

# ***Mt. Diablo USD***

## ***Administrative Regulation***

### ***Individualized Education Program***

*AR 6159*  
***Instruction***

#### **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. (34 CFR 300.342 ~~323~~; Education Code 56344)

#### **Members of the IEP Team**

~~The IEP team for any student with a disability shall include at least~~ The district shall ensure that the individualized education program team for any student with a disability includes the following members: (20 USC 1414(d)(1); 34 CFR 300.344 ~~321~~; Education Code 56341, 56341.2, 56341.5)

1. One or both of the student's parents/guardians, and/or a representative selected by the parent/guardian
2. If the student is or may be participating in the regular education program, at least one regular education teacher

If more than one regular education teacher is providing instructional services to the student, the district may designate one such teacher to represent the others.

3. At least one special education teacher or, where appropriate, at least one special education provider for the student
4. A representative of the district, ~~Special Education Local Plan Area (SELPA) or county office of education~~ 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 of the general curriculum
  - c. Knowledgeable about the availability of district and/or special education local plan area SELPA resources

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

5. An individual who ~~conducted an assessment of the student or who is knowledgeable about the assessment procedures used and who is:~~ can interpret the instructional implications of assessment results
  - a. ~~Familiar with the assessment results or recommendations~~
  - b. ~~Qualified to interpret the instructional implication of assessment results~~

This individual may already be a member of the team as described above or in item #6 below.

6. At the discretion of the parent/guardian or district, 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. (Education Code 56341)

The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46670, explain that a person who does not have knowledge and special expertise regarding the student, and who is not requested to be present at the IEP team meeting by the parent/guardian or district, would not be permitted to be a member of the team or attend the meeting as observer. This comment is consistent with an Attorney General opinion (85 Ops.Cal.Atty.Gen. 157 (2002)), which stated that the members of the media may not attend an IEP team meeting as observers even though the parents/guardians have consented to such attendance. The Attorney General based this decision on the fact that the media would be "observers," not a "person with knowledge or expertise," as detailed below.

7. Whenever appropriate, the student with the disability
8. For transition service participants ~~pursuant to 34 CFR 300.347:~~
  - a. The student, of any age, with ~~the~~ a disability if the purpose of the meeting is the consideration of the student's postsecondary goals and the transition services needed s~~under Education Code 56345.1(a) or (b) to assist the student in reaching those goals pursuant to 34 CFR 300,320(b)~~

If the student does not attend the IEP team meeting, the district 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 transition services

If a representative of such other local agency has been invited but does not attend the meeting, the district shall take other steps to obtain participation of the agency in the planning of any transition services. (Education Code 56341)

9. For students with suspected of having a specific learning disabilities in accordance with 34 CFT 300.308 (formerly 300.540) and 34 CFR 300.310 (formerly 300.542), a person other than the student's regular teacher who has observed the student's educational performance in an appropriate setting and a person 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 (Education Code 56341)

~~If the child is younger than five years or not enrolled in school, a team member shall observe the child in an appropriate environment.~~

10. For students who have been placed in a group home by the juvenile court, a representative of the group home
11. If a student with a disability is identified as potentially requiring mental health services, the district shall request the participation of the county mental health program in the IEP team meeting. (Education Code 56331)
12. Upon request of the parent/guardian of a child who 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), the district 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 (20 USC 1414(d)(1)(D); 34 CFR 300.321; Education Code 56341)
13. A public agency representative fluent in the student and parents' primary language, including an interpreter for parents with deafness.

