

California Association of Health and Education Linked Professions
Joint Powers Authority (CAHELP JPA)
DESERT/MOUNTAIN CHARTER SELPA STEERING and FINANCE COMMITTEE MEETING
November 18, 2021 – 1:00 p.m.
Desert Mountain Educational Service Center, 17800 Highway 18, Apple Valley CA 92307

AGENDA

NOTICE: This meeting will be held as a hybrid committee meeting with some committee members participating in person and others participating via Web Ex. If members of the public wish to participate in the meeting and/or make public comment, please follow the instructions below to participate telephonically:

PARTICIPATE BY PHONE:

Dial Access Number: 1-415-655-0003

When prompted - enter Meeting Number: 2451 060 2368

Follow directions as a Participant; an Attendee I.D. is not required to participate.

If you wish to make a public comment at this meeting, prior to the meeting please submit a request to address the Charter Steering and Finance Committee to the recording secretary via fax at 1-760-242-5363 or email jamie.adkins@cahelp.org. Please include your name, contact information and which item you want to address.

Reasonable Accommodation: If you wish to request reasonable accommodation to participate in the meeting telephonically, please contact the recording secretary (via contact information noted above) at least 48 hours prior to the meeting.

1.0 CALL TO ORDER

2.0 ROLL CALL

3.0 PUBLIC PARTICIPATION

The public is encouraged to participate in the deliberation of the Desert/Mountain Charter SELPA Steering Committee. Several opportunities are available during the meeting for the Council to receive oral communication regarding the presentations of any items listed on the agenda. Please ask for recognition either before a presentation or after the presentation has been completed. Please complete and submit a “Registration Card to Address the Desert/Mountain Charter SELPA Steering Committee” to the Recording Secretary and adhere to the provisions described therein.

4.0 ADOPTION OF THE AGENDA

4.1 **BE IT RESOLVED** that the November 18, 2021 Desert/Mountain Charter SELPA Steering and Finance Committee Meeting Agenda be approved as presented.

5.0 INFORMATION/ACTION

5.1 Assembly Bill 361 Exemptions to Brown Act Virtual Meeting Requirements

Assembly Bill (AB) 361 requires local agencies to consider the circumstances of the state of emergency and make the following findings by a majority vote: 1) the state of emergency continues to directly impact the ability of the members to meet safely in person; or 2) state or local officials

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continue to impose or recommend measures to promote social distancing.

5.1.1 **BE IT RESOLVED** that the Assembly Bill 361 Exemptions to Brown Act Virtual Meeting Requirements be approved as presented.

5.2 Desert/Mountain Charter SELPA Policy and Procedures Chapter 14 (**ACTION**)

Policies and procedures governing the operation of special education programs within the Desert/Mountain Charter SELPA are developed, reviewed and revised throughout the year upon the recommendation of the Program Team. Policies and Procedures are modified as necessary in order to ensure that special education programs are operated in an efficient, effective and legally compliant manner. Suggested revisions to Charter SELPA Policy and Procedures are submitted to the D/M Charter SELPA Steering Committee for consideration and approval.

5.2.1 **BE IT RESOLVED** that the Desert/Mountain Charter SELPA Policy & Procedures Chapter 14 be approved as presented.

5.3 Desert/Mountain SELPA D/M 68A IEP Demographics Page (**ACTION**)

Forms used in the operations of special education programs within the Desert/Mountain SELPA are developed, reviewed and revised throughout the year upon the recommendation of the Program Team. Forms are modified as necessary in order to support the operations of special education programs in an efficient, effective and legally compliant manner. Suggested revisions to SELPA Forms are submitted to the D/M SELPA Steering Committee for consideration and approval.

5.3.1 **BE IT RESOLVED** that the Desert/Mountain SELPA D/M 68A IEP Demographics Page be approved as presented.

5.4 Desert/Mountain SELPA D/M 68E Supplementary Aids and Supports (**ACTION**)

Forms used in the operations of special education programs within the Desert/Mountain SELPA are developed, reviewed and revised throughout the year upon the recommendation of the Program Team. Forms are modified as necessary in order to support the operations of special education programs in an efficient, effective and legally compliant manner. Suggested revisions to SELPA Forms are submitted to the D/M SELPA Steering Committee for consideration and approval.

5.4.1 **BE IT RESOLVED** that the Desert/Mountain SELPA D/M 68E Supplementary Aids and Supports be approved as presented.

5.5 Desert/Mountain SELPA D/M 68F Physical Fitness Test (**ACTION**)

Forms used in the operations of special education programs within the Desert/Mountain SELPA are developed, reviewed and revised throughout the year upon the recommendation of the Program

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Team. Forms are modified as necessary in order to support the operations of special education programs in an efficient, effective and legally compliant manner. Suggested revisions to SELPA Forms are submitted to the D/M SELPA Steering Committee for consideration and approval.

5.5.1 **BE IT RESOLVED** that the Desert/Mountain SELPA D/M 68F Physical Fitness Test be approved as presented.

5.6 Desert/Mountain SELPA D/M 68F English Language Proficiency Assessment Participation Consideration Alternative Assessment (**ACTION**)

Forms used in the operations of special education programs within the Desert/Mountain SELPA are developed, reviewed and revised throughout the year upon the recommendation of the Program Team. Forms are modified as necessary in order to support the operations of special education programs in an efficient, effective and legally compliant manner. Suggested revisions to SELPA Forms are submitted to the D/M SELPA Steering Committee for consideration and approval.

5.6.1 **BE IT RESOLVED** that the Desert/Mountain SELPA D/M 68F English Language Proficiency Assessment Participation Consideration Alternative Assessment be approved as presented.

6.0 CONSENT ITEMS

It is recommended that the Charter Steering Committee consider approving several Agenda items as a Consent list. Consent Items are routine in nature and can be enacted in one motion without further discussion. Consent items may be called up by any Committee Member at the meeting for clarification, discussion, or change.

6.1 **BE IT RESOLVED** that the following Consent Items be approved as presented:

6.1.1 Approve the October 21, 2021 Desert/Mountain Charter SELPA Steering and Finance Committee Meeting Minutes.

7.0 CHIEF EXECUTIVE OFFICER AND STAFF REPORTS

7.1 Legislative Updates

Jenae Holtz will present the Legislative Updates.

7.2 Interim Placement Flowchart

Jenae Holtz will present the Interim Placement Flowchart.

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7.3 Student Identities in their Records and in the School Setting

Pam Bender will present information on student identities in their records and in the school setting.

7.4 Assessment Plan Overview

Jenae Holtz will provide an overview of the Assessment Plan.

7.5 Reimbursement of the Alternative Dispute Resolution (ADR) and Learning Recovery Funds

Jenae Holtz will present information on the process for LEAs to request reimbursement for ADR and Learning Recovery Funds.

7.6 Desert/Mountain Children's Center Client Services Reports and Updates

Linda Llamas will present the Desert/Mountain Children's Center Client Services monthly reports and updates.

7.7 Professional Learning Summary

Heidi Chavez will present the D/M Charter SELPA's Professional Learning Summary.

7.8 Resolution Support Services Summary and Updates

Kathleen Peters will present the D/M Charter SELPA's Resolution Support Services Summary and updates.

7.9 Office of Administrative Hearings Decision

Kathleen Peters will review an Office of Administrative Hearings (OAH) decision.

7.10 Prevention and Intervention Update

Kami Murphy will present a Prevention and Intervention Update

7.11 Compliance Update

Peggy Dunn will present an update on compliance items from the California Department of Education (CDE).

8.0 FINANCE COMMITTEE REPORTS

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9.0 INFORMATION ITEMS

9.1 Monthly Occupational & Physical Therapy Services Reports

9.2 Upcoming Professional Learning Opportunities

10.0 STEERING COMMITTEE MEMBERS COMMENTS / REPORTS

11.0 CEO COMMENTS

12.0 MATTERS BROUGHT BY THE PUBLIC

This is the time during the agenda when the Desert/Mountain Charter SELPA Steering Committee is again prepared to receive the comments of the public regarding items on this agenda or any school related special education issue.

When coming to the podium, speakers are requested to give their name and limit their remarks to three minutes.

Persons wishing to make complaints against Desert/Mountain Charter SELPA Steering Committee personnel must have filed an appropriate complaint form prior to the meeting.

When the Desert/Mountain Charter SELPA Steering Committee goes into Closed Session, there will be no further opportunity for general public to address the Council on items under consideration.

13.0 ADJOURNMENT

The next regular meeting of the Desert/Mountain Charter SELPA Steering Committee will be held on Thursday, December 16, 2021, at 1:00 p.m., at the Desert Mountain Educational Service Center, Aster/Cactus Room, 17800 Highway 18, Apple Valley, CA 92307.

Individuals requiring special accommodations for disabilities are requested to contact Jamie Adkins at (760) 955-3555, at least seven days prior to the date of this meeting.

AB 361 Creates Exemptions to Brown Act Virtual Meeting Requirements During a State of Emergency

September 22, 2021
Number 27

Written by:

Anne L. Collins
Partner
Sacramento

Ryan P. Tung
Partner
Los Angeles

Stephanie E. Darand
Law Clerk
Walnut Creek

On September 15, 2021, the Governor signed Assembly Bill (AB) 361, amending the Ralph M. Brown Act to allow local agencies to continue conducting public meetings remotely during a state of emergency, so long as certain requirements are met. As explained in more detail below, public agencies who wish to conduct meetings remotely on or after October 1, 2021, must make specific findings, every thirty days, and ensure conditions related to public participation are satisfied.

Background

Generally, if a local agency elects to use teleconferencing for a public meeting, the Brown Act requires: (1) a quorum of the legislative body to participate from within the boundaries of the agency's jurisdiction, (2) the public agency to post notice of each teleconference location, and (3) the public be allowed to address the legislative body from each teleconference location.

Beginning in March 2020, Governor Newsom issued Executive Orders (Prior Orders) relaxing these Brown Act provisions, allowing public agencies greater flexibility in holding remote meetings during the COVID-19 pandemic. The Prior Orders, suspending the Brown Act teleconferencing requirements and confirming the use of internet-based service options for holding public meetings, were set to expire on September 30, 2021. In light of this looming deadline, AB 361 was passed and amends the Brown Act to allow public agencies to continue conducting remote meetings during a state of emergency without the need to comply with all of the teleconferencing requirements. While AB 361 was an urgency measure, effective upon the Governor's signature, the Governor also signed a new Executive Order, clarifying that most of the requirements of AB 361 become effective October 1, 2021.

Although the Governor waived the applicability of AB 361 until October 1, 2021, local agencies retain the option of meeting before October 1 to make the required findings under AB 361 in order to hold future meetings remotely. If a local agency does not do so, it will have to have a separate meeting in October to make the necessary findings before any regular or special meetings otherwise scheduled for October can be held remotely.

Applicability of AB 361

Under the urgency legislation, a local agency may utilize the more “relaxed” Brown Act teleconferencing requirements in any of the following circumstances:

1. There is a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing; or
2. There is a proclaimed state of emergency, and the local agency’s meeting is for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or
3. There is a proclaimed state of emergency, and the local agency has determined, by majority vote, that as a result of the emergency meeting in person would present an imminent risk to the health or safety of attendees.

AB 361 defines a “state of emergency” as a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act. Importantly, this includes the current state of emergency proclaimed by the Governor due to the COVID-19 Pandemic.

To continue to rely on the relaxed teleconferencing provisions, the local agency must reconsider the circumstances of the state of emergency and make the following findings by majority vote, *every 30 days*:

- The state of emergency continues to directly impact the ability of the members to meet safely in person; or
- State or local officials continue to impose or recommend measures to promote social distancing.

