

1 deaf-blindness, or multiple disabilities; and who by reason thereof, needs special
2 education and related services.

3 (20 U.S.C. section 1402(3); 34 C.F.R. section 300.8; Education Code section 56026.)
4

5 **Evaluation** means the assessment of your child using various tests and measures in
6 accordance with state and federal laws to determine whether your child has a disability
7 and the nature and extent of special education and related services needed by your
8 child for his or her educational benefit. The assessment tools are individually selected
9 for your child and are administered by trained and knowledgeable professionals
10 employed or contracted by the school district. These tests do not include the basic tests
11 given to all children in the school setting.

12 (34 C.F.R. sections 300.15, 300.304 . 300.311; Education Code sections 56302.5 and
13 56320.)
14

15 **Free Appropriate Public Education (FAPE)** is defined by federal law as special
16 education and related services (1) provided at public expense, under public supervision
17 and direction, and without charge to you; (2) meets the standards of the California
18 Department of Education (CDE); (3) is provided in conformity with a written
19 Individualized Education Program (IEP) developed for your child to confer an
20 educational benefit and (4) is provided in an appropriate preschool, elementary or
21 secondary school program of the State, or in a nonpublic school if there is no
22 appropriate program available in a school district.

23 (20 U.S.C. section 1402(9); 34 C.F.R. section 300.17; Education Code section 56040.)
24

25 **Least Restrictive Environment (LRE)** means that to the maximum extent appropriate,
26 children with disabilities will be educated with children who are not disabled, and that
27 special classes, separate schooling, or other removal of children with disabilities from
28 the regular education environment will occur only when the nature or severity of the
29 disability is such that education in regular classes with the use of supplementary aids
30 and services cannot be achieved satisfactorily.
31

1 (20 U.S.C. section 1412(a)(5); 34 C.F.R. section 300.114; Education Code section
2 56040.1)

3
4 **Related Services** means transportation and such developmental, corrective and
5 supportive services that may be required to assist a child with a disability to benefit from
6 special education, including the early identification and assessment of disabling
7 conditions. Related services may also include:

- 8 1. Speech-language pathology and audiology services.
- 9 2. Interpreting services.
- 10 3. Psychological services.
- 11 4. Physical and occupational therapy.
- 12 5. Recreation, including therapeutic recreation.
- 13 6. Counseling services, including rehabilitation counseling.
- 14 7. Orientation and mobility services.
- 15 8. School nurse services.
- 16 9. Medical services for diagnostic or evaluation purposes only.
- 17 10. Social work services.
- 18 11. Parent counseling and training.

19 (20 U.S.C. section 1402(26); 34 C.F.R. section 300.34; Education Code section 56363.)
20

21 **Special Education** means specially designed instruction, at no cost to parents, to meet
22 the unique needs of a child with a disability, including instruction conducted in the
23 classroom, in the home, in hospitals and institutions, and in other settings, and
24 instruction in physical education.

25 (20 U.S.C. section 1402(29) 34 C.F.R. section 300.39 Education Code section 56031.)
26

27 **ACCESS TO EDUCATIONAL RECORDS**

28 All parents of a child enrolled in the school district have the right to inspect
29 records under the federal Family Educational Rights and Privacy Act (FERPA), which
30 has been implemented in the California Education Code. Under the federal and state
31 law, parents of a child with disabilities (including noncustodial parents whose rights

1 have not been limited) are presumed to and have the right to inspect and review all
2 educational records regarding your child, the provision of a FAPE and to receive an
3 explanation and interpretation of the records without unnecessary delay, including prior
4 to a meeting regarding your child's IEP or before a resolution session or due process
5 hearing. Under California statutes, parents have the right to review and to receive
6 copies of educational records. These rights transfer to a pupil who is eighteen (18)
7 years old unless the pupil has had a conservator appointed by a court to assume the
8 educational rights of the pupil.

9
10 The custodian of records at each school site is the principal of the school. The
11 district custodian of records is the Director of Special Education. Pupil records may be
12 kept at the school site or the district office, but a written request for records at either site
13 will be treated as a request for records from all sites. The custodian of records will
14 provide you with a list of the types and locations of pupil records (if requested). A
15 request for a copy of your child's special education records may be made to the
16 District's Director of Special Education.

17
18 A review and/or copies of educational records will be provided to the parent
19 within five (5) business days after the request is made by the parent, either orally or in
20 writing. A fee for copies, but not the cost to search and retrieve, is determined by local
21 policy and will be charged unless charging the fee would effectively deny access to the
22 parent. Once a complete copy of the records has been provided, a fee will be charged
23 for additional copies of the same records.

