educational evaluation (IEE) of the student from qualified specialists, in accordance with 34 CFR § 300.502. The parent/guardian is entitled to only one such evaluation at public expense each time the district conducts an assessment with which the parent/guardian disagrees.

If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of the student, an equivalent opportunity shall apply to the IEE. This equivalent opportunity shall apply to the student's current placement and setting as well as observation of the district's proposed placement and setting, if any, regardless of whether the IEE is initiated before or after the filing of a due process hearing proceeding.

5. The district may initiate a due process hearing pursuant to Education Code § 56500-56508 to show that its evaluation is appropriate. If the final decision resulting from the due process hearing is that the evaluation is appropriate, the parent/guardian maintains the right for an IEE, but not at public expense.

If the parent/guardian obtains an IEE at private expense, the results of the IEE shall be considered by the district with respect to the provision of a free appropriate public education (FAPE) to the student, and may be presented as evidence at a due process hearing regarding the student. If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of a student, an equivalent opportunity shall apply to an IEE of the student in the student's current educational placement and setting and in any educational placement and setting proposed by the district, regardless of whether the IEE is initiated before or after the filing of a due process hearing.

6. If the parent/guardian proposes a publicly financed placement of the student in a nonpublic school, the district shall have an opportunity to observe the proposed placement and, if the student has already been unilaterally placed in the nonpublic school by his/her parent/guardian, the student in that proposed placement. Any such observation shall only be of the student who is the subject of the observation and shall not include the observation or evaluation of any other student in the proposed placement unless that other student's parent/guardian consents to the observation or evaluation. The results of any observation or evaluation of another student in violation of Education Code § 56329(d) shall be inadmissible in any due process or judicial proceeding regarding FAPE of that other student.

(Education Code § 56329; 34 CFR §§ 300.304, 300.504)

Parent/Guardian Consent for Evaluations

Upon receiving the proposed evaluation plan, the parent/guardian shall have at least 15 days to decide whether or not to consent to the initial evaluation. The district shall not interpret parent/guardian consent for initial evaluation as consent for initial placement or initial provision of special education services. (Education Code § 56321; 34 CFR § 300.300).

Informed parental consent means that the parent/guardian:

1. Has been fully informed, in his/her native language or other mode of communication, of all information relevant to the activity for which consent is sought;
2. Understands and agrees, in writing, to the carrying out of the activity for which his/her consent is sought and the consent describes that activity and lists the records (if any) that will be released and to whom;
3. Understands that the granting of consent is voluntary on his/her part and may be revoked at any time;
4. Understands that if he/she revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

The district shall make reasonable efforts to obtain the informed consent of the parent/guardian for an initial evaluation or reevaluation of a student. The district shall maintain a record of its attempts to obtain consent, including:

1. Detailed records of telephone calls made or attempted and the results of those calls;
2. Copies of correspondence sent to the parent/guardian and any responses received;
3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits.

(Education Code §§ 56321, 56341.5; 34 CFR §§ 300.300, 300.322)

If a parent/guardian refuses to consent to the initial evaluation or fails to respond to a request to provide consent, the district may, but is not required to, pursue an evaluation by utilizing the procedural safeguards, including the mediation and due process procedures pursuant to 20 USC § 1415 and 34 CFR § 300.506-300.516. (Education Code § 56321; 34 CFR § 300.300)

For a student who is a ward of the state and not residing with his/her parent/guardian, the district may conduct an initial evaluation without obtaining informed consent if any of the following situations exists:

1. Despite reasonable efforts to do so, the district cannot discover the whereabouts of the parent/guardian of the student;

2. The rights of the parent/guardian of the student have been terminated in accordance with California law;
3. The rights of the parent/guardian to make educational decisions have been subrogated by a judge in accordance with California law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student.

(Education Code § 56321.1; 20 USC § 1414; 34 CFR § 300.300)

(cf. FUSD BP & AR 6159.3 - Appointment of Surrogate Parent for Special Education Students)

The district need not obtain parent/guardian consent before reviewing existing data as part of an evaluation or administering a test or other evaluation that is administered to all students, unless consent is required from the parents/guardians of all students. (Education Code § 56321; 34 CFR § 300.300)

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3. The rights of the parent/guardian to make educational decisions have been subrogated by a judge in accordance with California law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student.

(Education Code § 56321.1; 20 USC § 1414; 34 CFR § 300.300)

(cf. FUSD BP & AR 6159.3 - Appointment of Surrogate Parent for Special Education Students)

The district need not obtain parent/guardian consent before reviewing existing data as part of an evaluation or administering a test or other evaluation that is administered to all students, unless consent is required from the parents/guardians of all students. (Education Code § 56321; 34 CFR § 300.300)

Conduct of the Evaluation

The district shall complete the determination as to whether the student is a student with a disability, conduct the initial evaluation to determine his/her educational needs, and develop an IEP within 60 days of receiving informed parent/guardian consent for the evaluation. (Education Code § 56344; 34 CFR §§ 300.300, 300.301)

The evaluation shall be conducted by qualified personnel who are competent to perform the assessment as determined by the district. (Education Code §§ 56320, 56322)

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. (34 CFR § 300.302)

In conducting the evaluation, the district shall use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student. The district shall also use any information provided by the parent/guardian that may assist the district in making the determination as to whether the student is a student with a disability and, if so, the necessary components of his/her IEP when the IEP is developed, including information related to enabling the student to be involved in and to progress in the general education curriculum. (34 CFR § 300.304)

The district's evaluation shall not use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability and for determining the appropriate educational program for the student. The assessment shall use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors. (34 CFR § 300.304)

The district shall also ensure that assessments and other evaluation materials provide relevant information that assists in determining the student's educational needs and are:

1. Selected and administered so as not to be discriminatory on a racial, cultural, or sexual basis;
2. Provided and administered in the language and form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;

3. Used for the purposes for which the assessments or measures are valid and reliable;
4. Administered by trained and knowledgeable personnel;
5. Administered in accordance with any instructions provided by the producer of the assessments;
6. Tailored to assess specific areas of educational need and not merely designed to provide a single general intelligence quotient;
7. If administered to a student with impaired sensory, manual, or speaking skills, selected and administered to best ensure that the results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure.