Virtual Meeting Requirements Under AB 361

For all remote meetings held under AB 361, local agencies are required to meet the following public participation and notice requirements (note that some of these requirements differ from what had been in place under the Prior Orders):

- Meeting agendas and notices must describe how members of the public may access the meeting and offer public comment, and identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option;
- The public must have the opportunity to address the legislative body and comment in real time. The local agencies may still allow for the public to submit comments in advance of the meeting, but the local agency must also provide an option for the public to comment in real time;
- If a timed public comment period is provided on an agenda, whether on a specific agenda item or in general, registration and the public comment period cannot close until the time has elapsed. If public comment is taken separately on each agenda item, the legislative body must allow a reasonable amount of time per item to allow members of the public the opportunity to provide public comment, register, or otherwise be recognized for the purpose of providing public comment;

- Local agencies are permitted to use platforms which, incidental to their use and deployment, may require users to register for an account with that platform so long as the platform is not under the control of the local agency;
- If there is a disruption in the broadcast of a public meeting using the call-in option or the internet-based option, or there is a disruption within the agency's control which prevents members of the public from offering comments, the agency must not take any action on items appearing on the agenda until full access is restored.

Meeting agendas are not required to be posted at all teleconference locations, and local agencies are not required to make each teleconference location accessible to the public, provided that members of the public are afforded the opportunity to provide public comment remotely.

Takeaways

AB 361 creates statutory exemptions to the Brown Act that extend flexibility for remote public meetings during proclaimed emergencies, through January 1, 2024. For state and local agencies that are subject to the Bagley-Keene Open Meeting Act and the Gloria Romero Open Meetings Act, AB 361 establishes similarly relaxed guidance for virtual public meetings, until January 31, 2022. State and local agencies must give the public notice and an opportunity to comment and participate at meetings in real time, even using remote means, and they must comply with certain prerequisites in order to rely on the remote meeting provisions, including reconsideration of the circumstances and need for remote meetings every 30 days. While this new law relaxes certain remote meeting requirements relating to member participation, agendas, and public accessibility at remote locations, the underlying aim of the Brown Act—to ensure meetings of local agencies be open and public—remains.

If you have any questions about AB 361 or about Brown Act or board governance issues in general, please contact the author of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcasts](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.



AB-361 Open meetings: state and local agencies: teleconferences. (2021-2022)

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Date Published: 09/17/2021 09:00 PM

Assembly Bill No. 361

CHAPTER 165

An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2021. Filed with Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Robert Rivas. Open meetings: state and local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held

for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a legislative body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act for teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, the public members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 89305.6 is added to the Education Code, to read:

89305.6. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2. Section 11133 is added to the Government Code, to read:

11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each

teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the

meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and

federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have

imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations

within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5. Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6. It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 7. The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings during applicable emergencies.

SEC. 8. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information

concerning the conduct of the people's business.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state and local agencies can continue holding public meetings while providing essential services like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.



**DESERT / MOUNTAIN
CHARTER SELPA**

Revised Desert/Mountain SELPA Policies & Procedures

Table 1: Chapter 1 Executive Summary

Section	Proposed Revision(s)	Rev. Date
Chapter 14: Independent Educational Evaluation (IEE)	The IEE cost guideline table in Section C – Criteria for Obtaining an IEE at Public Expense was updated to provide current allowable IEE costs for specific evaluations, as well as updating IEE descriptions and provider criteria, and adding new IEE types. <i>Note: This table is repeated in Appendix A-Notice to Parents Regarding IEEs and Appendix C-Suggested cost Guidelines for Assessment and was updated in both appendices.</i> (20 U.S.C. 1415(b)(1) and (d)(2)(A); 34 C.F.R. § 300.502)	11/18/2021



DESERT / MOUNTAIN
CHARTER SELPA

Chapter 14: Independent Educational Evaluation (IEE)

SECTION A: INTRODUCTION/CONSIDERATION OF INDEPENDENT EDUCATIONAL EVALUATIONS (IEES)

SECTION B: PROCEDURES FOR PARENTS REQUESTING AN IEE AT PUBLIC EXPENSE

SECTION C: CRITERIA FOR OBTAINING AN IEE AT PUBLIC EXPENSE

SECTION D: CRITERIA FOR DETERMINATION OF IEE FEES

SECTION E: CIRCUMSTANCES RESULTING IN EVALUATION NOT FUNDED AT CHARTER LEA EXPENSE

APPENDIX A: NOTICE OF PARENTS REGARDING IEES

APPENDIX B: NON-EXCLUSIVE LIST OF QUALIFIED EXAMINERS

APPENDIX C: SUGGESTED COST GUIDELINES FOR ASSESSMENT

APPENDIX D: TEST PROTOCOLS (OSEP POLICY LETTER)

APPENDIX E: SELPA FORM D/M 83 – REIMBURSEMENT REQUEST

APPENDIX F: SAMPLE IEE LETTERS TO PARENTS

Introduction

An Independent Educational Evaluation (IEE) is an evaluation conducted by a qualified examiner who is not employed by the Charter Local Education Agency (LEA) or public agency responsible for the education of a child with a disability (*Title 34 of the Code of Federal Regulations § 300.502*). Since a child's educational program and placement are determined by the results of assessments, a parent who disagrees with a Charter LEA's evaluation has the right to obtain an IEE at public expense to identify the child's disabilities and resulting educational needs. A parent is entitled to only one IEE at public expense each time the Charter LEA conducts an evaluation with which the parent disagrees (*Title 34 of the Code of Federal Regulations § 300.502*).

Section C – Criteria for Obtaining an IEE at Public Expense

The IEE must be administered by the independent examiner in the same type of location and/or setting as that used by the Charter LEA in providing similar evaluations (*Title 34 of the Code of Federal Regulations § 300.502(e)*). If the Charter LEA’s evaluation included classroom observations, the independent examiner will be given access to the classroom (*Education Code § 56327*).

Clinical psychologists selected to perform independent evaluations must base the assessment on the required eligibility criteria (*Title 34 of the Code of Federal Regulations § 300.8* and *Title 5 of the California Code of Regulations § 3030*) that school psychologists utilize to determine eligibility for special education and related services. While it is understood that psychological evaluations performed by clinical psychologists, who typically work outside of the school setting or in private practice, can include many of the same formal assessments as psychoeducational and neuropsychological evaluations in order to examine an individual’s psychological, emotional, and behavioral functioning, these findings are typically intended to guide diagnosis and treatment from a medical perspective, not from an educational perspective. Therefore, independent examiners conducting psychological assessments under an IEE should align their assessment with the eligibility requirements in federal and state law that school psychologists rely on to determine eligibility for special education and related services. The examiner’s assessment should assist in determining specific areas of need, services, or supplemental aides that will support children with disabilities in educational settings. The assessment must be sufficiently comprehensive to identify all of the child’s special education and related service needs, whether or not commonly linked to the disability category being considered for the child, and should seek to understand the child’s learning style, and then guide the development of classroom accommodations and supports from an educational perspective.

The IEE must be provided by an examiner who holds equivalent certifications, licenses, or other qualifications that would be required of Charter LEA staff providing similar evaluations (*Title 34 of the Code of Federal Regulations § 300.502(e)* and *Education Code § 56322*). All assessments must be conducted in accordance with all requirements of federal and state laws including, but not limited to, observing the child in the appropriate setting (*Education Code § 56327*) and conducting evaluations in accordance with *Education Code § 56320*. Independent examiners must meet the credentialing criteria listed below. All assessments, including all tests and subtests must be conducted by persons competent to perform the assessment as determined by the Charter LEA (*Education Code § 56322*).

Type of Assessment	Proposed Estimate	Qualifications
Adaptive Behavior	\$500 - \$1,000	Credentialed Special Education Teacher Credentialed School Psychologist Licensed Clinical Psychologist Licensed Educational Psychologist

Type of Assessment	Proposed Estimate	Qualifications
Adapted Physical Education	\$1,000	Credential issued by the California Commission on Teacher Credentialing that authorizes service in adapted physical education
Assistive Technology	\$1,500 - \$2000	Credentialed Special Education Teacher Credentialed Speech and Language Pathologist Licensed Speech and Language Pathologist Credentialed Assistive Technology Specialist
Augmentative/Alternative Communication (AAC)	\$1,500 - \$2,000	Credentialed Special Education Teacher Credentialed Speech and Language Pathologist Licensed Speech and Language Pathologist Credentialed Assistive Technology Specialist
Central Auditory Processing (Auditory acuity and perception)	\$1,500 - \$2,000	Licensed or Credentialed Audiologist Credentialed Speech and Language Pathologist Licensed Speech and Language Pathologist
Educationally Related Mental Health	\$2,500	Marriage Family Therapist (MFT) Licensed Clinical Social Worker (LCSW) Professional Clinical Counselor (PCC) PsyD – Doctorate in Clinical Psychology Ph.D. – Doctorate in Psychology Clinical Psychologist
Functional Behavior (Social/Emotional/Behavior/Behavior Intervention)	\$2,500	Board Certified Behavior Analyst (BCBA) Credentialed School Psychologist School Counselor with Pupil Personnel Services (PPS) Credential Credentialed Special Education Teacher Licensed Clinical Psychologist Licensed Educational Psychologist (LEP) Licensed Clinical Social Worker (LCSW) Licensed Marriage and Family Therapist (LMFT) Professional Clinical Counselor (PCC)
Functional Vision (Acuity/Developmental Vision/Motor Integration/Perception)	\$1,750	Credentialed Teacher of the Visually Impaired Credentialed School Psychologist Licensed Educational Psychologist (LEP) Licensed Ophthalmologist Optometrist

Type of Assessment	Proposed Estimate	Qualifications
Health	\$500	Licensed Physician Credentialed School Nurse - trained and prepared to access cultural and ethnic factors appropriate to the student
Independent Multi-Disciplinary Evaluation	\$4,500	See individual evaluator qualifications
Neuro-Psychological Evaluation	\$4,500 - \$5,500	See individual evaluator qualifications
Occupational Therapy (Fine or Gross Motor)	\$1,000 - \$1,500	Licensed Occupational Therapist
Orientation and Mobility for the Blind	\$1,000	Credential that authorizes services in orientation and mobility instruction in the State of California
Physical Therapy	\$1,500	Licensed Physical Therapist
Psycho-Educational (may include academic, adaptive functioning, cognition, psychological processing (auditory, visual, phonological processing), social/emotional functioning)	\$4,500	Credentialed School Psychologist Licensed Clinical Psychologist Licensed Educational Psychologist (LEP)
Speech and Language	\$1,750	Credentialed Speech and Language Pathologist Licensed Speech and Language Pathologist
Transition/Vocational	\$1,500 - \$2,000	Credentialed Teacher with a career development authorization Special Education Teacher Credentialed School Counselor with a Pupil Personnel Services (PPS) Credential

It is recommended that when selecting an independent examiner not on the non-exclusive list of qualified examiners (Appendix B), the Charter LEA request a copy of the examiner’s resume, two references by LEAs, a sample evaluation report, and itemized costs for the evaluation including writing the report and attending the IEP meeting. Prior to making the final selection of an examiner, the Charter LEA should review the resume to ensure proper licensure/credential certification, and contact the references provided.