24 (20 U.S.C. section 1232g, 34 C.F.R. section 99.1-99.67; 34 C.F.R. section 300.613;
25 Education Code sections 49060-49079; Education Code sections 56041.5, 56043(n)
26 and 56504.)

27
28 **PRIOR WRITTEN NOTICE**

29 The IDEA requires school districts to provide prior written notice to you as the
30 parent of a child with disabilities when the school district proposes or refuses to initiate
31 or change the identification, evaluation or educational placement of your child or the

1 provision of a FAPE to your child. The notice will be provided in your native language,
2 unless it is clearly not feasible to do so.

3 The prior written notice must include:

- 4 1. A description of the action proposed or refused by the school district.
- 5 2. An explanation of why the school district proposes or refuses to take the
6 action.
- 7 3. A description of each evaluation procedure, assessment, record, or report
8 the school district used as a basis for the proposed or refused action.
- 9 4. A description of other options that the IEP team considered and the
10 reasons why those options were rejected.
- 11 5. A description of other factors that are relevant to the school district's
12 proposal or refusal.
- 13 6. A statement that the parents of a child with a disability have protection
14 under the procedural safeguards, and if this notice is not an initial referral
15 for evaluation, the means by which a copy of a description of the
16 procedural safeguards can be obtained.
- 17 7. Sources for parents to contact to obtain assistance in understanding the
18 provisions of this part.

19 (20 U.S.C. section 1415(c); 34 C.F.R. section 300.503; Education Code section
20 56500.4.)

21 **INFORMED PARENTAL CONSENT**

22
23 The IDEA requires that school districts obtain informed consent from you before
24 the commencement of an initial evaluation of your child to determine if your child
25 qualifies as a child with disabilities. Informed consent means you have been fully
26 informed in your native language, or other mode of communication, of all information
27 about the action for which you are giving consent and that you understand and agree in
28 writing to the evaluation and educational placement decision for your child. Your
29 consent is voluntary and may be withdrawn at any time. Your consent for the initial
30 evaluation does not imply or grant consent for placement and receipt of special
31 education and related services. The school district will request your consent for special

1 education and related services separately and at a later date. The school district will
2 also obtain your informed consent for reevaluations of your child and will not conduct a
3 reevaluation unless you fail to respond to requests for your consent.
4

5 If you do not provide consent for an initial assessment or fail to respond to a
6 request to provide the consent, the school district may pursue the initial assessment by
7 utilizing due process procedures.
8

9 If you refuse to consent to the initiation of special education and related services,
10 the school district must not provide special education and related services and shall not
11 seek to provide services through due process procedures.
12

13 If you refuse all services in the IEP after having consented to those services in
14 the past, the school district must file a request for mediation or a due process hearing.
15

16 If you consent in writing to the receipt of special education and related services
17 for your child but do not consent to all of the components of the IEP, those components
18 of the program to which you have consented must be implemented so as not to delay
19 providing instruction and services.
20

21 Except for the initiation of special education and related services, if the school
22 district determines that the proposed special education program component to which
23 you do not consent is necessary to provide a free appropriate public education to your
24 child, the school district must file a request for a due process hearing. If a due process
25 hearing is held, the hearing decision shall be final and binding.
26

27 In the case of reevaluations, the school district must document reasonable
28 measures to obtain your consent. If you fail to respond, the school district may proceed
29 with the reevaluation without your consent.
30
31

1 (20 U.S.C. sections 1414(a)(1)(D), 1414(c) and 1415; 34 C.F.R. sections 300.9 and
2 300.300; Education Code sections 56021.1, 56321(c) and (d), 56346, 56381(f) and
3 56506(e).)

4
5 When a parent cannot be identified and the school district cannot locate the
6 whereabouts of a parent, the school district must ensure that an individual is assigned
7 to act as a surrogate for the parents of a child with a disability. A surrogate parent may
8 also be appointed for unaccompanied homeless youth or a child who is a dependent or
9 ward in which an educational representative has not been appointed by the Court.

10 (20 U.S.C. section 1415(b)(2); 34 C.F.R. section 300.519; Education Code section
11 56050; CA Rules of Court Rule 5.650.)