(Education Code 56320; 34 CFR § 300.304)

Students shall be assessed in all areas related to the suspected disability, including, if appropriate, health and development, vision (including low vision), hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. When appropriate, a developmental history shall be obtained. The district shall ensure that the evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in which the student has been classified. (Education Code § 56320; 34 CFR § 300.304)

As part of the initial evaluation and any reevaluation, the IEP team and other qualified professionals shall, if appropriate, review existing evaluation data on the student, including evaluations and information provided by the parents/guardians, current classroom-based local or state assessments and classroom-based observations, and observations by teachers and related services providers. On the basis of that review and input from the student's parent/guardian, the team shall identify what additional data, if any, are needed to determine:

1. Whether the student is a student with a disability, or in the case of a reevaluation, whether the student continues to have a disability, and the educational needs of the student;
2. The present levels of academic achievement and related developmental needs of the student;
3. Whether the student needs, or continues to need, special education and related services;
4. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in his/her IEP and to participate, as appropriate, in the general education curriculum.

(Education Code § 56381; 34 CFR § 300.305)

If a student has transferred from another district in the same school year or leaves this district, the district shall coordinate with the student's prior or subsequent district as necessary and as expeditiously as possible to ensure prompt completion of full evaluations. (34 CFR § 300.304)

Eligibility Determination

Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent/guardian shall determine whether the student is a student with a disability and, if so, his/her educational needs. In interpreting the data, the group shall draw information from a variety of sources, including aptitude and achievement tests, parent/guardian input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior. The group shall ensure that the information obtained from these sources is documented and carefully considered. (34 CFR § 300.306)

The personnel who evaluate the student shall prepare a written report of the results of each evaluation. The report shall include, but not be limited to, the following:

1. Whether the student may need special education and related services;
2. The basis for making the determination;
3. The relevant behavior noted during the observation of the student in an appropriate setting;
4. The relationship of that behavior to the student's academic and social functioning;
5. The educationally relevant health, developmental, and medical findings, if any;
6. For students with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services;
7. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate;
8. The need for specialized services, materials, and equipment for students with low incidence disabilities, consistent with Education Code § 56136.

(Education Code § 56327)

When making a determination of eligibility for special education and related services, the district shall not determine that a student is disabled if the primary factor for such determination is a lack of appropriate instruction in reading, including the essential components of reading instruction pursuant to 20 USC § 6368(3), lack of instruction in mathematics, limited English proficiency, or that the student does not otherwise meet the eligibility criteria under 34 CFR § 300.8(a). (Education Code § 56329; 34 CFR § 300.306)

If a determination is made that a student has a disability and needs special education and related services, an IEP shall be developed within a total time not to exceed 60 days, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days, from the date of the receipt of the parent/guardian's consent for evaluation, unless the parent/guardian agrees, in writing, to an extension. (Education Code §56043; 34 CFR § 300.306)

Independent Educational Evaluation

The parents/guardians of a student with a disability have the right to obtain an IEE at public expense under the same criteria that the district uses for a district-initiated evaluation. An independent educational evaluation is an evaluation conducted by a qualified examiner who is not employed by the district. Public expense means the district either pays for the full cost of the IEE or ensures that the evaluation is otherwise provided at no cost to the parent/guardian. (Education Code § 56329; 34 CFR § 300.502)

The parent/guardian is entitled to only one IEE at public expense each time the district conducts an evaluation with which the parent/guardian disagrees. (Education Code § 56329; 34 CFR § 300.502)

If a parent/guardian has requested an IEE, the district may ask for the reason that he/she objects to the district's evaluation. However, the parent/guardian is not required to provide the reason to the district. (34 CFR § 300.502)

Upon receiving the request for an IEE, the district shall, without unnecessary delay, either:

1. File a due process complaint to request a hearing to show that its evaluation is appropriate;
2. Ensure that an IEE is provided at public expense, unless the district can later demonstrate at a hearing that the evaluation obtained by the parent/guardian did not satisfy the district's criteria.

(34 CFR § 300.502)

If a due process hearing decision determines that the district's evaluation is appropriate, then the parent/guardian may obtain an IEE but not at public expense. (34 CFR § 300.502)

In any decision made with respect to providing FAPE to a student with a disability, the result of any IEE obtained by the student's parent/guardian shall be considered by the district if it meets district criteria. Any such result also may be presented as evidence at a hearing on a due process complaint. (34 CFR § 300.502)

Reevaluation

A reevaluation shall be conducted when the district determines that the educational or related service

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needs of the student, including improved academic achievement and functional performance, warrant a reevaluation or if the student's parent/guardian or teacher requests reevaluation. Such reevaluations shall

occur every three years, unless the parent/guardian and district agree in writing that a reevaluation is unnecessary. A reevaluation may not occur more than once a year, unless the parent/guardian and the district agree otherwise. (Education Code §§ 56043, 56381; 34 CFR § 300.303)

The district shall ensure that any reevaluations of the student are conducted in accordance with the evaluation procedures pursuant to 34 CFR §§ 300.304-300.311. (34 CFR § 300.303)

Before entering kindergarten or first grade, children with disabilities who are in a preschool program shall be reevaluated to determine if they still need special education and services. IEP teams shall identify a means of monitoring the continued success of children who are determined to be eligible for less intensive special education programs to ensure that gains made are not lost by a rapid removal of individualized programs and supports for these children. (Education Code § 56445).