DESERT / MOUNTAIN
CHARTER SELPA

Chapter 14: Independent Educational Evaluation (IEE)

SECTION A: INTRODUCTION/CONSIDERATION OF INDEPENDENT EDUCATIONAL EVALUATIONS (IEES)

SECTION B: PROCEDURES FOR PARENTS REQUESTING AN IEE AT PUBLIC EXPENSE

SECTION C: CRITERIA FOR OBTAINING AN IEE AT PUBLIC EXPENSE

SECTION D: CRITERIA FOR DETERMINATION OF IEE FEES

SECTION E: CIRCUMSTANCES RESULTING IN EVALUATION NOT FUNDED AT CHARTER LEA EXPENSE

APPENDIX A: NOTICE OF PARENTS REGARDING IEES

APPENDIX B: NON-EXCLUSIVE LIST OF QUALIFIED EXAMINERS

APPENDIX C: SUGGESTED COST GUIDELINES FOR ASSESSMENT

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Introduction

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Section C – Criteria for Obtaining an IEE at Public Expense

The IEE must be administered by the independent examiner in the same type of location and/or setting as that used by the Charter LEA in providing similar evaluations (*Title 34 of the Code of Federal Regulations § 300.502(e)*). If the Charter LEA’s evaluation included classroom observations, the independent examiner will be given access to the classroom (*Education Code § 56327*).

Clinical psychologists selected to perform independent evaluations must base the assessment on the required eligibility criteria (*Title 34 of the Code of Federal Regulations § 300.8* and *Title 5 of the California Code of Regulations § 3030*) that school psychologists utilize to determine eligibility for special education and related services. While it is understood that psychological evaluations performed by clinical psychologists, who typically work outside of the school setting or in private practice, can include many of the same formal assessments as psychoeducational and neuropsychological evaluations in order to examine an individual’s psychological, emotional, and behavioral functioning, these findings are typically intended to guide diagnosis and treatment from a medical perspective, not from an educational perspective. Therefore, independent examiners conducting psychological assessments under an IEE should align their assessment with the eligibility requirements in federal and state law that school psychologists rely on to determine eligibility for special education and related services. The examiner’s assessment should assist in determining specific areas of need, services, or supplemental aides that will support children with disabilities in educational settings. The assessment must be sufficiently comprehensive to identify all of the child’s special education and related service needs, whether or not commonly linked to the disability category being considered for the child, and should seek to understand the child’s learning style, and then guide the development of classroom accommodations and supports from an educational perspective.

The IEE must be provided by an examiner who holds equivalent certifications, licenses, or other qualifications that would be required of Charter LEA staff providing similar evaluations (*Title 34 of the Code of Federal Regulations § 300.502(e)* and *Education Code § 56322*). All assessments must be conducted in accordance with all requirements of federal and state laws including, but not limited to, observing the child in the appropriate setting (*Education Code § 56327*) and conducting evaluations in accordance with *Education Code § 56320*. Independent examiners must meet the credentialing criteria listed below. All assessments, including all tests and subtests must be conducted by persons competent to perform the assessment as determined by the Charter LEA (*Education Code § 56322*).

Type of Assessment	Proposed Estimate	Qualifications
Academic Achievement	\$1,000	Credentialed Special Education Teacher Credentialed School Psychologist Licensed Clinical Psychologist Licensed Educational Psychologist
Adaptive Behavior	\$500 - \$1,000	Credentialed Special Education Teacher

Type of Assessment	Proposed Estimate	Qualifications
		Credentialed School Psychologist Licensed Clinical Psychologist Licensed Educational Psychologist
Adapted Physical Education	\$1,000	Credential issued by the California Commission on Teacher Credentialing that authorizes service in adapted physical education
Auditory Acuity	\$500	Licensed or Credentialed Audiologist Credentialed Speech and Language Pathologist Licensed Speech and Language Pathologist
Auditory Perception	\$500	Credentialed Speech and Language Pathologist Licensed Speech and Language Pathologist Credentialed School Psychologist Licensed Educational Psychologist
Assistive Technology	\$900 \$1,500 - \$2000	Credentialed Special Education Teacher Credentialed Speech and Language Pathologist Licensed Speech and Language Pathologist Credentialed Assistive Technology Specialist
Augmentative/Alternative Communication (AAC)	\$1,500 - \$2,000	Credentialed Special Education Teacher Credentialed Speech and Language Pathologist Licensed Speech and Language Pathologist Credentialed Assistive Technology Specialist
Central Auditory Processing (Auditory acuity and perception)	\$1,500 - \$2,000	Licensed or Credentialed Audiologist Credentialed Speech and Language Pathologist Licensed Speech and Language Pathologist
Cognitive	\$850	Credentialed School Psychologist Licensed Clinical Psychologist Licensed Educational Psychologist
Educationally Related Mental Health	\$2,000 \$2,500	Marriage Family Therapist (MFT) Marriage Family Therapist Intern (under the supervision of MFT) Licensed Clinical Social Worker (LCSW) Licensed Clinical Social Worker Intern (under the supervision of the LCSW) Professional Clinical Counselor (PCC) Professional Clinical Counselor Intern (under

Type of Assessment	Proposed Estimate	Qualifications
		the supervision of the PCC) PsyD – Doctorate in Clinical Psychology Ph.D. – Doctorate in Psychology Clinical Psychologist
Functional Behavior (Social/Emotional/Behavior/ Behavior Intervention)	\$2,000 \$2,500	Board Certified Behavior Analyst (BCBA) Credentialed School Psychologist School Counselor with Pupil Personnel Services (PPS) Credential Credentialed Special Education Teacher Licensed Clinical Psychologist Licensed Educational Psychologist (LEP) Licensed Clinical Social Worker (LCSW) Licensed Marriage and Family Therapist (LMFT) Professional Clinical Counselor (PCC) Licensed Psychiatrist
Functional Vision (Acuity/Developmental Vision/Motor Integration/ Perception)	\$1,750	Credentialed Teacher of the Visually Impaired Credentialed School Psychologist Licensed Educational Psychologist (LEP) Licensed Ophthalmologist Optometrist
Health	\$300 \$500	Licensed Physician Credentialed School Nurse - trained and prepared to access cultural and ethnic factors appropriate to the student
Independent Multi-Disciplinary Evaluation	\$4,000 \$4,500	See individual evaluator qualifications
Neuro-Psychological Evaluation	\$5,000 \$4,500 - \$5,500	See individual evaluator qualifications
Occupational Therapy (Fine or Gross Motor)	\$1,000 - \$1,500	Licensed Occupational Therapist Licensed Physical Therapist Credentialed Adaptive Physical Education Specialist Credentialed Teacher of the Physically Impaired
Orientation and Mobility for the Blind	\$1,000	Credential that authorizes services in orientation and mobility instruction in the State of California
Physical Therapy	\$1,500	Licensed Physical Therapist

Type of Assessment	Proposed Estimate	Qualifications
Psycho-Educational (may include academic, adaptive functioning, cognition, psychological processing (auditory, visual, phonological processing), social/emotional functioning)	\$4,500	Credentialed School Psychologist Licensed Clinical Psychologist Licensed Educational Psychologist (LEP)
Speech and Language	\$1,500 \$1,750	Credentialed Speech and Language Pathologist Licensed Speech and Language Pathologist
Transition/Vocational	\$1,500 - \$2,000	Credentialed Teacher with a career development authorization Special Education Teacher Credentialed School Counselor with a Pupil Personnel Services (PPS) Credential
Vision (Functional)	\$400	Credentialed Teacher of the Visually Impaired
Visual Acuity/ Developmental Vision	\$400	Licensed Ophthalmologist Optometrist
Visual Motor Integration	\$400	Credentialed School Psychologist Licensed Educational Psychologist Licensed Occupational Therapist
Visual Perception	\$400	Credentialed School Psychologist Licensed Educational Psychologist Credentialed Special Education Teacher

It is recommended that when selecting an independent examiner not on the non-exclusive list of qualified examiners (Appendix B), the Charter LEA request a copy of the examiner’s resume, two references by LEAs, a sample evaluation report, and itemized costs for the evaluation including writing the report and attending the IEP meeting. Prior to making the final selection of an examiner, the Charter LEA should review the resume to ensure proper licensure/credential certification, and contact the references provided.

The independent examiner must be located within an 85-mile radius of the Charter SELPA office or a 40-mile radius of the Charter LEA responsible for the IEE. Examiners outside of this area may be approved by the Charter LEA if the parents can demonstrate the necessity of using an examiner outside of the geographical determined location. Unless an out-of-area evaluation is required for the child to receive an IEE, costs beyond the evaluation (i.e., transportation, lodging, food, etc.) are not covered in the contract or reimbursement to the parent.

Independent examiners must comply with all state and federal requirements (*Title 34 of the Code of Federal Regulations § 300.502(e)*).

DESERT/MOUNTAIN SPECIAL EDUCATION LOCAL PLAN AREA (CODE 3601)
DESERT/MOUNTAIN CHARTER SPECIAL EDUCATION LOCAL PLAN AREA (CODE 3651)
 17800 HIGHWAY 18 • APPLE VALLEY, CA 92307 • (760) 552-6700

- Individualized Family Service Plan Individualized Education Program
 Individualized Services Plan Not Eligible
 Eligible No Plan Parentally Placed in Private School Eligible No Plan Other Reasons

PURPOSE OF MEETING

- Eligibility / Initial Placement
 Annual
 Matriculation
 Triennial
 D/M 119 Completed
 Other: _____

STUDENT INFORMATION:

Last: _____ First: _____ Mid. Initial: _____ Suffix: _____
 DOB: _____ Age: _____ Student No: _____ Gender: M F Non-Binary Grade: _____
 Ethnicity: Select one only YES, Hispanic or Latino **OR** NO, not Hispanic or Latino Indicate one or more race(s) below:
 (1) _____ (2) _____ (3) _____
 Medi-Cal Eligible: Yes No Medi-Cal No.: _____ SSID No.: _____
 Parent/Guardian/Surrogate: _____ Home Phone: _____
 Address: _____ Work Phone: _____
 Mailing Address: _____ Emg. Phone: _____
 Contact Person (if student address different): _____ Contact Phone: _____
 Student's Address (if different): _____ Residency Code: _____
 LEA of Residence (**Accountability**): _____ School of Residence: _____
 LEA of Service: _____ Attending School: _____
 School Type Code: _____ Weekly % of Time the Student is in the General Education Setting: _____
 Infant Setting (Ages 0-2): _____ Preschool Setting (Ages 3-5): _____ School Age Setting (Ages 6-22): _____

DISABILITY:

PRIMARY DISABILITY: _____

SECONDARY DISABILITY: _____

Check all that apply below and indicate the Primary and Secondary Disability Codes in the space provided above: (*Low Incidence)

- | | | | |
|--|--|---|--|
| <input type="checkbox"/> Intellectual Disability (210) | <input type="checkbox"/> Hard of Hearing (220)* | <input type="checkbox"/> Deafness (230)* | <input type="checkbox"/> Speech / Lang. Imp. (240) |
| <input type="checkbox"/> Visual Impairment (250)* | <input type="checkbox"/> Emotional Disturbance (260) | <input type="checkbox"/> Orthopedic Impairment (270)* | <input type="checkbox"/> Other Health Imp. (280) |
| <input type="checkbox"/> Est. Med. Disability (281) | <input type="checkbox"/> Spec. Learning Disability (290) | <input type="checkbox"/> Deaf / Blindness (300)* | <input type="checkbox"/> Multiple Disabilities (310) |
| <input type="checkbox"/> Autism (320) | <input type="checkbox"/> Traumatic Brain Injury (330) | | |

DATE:

TIMELINE INFORMATION (DATES)

Please mark the appropriate box and complete all information as they relate to the child.