12 **PROTECTION IN EVALUATION PROCEDURES**

13
14 Federal law refers to “evaluation” and California law refers to “assessment.”
15 Therefore, these words may be used interchangeably by employees of the school
16 district and in this Notice. The school district must provide you with a written
17 assessment plan or prior written notice within fifteen (15) days after a referral for special
18 education has been received, including your written request for evaluation. You will
19 have a minimum of fifteen (15) days in which to review the assessment plan and to
20 provide consent to the school district to conduct the written assessment. You may
21 request assessment in additional areas of suspected disability. Thereafter, the school
22 district has sixty (60) days after receipt of your written consent to complete the
23 assessment and to develop an IEP to determine the educational needs of your child.
24 However, this timeline is extended by periods of school holiday or vacation, if you refuse
25 to make your child available for assessment, or if your child transfers to another school
26 district and you and the receiving school district agree to a specific time when the
27 assessment will be completed.

1 The IDEA states that in conducting the evaluation the school district will:

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

15
16 The school district will also make sure that tests and other evaluation materials
17 used to assess your child are selected and administered so as not to be racially,
18 culturally or sexually discriminatory and are provided and administered in the child's
19 native language or other mode of communication, unless it is clearly not feasible to do
20 so. Any standardized tests that are given to the child will have been validated for the
21 specific purpose for which they are used, administered by trained and knowledgeable
22 personnel, and administered in accordance with any instructions provided by the
23 producer of such tests. Your child will be assessed in all areas of suspected disability
24 and the school district will use assessment tools and strategies that provide relevant
25 information that will directly assist the school district in determining the educational
26 needs of your child. Upon completion of the administration of evaluation materials, the
27 determination of whether the child is a child with a disability will be made by you and
28 qualified professionals comprising the IEP team. A copy of the evaluation report and
29 documentation of the determination of eligibility will be given to you.

1 In making a determination of eligibility, your child will not be determined to be a
2 child with a disability due to a lack of instruction in reading or math or as a result of
3 limited English proficiency.
4

5 As part of an initial evaluation (if appropriate) and as part of any reevaluation
6 under this section, the IEP Team and other qualified professionals, as appropriate, will:
7

- 8 1. Review existing evaluation data on the child, including evaluations and
9 information provided by you, current classroom-based assessments and
10 observations, and teacher observation; and
- 11 2. On the basis of that review, and input from you, identify what additional
12 data, if any, are needed to determine:
 - 13 a. Whether the child has a particular disability, or, in case of
14 reevaluation of a child, whether the child continues to have such a
15 disability and such educational needs;
 - 16 b. The present levels of performance and related developmental
17 needs of the child;
 - 18 c. Whether the child needs special education and related services, or
19 in the case of a reevaluation of a child, whether the child continues
20 to need special education and related services; and
 - 21 d. Whether any additions or modifications to the special education
22 and related services are needed to enable the child to meet the
23 measurable annual goals set out in the IEP of the child and to
24 participate, as appropriate, in the general curriculum.
25

26 Generally, a reevaluation is required every three (3) years. However, if the IEP
27 Team determines that no additional data is needed to determine whether your child
28 continues to be a child with a disability and to determine the child's educational needs
29 the school district will notify you as to the reasons the school district believes a
30 reevaluation is not necessary. After receiving this notice, you may request a
31

1 reevaluation of your child. If the school district does not receive a reevaluation request
2 from you, the school district will not conduct a reevaluation of your child.

3
4 Before determining that your child is no longer a child with a disability, the school
5 district must conduct an assessment in accordance with the procedures discussed
6 above.

7 (20 U.S.C. sections 1414, 1415, 34 C.F.R. sections 300.301 . 300.306; Education Code
8 sections 56320,56321, 56329, and 56381.)

9 10 **INDEPENDENT EDUCATIONAL EVALUATION**

11 After the school district has completed its evaluation and if you disagree with the
12 school district's evaluation of your child, you have the right to request an independent
13 educational evaluation at school district expense. Upon your request for an independent
14 educational evaluation, the school district will provide you with information about where
15 to obtain an independent educational evaluation and the district's criteria applicable for
16 independent educational evaluations. A parent is entitled to only one (1) independent
17 educational evaluation at public expense each time the district conducts an evaluation
18 with which the parent disagrees. However, if the school district disagrees that an
19 independent educational evaluation is necessary, the school district must request a
20 hearing before a due process hearing officer to dispute your request for an independent
21 educational evaluation and to show that the school district's assessment is appropriate.
22 If the school district prevails, you still have the right to an independent evaluation but not
23 at public expense. If you choose to obtain an independent educational evaluation at
24 your own expense, the results of the assessment must be considered by the district.
25 The independent educational evaluation must comply with all of the requirements that
26 apply to school district evaluations.