### **Excusal of a member of the IEP Team**

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 consents and the district agrees, in writing, after conferring with the IEP team member, 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. If the meeting involves a discussion of the member's area of the curriculum or related service, the IEP team member may be excused from the meeting if the parent/guardian consents in writing to the excusal and the member submits to the parent/guardian and team written input into the development of the IEP prior to the meeting (20 USC 1414(d)(1)©; 34 CFR 300.321; Education Code 56341)

### **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 (34 CFR 300.322; Education Code 56341.5)

The Superintendent or designee shall send parents/guardians notices of IEP team meetings that: (34 CFR 300.322; Education Code 56341.5)

1. Indicate the purpose, time, and location of the meeting
2. Indicate who will be in attendance at the meeting
3. Inform the parents/guardians of the provisions of 34 CFR 300.321(a)(6) and (c) relating to the participation on the IEP team of other individuals who have knowledge or special expertise about the student, and 34 CFR 300.321(f) relating to the participation of the Infant and Toddlers with Disabilities Coordinator at the initial IEP team meeting
4. For students beginning at age 16 (or younger than 16 if deemed appropriate by the IEP team):
  - a. Indicate that the purpose of the meeting will be the consideration of postsecondary goals and transition services for the student pursuant to 20 USC 1414(d)(1)(A)(i)(VIII), 34 CFR 300.320(b), and Education Code 56345.1
  - b. Indicate that the district will invite the student to the IEP team meeting
  - c. Identify any other agency that will be invited to send a representative

*(cf. 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)

*(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)*

The parent/guardian shall have the right and opportunity to examine all of his/her child's school records upon request and before any IEP meeting. Upon receipt of an oral or written request, the district shall provide complete copies of the records within five business days. (Education Code 56043)

*(cf. 5125 - Student Records)*

## **Parent Not in Attendance**

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. (20 USC 1414(f); 34 CFR 300.322; Education Code 56341.5)

An IEP team meeting may be conducted without a parent/guardian in attendance if the district is unable to convince the parent/guardian that he/she should attend. In such a case, the district shall maintain a record of its attempts to arrange a mutually agreed upon time and place for the meeting, including: (34 CFR 300.322; Education Code 56341.5)

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

Parents/guardians and the district shall have the right to audiotape 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 district gives notice of intent to audiotape a meeting and the parent/guardian objects or refuses to attend because the meeting would be audiotaped, the meeting shall not be audiotaped. Parents/guardians also have the right to: (Education Code 56341.1)

1. Inspect and review the audiotapes
2. Request that the audiotapes be amended if the parents/guardians believe they contain 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

The district 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. (34 CFR 300.322; Education Code 56345.1)

## **Parent Shall Receive a Copy of the IEP**

The district shall give the parents/guardians of a student with disabilities a copy of his/her child's IEP at no cost. (34 CFR 300.322)

In addition, any of the following may participate, as appropriate:

1. The program specialist, school psychologist, school nurse, school social worker, counselor, or other student services worker who has conducted an assessment of the student, when the assessment is significant to the development of the IEP
2. Any other person whose competence is needed because of the nature and extent of the student's disability
3. A public agency representative fluent in the student's primary language

### **IEP Meetings**

~~The IEP team shall meet: (20 USC 1414(d); Education Code 56343)~~

- ~~1. Whenever a student has received an initial formal assessment and, when desired, when a student receives any subsequent formal assessment~~
- ~~2. Whenever the student demonstrates a lack of anticipated progress~~
- ~~3. Whenever the parent/guardian or teacher requests a meeting to develop, review or revise the IEP~~
- ~~4. At least annually to:
  - a. Review the student's progress to determine whether the student's annual goals are being achieved
  - b. Review the IEP and the appropriateness of placement
  - c. Make any necessary revisions to the IEP~~

~~The IEP team shall conduct this review. Others may participate if they have essential expertise or knowledge. (Education Code 56341; 34 CFR 300.344)~~

~~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 needs for the student set out in the IEP. (Education Code 56345.1)~~

~~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 in July and August. (Education Code 56343.5)~~

~~An IEP required as a result of an assessment of the student shall be developed within 50 days, not counting days between the student's regular school sessions, terms or days of school vacation in excess of five school 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. However, an IEP shall be developed within 30 days after the commencement of the subsequent regular school year for each student for whom a referral has been made 20 days or less prior to the end of the regular school year. In the case of student school vacations, the 50-day time limit shall recommence on the date that student school days reconvene. (Education Code 56344)~~