- CHECK HERE IF INFANT (AGE 0-2) CHECK HERE IF CHILD IS AGE 3-22

Referred by for Initial Assessment: _____

Date LEA Received **Initial** Signed AP: _____ Initial Referral Date: _____

Initial IEP Meeting Date: _____ Pre-referral Intervention w/in last 2 Years: Yes No

If assessment not completed prior to student's 3rd birthday, specify Code No.: _____

If assessment not completed within 60-day timeline, specify Code No.: _____

Low Incidence Disability: Yes No Disability Code: 220 230 250 270 300

Original S.E. Entry Date: _____ Exit S.E. Date: _____ S.E. Re-entry Date: _____

Exit S.E. Code: _____

Current Annual Date: _____ Next Annual Review Date: _____

Annual Delay Date: _____ Reason for Delay: _____

Current Triennial Date: _____ Next Triennial Date: _____

Triennial Delay Date: _____ Reason for Delay: _____

Early Start Transition Plan Meeting Date: _____

Home Language Code: _____ English Language Learner: Yes No **Reclassified**

Migrant: Yes No Extended School Year: Yes No No. of Days: _____

Agency Services: CCS Rehab CARE Reg. Ctr. Other: _____

- Severe Disability Non-severe Disability Solely Low Incidence Disability (0-2 Years Only)

GRADUATION INFORMATION

Participate in High School Curriculum to Graduate with a Diploma Yes No

High School Program Leading to a Certificate of Completion Yes No

SPECIAL TRANSPORTATION INFORMATION

Check if student requires special transportation arrangements to participate in special education services.

- Eligible (indicate type and provider) Eligible - Parent Declined Not Eligible

Type: _____

Provider: _____

REASON FOR DECISION / ELIGIBILITY STATEMENT:

FEDERAL PROGRAM LOCATION OF SERVICES			LOCATION OF SERVICES					
Ages 0-2 Only 100 Home 200 Community Based Setting 900 Other Setting	Ages 3-5 Only 400 Regular Early Childhood Program or Kindergarten (50-69% nondisabled children) 410 Regular Early Childhood Program or Kindergarten (70%+ nondisabled children) 440 Separate Class 450 Separate School 460 Residential Facility 470 Home 475 Service Provider Location	Ages 6-22 Only 400 Regular Classroom 450 Public Day School 460 Separate School 470 Residential Facility 470 Homebound/Hospital 480 Correctional Facility 490 Parentally Placed in Private School 500 Homeschool Charter, Virtual Charter, Indep. Study Charter	210 Home Instruction Based on IEP Team Determination (not medical) 220 Hospital 310 Head Start Program 320 Child Development or Child Care Facility 330 Public Preschool 340 Private Preschool 350 Extended Day Care 360 Residential Facility 510 Regular Classroom/Public Day School 520 Separate Classroom in Public Integrated Facility 530 State Special School 540 Separate School or Special Education Center or Facility	550 Public Residential Facility 560 Other Public School or Facility 570 Charter School (operated by an LEA/District) 571 Charter School by an LEA Regular Classroom (push in) 572 Charter School by an LEA Separate Classroom (pull out) 580 Charter School (operated as an LEA/District) 581 Charter School by an LEA Regular Classroom (push in) 582 Charter School by an LEA Separate Classroom (pull out) 610 Continuation School 620 Alternative Work Education Center/Work Study Facility 630 Juvenile Court School 640 Community School 650 Correctional Institution or Facility	710 Community College 720 Adult Education Facility 810 Nonpublic Day School 820 Nonpublic Residential School in CA 830 Nonpublic Residential School outside CA 840 Private Day School (not certified by Special Educ. Div.) 850 Private Residential School (not certified by Special Educ. Div.) 860 Parochial School 890 Service Provider Location 900 Any Other Location/Setting			
SPECIAL EDUCATION AND RELATED SERVICES (3-22 YEARS)			PROVIDER					
330 Specialized Academic Instruction 340 Intensive Individual Services 348 One-to-One Bus Aide 350 Individual & Small Group Instr. (ages 3-5) 355 Individual & Small Group Instr. (ages 6+) 415 Language & Speech 417 SELPA / DMCC Speech 425 Adapted Physical Education 435 Health & Nursing - Specialized Physical Health Care Services 436 Health & Nursing - Other Services 445 Assistive Technology Services 450 Occupational Therapy 460 Physical Therapy 510 Individual Counseling 515 Counseling & Guidance 520 Parent Counseling 525 Social Work Services (DMCC) 530 Psychological Services 535 Behavior Intervention Services 540 Day Treatment Services 545 Residential Treatment Services 550 Residential Monitoring (DMCC) 610 Specialized Services for Low Incidence Disabilities 710 Specialized Deaf and Hard of Hearing	715 Interpreter Services 720 Audiological Services 725 Specialized Vision Services 730 Orientation & Mobility 735 Braille Transcription 740 Specialized Orthopedic Services 745 Reader Services 750 Note Taking Services 755 Transcription Services 760 Recreation Services includes Therapeutic Recreation 820 College Awareness 830 Vocational Assessment, Counseling, Guidance, and Career Assessment 840 Career Awareness 850 Work Experience Education 855 Job Coaching (includes job shadow and service learning) 860 Mentoring 865 Agency Linkages (referral and placement) 870 Travel Training (includes Mobility training) 890 Other Transition Services 900 Other Special Education/Related Services 901 Transportation	100 District of Services 110 County Office of Education 120 SELPA 130 Another District, County or SELPA 200 WorkAbility 210 Transition Partnership Program 220 Regional Center 230 Alcohol and Drug Prevention Program	240 Child Development Funded Program 250 Head Start 300 Department of Mental Health 310 California Children's Services 320 Department of Social Services 330 Department of Rehabilitation 340 Employment Development Department 400 Nonpublic Agency under Contract w/SELPA or District	410 Nonpublic School under Contract w/SELPA or District 500 Other Public Program 550 DMCC 600 Other Private Program				
REASON ANNUAL / TRIENNIAL IEP IS UNTIMELY			SCHOOL TYPE (WHERE ENROLLED)					
10 Timely IEP; another IEP held after timely IEP 20 Parent contacted - did not attend 30 Transfer	90 Other (SELPA must list a reason in district summary report to CDE)	00 No School (0-5 Only) 10 Public Day School 11 Public Residential School 15 Special Educ. Center or Facility 19 Other Public School or Facility (such as a store-front transition program) 20 Continuation School 22 Alternative Work Education Center/Work Study Program 24 Independent Study 30 Juvenile Court School 31 Community School	32 Correctional Institution or Incarcerated Facility 40 Home Instruction Based on IEP Team Determination 45 Hospital Facility 50 Community College 51 Adult Education Program 55 Charter School (operated by an LEA/District/COE) 56 Charter School (operated as an LEA/District) 61 Head Start Program 62 Child Development or Child Care Facility 63 State Preschool	64 Private School 65 Extended Day Care 70 Nonpublic Day School 71 Nonpublic Residential School in CA 72 Nonpublic Residential School outside CA 75 Private Day School (not certified by Special Educ. Div.) 76 Private Residential School (not certified by Special Educ. Div.) 79 Nonpublic Agency 80 Parochial School				
INFANT RELATED SERVICES (AGES 0-2 YEARS)			LANGUAGE CODES					
210 Family Training, Counseling and Home Visits 220 Medical Services (evaluation only) 230 Nutrition Services 240 Service Coordination	250 Special Instruction 260 Special Education Aide in Regular Dev. Class Child Care Center or Facility Child Care Home 270 Respite Care Services	00 English 01 Spanish 02 Vietnamese 03 Cantonese 04 Korean 05 Filipino (Tagalog) 06 Portuguese 07 Mandarin (Putonghua) 08 Japanese 09 Khmer Cambodian	10 Lao 11 Arabic 12 Armenian 13 Burmese 14 Croatian 15 Dutch 16 Farsi 17 French 18 German 19 Greek	20 Chamorro 21 Hebrew 22 Hindi 23 Hmong 24 Hungarian 25 Ilocano 26 Indonesian 27 Italian 28 Punjabi 29 Russian	30 Samoan 31 Serbian 32 Thai 33 Turkish 34 Tongan 35 Urdu 36 Cebuano (Visayan) 37 Sign Language 38 Ukrainian 39 Chaozhou (Chaochow)	40 Pashto 41 Polish 42 Assyrian 43 Gujarati 44 Mien 45 Romanian 46 Taiwanese 47 Lahu 48 Marshallese 49 Mixteco	50 Khmu 51 Kurdish 52 Serbo-Croatian 53 Toishanese 54 Chaldean 56 Albanian 57 Tigrinya 60 Somali 61 Bengali 62 Telugu	63 Tamil 64 Marathi 65 Kannada 99 Other
REASON FOR EXITING SPECIAL EDUCATION			RACE					
70 Returned to General Education or No Longer Eligible for Special Education or Successful Completion of IEP/IFSP/ISP 71 Graduated from High School with Diploma 72 Graduated from High School with Certificate of Completion or Other than Diploma 73 Reached Maximum Age 74 Dropped Out, includes Attempts to Contact Unsuccessful or Not Known to be Continuing 76 Moved, and Known to be Continuing, includes Transfer to Another Program 77 Deceased 78 Parent Withdrawal/Self Withdrawal if over 18 (includes parent revocation of consent) 81 Received High School Completion/Achievement Certification through General Educational Development (GED) or Requirements of E.C. 56390	205 Asian Indian 207 Cambodian 201 Chinese 400 Filipino 302 Guamanian 301 Hawaiian	208 Hmong 202 Japanese 203 Korean 206 Loatian 299 Other Asian 399 Other Pacific Islander	303 Samoan 304 Tahitian 204 Vietnamese 700 White	100 Amer Ind or Alaska Native 600 Black or African American 900 Intentionally left blank	STUDENT'S GRADE LEVEL 01 First Grade 02 Second Grade 03 Third Grade 04 Fourth Grade 05 Fifth Grade 06 Sixth Grade 07 Seventh Grade 08 Eighth Grade 09 Ninth Grade 10 Tenth Grade 11 Eleventh Grade 12 Twelfth Grade 13 12+ Grade/Transition 15 Ungraded 16 Infant 17 Preschool 18 Kindergarten			
REASON FOR EVALUATION DELAY (ASSESSMENT PRIOR TO 3RD BIRTHDAY)			PRIMARY TRANSITION					
10 Parent refusal to consent 20 Parent did not make student available 30 Official school break of more than 5dys 90 Other Reason (Must be provided to CDE)	91 IEP was late, completed after 3rd bday / previously in Part C 92 New Referral after 3 rd birthday / Student not previously in Part C	100 None 200 Training 300 Education 400 Employment	500 Comm. Exp 501 Ind. Living 502 Functional Vocational Evaluation	STUDENT'S RESIDENTIAL STATUS 10 Parent or Legal Guardian 20 Licensed Children's Institution (LCI) 30 Foster Family Home (FFH) 40 Hospital (except state hospital) 50 Residential Facility 60 Incarcerated Institution 71 State Hospital 75 Homeless 72 Development Center 90 Other				
REASON FOR DELAY OF 60 DAY TIMELINE FOR ASSESSMENT			REASON FOR DELAY OF 60 DAY TIMELINE FOR ASSESSMENT					
10 Parent chose not to make student available 20 Official school break of more than 5dys 30 Transferred	90 Other reason must be provided to CDE 91 IEP was late, more than 60 days after parental consent was received							