27
28 If the school district observes your child in his or her classroom during an
29 assessment, or if the school district procedures provide for in-class observations, an
30 equivalent opportunity must be provided for any independent educational evaluation in
31 the current and any proposed educational placement.

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

5 (20 U.S.C. section 1415(b)(1); 34 C.F.R. section 300.502; Education Code section
6 56329.)

7 8 **IEP MEETINGS**

9 As the parent or legal guardian of a special education student, you have the right
10 to be a part of the IEP Team and participate in any meeting regarding the identification,
11 assessment and educational placement of your child. The term IEP or Individualized
12 Education Program means a written document for each child with a disability that is
13 developed, reviewed and revised in accordance with federal and state law. The IEP
14 includes the child's present levels of academic achievement and functional performance
15 and must consider your concerns as a parent for improving the education of your child.
16 As a parent or legal guardian, you have the right to be a member of any group that
17 makes decisions with respect to the educational placement of your child. You also have
18 the right to bring individuals who have knowledge or special expertise regarding your
19 child to an IEP meeting. If you are a parent of a child age three through five years, the
20 individualized family service plan (IFSP) may serve as the IEP if agreed to by the parent
21 and the school district.

22
23 Federal and state law requires that the first IEP to be in effect beginning at age
24 sixteen include a statement of the transition service needs of the child and that the IEP
25 be updated annually thereafter. Beginning at age sixteen or younger, if determined
26 appropriate by the IEP Team, appropriate measurable postsecondary goals related to
27 training, education, employment, and where appropriate, independent living skills, a
28 statement of needed transition services for the child, including, when appropriate, a
29 statement of the interagency responsibilities or linkages between the agencies is
30 required. Beginning at least one year before the child reaches age eighteen (18), a
31 statement must be included in the IEP that the child has been informed of his or her

1 rights that will transfer to the child on reaching the age of majority. Under California law,
2 when a child turns age eighteen (18), he or she is considered an adult and unless the
3 parent obtains a conservatorship or guardianship over the child through court
4 proceedings, the child may make decisions regarding his or her education.

5
6 In developing an IEP for your child, the IEP Team must include positive
7 behavioral intervention strategies and supports in cases where the child's behavior
8 prevents the child from learning and consider, when appropriate, strategies, including
9 positive behavioral intervention strategies and supports to address the child's behavior.
10 The regular education teacher of your child, as a member of the IEP Team, must to the
11 extent appropriate, participate in the development of the IEP of your child, including the
12 determination of appropriate, positive behavioral intervention strategies and the
13 determination of supplementary agency services, program modifications and support for
14 the school personnel.

15
16 The IEP will be reviewed by the IEP Team at least annually in order to determine
17 whether the annual goals for your child are being achieved and revise the IEP as
18 appropriate to: (1) address any lack of anticipated progress toward the annual goals and
19 in the general curriculum, where appropriate, (2) to address the results of any
20 reevaluation conducted, (3) to address information about your child provided by you,
21 and 4) to address your child's anticipated needs, if necessary. Your child will also
22 receive report cards in the same manner as regular education students. You and the
23 school district may agree in writing that the attendance of an IEP Team member is not
24 necessary because the member's area of curriculum or related service is not being
25 modified or discussed at the meeting. In addition, if you and the school district agree in
26 writing to excuse a member of the IEP team from the IEP Team meeting, in whole or in
27 part, when the meeting involves a modification to or discussion of the member's area or
28 the curriculum or related service, the member must submit in writing to you and the IEP
29 Team, input into the development of the IEP prior to the meeting. Under state law, you
30 have the right to electronically record IEP meetings by audio tape if you give 24 hours
31 notice to other members of the IEP Team. After the annual IEP meeting for a school

1 year, you and the school district may agree in writing not to convene an IEP meeting to
2 make changes to the annual IEP, and instead may develop a written document to
3 amend or modify the current IEP.

4 (20 U.S.C. section 1414(d); 34 C.F.R. sections 300.320-300.324; Education Code
5 sections 56032, 56304, 56341, 56341.1, 56341.5, 56342.5 and 56345.)

6
7 **PLACEMENT (“STAY-PUT”) DURING THE PENDENCY OF**
8 **DUE PROCESS PROCEDURES**

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

21 (20 U.S.C. section 1415(j); 34 C.F.R. section 300.518; Education Code section
22 56505(d).)