B. Procedural Safeguards And Complaints For Special Education (FUSD AR 6159.1)

Prior Written Notice

The Superintendent or designee shall send to the parents/guardians of any student with disabilities a prior written notice within a reasonable time:

1. Before the district initially refers the student for assessment;
2. Before the district proposes to initiate or change the student's identification, assessment, educational placement, or the provision of a free appropriate public education (FAPE) to the student;
3. Before the district refuses to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student;
4. Before the student graduates from high school with a regular diploma thus resulting in a change in placement;
5. Upon receipt of the parent/guardian's written revocation of consent for the continued provision of special education and related services to his/her child.

(20 USC § 1415(c); 34 CFR §§ 300.102, 300.300, 300.503; Education Code § 56500.4, 56500.5)

This notice shall include:

1. A description of the action proposed or refused by the district;
2. An explanation as to why the district proposes or refuses to take the action;
3. A description of each assessment procedure, test, record, or report the district used as a basis for the proposed or refused action;

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4. A statement that the parents/guardians of the student have protection under procedural safeguards and, if this notice is not an initial referral for assessment, the means by which a copy of the description of procedural safeguards can be obtained;
5. Sources for parents/guardians to obtain assistance in understanding these provisions;
6. A description of any other options that the individualized education program (IEP) team considered and why those options were rejected;
7. A description of any other factors relevant to the district's proposal or refusal.

(20 USC § 1415(c); 34 CFR § 300.503; Education Code § 56500.4)

(cf. FUSD BP 5145.6 - Parental Notifications)

Procedural Safeguards Notice

A procedural safeguards notice shall be made available to parents/guardians of students with disabilities once each school year and:

1. Upon initial referral or parent/guardian request for assessment;
2. Upon receipt of the first state compliance complaint in a school year;
(cf. FUSD BP & AR 1312.3 - Uniform Complaint Procedures)
3. Upon receipt of the first due process hearing request in a school year;
4. In accordance with the discipline procedures pursuant to 34 CFR 300.530(h), when a decision is made to remove a student because of a violation of a code of conduct constituting a change of placement; (cf. FUSD BP & AR 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
5. Upon request by a parent/guardian;

(20 USC § 1415(d)(1); 34 CFR § 300.504; Education Code § 56301)

The procedural safeguards notice shall include a full explanation of all of the procedural safeguards available under 34 CFR §§ 300.148, 300.151-300.153, 300.300, 300.502-300.503, 300.505-300.518, 300.520, 300.530-300.536, and 300.610-300.625 relating to:

1. Independent educational evaluation;
2. Prior written notice;
3. Parental consent, including a parent/guardian's right to revoke consent, in writing, to his/her child's continued receipt of special education and related services;
4. Access to educational records; (cf. FUSD BP & AR 5125 - Student Records)
5. Opportunity to present complaints and resolve complaints through the due process complaint and state compliance complaint procedures, including the time period in which to file a

complaint, the opportunity for the district to resolve the complaint, and the difference between

a due process complaint and the state compliance complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures;

6. The availability of mediation;
7. The student's placement during the pendency of any due process complaint;
8. Procedures for students who are subject to placement in an interim alternative educational setting;
9. Requirements for unilateral placement by parents/guardians of students in private schools at public expense;
10. Hearings on due process complaints, including requirements for disclosure of assessment results and recommendations;
11. State-level appeals;
12. Civil actions, including the time period in which to file those actions;
13. Attorney's fees.

(20 USC § 1415(d)(2); 34 CFR § 300.504; Education Code § 56301)

This notice shall also include the rights and procedures contained in Education Code § 56500- 56509, including information on the procedures for requesting an informal meeting, prehearing mediation conference, mediation conference, or due process hearing; the timelines for completing each process; whether the process is optional; the type of representative who may be invited to participate; the right of the parent/guardian and/or the district to electronically record the proceedings of IEP meetings in accordance with Education Code § 56341; and information regarding the state special schools for students who are deaf, hard of hearing, blind, visually impaired, or deaf-blind. (Education Code §§ 56321, 56321.5, 56321.6)

A copy of this notice shall be attached to the student's assessment plan and referred to at each IEP meeting. (Education Code §§ 56321, 56321.5)

(cf. FUSD BP 5145.6 - Parental Notifications)

Format of Parent/Guardian Notices

The parents/guardians of a student with a disability shall be provided written notice of their rights in a language easily understood by the general public and in their native language or other mode of communication used by them, unless to do so is clearly not feasible. (34 CFR § 300.503; Education Code §§ 56341, 56506)

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If the native language or other mode of communication of the parent/guardian is not a written language, the district shall take steps to ensure that:

1. The notice is translated orally or by other means to the parent/guardian in his/her native language or other mode of communication;
2. The parent/guardian understands the contents of the notice; and
3. There is written evidence that items #1 and #2 have been satisfied.

(34 CFR § 300.503)

The district may place a copy of the procedural safeguards notice on the district's web site. (20 USC § 1415(d))

A parent/guardian of a student with disabilities may elect to receive the prior written notice or procedural safeguards notice by an electronic mail communication. (34 CFR § 300.505)

Due Process Complaints

A parent/guardian and/or the district may initiate due process hearing procedures whenever:

1. There is a proposal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student.
2. There is a refusal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student.
3. The parent/guardian refuses to consent to an assessment of his/her child.
4. There is a disagreement between a parent/guardian and the district regarding the availability of a program appropriate for the student, including the question of financial responsibility, as specified in 34 CFR § 300.148.