DESERT/MOUNTAIN SELPA SCHOOL SITES

ADELANTO SD		BEAR VALLEY USD (CONT.)		NEEDLES USD (CONT.)		TRONA JUSD		EXCELSIOR PUBLIC CHARTER SCHOOLS	761
School	Site	School	Site	School	Site	School	Site		
Adelanto Elem	174	Big Bear MD	463	ETC	266	CA STEAM Charter	24A	HEALTH SCIENCES HIGH MIDDLE COLLEGE	
Bradach Elem	117	Big Bear Sr.	066	Needles MS	929	Trona CDS	258	School	Site
Columbia MS	433	Chautaugua	290	Needles Sr.	169	Trona Elem	199	Health Sciences High	462
Eagle Ranch	409	Fallsvale	741	Vista Colorado	115	Trona High	487	Health Sciences Middle	HSM
El Mirage	MIR	North Shore	052			Trona MS	196		
George Magnet MS	425			ORO GRANDE SD		University Prep Charter–San Bernardino	321		
Gus Franklin Elem	898	HELENDALE SD		School	Site			NORTON SCIENCE AND LANGUAGE ACADEMY	NOR
Melva Davis Acad.	448	School	Site	Oro Grande	453	VICTOR ELEMENTARY SD			
Mesa Linda MS	370	Academy of Careers/Expl.	723	Riverside Prep	928	School	Site		
Morgan Kincaid Prep	604	Helendale	935			Academy Performing Pre	632		
Theodore Vick Elem	441	Independence Charter Acad	948	ORO GRANDE SD - MOJAVE RIVER ACADEMY (Dependent Charters)		Brentwood	757		
Victoria Magathan	VMA	Riverview	072	School	Site	Challenger	641		
West Creek Elem	WCE			MRA – Gold Canyon	17F	Del Rey	329		
Westside Park	694	HESPERIA USD		MRA – National Trails	18D	Discovery	766		
		School	Site	MRA – Oro Grande	190	Endeavor	449		
APPLE VALLEY USD		Carmel	120	MRA – Route 66	20D	Galileo Academy 101	386		
School	Site	Canyon Ridge	CRC	MRA – Rockview Park	21D	Green Tree East	522		
Apple Valley Sr.	423	Cedar MS	108	MRA – Silver Mountain	22D	Irwin Academy	352		
Desert Knolls	337	Cottonwood	498	MRA – Marble City	23B	Liberty	860		
Granite Hills	894	Cypress School of Arts	805			Lomitas	219		
Mariana	240	Eucalyptus	968			Mojave Vista	587		
Phoenix Academy	PHX	Hesperia Christian	534	SILVER VALLEY USD		Mtn. View Montessori	350	D/M CHARTER SELPA	
Rancho Verde	257	Hesperia Community Day	944	School	Site	Park View	DME	School	Site
Rio Vista	605	Hesperia Jr.	547	Calico High (Cont.)	282	Puesta Del Sol	227	ASA Charter	ASA
Sandia	346	Hesperia Sr.	407	Colin Powell	84A	Sixth Street Prep	927	Allegiance STEAM Acad-Thrive	54H
Sitting Bull Academy	SBA	Hollyvale	112	Ft. Inwin MS	681	Village	386	Aveson Global Leadership Acad	47B
Smart Start Preschool	SSP	Joshua Circle	943	Lewis Elem	331	West Palms Conservatory	WEP	Aveson School of Leaders	47A
Sycamore Rocks	825	Juniper	950	Newberry	406			Ballington Academy	BAL
Vanguard Preparatory	VAN	Kingston	937	Silver Valley Sr.	274	VVUHSD		Desert Trails Preparatory Acad	918
Yucca Loma	265	Krystal School of Sci, Math, Tech	KRY	Silver Valley Com	SVC	School	Site	Elite Academic Academy	96E
		Lime Street	454	Silver Valley Acad	199	Adelanto HS	419	Encore Jr./Sr. High School	707
BAKER VALLEY USD		Maple	M37	Tiefort View Int	096	Cobalt Inst. of Math and Science	698	Julia Lee Performing Arts Acad	851
School	Site	Mesa Grande	643	Yermo	455	Goodwill HS	GWH	LaVerne Elementary Prep Acad	059
Baker Elem	273	Mesquite Trails	680			Hook Jr.	554	Odyssey Charter	47C
Baker Jr.	193	Mission Crest Elem	090	SNOWLINE JUSD		Lakeview Leadership Academy	562	Odyssey Charter School-South	945
Baker Sr.	076	Mojave High	472	School	Site	Options for Youth(Charter)	670	Pasadena Rosebud Acad	89K
		Oak Hills HS	OAK	Baldy Mesa	710	Silverado HS	787	Pathways to College	PTC
				Chaparral (Cont.)	365			Taylion Charter	TAY
BARSTOW USD		Oxford Academy	813	Desert View Ind	589	University Prep Academy	064	Virtual Preparatory Lucerne	10F
School	Site	Ranchero MS	359	Eagle Summit CDS	720	Victor Valley Sr.	012		
Barstow Jr.	537	Shadow Ridge	811	Pinon Mesa	116			D/M OPERATIONS	
Barstow Sr.	803	Sultana	746	Quail Valley	932	School	Site	Apple Valley County Sp Ed Ctr	DMO
Barstow Stem Acad.	452	T.C. Academy Charter	DMY	Serrano	233	First (1 st) Class	1CC	Siegrist	348
Cameron Elem	299	Topaz Preparatory Academy	751	Sweet Haven	ESS			ACADEMY FOR ACADEMIC EXCELLENCE	837
Henderson	349	Elite Academic Acad Charter	96E	Vista Verde Elem	718			EXCELSIOR – CORONA/ NORCO CHARTER	869
Hinkley	356	Lucerne Elem	976	Wrightwood	394				
Lenwood	372	Lucerne MS	696						
Montara	380	Lucerne Sr.	563						
Skyline	414	Lucerne Com Day	795						
Thomson	422	Mountain View (Cont.)	696						
		Sky Mountain Charter	SKM						
BEAR VALLEY USD									
School	Site	NEEDLES USD							
Baldwin Lane	866	School	Site						
Big Bear Elem	936	Chemehuevi	885						
		Community Day School	140						

Student Name: _____ DOB: _____ Date: _____

SUPPLEMENTARY AIDS AND SUPPORTS

Supplementary aids and supports to the student and/or program modification(s)/support(s) for school personnel (to be provided during the effective dates of this IEP) that are necessary to enable the student to: (A) advance appropriately toward the IEP goal attainment; (B) be involved and progress in the general curriculum; (C) participate in extracurricular activities; (D) be educated and participate with other children with disabilities and with nondisabled peers. 34 CFR § 300.320(a)(4)-(7) **See Consideration of Special Factors on the next page.**

		SUPPLEMENTARY AIDS AND SUPPORTS PROGRAM ACCOMMODATION(S) / MODIFICATION(S)	LOCATION	START DATE	FREQUENCY	DURATION
<input type="checkbox"/>	Student					
<input type="checkbox"/>	Personnel					
<input type="checkbox"/>	Student					
<input type="checkbox"/>	Personnel					
<input type="checkbox"/>	Student					
<input type="checkbox"/>	Personnel					
<input type="checkbox"/>	Student					
<input type="checkbox"/>	Personnel					
<input type="checkbox"/>	Student					
<input type="checkbox"/>	Personnel					
<input type="checkbox"/>	Student					
<input type="checkbox"/>	Personnel					
<input type="checkbox"/>	Student					
<input type="checkbox"/>	Personnel					
<input type="checkbox"/>	Student					
<input type="checkbox"/>	Personnel					
<input type="checkbox"/>	Student					
<input type="checkbox"/>	Personnel					
<input type="checkbox"/>	Student					
<input type="checkbox"/>	Personnel					
<input type="checkbox"/>	Student					
<input type="checkbox"/>	Personnel					

Comments:

Student Name: _____ DOB: _____ Date: _____

SUPPLEMENTARY AIDS AND SUPPORTS

Vision Screening: Pass Fail Parent Waived in Writing
 Date: _____

Hearing Screening: Pass Fail Parent Waived in Writing
 Date: _____

Comments: _____

Methods of reporting progress toward IEP goals: Quarter Semester Trimester Other: *(describe below)*

Describe how progress will be reported to parents:

Student learning strengths/preferences:

Parent priorities for enhancing student's long-term education:

How does the student's disability affect involvement and progress in the general curriculum? For preschool students, how does the student's disability affect participation in appropriate activities?

Mainstream activities to provide support for transition into general education:

CONSIDERATION OF SPECIAL FACTORS

Is the student blind or visually impaired? <input type="checkbox"/> Yes <input type="checkbox"/> No If "YES" is the instruction provided in Braille and the use of Braille? <input type="checkbox"/> Yes <input type="checkbox"/> No If "NO" state rationale based on evaluation of the student's reading and writing skills, appropriate reading and writing media, and the student's future needs for instruction in Braille and the use of Braille:	Is the student an English Language Learner (ELL)? If "YES" <input type="checkbox"/> Yes <input type="checkbox"/> No <ul style="list-style-type: none"> Have the language needs of the student been considered? <input type="checkbox"/> Yes <input type="checkbox"/> No Does the student have linguistically appropriate goals, objectives, programs and services? <input type="checkbox"/> Yes <input type="checkbox"/> No Does the student's behavior impede his or her learning or the learning of others? <input type="checkbox"/> Yes <input type="checkbox"/> No <ul style="list-style-type: none"> Have positive behavioral interventions and supports been implemented? (List on the "Supplementary Aids and Supports page") <input type="checkbox"/> Yes <input type="checkbox"/> No Have annual behavioral goals been implemented and revised as needed? <input type="checkbox"/> Yes <input type="checkbox"/> No Has a Behavior Intervention Plan (BIP) Level 1 been implemented and revised as needed? <input type="checkbox"/> Yes <input type="checkbox"/> No Has a Functional Behavioral Assessment (FBA) been completed? <input type="checkbox"/> Yes <input type="checkbox"/> No Has a Behavior Intervention Plan (BIP) Level 2 been implemented and revised as needed? <input type="checkbox"/> Yes <input type="checkbox"/> No Has the IEP team considered the student's need for assistive technology (AT) devices and services? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Needs are currently being met without AT. AT is not required at this time. <input type="checkbox"/> AT devices/services are required and will be used in designated task(s) in educational environments. <input type="checkbox"/> Further information/assessment is necessary to determine if or what AT devices and services may be required.
Is the student deaf or hard of hearing? <input type="checkbox"/> Yes <input type="checkbox"/> No If "YES" <ul style="list-style-type: none"> Have the communication needs of the student been considered? <input type="checkbox"/> Yes <input type="checkbox"/> No Has the opportunity for direct communication with peers and professional personnel in the student's communication mode and at the student's academic level been considered? <input type="checkbox"/> Yes <input type="checkbox"/> No Has the student's full range of communication needs been considered, including opportunities for direct instruction in the student's language communication mode? <input type="checkbox"/> Yes <input type="checkbox"/> No Has the IEP team considered the student's functional performance and does the student have needs in this area? <input type="checkbox"/> Yes <input type="checkbox"/> No If "YES" <ul style="list-style-type: none"> Have functional goals been developed and included in this IEP? <input type="checkbox"/> Yes <input type="checkbox"/> No 	Please explain:

Student Name: _____ DOB: _____ Date: _____

TESTING MATRIX FOR CALIFORNIA PHYSICAL FITNESS TEST (PFT)

DIRECTIONS: SELECT ALL IEP TEAM APPROVED VARIATIONS/ACCOMMODATIONS FOR UTILIZATION ON THE NEXT TEST ADMINISTRATION.