23
24 **INTERIM ALTERNATIVE EDUCATIONAL SETTINGS**
25 **DISCIPLINE PROCEDURES**

26 School personnel may change the placement of your child if he or she violates a
27 code of student conduct to (1) an appropriate interim alternative educational setting;(2)
28 another educational setting, or (3) suspend your child for not more than ten (10)
29 consecutive school days (to the extent such alternatives would be applied to children
30 without disabilities) and for additional removals of not more than ten (10) consecutive
31 school days in that same school year for separate incidents of misconduct. If school

1 personnel seek a change in placement that exceeds more than ten (10) school days in
2 the same school year, school personnel must determine if the behavior that gave rise to
3 the violation of the code of student conduct is a manifestation of your child's disability. If
4 a determination is made that the behavior is not a manifestation of your child's disability,
5 school personnel may discipline your child under the same procedures applicable to
6 children without disabilities.

7
8 In order to determine if the behavior that gave rise to the violation of the code of
9 student conduct is a manifestation of your child's disability, the school district, you and
10 relevant members of the IEP Team must review all relevant information in your child's
11 file, including the IEP, any teacher observations, and any relevant information provided
12 by you to determine if the conduct in question was caused by, or had a direct and
13 substantial relationship to your child's disability. This meeting must take place within
14 ten (10) school days of any decision to take disciplinary action. If the IEP Team
15 determines that the conduct is a manifestation of your child's disability, the IEP Team
16 must either conduct a functional behavioral assessment, and implement a behavioral
17 intervention plan for your child, or review and modify as necessary the existing
18 behavioral intervention plan.

19
20 School personnel may also place your child in an interim alternative educational
21 setting for up to forty-five (45) school days without regard to whether the behavior is
22 determined to be a manifestation of your child's disability, in cases where: (1) your child
23 carries or possesses a weapon to or at school, on school premises, or to or at a school
24 function or activity; (2) your child knowingly possesses or uses illegal drugs, or sells or
25 solicits the sale of a controlled substance while at school, on school premises, or a
26 school function or activity; or (3) your child inflicts serious bodily injury upon another
27 person while at school, on school premises, or at a school function or activity. The IEP
28 team determines the interim alternative education setting for services. After a child with
29 a disability has been removed from his or her current placement for ten (10) school days
30 in the same school year, during any subsequent days of removal the school district
31 must provide services to enable the child to continue to participate in the general

1 education curriculum, although in another setting, and to progress toward meeting the
2 IEP goals. If appropriate, the child may receive a functional behavioral assessment and
3 behavior intervention services and modifications designed to address the behavior
4 violation so that it does not recur.

5
6 No later than the date on which the decision to take disciplinary action against
7 your child is made, the school district must notify you of that decision and notify you of
8 your procedural safeguards. If you disagree with any decision regarding placement, or
9 the manifestation determination of your child, you may request an expedited due
10 process hearing which must occur within twenty (20) school days of the date of the
11 hearing request. During the pendency of the due process hearing, your child will remain
12 in the interim alternative education setting pending the decision of the hearing officer or
13 for forty-five (45) school days, whichever occurs first, unless you and the school district
14 agree otherwise. If the school district believes it is dangerous for your child or others,
15 for your child to return to the current educational placement, the school district may
16 request an expedited hearing.

17
18 A hearing officer may order a change in the placement of your child to an
19 appropriate interim alternative educational setting for not more than forty-five (45) days,
20 if the hearing officer determines that maintaining your child in his or her current
21 placement is substantially likely to result in injury to your child or to others.

22 (20 U.S.C. section 1415(k); 34 C.F.R section 300.530 and Education Code section
23 48915.5.)

24
25 **CHILDREN WITH DISABILITIES**
26 **ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOLS**

27 A school district's obligation to children with disabilities enrolled in private schools
28 is limited. Under the IDEA *"no parentally- placed private school child with a disability*
29 *has an individual right to receive some or all of the special education and related*
30 *services that the child would receive if enrolled in a public school."* School districts
31 must locate, identify and assess all private school children with disabilities, including

1 religiously affiliated school age children, who have disabilities and are in need of special
2 education and related services, referred to as %child find+. The school district in which
3 the private school is located, also referred to as the %District of Location+is responsible
4 for conducting child find activities for children enrolled by their parents in private
5 schools. If the District of Location is not the same school district in which the parents of
6 the private school student reside, then the District of Location may contract with the
7 school district of residence to assess the child.