~~A regular education or special education teacher may request a review of the classroom assignment of a special education student 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 in July and August 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 meeting, which shall be held within 30 days of the Superintendent or designee's review, not counting days in July or August or days when school is off track, unless the student's parent/guardian consents to an extension of time.~~

~~At each IEP 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)~~

~~(cf. 6159.1—Procedural Safeguards and Complaints for Special Education)~~

~~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 meeting or are afforded the opportunity to participate. These steps shall include notifying the parents/guardians of the meeting (as specified below) and scheduling the meeting at a mutually agreed-on time and place. (34 CFR 300.345)~~

~~An IEP meeting may be conducted without a parent/guardian in attendance if the district is unable to convince the parent/guardian that he/she should attend. In this case, the district shall maintain a record of its attempts to arrange a mutually agreed upon time and place for the meeting, including: (34 CFR 300.345)~~

- ~~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 response received~~
- ~~3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits~~

~~Parents/guardians and the district shall have the right to audiotape the proceedings of IEP meetings, provided members of the IEP team are notified of this intent at least 24 hours before the meeting. If the district gives notice of intent to audiotape a meeting, and if the parent/guardian objects or refuses to attend because the meeting would be audiotaped, the meeting shall not be audiotaped. Parents/guardians also have the right to: (Education Code 56341)~~

- ~~1. Inspect and review the audiotapes~~
- ~~2. Request that the audiotapes be amended if the parent/guardian believes they contain 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 parent/guardian believes is inaccurate, misleading, or in violation of the student's privacy rights or other rights~~

### **Contents of the IEP**

The IEP shall be a written statement determined in a meeting of the IEP team. It shall include, but not be limited to, all of the following: (20 USC 1414(d)(1)(A); 34 CFR 300.347 320; Education Code 56043, 56345, 56345.1)

1. A statement of the present levels of the student's ~~educational~~ academic achievement and functional performance, including ~~one of the following~~:
  - a. ~~How the~~ The manner in which the student's disability affects his/her involvement and progress in the general curriculum (e.g., the same curriculum as for nondisabled students)
  - b. For ~~the a~~ a preschool child, as appropriate, ~~how the manner in which the~~ disability affects his/her participation in appropriate activities
2. ~~A statement of measurable annual goals, including benchmarks or short term objectives related to:~~ Written progress on previous measurable annual goals, including academic and functional goals, and benchmarks for students in alternate curriculum and students taking the California Modified Assessment.
3. A statement of measurable annual goals, including academic and functional goals, and benchmarks for students in alternate curriculum and also students taking the California Modified Assessment, designed to do the following:
  - a. ~~Meeting~~ 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 curriculum
  - b. For a preschool child, as appropriate, meeting the child's needs that result from his/her disability to enable the child to participate in appropriate



activities the manner in which the disability affects his/her participation in appropriate activities

~~b. Meeting each of the student's other educational needs that result from the student's disability~~

c. Meet each of the student's other education needs that result from his/her disability

4. For students with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives

5. A description of the manner in which the progress of the student toward meeting the annual goals and benchmarks described in item #3 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

6. A statement of the special educational instruction and related services and supplementary aids and services, including specialized physical health care 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 ~~for~~ 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 ~~in this item~~ described in Education Code 56345(a)

d. Including how often amplification devices, including hearing aids will be monitored for students with hearing impairments.

*(cf. 3541.2 - Transportation for Students with Disabilities)*

47. 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 ~~the~~ activities described in item #35 above

58. A statement of any appropriate individual modifications necessary to measure the academic achievement and functional performance of the student on in the administration of state or and districtwide assessments, of student achievement that is needed in order for the student to participate in such assessment including the CELDT

a.