TEST VARIATION (1) / ACCOMMODATION (2)

	PFT
Administration of the test at the most beneficial time of day to the student	2
Audio amplification equipment	1
English learners (ELs) may have the opportunity to be tested separately with other ELs provided that the student is directly supervised by an employee of the school who has signed the test security affidavit and the student has been provided such a flexible setting as part of his/her regular instruction or assessment	1
Extra time on a test within a testing day	ALL
Hear the test directions printed in the test administration manual translated into the student's primary language. Ask clarifying questions about the test directions in the student's primary language	1
Manually Coded English or American Sign Language to present directions for administrations (does not apply to test questions)	1
Test administered at home or in hospital by a test examiner	2
Test administration directions that are simplified or clarified (does not apply to test questions)	ALL
Test individual student separately, provided that a test examiner directly supervises the student	1
Test students in a small group setting	ALL

Test Variation (1)

Students may have these testing variations if regularly used in the classroom.

Accommodation (2)

Eligible students shall be permitted to take the examination/test with accommodations if specified in the eligible student's IEP or Section 504 Plan for use on the examination, standardized testing, or for use during classroom instruction and assessment.

Desired Results Developmental Profile

- TYPE OF DRDP:** Code A - IFSP (Continue to receive infant/toddler special education services; transition to preschool; exit special education services)
 Code B - IEP (Continue to receive preschool special education services; transition to transitional kindergarten; transition to kindergarten; exit special education services)

ADAPTATIONS USED WITH THE DRDP ACCESS (MARK THE APPROPRIATE BOX(ES))

- Augmentative/Alternative Communication System Alternative Mode for Written Language Visual Support Assistive Equipment/Device Functional Positioning Sensory Support Alternative Response Mode

Student Name: _____ DOB: _____ Date: _____

ENGLISH LANGUAGE PROFICIENCY ASSESSMENT PARTICIPATION CONSIDERATION

PURPOSE AND USE: Alternate assessments provide an alternate means to measure the English language proficiency of students with disabilities whose individualized education program (IEP) teams have determined that they are unable to participate in the ELPAC even with universal tools, designated supports or accommodations. In order to aid an IEP team in its determination of whether a student should use alternate assessments, the following may be considered:

Check "Yes" or "No" for each item	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Does the student have a significant cognitive disability and an IEP?
<input type="checkbox"/> Yes <input type="checkbox"/> No	Is or will the student be learning content aligned with the common core standards, the California Next Generation Science Standards, or the 2012 California English Language Development (ELD) standards?
<input type="checkbox"/> Yes <input type="checkbox"/> No	Is or will the student be receiving extensive direct individualized instruction and substantial supports to achieve measurable gain?
See worksheet in library section of WebIEP or click on the link below. https://www.cde.ca.gov/ta/tg/ca/documents/altassessmentdecision.pdf	

EXTENT OF PARTICIPATION IN NEXT STATEWIDE ASSESSMENT PROGRAM	
ELPAC	
<input type="checkbox"/> OPTION 1:	CODE 60-ELPAC <u>with</u> TESTING ACCOMMODATIONS CODE 70-ELPAC <u>without</u> TESTING ACCOMMODATIONS ELPAC ONLY
<input type="checkbox"/> OPTION 2:	CODE 61-ELPAC Partial <u>with</u> Testing Accommodations CODE 71-ELPAC Partial <u>without</u> Testing Accommodations ELPAC PARTIAL PARTICIPATION: 1 SUBTEST FROM ORAL DOMAIN & 1 SUBTEST FROM WRITTEN DOMAIN (ALTERNATE ASSESSMENT NOT NEEDED) Indicate which subtest(s) student will participate in below. <u>Student must participate in at least 1 subtest from the oral domain and 1 from the written domain.</u> ORAL DOMAIN: <input type="checkbox"/> Listening <input type="checkbox"/> Speaking WRITTEN DOMAIN: <input type="checkbox"/> Reading <input type="checkbox"/> Writing
<input type="checkbox"/> OPTION 3:	CODE 85-ELPAC NOT TO PARTICIPATE (ALTERNATE ASSESSMENT MUST BE TAKEN) <input type="checkbox"/> http://www.vcselpa.org/LinkClick.aspx?fileticket=QUL-LcSs2dY%3d&portalid=0 (To be used only on Initial Evaluations)

DESERT/MOUNTAIN CHARTER SELPA STEERING and FINANCE COMMITTEE MEETING

October 21, 2021 – 1:00 p.m.

Desert Mountain Educational Service Center, 17800 Highway 18, Apple Valley CA 92307

MINUTES

D/M CHARTER SELPA MEMBERS PRESENT:

Allegiance STEAM – Callie Moreno, Aveson Global/Aveson School of Leaders – Kelly Jung, Desert Trails Preparatory Academy (DTPA)/LaVerne Elementary Prep (LEPA) – Sarah Ballard-Wiley, Debra Tarver, Elite Academic Academy – Susana Waisman, Encore Jr/Sr High – Esther Haskins, Julia Lee Performing Arts Academy – Mika Klepper, Leonardo da Vinci Health Sciences Charter – Courtney Cox, Pasadena Rosebud – Shawn Brumfield, Pathways to College – Craig Merrill, Taylion High Desert – Brenda Congo, and Virtual Prep Academy in Lucerne – Malia Lovelle.

CAHELP, SELPA, & DMCC STAFF PRESENT:

Jamie Adkins, Heidi Chavez, Lindsey Devor, Peggy Dunn, Thomas Flores, Marina Gallegos, Derek Hale, Jenae Holtz, Linda Llamas, Maurica Manibusan, Angela Mgebeke, Sheila Parisian, Kathleen Peters, Daria Raines, Linda Rodriguez, Veronica Rousseau, Adrienne Shepherd-Myles, Jessica Soto, Jennifer Sutton, Stephanie Sweem, and Athena Vernon.

1.0 CALL TO ORDER

The regular meeting of the California Association of Health and Education Linked Professions Joint Powers Authority (CAHELP JPA) Desert/Mountain Charter SELPA Steering and Finance Committee Meeting was called to order by Chairperson Jenae Holtz, at 1:03 p.m., at the Desert/Mountain Educational Service Center, Apple Valley.

2.0 ROLL CALL

3.0 PUBLIC PARTICIPATION

None.

4.0 ADOPTION OF THE AGENDA

4.1 **BE IT RESOLVED** that a motion was made by Debbie Tarver, seconded by Callie Moreno, to approve the October 21, 2021, Desert/Mountain Charter SELPA Steering and Finance Committee Meeting Agenda as presented. The motion was carried on the following vote 11:0: Ballard-Wiley, Brumfield, Congo, Cox, Haskins, Jung, Klepper, Lovell, Merrill, Moreno, and Waisman. Nays: None, Abstentions: None.

5.0 INFORMATION/ACTION

5.1 Assembly Bill 361 Exemptions to Brown Act Virtual Meeting Requirements

Assembly Bill (AB) 361 requires local agencies to consider the circumstances of the state of emergency and make the following findings by a majority vote: 1) the state of emergency continues

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MINUTES

to directly impact the ability of the members to meet safely in person; or 2) state or local officials continue to impose or recommend measures to promote social distancing.

5.1.1 **BE IT RESOLVED** that a motion was made by Sarah Ballard-Wiley, seconded by Brenda Congo, to approve the Assembly Bill 361 Exemptions to Brown Act Virtual Meeting Requirements as presented. The motion was carried on the following vote 11:0: Ballard-Wiley, Brumfield, Congo, Cox, Haskins, Jung, Klepper, Lovell, Merrill, Moreno, and Waisman. Nays: None, Abstentions: None.

6.0 CONSENT ITEMS

It is recommended that the Charter Steering Committee consider approving several Agenda items as a Consent list. Consent Items are routine in nature and can be enacted in one motion without further discussion. Consent items may be called up by any Committee Member at the meeting for clarification, discussion, or change.

6.1 **BE IT RESOLVED** that a motion was made by Debbie Tarver, seconded by Brenda Congo, to approve the following Consent Items as presented. The motion was carried on the following vote 11:0: Ballard-Wiley, Brumfield, Congo, Cox, Haskins, Jung, Klepper, Lovell, Merrill, Moreno, and Waisman. Nays: None, Abstentions: None.

6.1.1 Approve the September 23, 2021, Desert/Mountain Charter SELPA Steering and Finance Committee Meeting Minutes.

7.0 CHIEF EXECUTIVE OFFICER AND STAFF REPORTS

7.1 Legislative Updates

Jenae Holtz presented the Legislative Updates. Jenae reported the following:

- Assembly Bill (AB) 438 provides classified employees the same rights to layoff notice procedures as certificated staff effective January 1, 2022.
- AB 101 requires LEAs serving grades 91-2 to offer at least a one-semester course in ethnic studies, beginning in the 2025-26 school year.
- AB 599 updates the criteria used to identify schools for inspections by the county superintendent of schools for purposes of the Williams settlement.
- Senate Bill (SB) 14 adds “for the benefit of the pupil’s mental or behavior health” to the definition of an excused absence due to a pupil’s illness.
- SB 156 pertains to the digital divide and funding to ensure digital support for all.

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7.2 Desert/Mountain Charter SELPA Policy and Procedure Chapter 14 Appendix B

Jenae Holtz presented the updated D/M Charter SELPA Policy and Procedure Chapter 14 Appendix B Non-Exclusive List of Qualified Examiners. The rate sheet will also be updated with an increase in rate allowance that will be presented at a later meeting.

7.3 Revised 2021-22 D/M Charter SELPA Steering and Finance Committee Calendar of Meetings

Jenae Holtz presented the revised 2021-22 D/M Charter SELPA Steering and Finance Committee Calendar of Meetings. Jenae said the revision for the March 2022 meeting was due to a conflict with the Alternative Dispute Resolution Conference.

7.4 Desert/Mountain Children’s Center Client Services Reports and Updates

Linda Llamas presented the Desert/Mountain Children’s Center Client Services monthly reports.

7.5 Professional Learning Summary

Heidi Chavez presented the D/M Charter SELPA’s Professional Learning Summary.

Heidi reminded the committee member of the Directors’ Training scheduled for October 22, 2021, with a presentation by Atkinson, Andelson, Loya, Ruud, and Romo (AALRR).

Heidi also reported the next Community Advisory Committee (CAC) meeting is scheduled for Thursday, November 18, 2021, and will be virtual. The presentation is Best Practices for Supporting Learners with Autism in All Environments. Heidi continued the CAC Representative meeting starts at 5:00pm with the presentation starting at 5:30pm.

7.6 Resolution Support Services Summary and Updates

Kathleen Peters presented the D/M Charter SELPA’s Resolution Support Services Summary and updates. She shared CAHELP JPA entered a contract with AALRR this year to work with E.B Bell who is sensitive to how the law is applied in the school system and brings the experience of a teacher.

Kelly Jung shared that in working with AALRR for current cases, their team is thorough and educates her staff throughout the process so they can make improvements in future cases. She continued that her LEA receives a weekly case summary.

Kathleen reviewed a letter provided by Attorneys Lozano Smith regarding frequent absences of students in special education. The letter contains guidance in how to respond when a student in special education has excessive absences. Kathleen continued that students in special education

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and general education must have the same responses to attendance along with interventions to determine if their absences are related to provision of services or their disability.

Kathleen then provided information on a new civil rights class action complaint that was filed on October 8, 2021, with United States Department of Justice pertaining to students at risk of COVID-19 with immune disorders and weakened lungs who cannot attend school in person for safety reasons. She said if there are provisions of special education that do not necessarily include independent study, those should be provided.

Kathleen reported that in Massachusetts, an advocate filed a retaliation claim because a school superintendent spoke against parents using the advocate. She said parents have the right to choose who speaks for them.