(20 USC § 1415(b); Education Code § 56501)

Prior to having a due process hearing, the party requesting the hearing, or the party's attorney, shall provide the opposing party a due process complaint, which shall remain confidential, specifying:

1. The student's name;
2. The student's address or, in the case of a student identified as homeless pursuant to 42 USC § 11434, available contact information for that student; (cf. FUSD BP & AR 6173 - Education for Homeless Children)
3. The name of the school the student attends;
4. A description of the nature of the student's problem relating to the proposed or refused initiation or change, including facts relating to the problem;
5. A proposed resolution to the problem to the extent known and available to the complaining party at the time.

(20 USC § 1415(b); 34 CFR § 300.508; Education Code § 56502)

Parties filing a due process complaint shall file their request with the Superintendent of Public Instruction or designated contracted agency. (Education Code § 56502)

District's Response to Due Process Complaints

If the district has sent prior written notice to the parent/guardian regarding the subject matter of the parent/guardian's due process complaint, the district shall, within 10 days of receipt of the complaint, send a response specifically addressing the issues in the complaint. (20 USC § 1415(c)(1); 34 CFR § 300.508)

If the district has not sent a prior written notice to the parent/guardian regarding the subject matter contained in the parent/guardian's due process complaint, the district shall send a response to the parent/guardian within 10 days of receipt of the complaint containing:

1. An explanation of why the district proposed or refused to take the action raised in the complaint;
2. A description of other options that the IEP team considered and the reasons that those options were rejected;
3. A description of each evaluation procedure, assessment, record, or report the district used as the basis for the proposed or refused action;
4. A description of the factors that are relevant to the district's proposal or refusal.

(20 USC § 1415(c)(1); 34 CFR § 300.508)

Upon the filing of a due process complaint by either party or upon request of the parent/guardian, the district shall inform the parent/guardian of any free or low-cost legal and other relevant services available in the area. (34 CFR § 300.507)

Informal Process/Pre-Hearing Mediation Conference

Prior to or upon initiating a due process hearing, the Superintendent or designee and a parent/guardian may, if the party initiating the hearing so chooses, agree to meet informally to resolve any issue(s) relating to the identification, assessment, education and placement, or provision of FAPE for a student with disabilities. The Superintendent or designee shall have the authority to resolve the issue(s). In addition, either party may file a request with the Superintendent of Public Instruction for a mediation conference to be conducted by a person under contract with the California Department of Education. (Education Code § 56502)

If resolution is reached that resolves the due process issue(s), the parties shall enter into a legally binding agreement that satisfies the requirements of Education Code § 56500.3.

Attorneys may attend or otherwise participate only in those mediation conferences that are scheduled after the filing of a request for due process hearing. (Education Code §§ 56500.3, 56501)

C. Individualized Education Program (FUSD AR 6159)

Individualized Education Program

At the beginning of each school year, the district shall have an individualized education program (IEP) in effect for each student with a disability within district jurisdiction. The IEP shall be a written statement designed by the IEP team to meet the unique educational needs of a student with a disability. (Education Code § 56344; 34 CFR § 300.323)

Members of the IEP Team

The IEP team for any student with a disability shall include the following members:

1. One or both of the student's parents/guardians and/or a representative selected by them.
2. If the student is or may be participating in the regular education program, at least one of the student's regular education teachers designated by the Superintendent or designee to represent the student's teachers.

The regular education teacher shall, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of appropriate positive behavioral interventions, supports, and other strategies for the student, and supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student, consistent with 34 CFR § 300.320. (Education Code § 56341; 20 USC § 1414(d)(3)(C); 34 CFR § 300.324)

(cf. FUSD AR 6159.4 - Behavioral Interventions for Special Education Students)

3. At least one of the student's special education teachers or, where appropriate, special education providers
4. A representative of the district who is:
 - a. Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities;
 - b. Knowledgeable about the general education curriculum;

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- c. Knowledgeable about the availability of district and/or special education local plan area (SELPA) resources.

(cf. FUSD BP 0430 - Comprehensive Local Plan for Special Education)

5. An individual who can interpret the instructional implications of assessment results This individual may already be a member of the team as described in items #2-4 above or in item #6 below.
6. At the discretion of the parent/guardian or the Superintendent or designee, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate

The determination of whether the individual has knowledge or special expertise regarding the student shall be made by the party who invites the individual to be a member of the IEP team.

7. Whenever appropriate, the student with a disability In the development, review, or revision of his/her IEP, the student shall be allowed to provide confidential input to any representative of his/her IEP team. (Education Code § 56341.5)
8. When the student is suspected of having a specific learning disability, at least one individual who is qualified to conduct individual diagnostic examinations of the student such as a school psychologist, speech language pathologist, or remedial reading teacher.

In accordance with 34 CFR § 300.310, at least one team member shall observe the student's academic performance and behavior in the areas of difficulty in his/her learning environment, including in the regular classroom setting. If the child is younger than five years or not enrolled in school, a team member shall observe the child in an environment appropriate for a child of that age.

In the following circumstances, the Superintendent or designee shall invite other specified individuals to an IEP team meeting:

1. When the student has been placed in a group home by the juvenile court, a representative of the group home shall be invited to attend IEP team meetings. (Education Code § 56341.2)
2. Whenever the IEP team is meeting to consider the student's postsecondary goals and the transition services needed to assist him/her in reaching the goals as stated in Education Code § 56345(a)(8), the following individuals shall be invited to attend:

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- a. The student, regardless of his/her age If the student does not attend the IEP team meeting, the Superintendent or designee shall take other steps to ensure that the student's preferences and interests are considered.
- b. To the extent appropriate, and with the consent of the parent/guardian, a representative of any other agency that is likely to be responsible for providing or paying for the transition services.

