

**WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT
SPECIAL EDUCATION LOCAL PLAN AREA**



- withdraw or exit your child from continuing to receive his/her special education program after you give written

(20 U.S.C. § 1415 (b), § 1415(b), (c); 34 C.F.R. § 300.503; 34 C.F.R. § 300.300 (4) (i); Education Code § 56329, § 56500.4, § 56506(a).)

You also have the right to prior written notice from the District if the District refuses your request to take these actions. The District cannot refuse your request to revoke your consent to your child's IEP.

If you give the District written notice revoking your consent to your child's IEP, the District is not required to amend your child's education records to remove references to your child's past receipt of a special education program or related services because of your revocation of consent. (34 C.F.R. § 300.9 (c) (3).)

INDIVIDUALIZED EDUCATION PROGRAM (IEP)

The District initiates and conducts IEP team meetings at least annually for the purpose of developing, reviewing and revising the IEP of each child with a disability. The IEP document describes eligibility for special education services and the IEP team receive a copy of each IEP for their child.

The IEP will be implemented as soon as possible following the IEP team meeting and the receipt of written parental consent to the implementation of the IEP. A copy of the IEP will be provided to the parents at no cost and, if requested, a copy of the IEP will be provided in the primary language of the parent(s) to the extent feasible. An individualized family service plan (IFSP) for a child aged three through five may serve as the IEP after a full explanation of the difference and written parent consent. The IEP team must consider the concerns of the parents for providing for the education of their child.

(Education Code § 56043(d), (i), (j), §§ 56340 *et seq.*)

IEP Team Members and Responsibilities

The IEP team includes:

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- Not less than one regular education teacher of the child if the child is, or may be, participating in the regular education environment. If more than one regular education teacher is providing instructional services to the child, one regular education teacher may be designated by the District to represent the others. If the child is suspected of having a learning disability, not less than one regular education teacher of the child must attend the IEP team meeting unless the child does not have a regular education teacher and then a regular education teacher qualified to teach a child of his or her age shall attend. For a child of less than school age, an individual qualified to teach a child of his or her age shall attend;
- Not less than one special education teacher of the child, or if appropriate, not less than one special education provider of the child;
- A representative of the District who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of the child; is knowledgeable about the general education curriculum; and, is knowledgeable about the availability of the resources of the District. The District may designate another member of the IEP team to fill this role;
- An individual who can interpret the instructional implications of assessment results. This individual may be another one of the described members of the IEP team;
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- regarding the child, including related services personnel, as appropriate. The determination of whether the individual has knowledge or special expertise regarding the child shall be made by the party who invites the individual to be a member of the IEP team;
- The child, whenever appropriate invited if the purpose of the meeting will be the consideration of the postsecondary goals for the child and the needed transition services for the child to assist the child in reaching those goals. If the child does not attend and transition planning is d
- For a child suspected of having a specific learning disability, at least one member of the IEP team shall be qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-academic performance and behavior in the areas of difficulty in the chi regular classroom setting. In the case of a child who is less than schoolage or out of school, a team member shall observe the child in an environment appropriate for a child of that age;
- If the child is transitioning from Part C to Part B services, at the request of the parent, the Part C service coordinator or other representatives shall be invited; and,
- To the extent appropriate, with the consent of the parents or a child who has reached the age of majority (18), the District shall invite a representative of an agency assisting with transition to post-secondary life and/or are responsible for transition services.

A member of the IEP team may be excused from an IEP team meeting, in whole or in part, when the District and the services is not being modified or discussed at the meeting. being modified or discussed at the meeting, a required member of the IEP team may be excused, but only when the District and the parent consent to the excusal in writing, and the member submits in writing input into the development of the IEP prior to the meeting. The excusal provisions do not apply to parents, the child, or persons with special knowledge or expertise.

(34 C.F.R. § 300.308; §300.321; Education Code § 56341.)

HOW DISPUTES ARE RESOLVED

Due Process Hearing

You have the right to request an impartial due process hearing regarding:

- The identification of your child for special education eligibility;
- The assessment of your child;
- The educational placement of your child; and/or
- The provision of a FAPE for your child.

The request for a due process hearing must be filed within two years from the date you knew, or should have known, of the facts that form the basis for your due process complaint. (20 U.S.C. § 1415(b); 34 C.F.R. § 300.507; Education Code § 56501, 56505(l).)

There is an exception to this timeline if you were prevented from requesting the hearing earlier because:

- a) the District misrepresented that it had resolved the problem; or,
- b) the District withheld information that should have been provided to you.

(20 U.S.C. § 1415(f).)