Kathleen also reported on a case in the 11th Circuit Court of Appeals regarding Right to Intervention (RTI) system and 504 Plans. She said a student was doing well in the pyramid of interventions and the school did not view the student as needing additional supports. The parent provided a doctor's verification of the student's attention deficit hyperactivity disorder (ADHD) but the school district did not move forward with assessment because they did not believe the student needed additional supports. Kathleen said the case decision was that the school district did violate Child Find by not assessing as soon as they suspected a disability.

7.7 Prevention and Intervention Updates

Athena Vernon reminded the committee members of the drive through recognition event scheduled for Thursday, October 28, 2021.

7.8 Compliance Update

Peggy Dunn presented an update on compliance items from the California Department of Education (CDE). She said that at this time, there are no updates for Significant Disproportionality. Peggy continued that most LEAs have submitted for Disproportionality. She reported CDE sent a memo to Jenae Holtz regarding overdue assessments that provides two links providing the number of late initials and/or overdue annuals. The data in the links is from October but will be pulled again in early November. Peggy said CDE is looking for significant reduction for LEAs to avoid intensive monitoring and targeted monitoring. She reported that Colette Garland has sent the October Pupil Count Memo to the directors and asked for the timelines be adhered to. Peggy said the Interim Placement form is active in Web IEP. Peggy concluded that Colette will be scheduling one-hour virtual one-on-one meetings with directors.

Jenae Holtz explained the CDE will not quantify significant reduction. She said it is important to make every attempt to correct errors to show effort is being made.

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Peggy asked to be contacted if any LEA cannot view their data so she can provide the spreadsheet.

8.0 FINANCE COMMITTEE REPORTS

9.0 INFORMATION ITEMS

- 9.1 Pupil Count/CALPADS Certification Memo
- 9.2 Monthly Occupational & Physical Therapy Services Reports
- 9.3 Upcoming Professional Learning Opportunities

10.0 STEERING COMMITTEE MEMBERS COMMENTS / REPORTS

Sarah Ballard-Wiley asked a case specific question and spoke with Kathleen Peters after the meeting.

11.0 CEO COMMENTS

Jenae Holtz announced new CEO Pamela Bender is starting on November 1, 2021 and shared some of Pam's work experience.

12.0 MATTERS BROUGHT BY THE PUBLIC

None.

13.0 ADJOURNMENT

Having no further business to discuss, a motion was made by Debbie Tarver, seconded by Brenda Congo, to adjourn the meeting. The motion was carried on the following vote 11:0: Ballard-Wiley, Brumfield, Congo, Cox, Haskins, Jung, Klepper, Lovell, Merrill, Moreno, and Waisman. Nays: None, Abstentions: None.

The next regular meeting of the Desert/Mountain Charter SELPA Steering Committee will be held on Thursday, November 18, 2021, at 1:00 p.m., at the Desert Mountain Educational Service Center, Aster/Cactus Room, 17800 Highway 18, Apple Valley, CA 92307.

Individuals requiring special accommodations for disabilities are requested to contact Jamie Adkins at (760) 955-3555, at least seven days prior to the date of this meeting.

SELPA Tracked Bills 11/1/2021

[AB 104](#) ([Gonzalez, Lorena D](#)) Pupil instruction: retention, grade changes, and exemptions.

Current Text: Chaptered: 7/1/2021 [html](#) [pdf](#)

Introduced: 12/11/2020

Last Amend: 6/2/2021

Status: 7/1/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 41, Statutes of 2021.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would, for the 2021–22 academic year, require a school district, county office of education, or charter school to implement a supplemental policy regarding the retention of pupils who, in the 2020–21 academic year, received deficient grades, as specified, for at least 1/2 of the pupil’s coursework, except for pupils enrolled in grade 12 during the 2020–21 academic year. The bill would require a school district, county office of education, or charter school, as part of that policy and within 30 calendar days of receiving a written retention consultation request from a parent, to conduct the consultation with the parent, the pupil, the administrator, and a teacher, and would require the consultation to include a discussion of all available learning recovery options, research on the effects of retention and the benefits of particular interventions and supports, and consideration of the pupil’s academic data and any other information relevant to whether retention is in the pupil’s best interests, academically and socially. The bill would require a retention decision to be consistent with a pupil’s individualized education program

Position
Watch

[AB 126](#) ([Garcia, Eduardo D](#)) Special education programs: Family Empowerment Centers on Disability.

Current Text: Amended: 4/5/2021 [html](#) [pdf](#)

Introduced: 12/18/2020

Last Amend: 4/5/2021

Status: 7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was ED. on 6/16/2021) (May be acted upon Jan 2022)

Desk	Policy	Fiscal	Floor	Desk	2 year	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law requires the State Department of Education to award grants for the establishment of Family Empowerment Centers on Disability in 32 regions in the state to provide training and services to children and young adults with disabilities and their families. Current law establishes a minimum base rate of \$150,000 for each center awarded a grant and requires a center that receives a grant to complete specified actions related to providing that training and those services. Current law establishes a Family Empowerment and Disability Council composed of the executive directors of the centers and certain other members, establishes a base amount of \$150,000 to be made available annually to the council, and requires the council to, among other actions, develop a uniform tracking and data collection system to be used by each center. This bill would revise and recast the provisions related to Family Empowerment Centers on Disability, including requiring the department to award grants by March 1, 2022, to applicants in those of the 32 regions in the state that do not have a center and to give priority to certain applicants, increasing the minimum base rate for each center awarded a grant from \$150,000 to \$246,000 commencing on July 1, 2021, and, commencing with the 2022–23 fiscal year, providing for an annual cost-of-living adjustment of the grant amount, as specified.

Position
Support

[AB 130](#) ([Committee on Budget](#)) Education finance: education omnibus budget trailer bill.

Current Text: Chaptered: 7/9/2021 [html](#) [pdf](#)

Introduced: 1/8/2021

Last Amend: 7/5/2021

Status: 7/9/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 44, Statutes of 2021.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law places various requirements on county superintendents of schools and the Superintendent of Public Instruction in reviewing and determining whether a county office of education’s adopted budget will allow the county office of education to meet its financial obligations during the fiscal year and, based on current forecasts, for 2 subsequent fiscal years. This bill would revise certain requirements on county superintendents of schools and the Superintendent regarding

determinations of fiscal distress for county offices of education, and would require the Superintendent to provide a written notice of going concern determination to the county board of education and the county superintendent of schools under certain circumstances.

Position
Watch

[AB 167](#) (Committee on Budget) Education finance: education omnibus budget trailer bill.

Current Text: Chaptered: 9/23/2021 [html](#) [pdf](#)

Introduced: 1/8/2021

Last Amend: 9/6/2021

Status: 9/23/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 252, Statutes of 2021.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law establishes the California Prekindergarten Planning and Implementation Grant Program as a state early learning initiative with the goal of expanding access to classroom-based prekindergarten programs at local educational agencies, defined as school districts, county offices of education, and charter schools. Current law appropriates \$300,000,000 from the General Fund to the State Department of Education for allocation to local educational agencies for grants for the 2021-22 fiscal year. Current law requires the Superintendent of Public Instruction to allocate \$200,000,000 of that amount to local educational agencies as base grants, enrollment grants, and supplemental grants for specified purposes. This bill would revise the methodology for allocating base grants, enrollment grants, and supplemental grants to local educational agencies under the program.

Position
Watch

[AB 555](#) (Lackey R) Special education: assistive technology devices.

Current Text: Introduced: 2/10/2021 [html](#) [pdf](#)

Introduced: 2/10/2021

Status: 5/7/2021-Failed Deadline pursuant to Rule 61(a)(3). (Last location was ED. on 2/18/2021)(May be acted upon Jan 2021)

Desk	2 year	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would authorize a local educational agency or special education local plan area to retain, sell, or otherwise dispose of an assistive technology device, including, but not limited to, giving the assistive technology device to the individual with exceptional needs to whom it was assigned, if specified determinations are made.

Position
Watch

[AB 586](#) (O'Donnell D) Pupil health: health and mental health services: School Health Demonstration Project.

Current Text: Amended: 6/23/2021 [html](#) [pdf](#)

Introduced: 2/11/2021

Last Amend: 6/23/2021

Status: 7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was ED. on 6/9/2021) (May be acted upon Jan 2022)

Desk	Policy	Fiscal	Floor	Desk	2 year	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would establish, within the State Department of Education, the School Health Demonstration Project, a pilot project, to be administered by the department, in consultation with the State Department of Health Care Services, to expand comprehensive health and mental health services to public school pupils by providing training and support services to selected local educational agencies to secure ongoing Medi-Cal funding for those health and mental health services, as provided.

Position
Support

[AB 967](#) (Frazier D) Special education: COVID-19 Special Education Fund.

Current Text: Amended: 5/24/2021 [html](#) [pdf](#)

Introduced: 2/17/2021

Last Amend: 5/24/2021

Status: 7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was ED. on 6/16/2021) (May be acted upon Jan 2022)

Desk	Policy	Fiscal	Floor	Desk	2 year	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: This bill establish in the State Treasury the COVID-19 Special Education Fund and would require moneys in the fund to be used by the State Department of Education, upon appropriation, for purposes of providing matching funds, on a one-to-one basis, to support local educational agencies in conducting activities to prevent and intervene early in conflicts, conduct voluntary alternative dispute resolution, and provide services to pupils with disabilities relating to individually determined impacts to learning associated with COVID-19 pandemic school disruptions, as provided. The bill would require a local educational agency to submit an application for funding to their special education local plan area to be eligible for these funds.

Position
Sponsor

SB 3

(Caballero D) Education finance: local control and accountability plan portal.

Current Text: Amended: 4/27/2021 [html](#) [pdf](#)

Introduced: 12/7/2020

Last Amend: 4/27/2021

Status: 5/25/2021-Failed Deadline pursuant to Rule 61(a)(5). (Last location was ED. on 5/5/2021)(May be acted upon Jan 2022)

Desk	2 year	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would require the State Department of Education to develop, on or before January 1, 2022, a local control and accountability plan portal that will allow comprehensive analysis by policymakers of actions, expenditures, and progress on metrics included within local control and accountability plans adopted by local educational agencies. The bill would require the portal to include a tracking mechanism for school districts, county offices of education, and charter schools to use to report the types of services on which they spend their supplemental and concentration grant funds. Commencing July 1, 2022, the bill would require each local educational agency, as a condition of receiving supplemental and concentration grant funds, to annually report to the department the types of services on which it spends its supplemental and concentration grant funds using the portal developed by the department.

Position
Watch

SB 130

(Committee on Budget and Fiscal Review) Education finance: education omnibus budget trailer bill.

Current Text: Amended: 7/5/2021 [html](#) [pdf](#)

Introduced: 1/8/2021

Last Amend: 7/5/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was BUDGET on 1/8/2021)(May be acted upon Jan 2022)

Desk	Policy	Fiscal	Floor	Desk	2 year	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law places various requirements on county superintendents of schools and the Superintendent of Public Instruction in reviewing and determining whether a county office of education's adopted budget will allow the county office of education to meet its financial obligations during the fiscal year and, based on current forecasts, for 2 subsequent fiscal years. This bill would revise certain requirements on county superintendents of schools and the Superintendent regarding determinations of fiscal distress for county offices of education, and would require the Superintendent to provide a written notice of going concern determination to the county board of education and the county superintendent of schools under certain circumstances.

Position
Watch

SB 167

(Committee on Budget and Fiscal Review) Education finance: education omnibus budget trailer bill.