(34 CFR § 300.321)

3. If the student was previously served under the Early Education for Individuals with Exceptional Needs (Education Code § 56425-56432) or the California Early Intervention Services Act (Government Code § 95000-95004), and upon request of the student's parent/guardian, the Superintendent or designee shall invite the Infant and Toddlers with Disabilities Coordinator or other representative of the early education or early intervention system to the initial IEP team meeting to assist with the smooth transition of services. (Education Code § 56341; 20 USC § 1414(d)(1)(D); 34 CFR § 300.321)

A member of the IEP team shall not be required to attend an IEP team meeting, in whole or in part, if the parent/guardian and the district agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. Even if the meeting involves a discussion of the IEP team member's area of the curriculum or related service, the member may be excused from the meeting if the parent/guardian, in writing, and the district consent to the excusal after conferring with the member and the member submits to the parent/guardian and team written input into the development of the IEP prior to the meeting. (Education Code § 56341; 20 USC § 1414(d)(1)(C); 34 CFR § 300.321)

Contents of the IEP

The IEP shall include, but not be limited to, all of the following:

1. A statement of the present levels of the student's academic achievement and functional performance, including:
 - a. The manner in which the student's disability affects his/her involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students)
 - b. For a preschool child, as appropriate, the manner in which the disability affects his/her participation in appropriate activities
 - c. For a student with a disability who takes alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives

2. A statement of measurable annual goals, including academic and functional goals, designed to:
 - a. Meet the student's needs that result from his/her disability in order to enable the student to be involved in and progress in the general education curriculum
 - b. Meet each of the student's other educational needs that result from his/her disability
3. A description of the manner in which the student's progress toward meeting the annual goals described in item #2 above will be measured and when the district will provide periodic reports on the progress the student is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards.
4. A statement of the special education instruction and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student to:
 - a. Advance appropriately toward attaining the annual goals;
 - b. Be involved and make progress in the general education curriculum in accordance with item #1 above and to participate in extracurricular and other nonacademic activities;
 - c. Be educated and participate with other students with disabilities and nondisabled students in the activities described in the IEP.

(cf. FUSD BP 3541.2 - Transportation for Students with Disabilities)
5. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in extracurricular and other nonacademic activities described in the IEP.
6. A statement of any appropriate individual accommodations necessary to measure the academic achievement and functional performance of the student on state and districtwide assessments. If the IEP team determines that the student shall take an alternate assessment instead of a particular regular state or districtwide assessment, the student's IEP also shall include a statement of the reason that he/she cannot participate in

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the regular assessment and the reason that the particular alternate assessment selected is appropriate for him/her.

(cf. FUSD BP & AR 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)

(cf. FUSD BP 6162.51 - State Academic Achievement Tests)

(cf. FUSD BP & AR 6162.52 - High School Exit Examination)

7. The projected date for the beginning of the services and modifications described in item #4 above and the anticipated frequency, location, and duration of those services and modifications.
8. Beginning not later than the first IEP to be in effect when the student is 16 years of age, or younger if determined appropriate by the IEP team, and updated annually thereafter, the following:
 - a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills
 - b. The transition services, including courses of study, needed to assist the student in reaching those goals
9. Beginning at least one year before the student reaches age 18, a statement that the student has been informed of his/her rights, if any, that will transfer to him/her upon reaching age 18, pursuant to Education Code § 56041.5.

(Education Code §§ 56043, 56345, 56345.1; 20 USC § 1414(d)(1)(A); 34 CFR § 300.320)

Where appropriate, the IEP shall also include: (Education Code § 56345)

1. For a student in grades 7-12, any alternative means and modes necessary for the student to complete the district's prescribed course of study and to meet or exceed proficiency standards required for graduation.

(cf. FUSD BP & AR 6146.1 - High School Graduation Requirements)

(cf. FUSD BP 6146.11 - Alternative Credits Toward Graduation)

2. Linguistically appropriate goals, objectives, programs, and services for a student whose native language is not English.

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(cf. FUSD BP & AR 6174 - Education for English Language Learners)

3. Extended school year services when the IEP team determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education (FAPE).

(cf. FUSD BP 5148.2 - Before/After School Programs)

(cf. FUSD BP & AR 6177 - Summer School)

4. Provision for transition into the regular education program if the student is to be transferred from a special class or center or nonpublic, nonsectarian school into a regular education program in a public school for any part of the school day, including descriptions of activities intended to:
 - a. Integrate the student into the regular education program, including indications of the nature of each activity and the time spent on the activity each day or week;
 - b. Support the transition of the student from the special education program into the regular education program.

[KGT3] (cf. FUSD BP 6178 - Career Technical Education)

(cf. FUSD BP 6181 - Alternative Schools/Programs of Choice)

5. Specialized services, materials, and equipment for a student with low incidence disabilities, consistent with the guidelines pursuant to Education Code § 56136.