Mediation and Alternative Dispute Resolution (ADR)

You may also ask OAH to resolve your dispute with the District through mediation, which is less adversarial than a due process hearing. Alternative Dispute Resolution (ADR) is also available in the District. Mediation and ADR are voluntary methods of resolving a dispute and may not be used to delay your right to a due process hearing. If a resolution is reached through either of these processes, a legally binding written agreement that sets forth the resolution will be written and signed by all of the parties. If the parties fail to reach a resolution through ADR, mediation may still be requested through OAH. If the parties fail to reach a resolution through mediation, a due process complaint may still be filed with OAH.

If mediation is requested, it will be scheduled within fifteen (15) days of the request and will be completed within thirty (30) days of the request unless the parties agree to extend the timeline. Parents and the District must both agree to try mediation before mediation is attempted. OAH will appoint a mediator who is a person who is trained in strategies that help people come to agreement over difficult issues. The mediation will be held at a time and place that is reasonably convenient to the parties.

(20 U.S.C. § 1415(e); Education Code § 56500.3, § 56503.)

Due Process Rights

You have a right to:

1. Have a fair and impartial administrative hearing at the state level with a person who is knowledgeable of the laws governing special education and administrative hearings (20 U.S.C. § 1415(f); 34 C.F.R. § 300.511; Education Code § 56501(b).);
2. Be accompanied and advised by an attorney and/or individuals who have knowledge about children with disabilities (Education Code § 56505(e).);
3. Present evidence, written arguments, and oral arguments (Education Code § 56505 (e).);
4. Confront, cross-examine, and require witnesses to be present (Education Code § 56505 (e).);

5. Receive a written or, at the option of the parent, an electronic verbatim record of the hearing, including findings of fact and decisions (Education Code § 56505 (e).);
6. Have your child present at the hearing (Education Code § 56501(c).);
7. Have the hearing be open or closed to the public (Education Code § 56501(c).);
8. Be informed by the other parties of the issues and their proposed resolution of the issues at least ten (10) calendar days prior to the hearing (Education Code § 5604356505(e).);
9. Receive a copy of all documents, including assessments completed by that date and recommendations, and a list of witnesses and their general area of testimony within five business days before a hearing. (Education Code § 56505(e).);
10. Have an interpreter provided at the expense of the California Department of Education (5 C.C.R. § 3082(d).);
11. Request an extension of the due process hearing timeline (Education Code § 56501(b).);
12. Have a mediation conference at any point during the due process hearing (Education Code § 56501(b).); and,
13. Receive notice from the other party, at least ten days prior to the hearing that it intends to be represented by an attorney. (Education Code § 56507(a).)

(20 U.S.C. § 1415(e); 34 C.F.R. § 300.506, § 300.508, § 300.512, § 300.515.)

Filing a Written Due Process Complaint

To file for mediation or a due process hearing, contact:

**Office of Administrative Hearings
Special Education Division
2349 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833-4231
Phone: (916) 263-**

If you fail to participate in the resolution session, the District may (after 30 days) seek dismissal of your complaint. If the District fails to convene or participate in a resolution session meeting within fifteen (15) days of receiving your complaint, you may ask OAH to begin the due process hearing timeline.

If the parties are unable to resolve the

4. Your child has been evaluated but was not found to be a child with a disability.

If the District did not have knowledge that your child was a child with a disability prior to taking disciplinary action, your child may be subject to the same disciplinary measures that apply to children without disabilities.

If you request an evaluation of your child to determine if your child is a child with a disability during the time your child is subject to disciplinary action, the District must complete the evaluation in an expedited manner. Your child will remain in the educational placement that was determined by the District during this evaluation. (34 C.F.R. § 300.534; 20 U.S.C. § 1415(k) (5).)

CHILDREN ATTENDING PRIVATE SCHOOL

Children who are enrolled by their parents in private schools may participate in publicly funded special education programs. The District must consult with private schools and with parents to determine the services that will be offered to private school students. Although the District has a clear responsibility to offer FAPE to students with disabilities, those children, when placed by their parent in private schools, do not have the right to receive some or all of the special

eam.

STATE COMPLAINT PROCEDURES

Note: Complaint procedures in this section are related specifically to the California State Appeal Process and are not the same as the due process complaint procedures covered earlier in this document.

If you wish to file a complaint with the California Department of Education, you should submit your complaint in writing to:

**California Department of Education
Special Education Division
Procedural Safeguards Referral Service
1430 N Street Suite 2401
Sacramento, California 95814
Attn: PSRS Intake**

Within 60 days after a complaint is filed, the California Department of Education will carry out an independent investigation, give the complainant an opportunity to provide additional information, review all information and make a determination as to whether the District has violated laws or regulations, and issue a written decision that addresses each allegation.

For complaints involving issues not covered by IDEA, consult the District

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