If the IEP team determines that the student will not participate in the administration of a state or district assessment of student achievement (or part of such an assessment), the IEP shall include a statement as to why that assessment is not appropriate for the student and how the student will be assessed.

a. The reason that the student cannot participate in the regular assessment

b. The reason that the particular alternate assessment selected is appropriate for the student

c. Whether English proficiency will be measured using an alternate assessment for students identified as English Language Learners.

d. If the student is taking the CMA, include goals for academic achievement in English Language Arts, Math and Science for the grade which the student is enrolled.

*(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)*

*(cf. 6162.51 - Standardized Testing and Reporting Program)*

*(cf. 6162.52 - High School Exit Examination)*

69. The projected date for the beginning of the services and modifications described in item #34 above and the anticipated frequency, location and duration of those services and modifications

~~7. A statement of transition service needs, as defined in Education Code 56345.1, as follows:~~

~~a. Beginning at age 14 (or younger if determined appropriate by the IEP team), and updated annually, a statement of transition service needs of the student under the applicable components of the IEP that focus on the student's courses of study (such as participation in Advanced Placement courses or a vocational education program)~~

~~b. Beginning at age 16 (or younger if determined appropriate by the IEP team), and annually thereafter, a statement of needed transition services for the student, including, when appropriate, a statement of the interagency responsibilities or any needed linkages~~

~~c. 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, pursuant to~~

~~IDEA that will transfer to the student upon reaching age 18 pursuant to 20 USC 1415(m)~~

- ~~8. Appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the annual goals are being achieved~~
- ~~9. A statement of:
  - ~~a. How the student's progress toward the annual goals described in item #2 above will be measured~~
  - ~~b. How the student's parents/guardians will be regularly informed (by such means as periodic report cards), at least as often as parents/guardians of nondisabled students, of:
    - ~~(1) Their child's progress towards the annual goals described in item #2 above~~
    - ~~(2) The extent to which that progress is sufficient to enable the student to achieve the goals by the end of the year~~~~~~
- ~~10. 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, pursuant to 34 CFR 300.110-300.284 that will transfer to the student upon reaching age 18~~

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

- ~~1. For students 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 standards required for graduation~~

~~(cf. 6146.1—High School Graduation Requirements)  
(cf. 6146.11—Alternative Credits Toward Graduation)~~

- ~~2. Linguistically appropriate goals, objectives, programs and services for students whose primary language is not English~~

- ~~3. Extended school year services when needed, as determined by the IEP team~~

~~(cf. 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~~

~~The IEP shall include 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~~

~~(cf. 6176 – Weekend/Saturday Classes)  
(cf. 6178 – Vocational Education)  
(cf. 6181 – Alternative Schools)~~

- 5. ~~Specialized services, materials and equipment for students with low incidence disabilities, consistent with the guidelines of Education Code 56136~~

### **Transition Services Plan in the IEP**

- 1. 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

### **Definition of Transition Services:**

56345.1. (a) The term "transition services," as defined in Section 1401(34) of Title 20 of the United States Code and as used in subparagraph (B) of paragraph (8) of subdivision (a) of Section 56345, means a coordinated set of activities for an individual with exceptional needs that does all of the following:

- 1. Is designed within an results-oriented process, that is focused on improving the academic and functional achievement of the individual with exceptional needs to facilitate the movement of the pupil from school to postschool activities, including postsecondary education, vocational education, integrated employment, including supported employment, continuing and adult education, adult services, independent living, or community participation.
- 2. Is based upon the individual needs of the pupil, taking into account the strengths, preferences, and interests of the pupil.
  - a. Includes instruction, related services, community experiences, the development of employment and other postschool adult living objectives, and, if appropriate, acquisition of daily living skills and provision of a

functional vocational evaluation.

- b. In accordance with Section 300.43(b) of Title 34 of the Code of Federal Regulations, transition services for individuals with exceptional needs may be special education, if provided as specially designed instruction, or a designated instruction and service, if required to assist a pupil to benefit from special education.
- c. If a participating agency, other than the local educational agency, fails to provide the **transition services** described in the individualized education program of the pupil in accordance with Section 1414(d)(6) of Title 20 of the United States Code and paragraph (8) of subdivision (a) of Section 56345, the local educational agency shall reconvene the individualized education program team to identify alternative strategies to meet the transition service needs for the pupil set out in the program.