Development of the IEP

Within 30 days of a determination that a student needs special education and related services, the Superintendent or designee shall ensure that a meeting to develop an initial IEP is conducted. (34 CFR § 300.323)

Any IEP required as a result of an assessment of a student shall be developed within 60 days from the date of receipt of the parent/guardian's written consent for assessment, unless the parent/guardian agrees, in writing, to an extension. Days between the student's regular school sessions, terms, or vacation of more than five school days shall not be counted. In the case of school vacations, the 60-day time limit shall recommence on the date that the student's school days reconvene. (Education Code § 56344)

However, when the IEP is required as a result of an assessment of a student for whom a referral has been made 30 days or less prior to the end of the preceding regular school year, the IEP shall be developed within 30 days after the commencement of the subsequent regular school year. (Education Code § 56344)

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In developing the IEP, the IEP team shall consider all of the following:

1. The strengths of the student;
2. The concerns of the parents/guardians for enhancing the education of their child;
3. The results of the initial or most recent assessment of the student;
4. The academic, developmental, and functional needs of the student;
5. In the case of a student whose behavior impedes his/her learning or that of others, the use of positive behavioral interventions and supports and other strategies to address that behavior;
6. In the case of a student with limited English proficiency, the language needs of the student as such needs relate to the student's IEP;
7. In the case of a student who is blind or visually impaired, the need to provide for instruction in Braille and instruction in the use of Braille.

However, such instruction need not be included in the IEP if the IEP team determines that instruction in Braille or the use of Braille is not appropriate for the student. This determination shall be based upon an assessment of the student's reading and writing skills, his/her future needs for instruction in Braille or the use of Braille, and other appropriate reading and writing media.

8. The communication needs of the student and, in the case of a student who is deaf or hard of hearing, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode.

The team shall also consider the related services and program options that provide the student with an equal opportunity for communication access, as described in Education Code § 56345.

9. Whether the student requires assistive technology devices and services.

(Education Code §§ 56341.1, 56345; 20 USC § 1414(d)(3)(A); 34 CFR § 300.324)

If, in considering the special factors in items #1-9 above, the IEP team determines that the student needs a particular device or service, including an intervention, accommodation, or other program modification, in order to receive FAPE, the team shall include a statement to that effect in the student's IEP. (Education Code § 56341.1)

Provision of Special Education and Related Services

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The district shall ensure that, as soon as possible following development of the IEP, special education services and related services are made available to the student in accordance with his/her IEP. (Education Code § 56344; 34 CFR § 300.323)

The Superintendent or designee shall ensure that the student's IEP is accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. The Superintendent or designee also shall ensure that such teachers and providers are informed of their specific responsibilities related to implementing the IEP and the specific accommodations, modifications, and supports that must be provided to the student in accordance with the IEP. (34 CFR § 300.323)

Review and Revision of the IEP

The Superintendent or designee shall ensure that the IEP team reviews the IEP periodically, but at least annually, in order to:

1. Determine whether the annual goals for the student are being achieved
2. Revise the IEP, as appropriate, to address:
 - a. Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate;
 - b. The results of any reassessment conducted pursuant to Education Code § 56381;
 - c. Information about the student provided to or by the parents/guardians regarding review of evaluation data pursuant to 34 CFR § 300.305(a)(2) and Education Code § 56381(b);
 - d. The student's anticipated needs;
 - e. Any other relevant matter.
3. Consider the special factors listed in items #5-9 above under "Development of the IEP," when reviewing the IEP of any student with a disability to whom one of those factors may apply. The IEP team shall also meet at any other time upon request by the student's parent/guardian or teacher to review or revise the IEP. (Education Code § 56343)

(Education Code §§ 56043, 56341.1, 56380; 20 USC § 1414(d)(4); 34 CFR § 300.324)

When a parent/guardian requests an IEP team meeting to review the IEP, the team shall meet within 30 days of receiving the parent/guardian's written request, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days. If a parent/guardian

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makes an oral request, the district shall notify the parent/guardian of the need for a written request and the procedure for filing such a request. (Education Code §§ 56043, 56343.5)

A regular education or special education teacher may request a review of the classroom assignment of a student with a disability by submitting a written request to the Superintendent or designee. The Superintendent or designee shall consider the request within 20 days of receiving it, not counting days when school is not in session or, for year-round schools, days when the school is off track. If the review indicates a need for change in the student's placement, instruction, and/or related services, the Superintendent or designee shall convene an IEP team meeting, which shall be held within 30 days of the Superintendent or designee's review, not counting days when school is not in session or days when school is off track, unless the student's parent/guardian consents in writing to an extension of time.

If a participating agency other than the district fails to provide the transition services described in the student's IEP, the team shall reconvene to identify alternative strategies to meet the transition service objectives set out for the student in the IEP. (Education Code § 56345.1; 20 USC § 1414(d); 34 CFR § 300.324)

Audio Recording of IEP Team Meetings

Parents/guardians and the Superintendent or designee shall have the right to audio record the proceedings of IEP team meetings, provided members of the IEP team are notified of this intent at least 24 hours before the meeting. If the Superintendent or designee gives notice of intent to audio record a meeting and the parent/guardian objects or refuses to attend because the meeting would be audio recorded, the meeting shall not be audio recorded. Parents/guardians also have the right to:

1. Inspect and review the audio recordings;
2. Request that an audio recording be amended if they believe it contains information that is inaccurate, misleading, or in violation of the student's privacy rights or other rights;
3. Challenge, in a hearing, information that the parents/guardians believe is inaccurate, misleading, or in violation of the student's privacy rights or other rights.

(Education Code § 56341.1)

Parent/Guardian Participation and Other Rights

The Superintendent or designee shall take steps to ensure that one or both of the parents/guardians of the student with a disability are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include notifying the parents/guardians of the meeting early enough to ensure that they will have the opportunity to attend and scheduling the meeting at a mutually agreed upon time and place. (Education Code § 56341.5; 34 CFR § 300.322)

The Superintendent or designee shall send parents/guardians notices of IEP team meetings that:

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1. Indicate the purpose, time, and location of the meeting;
2. Indicate who will be in attendance at the meeting;
3. Inform them of:
 - a. Their right to bring to the meeting other individuals who have knowledge or special expertise about the student, pursuant to Education Code § 56341(b)(6);
 - b. The provision of Education Code § 56341(i) relating to the participation of the Infant and Toddlers with Disabilities Coordinator at the initial IEP team meeting, if the student was previously served under Early Education for Individuals with Exceptional Needs (Education Code §§ 56425-56432) or the California Early Intervention Services Act (Government Code §§ 95000- 95004).