8
9 Children with disabilities enrolled in private school may receive equitable special
10 education services as determined through consultation with private schools and
11 parents. In order to receive such equitable services, a %Service Plan+ must be
12 developed for the private school student and consented to by the parents. The school
13 district in which the private school is located, the District of Location, is responsible for
14 developing and implementing the Service Plan.

15
16 A parent of a child enrolled by that parent in a private school has the right to file a
17 due process complaint only regarding the school district's child find activities. A due
18 process complaint must be filed with the school district in which the private school is
19 located, the District of Location, and the California Department of Education (CDE).
20 However, because there is no individual right to services for children enrolled by their
21 parents in private school, any complaints regarding a Service Plan can only be filed in
22 accordance with the CDE's compliance complaint procedures.

23 (20 U.S.C. section 1412(a)(10)(A); 34 C.F.R. section 300.130. 300.144; Education Code
24 sections 56170. 56177.)

25 26 **UNILATERAL PLACEMENT BY PARENTS IN PRIVATE SCHOOL**

27 If you decide to unilaterally enroll your child in a private school after the school
28 district made a free appropriate public education available to your child, the school
29 district is not required to pay for the cost of your child's education. In order to obtain
30 reimbursement for the cost of the private school from the school district, including
31 special education and related services, you must first attempt to obtain the consent of

1 the school district, and establish that the school district does not have an appropriate
2 program for your child. Reimbursement may be denied or reduced if: 1) at the most
3 recent IEP meeting that you attended prior to removal of your child from the public
4 school, you did not inform the IEP Team that you were rejecting the placement
5 proposed by the school district to provide a free appropriate public education to your
6 child, including a statement of your concerns and your intent to enroll your child in a
7 private school at public expense; or 2) at least 10 business days prior to the removal of
8 your child from the public school, you did not give written notice to the school district of
9 your concerns regarding the school district's proposed placement and your intent to
10 enroll your child in a private school at public expense.

11
12 If the school district notifies you prior to the removal of your child from the public
13 school that the school district wishes to evaluate your child and indicates the purpose of
14 the evaluation, you should make your child available for the evaluation. If you have not
15 complied with these requirements, a court or hearing officer may find that you acted
16 unreasonably in unilaterally removing your child from the public school and in placing
17 your child in a private school. The court or hearing officer may deny you reimbursement
18 unless you can show one or more of the following: 1) you are illiterate and cannot write
19 in English, or 2) the school district's placement would result in physical or serious
20 emotional harm to your child.

21 (20 U.S.C. section 1412(a)(10)(C); 34 C.F.R. section 300.148; Education Code sections
22 56175-56177.)

23
24 **OPPORTUNITY TO PRESENT AND RESOLVE COMPLAINTS**

25 **A. STATE COMPLAINT PROCEDURES**

26 The IDEA grants parents an opportunity to present and resolve complaints with
27 respect to any matter relating to the identification, evaluation or educational placement
28 of your child or the provision of a free appropriate public education to your child. Written
29 complaints may be filed with the school district or the state or federal agencies at the
30 addresses listed below. Compliance complaints must allege a violation that occurred
31 not more than one (1) year prior to the date the complaint is received. A copy of the

1 written complaint must also be provided to the school district serving the child at the
2 same time it is filed with the state agency. The school district, state or federal agency
3 has sixty (60) days from the date of receipt of the complaint to render a decision in the
4 matter. For complaints filed with the school district, within fifteen (15) days of receiving
5 the school district's decision, you may appeal the school district's decision to the
6 California Department of Education (CDE). Complaints may also be filed directly with
7 the CDE.

8
9 Anaheim Union High School District
10 501 Crescent Way
11 Anaheim, CA 92803
12 Attn: Special Education Administrator
13 Phone: (714) 999-3526
14 FAX: (714) 999-0622

15 Centralia School District
16 6625 La Palma Avenue
17 Buena Park, CA 90620
18 Attn: Special Education Administrator
19 (714) 228-3141
20 FAX: (714) 523-5981

21 Cypress School District
22 9470 Moody Street
23 Cypress, CA 90630
24 Attn: Special Education Administrator
25 Phone: (714) 220-6922
26 FAX: (714) 220-6703

27 Los Alamitos Unified School District
28 10293 Bloomfield
29 Los Alamitos, CA 90720
30 Attn: Special Education Administrator
31 Phone: (562) 799-4700 ext 80421
FAX: (562) 799-4738

1 Magnolia School District
2 2705 W. Orange Ave.
3 Anaheim, CA 92804
4 Attn: Special Education Administrator
5 Phone: 761-5533
6 FAX: (714) 826-8736