### **Age of Majority- Inform of Rights**

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, pursuant to Education Code 56041.5 that will transfer to the student upon reaching age 18

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

1. For students 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. 6146.1 - High School Graduation Requirements)*

*(cf. 6146.11 - Alternative Credits Toward Graduation)*

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

“Linguistically appropriate goals, objectives, and programs” means:

- a. those activities which lead to the development of English language proficiency; and
- b. those instructional systems either at the elementary or secondary level which meet the language development needs of the English language learner.

For individuals whose primary language is other than English, and whose potential for learning a second language, as determined by the IEP team, is severely limited, nothing in this section shall preclude the IEP team from determining that instruction may be provided through an alternative program pursuant to a waiver

provided that the IEP team periodically, but not less than annually, reconsiders the individual's ability to receive instruction in the English language

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

The IEP shall include 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

*(cf. 6176 - Weekend/Saturday Classes)  
(cf. 6178 - Career Technical Education)  
(cf. 6181 - Alternative Schools/Programs of Choice)*

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

### **Development, Review and Revision of the IEP**

In developing ~~or revising~~ the IEP, the IEP team shall consider all of the following: (20 USC 1414(d)(3)(A); 34 CFR 300.346~~324~~; Education Code 56341.1, 56345)

1. ~~The strengths of the student and the concerns of the parents/guardians for enhancing the education of their child~~
2. The concerns of the parents/guardians for enhancing the education of their child
3. The results of the initial ~~evaluation~~ assessment or most recent ~~evaluation~~ assessment of ~~the student~~ their child
34. As appropriate, the results of the student's performance on any general state or district assessment programs The academic, developmental, and functional needs of the student

45. In the case of a student whose behavior impedes his/her learning or that of others, ~~if appropriate,~~ the use of positive behavioral interventions and strategies and supports to address that behavior

56. 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

67. In the case of a student who is blind or visually impaired, the need to provide for instruction in Braille and the use of Braille. ~~unless the IEP team determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media, that instruction in Braille or the use of Braille is not appropriate for the student~~

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.

78. 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

9. A description of specially designed instruction and specialized physical health care services needed by an eligible student with OHI and chronic or acute health problems arising from diabetes, and including medication administration during school hours and on the school bus and at school-sponsored activities. 20 USC 1414(d), 34 CFR 300.323 & 34 CFR 300.323(c)(2), 30 EC 56043(i).

10. The team shall also consider the related services and program options that provide the student with an equal opportunity for communication access, including the following: (Education Code 56345)

a. The student's primary language mode and language, which may include the use of spoken language with or without visual cues and/or the use of sign language

b. The availability of a sufficient number of age, cognitive and language peers of similar abilities which may be met by consolidating services into a local plan area-wide program or providing placement pursuant to Education Code 56361

- c. Appropriate, direct and ongoing language access to special education teachers and other specialists who are proficient in the student's primary language mode and language consistent with existing law regarding teach training requirements
- d. Services necessary to ensure communication-accessible academic instructions, school services and extracurricular activities consistent with the federal Vocational Rehabilitation Act and the federal Americans with Disabilities Act

§11. Whether the student requires assistive technology devices and services

If, in considering the special factors in items #1-§11 above, the IEP team determines that a student needs a particular device or service, including an intervention, accommodation or other program modification, in order to receive ~~a free and appropriate public education~~ FAPE, the IEP team must include a statement to that effect in the student's IEP. (~~34 CFR 300.346~~; Education Code 56341.1)

~~The IEP may be revised, as appropriate, to address: (20 USC 1414(d); Education Code 56341.1, 56343, 56345.1)~~