(Education Code § 56341.5; 34 CFR § 300.322)

In addition, when the IEP team meeting is to consider the development, review, or revision of the IEP of a student with a disability who is 16 years of age or older, or younger than 16 if deemed appropriate by the IEP team, the Superintendent or designee's notice to the student's parents/guardians shall include the following:

1. An indication that a purpose of the meeting will be the consideration of postsecondary goals and transition services for the student pursuant to Education Code § 56345.1, 20 USC § 1414(d)(1)(A)(i)(VIII), and 34 CFR § 300.320(b);
2. An indication that the student is invited to the IEP team meeting;
3. Identification of any other agency that will be invited to send a representative.

(Education Code § 56341.5)

(cf. FUSD BP 5145.6 - Parental Notifications)

At each IEP team meeting convened by the district, the district administrator or specialist on the team shall inform the parent/guardian and student of the federal and state procedural safeguards included in the notice of parental rights provided pursuant to Education Code § 56321. (Education Code § 56500.1)

The parent/guardian shall have the right and opportunity to examine all of his/her child's school records upon request, before any IEP meeting, and in connection with any hearing or resolution session on matters affecting his/her child, including, but not limited to, initial formal assessment, procedural safeguards, and due process. Upon receipt of an oral or written request, the Superintendent or designee shall provide complete copies of the records within five business days. (Education Code §§ 56043, 56504)

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(cf. FUSD BP & AR 5125 - Student Records)

The parent/guardian shall have the right to present information to the IEP team in person or through a representative and the right to participate in meetings that relate to eligibility for special education and related services, recommendations, and program planning. (Education Code § 56341.1)

If neither parent/guardian can attend the meeting, the Superintendent or designee shall use other methods to ensure parent/guardian participation, including video conferences or individual or conference telephone calls. (Education Code § 56341.5; 20 USC § 1414(f); 34 CFR § 300.322)

An IEP team meeting may be conducted without a parent/guardian in attendance if the Superintendent or designee is unable to convince the parent/guardian that he/she should attend. In such a case, the Superintendent or designee shall maintain a record of the attempts to arrange a mutually agreed upon time and place for the meeting, including:

1. Detailed records of telephone calls made or attempted and the results of those calls;
2. Copies of correspondence sent to the parent/guardian and any responses received;
3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits.

(Education Code § 56341.5; 34 CFR § 300.322)

The Superintendent or designee shall take any action necessary to ensure that the parents/guardians understand the proceedings of the meeting, including arranging for an interpreter for parents/guardians with deafness or whose native language is not English. (Education Code § 56341.5; 34 CFR § 300.322)

The Superintendent or designee shall give the parents/guardians of a student with a disability a copy of his/her child's IEP at no cost. (Education Code § 56341.5; 34 CFR § 300.322)

Parent/Guardian Consent for Provision of Special Education and Services

Before providing special education and related services to any student, the Superintendent or designee shall seek to obtain informed consent of the student's parent/guardian pursuant to 20 USC § 1414(a)(1). The district shall not provide services by utilizing the due process hearing procedures pursuant to 20 USC § 1415(f) if the parent/guardian refuses to consent to the initiation of services. If the parent/guardian does not consent to all of the components of the IEP, then those components to which the parent/guardian has consented shall be implemented so as not to delay providing instruction and services to the student. (Education Code § 56346)

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If the Superintendent or designee determines that a part of a proposed IEP to which the parent/guardian does not consent is necessary in order to provide the student with FAPE, a due process hearing shall be initiated in accordance with 20 USC § 1415(f). While the due process hearing is pending, the student shall remain in the current placement unless the parent/guardian and the Superintendent or designee agree otherwise. (Education Code § 56346)

If at any time subsequent to the initial provision of services, the student's parent/guardian, in writing, revokes consent for the continued provision of special education services, the Superintendent or designee shall provide prior written notice within a reasonable time before ceasing to provide services to the student. The Superintendent or designee shall not request a due process hearing or pursue mediation in order to require an agreement or ruling that services be provided to the student. (Education Code § 56346; 34 CFR §§ 300.300, 300.503)

Prior to the discontinuation of services, the Superintendent or designee may offer to meet with the parents/guardians to discuss concerns for the student's education. However, this meeting shall be voluntary on the part of the parent/guardian and shall not delay the implementation of the parent/guardian's request for discontinuation of services. In addition, the Superintendent or designee shall send a letter to the parent/guardian confirming the parent/guardian's decision to discontinue all services.

When the district ceases to provide special education services in response to the parent/guardian's revocation of consent, the student shall be classified as a general education student.

Transfer Students

To facilitate the transition of a student with a disability who is transferring into the district, the Superintendent or designee shall take reasonable steps to promptly obtain the student's records, including his/her IEP and the supporting documents related to the provision of special education services. (Education Code § 56325; 34 CFR § 300.323)

If the student transfers into the district from another school district within the same SELPA during the school year, the district shall continue to provide services comparable to those described in the student's existing IEP, unless his/her parent/guardian and the district agree to develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code § 56325; 34 CFR § 300.323)

If the student transfers into the district from a school district outside of the district's SELPA during the school year, the district shall provide the student with FAPE, including services comparable to those described in the previous district's IEP. Within 30 days, the Superintendent or designee shall, in consultation with the student's parents/guardians, adopt the previous district's IEP or shall develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code § 56325; 34 CFR § 300.323)

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If the student transfers into the district from an out-of-state district during the school year, the district shall provide the student with FAPE, including services comparable to the out-of-state district's IEP, in consultation with the parent/guardian, until such time as the Superintendent or designee conducts an assessment, if it determines that such an assessment is necessary, and develops, adopts, and implements a new IEP, if appropriate. (Education Code § 56325; 34 CFR § 300.323)

D. Nonpublic Nonsectarian School And Agency Services For Special Education (FUSD BP & AR 6159.2)

When the district is unable to provide direct special education and/or related services to students with disabilities, the Board may enter into a contract with a nonpublic, nonsectarian school or agency to meet the students' Individualized Education Plans (IEP) needs.