7 Savanna School District
8 1330 S. Knott Ave.
9 Anaheim, CA 92804
10 Attn: Special Education Administrator
11 Phone: (714) 236-3800
12 FAX: (714) 828-5325

13 California Department of Education
14 Special Education Division
15 Procedural Safeguards Referral Service
16 1430 N Street, Suite 2401
17 Sacramento, California 95814
18 Phone: 1-800-926-0648
19 Fax: (916) 327-3704

20 United States Department of Education
21 Office for Civil Rights
22 Old Federal Building
23 50 United Nations Plaza
24 San Francisco, CA 94102
25 Phone: (415) 556-4275
26 Fax: (415) 437-7783

27 The school district encourages you to file your complaint with the school district.
28 We will meet with you and investigate your complaint in a timely manner and attempt to
29 resolve any concerns. The school district has established confidential procedures for
30 the filing of complaints. A complaint form is available from the school district. (20 U.S.C.
31 Section 1415(b)(6); 34 C.F.R. section 300.153; Education Code section 56500.2; 5
CCR section 4600.)

1 **B. MEDIATION AND DUE PROCESS HEARING PROCEDURES**

2 The IDEA requires states to establish procedures for mediation and impartial due
3 process hearings regarding the identification, assessment, and educational placement
4 of your child or the provision of a free appropriate public education (FAPE). You or the
5 school district may file a request for mediation-only or a due process hearing complaint.
6

7 Your request for mediation-only or a due process hearing must include the name
8 and address of the child, date of birth, grade level and name of the school the child is
9 attending, parent information, parties to the mediation, a description of the nature of the
10 problem, including facts relating to such problem, and a proposed resolution of the
11 problem. The CDE has developed model forms to assist you in filing a request for
12 mediation-only or a due process hearing. You may access these model forms at:

13 <http://www.oah.dgs.ca.gov/Special+Education/default.htm>

14 You must serve the mediation-only or due process hearing complaint on the
15 school district and file a copy with the Office of Administrative Hearings at the address
16 listed below:

17 Office of Administrative Hearings
18 Attn: Special Education Division
19 2349 Gateway Oaks Drive, Suite 200
20 Sacramento, CA 95833-4231
21 Phone: (916) 263-0880
22 Fax: (916) 376-6319
23

24 In California, mediation is voluntary. You may request a due process hearing or
25 mediation-only. Mediation-only means you are asking for mediation without asking for a
26 due process hearing. Mediation is an informal proceeding conducted in a
27 nonadversarial manner. If you request mediation-only you and the school district will
28 receive a notice that mediation has been scheduled, and the notice will contain the time,
29 date and location of the mediation as well as the name, address, and phone number of
30 a knowledgeable and impartial mediator assigned to the case. The mediation must be
31 scheduled within 15 days of the Office of Administrative Hearings' receipt of the request.

1 Attorneys cannot attend mediation-only. However, you or the school district may be
2 accompanied and advised by non-attorney representatives. Statements made by you
3 and the school district during mediation are confidential and may not be used in a due
4 process hearing or court action. Any agreement reached during mediation must be in
5 writing and signed by all parties. You may also ask the school district to resolve
6 disputes through alternative dispute resolution (ADR), which is also less adversarial
7 than a due process hearing. ADR and mediation are voluntary methods of resolving a
8 dispute. If the dispute is not resolved during mediation or through ADR, you may
9 proceed to a due process hearing. Mediation or ADR are not prerequisites to
10 requesting a due process hearing.

11
12 A due process hearing is a formal proceeding where you and the school district
13 are given the opportunity to present witnesses, documentary evidence, and oral and
14 written argument in support of your respective positions on disputed special education
15 issues. You may request a mediation conference at any point during the due process
16 hearing. A request for a due process hearing must be filed within (2) years from the
17 date you or the school district knew or should have known about the alleged action that
18 forms the basis of the due process hearing complaint. Upon receiving a request for a
19 due process hearing, you and the school district will receive a notice from the Office of
20 Administrative Hearings with the time, date and location of the due process hearing.