- ~~1. Any lack of expected progress toward the annual goals and in the general curriculum, where appropriate~~
- ~~2. The results of any reassessment conducted pursuant to Education Code 56381~~
- ~~3. Information about the student provided to or by the parents/guardians regarding review of evaluation data pursuant to Education Code 56381(b)~~
- ~~4. The student's anticipated needs~~
- ~~5. Factors used to develop the IEP as described in Education Code 56341.1(a)~~
- ~~6. Other matters~~

*In Appendix A to the Federal Regulations, FR 12477 (34 CFR 300.a), the USDE clarifies that the regular education teacher need not participate in all decisions made at the meeting or to be present throughout the entire meeting. However, pursuant to 34 CFR 300.346, the regular education teacher must participate in the development, review and revision of the IEP and assist in the following determinations.*

As a member of the IEP team, 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: (34 CFR 300.346; Education Code 56341)

- ~~1. Appropriate positive behavioral interventions and strategies for the student~~



*(cf. 6159.4 Behavioral Interventions for Special Education Students)*

- 2.—— Supplementary aids and services, program modifications or supports for school personnel that will be provided for the student, consistent with 34 CFR 300.347(a)(3)

### **Due Process/Mediation**

A student shall not be required to participate in all or part of any special education program unless the parent/guardian is first informed in writing of the facts that make participation in the program necessary or desirable and the contents of the IEP, and the parent/guardian consents, in writing, to all or part of the IEP after receiving this notice. If the parent/guardian does not consent to all of the components of the IEP, then those components of the IEP 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)

If the Superintendent or designee determines that a part of the proposed IEP to which the parent/guardian does not consent is necessary in order to provide a free and appropriate public education to the student, he/she shall either initiate a due process hearing or a prehearing mediation conference with the state pursuant to Education Code 56500.3. While the due process hearing or prehearing mediation conference is pending, the student shall remain in his/her current placement unless the parent/guardian and the Superintendent or designee agree otherwise. (Education Code 56346)

While a due process hearing is pending, the Superintendent or designee may choose to meet informally with the parent/guardian pursuant to Education Code 56502 or may hold a mediation conference pursuant to Education Code 56503. If a due process hearing is held, the hearing decision shall be the final administrative determination and shall be binding upon the parties. (Education Code 56346)

### **Parent/Guardian Notice**

The Superintendent or designee shall send parents/guardians notice of the IEP team meetings early enough to ensure that they will have an opportunity to attend. This notice shall: (34 CFR 300.345)

- 1.—— Indicate the purpose, time and location of the meeting
- 2.—— Indicate who will be in attendance at the meeting
- 3.—— Inform the parents/guardians of the provisions of 34 CFR 300.344(a)(6) and (c), relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the student
- 4.—— For students age 14, or younger if appropriate:

- a. ~~Indicate that a purpose of the meeting will be the development of a statement of the transition service needs of the student pursuant to 34 CFR 300.347(b)(1)~~
  - b. ~~Indicate that the district will invite the student to the IEP meeting~~
5. ~~For students age 16, or younger if appropriate:~~
- a. ~~Indicate that the purpose of the meeting is the consideration of needed transition services for the student as required by 34 CFR 300.347(b)(2)~~
  - b. ~~Indicate that the district will invite the student to the IEP meeting~~
  - c. ~~Identify any other agency that will be invited to send a representative~~

### **Annual IEP**

The Superintendent or designee shall ensure that the IEP team: (20 USC 1414(d)(4); 34 CFR 300.324; Education Code 56043, 56341.1, 56380)

1. Reviews the IEP periodically, but at least annually, to determine whether the annual goals for the student are being achieved and the appropriateness of placement
2. Revises the IEP, as appropriate, to address:
  - a. Any lack of expected progress toward the annual goals and in the general 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 305(a)(2) and Education Code 56381(b)
  - d. The student's anticipated needs
  - e. Other matters
3. Considers the special factors listed in items #5-9 above when reviewing the IEP