(cf. FUSD BP 0430 - Comprehensive Local Plan for Special Education)

(cf. FUSD BP & AR 1312.3 - Uniform Complaint Procedures)

(cf. FUSD BP 3541.2 - Transportation for Students with Disabilities)

[KGT4] (cf. FUSD BP & AR 6146.4 - Differential Graduation and Competency Standards for Individuals with Exceptional Needs)

In selecting nonpublic, nonsectarian schools or agencies with which the district may contract for the placement of any district student with disabilities, the Superintendent or designee shall follow the procedures specified in law and accompanying administrative regulation.

Prior to entering into a contract to place any student in a nonpublic, nonsectarian school or agency, the Superintendent or designee shall verify that the school or agency is certified to provide special education and related services to individuals with disabilities in accordance with Education Code § 56366. In addition, the Superintendent or designee shall monitor, on an ongoing basis, the certification of any nonpublic, nonsectarian school with which the district has a contract to ensure that the school or agency's certification has not expired.

No district student shall be placed in a nonpublic, nonsectarian school or agency unless the student's individualized education program (IEP) team has determined that an appropriate public education alternative does not exist and that the nonpublic, nonsectarian school or agency placement is appropriate for the student. In accordance with law, any student with disabilities placed in a nonpublic, nonsectarian school or agency shall have all the rights and protections to which students with disabilities are generally entitled, including, but not limited to, the procedural safeguards, due process rights, and periodic review of his/her IEP. (Education Code 56195.8, 56342.1)

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During the period when any student with disabilities is placed in a nonpublic, nonsectarian school or agency, the student's IEP team shall retain responsibility for monitoring the student's progress towards meeting the goals identified in his/her IEP.

The Superintendent or designee shall notify the Board prior to approving an out-of-state placement for any district student.

In accordance with Education Code § 56366.2, the Superintendent or designee may apply to the Superintendent of Public Instruction to waive any of the requirements of Education Code §§ 56365, 56366, 56366.3, and 56366.6.

Master Contract

Every master contract with a nonpublic, nonsectarian school or agency shall be made on forms provided by the California Department of Education and shall include an individual services agreement negotiated for each student.

Each master contract shall specify the general administrative and financial agreements for providing the special education and designated instruction and services, including student-teacher ratios, as well as transportation if specified in a student's individualized education program (IEP). The administrative provisions of the contract shall include procedures for recordkeeping and documentation, and the maintenance of school records by the district to ensure that appropriate high school graduation credit is received by any participating student. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school. (Education Code § 56366)

(cf. FUSD BP 3541.2 - Transportation for Students with Disabilities)

(cf. FUSD BP & AR 3580 - District Records)

(cf. FUSD BP & AR 5125 - Student Records)

(cf. FUSD BP & AR 6146.1 - High School Graduation Requirements)

The master contract shall include a description of the process to be utilized by the district to oversee and evaluate placements in nonpublic, nonsectarian schools. This description shall include a method for evaluating whether each student is making appropriate educational progress. (Education Code § 56366)

With mutual agreement of the district and a nonpublic, nonsectarian school or agency, changes may be made to the administrative and financial agreements in the master contract at any time, provided the change does not alter a student's educational instruction, services, or placement as outlined in his/her individual services agreement. (Education Code § 56366)

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Placement and Services

The Superintendent or designee shall develop an individual services agreement for each student to be placed in a nonpublic, nonsectarian school or agency based on the student's IEP. Each individual services agreement shall specify the length of time authorized in the student's IEP for the nonpublic, nonsectarian school services, not to exceed one year. Changes in a student's educational instruction, services, or placement shall be made only on the basis of revisions to the student's IEP. (Education Code § 56366)

The IEP team of a student placed in a nonpublic, nonsectarian school or agency shall annually review the student's IEP. The student's IEP and individual services agreement shall specify the review schedules. (5 CCR § 3069)

Out-of-State Placements

Before contracting with a nonpublic, nonsectarian school or agency outside California, the Superintendent or designee shall document the district's efforts to find an appropriate program offered by a nonpublic, nonsectarian school or agency within California. (Education Code § 56365)

Within 15 days of any decision for an out-of-state placement, the student's IEP team shall submit to the Superintendent of Public Instruction a report with information about the services provided by the out-of-state program, the related costs, and the district's efforts to locate an appropriate public school or nonpublic, nonsectarian school or agency within California. (Education Code § 56365)

If the district decides to place a student with a nonpublic, nonsectarian school or agency outside the state, the district shall indicate the anticipated date of the student's return to a placement within California and shall document efforts during the previous year to return the student to California. (Education Code § 56365)

* * *

All references to FUSD Board Policies and Administrative Regulations may be located at <https://www.fresnounified.org/sites/board/policies/>.

For any questions related to special education identification, assessment, and/or services, or for a copy of parent/guardian procedural safeguards, please contact Rebecca Trevino at rebecca.trevino@fics.us, who shall facilitate coordination with FUSD for appropriate resources.