21
22 Prior to the opportunity for an impartial due process hearing, within fifteen (15)
23 days of receiving your due process hearing complaint, the school district is required to
24 convene a mandatory resolution meeting with you and the relevant members of the IEP
25 Team who have specific knowledge of the facts raised in your complaint, where you can
26 discuss your complaint and the facts that form the basis of your complaint, and the
27 school district is provided the opportunity to resolve the complaint. The resolution
28 meeting must include a representative from the school district who has decision making
29 authority on behalf of the school district, but may not include an attorney for the school
30 district unless the parent is also accompanied by an attorney. Attorneys' fees may not
31 be awarded relating to a resolution meeting. Unless the school district agrees, you may

1 not waive the mandatory resolution meeting. If resolution is reached to resolve the
2 complaint at the mandatory resolution meeting, the parties must sign a legally binding
3 agreement. If the school district has not resolved the complaint to your satisfaction
4 within thirty (30) days of the receipt of the complaint, the due process hearing may
5 move forward and all applicable timelines for a due process hearing shall commence.
6

7 The due process hearing is limited to those issues raised in your due process
8 hearing complaint. An impartial hearing officer presides over the due process hearing.
9 You have the right to be accompanied and advised by an attorney and by individuals
10 with special knowledge or training related to the problems of children with exceptional
11 needs; the right to present evidence, written and oral arguments; the right to confront,
12 cross-examine and compel attendance of witnesses; the right to a written or electronic
13 verbatim record of the hearing; and the right to written findings of fact and decision.
14

15 At least ten (10) days prior to the hearing you and the school district must inform
16 each other of the issues to be decided at the hearing and the proposed resolution of
17 those issues as well as whether the parties will be represented by an attorney at the
18 hearing. At least five (5) business days prior to the hearing you and the school district
19 must disclose all your witnesses and evidence you intend to introduce at the hearing
20 including evaluations completed to the other party, or the witnesses, evidence or
21 evaluations cannot be introduced as evidence at the hearing.
22

23 In general, a hearing officer's decision should be made on substantive grounds
24 based on a determination of whether your child received FAPE. The hearing officer
25 must reach a final decision and mail a copy of the written decision to you and the school
26 district within forty-five (45) days of the receipt of the request for a hearing by the Office
27 of Administrative Hearings or State Superintendent of Public Instruction, unless a
28 continuance has been granted for good cause. The decision made in a due process
29 hearing is final, except that any party involved in the hearing may appeal the decision by
30 filing a civil action with respect to the findings and decision in the due process
31 complaint.

1 (20 U.S.C. sections 1415(b)(7)(a). 1415(j); 34 C.F.R. sections 300.506. 300.518;
2 Education Code sections 56500.3, 56502. 56507; 5 CCR section 3082.)
3

4 **CIVIL ACTIONS**

5 Either you or the school district may appeal the hearing officer's decision by filing
6 a civil action. In a civil action, the records and transcription of the administrative
7 proceedings shall be filed with the court. The court may hear additional evidence at the
8 request of either party and must base its decision on the preponderance of the
9 evidence. The action may be filed in the United States District Court or in Orange
10 County Superior Court. The action must be filed within ninety (90) days of the receipt of
11 the hearing officer's decision.

12 (20 U.S.C. section 1415(i); 34 C.F.R. sections 300.514, 300.516; Education Code
13 section 56505(k).)
14

15 **ATTORNEYS' FEES**

16 The United States District Court or the Orange County Superior Court has the
17 authority to award you reasonable attorneys' fees if you are the prevailing party in a due
18 process hearing or civil action; or to award the school district reasonable attorneys' fees
19 if your attorney files a complaint or subsequent cause of action that is frivolous,
20 unreasonable, or without foundation, or the complaint or subsequent action was filed to
21 harass, cause unnecessary delay, or to needlessly increase the cost of litigation. The
22 fees awarded are based on rates prevailing in the community in which the action or
23 proceeding arose. No attorneys' fees may be awarded to you following a written offer
24 of settlement from the school district made at least ten (10) days prior to hearing, if the
25 court or hearing officer finds that the relief you ultimately obtained is not more favorable
26 than the written offer of settlement. However, attorneys' fees will not be reduced if you
27 were substantially justified in rejecting the settlement offer, or the school district
28 unreasonably prolonged the proceedings.
29

30 You may not be awarded attorneys' fees and related costs if you unreasonably
31 prolonged the final resolution of the controversy or the amount of the fees requested is

1 unreasonable. In addition, attorneys' fees or related costs may not be awarded for
2 attorney time spent attending resolution meetings or IEP Team meetings, unless the
3 IEP team meeting is convened as a result of an administrative proceeding or judicial
4 action.

5 (20 U.S.C. section 1415(i)(3); 34 C.F.R. section 300.517; Education Code section
6 56507(b).)

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31