### **The IEP team shall also meet: (Education Code 56343)**

1. Whenever the student has received an initial formal assessment and, when desired, when the student receives any subsequent formal assessment

2. Upon request by the student's parent/guardian or teacher to develop, review, or revise the IEP

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. (20 USC 1414(d); 34 CFR 300.324; Education Code 56345.1)

As a member of the IEP team, 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: (20 USC 1414(d)(3)(C); 34 CFR 300.324; Education Code 56341)

1. *Appropriate positive behavioral interventions and supports and other strategies for the student*

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

2. *Supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student, consistent with 34 CFR 300.320*

To the extent possible, the district shall encourage the consolidation of reassessment meetings and other IEP team meetings for a student. (20 USC 1414(d)(3)(A); 34 CFR 300.324)

The student shall be allowed to provide confidential input to any representative of his/her IEP team. (Education Code 56341.5)

### **Addendum**

When a change is necessary to a student's IEP after the annual IEP team meeting for the school year has been held, the parent/guardian and the district may agree not to convene an IEP team meeting for the purpose of making the change and instead may develop a written addendum to amend or modify the student's current IEP. The IEP team shall be informed of any such changes. Upon request, the district shall provide the parent/guardian with a revised copy of the IEP with the incorporated amendments. (20 USC 1414(d)(3)(D); 34 CFR 300.324)

### **LCI in NPS**

If a student with disabilities residing in a licensed children's institution or foster family home has been placed by the district in a nonpublic, nonsectarian school, the district shall conduct an annual evaluation as part of the IEP process of whether the placement is the least restrictive environment that is appropriate to meet the student's needs. (Education Code 56157)

(cf. 6173.1 - Education for Foster Youth)

### **Residential Treatment**

When an IEP calls for a residential placement as a result of a review by an expanded IEP team, the IEP shall include a provision for a review, at least every six months for the Provision of Services

### **Timely Provision of Services**

#### **Timelines**

The district shall ensure that a meeting to develop an initial IEP is conducted within 30 days of a determination that a student needs special education and related services. The district shall also 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. (34 CFR 300.323; Education Code 56344)

An IEP required as a result of an assessment of the student shall be developed within 60 days (not counting days between the student's regular school sessions, terms or days of school vacation in excess of five school 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. (Education Code 56344)

However, an IEP required as a result of an assessment of a student shall be developed within 30 days after the commencement of the subsequent regular school year for a student for whom a referral has been made 20 days or less prior to the end of the regular school year. In the case of school vacations, the 60-day time limit shall recommence on the date that student's school days reconvene. (Education Code 56344)

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, terms, or days of school vacation in excess of five school days. If a parent/guardian 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)

### **Rights of the Regular Education Teacher**

A regular education or special education teacher may request a review of the classroom assignment of a special education student 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.

The district 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 district shall also 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(d)(1&2))

### **Parental Consent and Refusal**

Before providing special education and related services, the district shall seek to obtain informed consent pursuant to 20 USC 1414(a)(1). If the parent/guardian refuses to consent to the initiation of services, the district shall not provide the services by utilizing the due process hearing procedures pursuant to 20 USC 1415(f). 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)

If the parent/guardian refuses all services in the IEP after having consented to those services in the past, the district shall file a request for a due process hearing. If the district determines that a part of the proposed IEP to which the parent/guardian does not consent is necessary in order to provide the student 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 district agree otherwise. (Education Code 56346)

### **Transfer Students**

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

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

If a student with disabilities transfers to this district during the school year from an out-of-state district, this 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 this district conducts an assessment, if this district determines that such an

assessment is necessary, and develops, adopts, and implements a new IEP, if appropriate.  
(34 CFR 300.323; Education Code 56325)

The district shall ensure that assessments of individuals with exceptional needs who transfer from one district to another district in the same academic year are coordinated with the individual's prior and subsequent schools, as necessary and as expeditiously as possible to ensure prompt completion of full assessment.