Current Text: Amended: 9/7/2021 [html](#) [pdf](#)

Introduced: 1/8/2021

Last Amend: 9/7/2021

Status: 9/10/2021-Failed Deadline pursuant to Rule 61(a)(15). (Last location was BUDGET on 9/10/2021)(May be acted upon Jan 2022)

Desk	Policy	Fiscal	Floor	Desk	2 year	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law establishes the California Prekindergarten Planning and Implementation Grant

Program as a state early learning initiative with the goal of expanding access to classroom-based prekindergarten programs at local educational agencies, defined as school districts, county offices of education, and charter schools. Current law appropriates \$300,000,000 from the General Fund to the State Department of Education for allocation to local educational agencies for grants for the 2021–22 fiscal year. Current law requires the Superintendent of Public Instruction to allocate \$200,000,000 of that amount to local educational agencies as base grants, enrollment grants, and supplemental grants for specified purposes. This bill would revise the methodology for allocating base grants, enrollment grants, and supplemental grants to local educational agencies under the program.

Position

Watch

SB 237 (Portantino D) Special education: dyslexia risk screening.

Current Text: Amended: 6/28/2021 [html](#) [pdf](#)

Introduced: 1/21/2021

Last Amend: 6/28/2021

Status: 7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was ED. on 6/10/2021) (May be acted upon Jan 2022)

Desk	Policy	Fiscal	Floor	Desk	2 year	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered	
1st House				2nd House								

Summary: Would require, on or before June 30, 2022, the State Board of Education to establish an approved list of culturally, linguistically, and developmentally appropriate screening instruments to be used by a local educational agency, as defined, to screen pupils for risk of dyslexia, as provided. The bill would require, beginning in the 2022–23 school year, and annually thereafter, a local educational agency serving pupils in any of the grades kindergarten to grade 2, inclusive, to screen each pupil in those grades for risk of dyslexia by using the screening instrument or instruments identified above, as provided. The bill would also require, during the 2022–23 school year, a local educational agency serving pupils in grade 3 to screen each pupil. The bill would require results from the screening, among other things, to be made available to a pupil’s parent or guardian in a timely manner, but no more than 45 calendar days from administering the screening. The bill would require a local educational agency to provide a pupil identified as being at risk for dyslexia with appropriate instruction, progress monitoring, and early intervention in the regular general education program.

Position

Watch

SB 291 (Stern D) Advisory Commission on Special Education: pupil advisory council.

Current Text: Amended: 5/20/2021 [html](#) [pdf](#)

Introduced: 2/1/2021

Last Amend: 5/20/2021

Status: 6/4/2021-Failed Deadline pursuant to Rule 61(a)(8). (Last location was INACTIVE FILE on 6/3/2021)(May be acted upon Jan 2022)

Desk	Policy	Fiscal	2 year	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered	
1st House				2nd House								

Summary: Current law establishes the Advisory Commission on Special Education as an entity in state government consisting of 17 members to, among other things, study and provide assistance and advice to the State Board of Education, the Superintendent of Public Instruction, the Legislature, and the Governor in new or continuing areas of research, program development, and evaluation in special education. This bill would establish an advisory council, composed of 10 pupils with exceptional needs from 16 to 24 years of age, inclusive, who represent all geographic regions of the state, to provide the commission with advice and input from current pupils with exceptional needs. The bill would require the state board to nominate a pool of qualified candidates for appointment to the council and would require the Superintendent to appoint the members of the council from the pool of candidates nominated by the state board.

Position

Support

SB 328 (Portantino D) Local educational agencies: before and after school programs: middle school and high school start time.

Current Text: Amended: 4/27/2021 [html](#) [pdf](#)

Introduced: 2/5/2021

Last Amend: 4/27/2021

Status: 7/14/2021-Failed Deadline pursuant to Rule 61(a)(11). (Last location was ED. on 5/28/2021) (May be acted upon Jan 2022)

Desk	Policy	Fiscal	Floor	Desk	2 year	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered	
1st House				2nd House								

Summary: Would require the State Department of Education and the State Department of Social

Services to review funding for all after school programs offered in the state under their respective jurisdiction, including, but not limited to, the After School Education and Safety Program and programs supported by federal funding, and to, by regulation, provide flexibility to school districts to use up to 20% of funds provided for after school programs under their respective jurisdiction for before school programs if that flexibility is not prohibited by the After School Education and Safety Program Act of 2002, an initiative statute approved by the voters at the November 5, 2002, statewide general election as Proposition 49, or federal law.

Position
Watch

SB 639 (Durazo D) Minimum wages: persons with disabilities.

Current Text: Chaptered: 9/27/2021 [html](#) [pdf](#)

Introduced: 2/19/2021

Last Amend: 8/30/2021

Status: 9/27/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 339, Statutes of 2021.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law establishes a minimum wage for all industries and makes it a crime to pay an employee less than the minimum wage fixed by the Industrial Welfare Commission. Current law, however, permits the commission to issue an employee who is mentally or physically disabled, or both, a special license authorizing the employment of the licensee for a period not to exceed one year from date of issue, at a wage less than the minimum wage. Current law requires the commission to fix a special minimum wage for the licensee, which may be renewed on a yearly basis. This bill would prohibit new special licenses from being issued after January 1, 2022. The bill would permit a license to only be renewed for existing licenseholders who meet requisite benchmarks. The bill would make the above-described provision authorizing a lesser minimum wage for an employee who is mentally or physically disabled inoperative on January 1, 2025, or when the multiyear phaseout plan as specified is released, whichever is later.

Position
Support

SB 692 (Cortese D) Local control and accountability plans: state priorities: least restrictive environment.

Current Text: Amended: 7/13/2021 [html](#) [pdf](#)

Introduced: 2/19/2021

Last Amend: 7/13/2021

Status: 8/27/2021-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/19/2021)(May be acted upon Jan 2022)

Desk	Policy	Fiscal	Floor	Desk	Policy	2 year	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law requires the State Board of Education to adopt evaluation rubrics to, among other things, assist a school district, county office of education, or charter school in evaluating its strengths, weaknesses, and areas that require improvement. Current law requires, as part of the evaluation rubrics, the state board to adopt state and local indicators to measure school district and individual schoolsite performance in regard to each of the state priorities. Current law requires the State Department of Education, in collaboration with, and subject to the approval of, the executive director of the state board, to develop and maintain the California School Dashboard, a Web-based system for publicly reporting performance data on the state and local indicators. Current law also requires, as part of the evaluation rubrics, the state board to adopt performance criteria for local educational agency assistance and intervention. This bill would add the least restrictive environment, as measured by the above-referenced federal indicator, as another local measure of the state priority of school climate, as specified. The bill would require the standards for this local measure to be consistent with the state's targets for the federal indicators and other specified federal indicators for federal fiscal year 2020.

Position
Watch

Total Measures: 15
Total Tracking Forms: 15

Interim Placement for Students Transferring into LEA

REVIEW INCOMING IEP
Who: Administrator / Case Manager
Can COMPARABLE SERVICES be provided for the student in the following scenarios?

1

Transfers within SELPA

If YES,

- Implement IEP immediately including services comparable to those in previously approved IEP in consultation with parent
- Best practice is to review student's current performance data and meet with the parent (30 day review)

2

Transfers Outside of SELPA

If YES,

- Implement IEP immediately including services comparable to those in previously approved IEP in consultation with parent not to exceed 30 days
- IEP review/addendum within 30 days:
 - Adopt previously approved IEP, or develop, adopt, implement new IEP
 - Transfer onto SELPA WebIEP forms

3

Transfer from Out of State

If YES,

- Implement IEP immediately including services comparable to those in previously approved IEP in consultation with parent
- Best practice is to review student's current performance data (30 day review)
- Determine if assessment is necessary
- Hold IEP meeting to develop a new IEP
- Transfer onto SELPA WebIEP forms

If comparable services CANNOT be provided

- Schedule Addendum IEP meeting immediately:
 - Discuss substantive changes and program options - offer FAPE
 - Refer to appropriate transfer option above

For LEAs that have an agreement with D/M Operations: List the related and itinerant services provided by D/M Operations as comparable services on page 2 of the Interim Placement form





Fagen Friedman & Fulfroost LLP

My Name Is...

A Legal and Practical Framework for Affirming Students' Identities in their Records and in the School Setting



F3law.com

Introduction

- Collection of laws intended to support transgender and gender diverse students.
 - Student-centered, intended to honor student's self-identification
- Navigating these legal requirements can be logistically challenging, as schools strive to both comply with record-keeping requirements and protect and support transgender and gender diverse students
- With this presentation, we hope to guide you through legal requirements and practical considerations for supporting students



Roadmap

- What are student records?
- When may transgender and gender diverse students use their chosen name, identified gender, and preferred pronouns in the school setting and in their student records?
- Considerations for changing a student's records:
 - Current students
 - Is parent consent required?
 - Existing records
 - Prospective records
 - Former students



Roadmap

- Supporting transgender and gender diverse students on campus
 - Schoolwide support for students and staff
 - Access to facilities
 - Talking to the school community
 - Dress code
 - Curriculum
 - Bullying and harassment
 - Special education



A NOTE ABOUT LANGUAGE



Key Terms

- **“Gender”** means sex, and includes a person's gender identity and gender expression. (Education Code Section 210.7)
- **“Gender expression”** refers to external cues that one uses to represent or communicate one's gender to others, such as behavior, clothing, hairstyles, activities, voice, mannerisms, or body characteristics.
- **“Gender identity”** is a person's deeply held sense or psychological knowledge of their own gender, regardless of the gender they were assigned at birth. Everyone has a gender identity.

<https://www.cde.ca.gov/re/di/eo/faqs.asp>



Key Terms

- LGBT, LGBTQ, and LGBTQ+
- “Deadname” and “Deadnaming”
- Words We Use to Discuss Gender Identity
 - Transgender
 - Nonbinary
 - Gender Non-Conforming
 - Genderfluid
 - Genderqueer
 - Agender
 - Cisgender
 - AMAB (assigned male at birth)
 - AFAB (assigned female at birth)
 - ...and more!



Personal Pronouns

- The words you use in place of someone's proper name
 - she/her, they/them, they/he, ze/zir, etc.
- If you don't know someone's personal pronouns, ask!
 - Ask in a manner that is respectful and mindful of the person's privacy
- Teachers may give students a "Get To Know You" form at the start of the school year. Consider adding a question about the student's pronouns to the form.



Using Gender-Inclusive Language

- Singular “they” is already a gender-neutral pronoun in standard English.
 - E.g., “Someone left *their* notebook here.”
 - Where appropriate, use “they” instead of “he or she,” and “their” instead of “his or hers”
- Beyond pronouns, promote inclusivity by using gender-neutral terms other communications.
 - E.g., instead of saying “mom and dad,” say “parents”



WHAT ARE STUDENT RECORDS?



First, a note about FERPA...

- Family Educational Rights and Privacy Act
- Federal law that protects the privacy of student records
- In CA, LEA's obligation regarding whether and when to change a student's name and/or gender in their records depends on the type of record it is under state law, not federal law.
 - So here, we will focus on the categories of records described in state law, not FERPA



Pupil Records, Defined

- Any item of information
- Directly related to an identifiable pupil
- Maintained by a school district or required to be maintained by an employee in the performance of their duties

See Ed. Code §49061



Pupil Records, Defined

- “Pupil record” does NOT include:
 - Directory information: one or more of the following items: pupil’s name, address, telephone number, date of birth, email address, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous public or private school attended by the pupil
 - Informal notes related to a pupil compiled by a school officer or employee that remain in the sole possession of the maker and are not accessible or revealed to any other person except a substitute.

See Ed. Code §49061



Three Types of Pupil Records

1. Mandatory Permanent Pupil Records
 2. Mandatory Interim Pupil Records
 3. Permitted Pupil Records
- Law describes characteristics of each record type
 - Law does NOT say what specific records fall into each category
 - Depends on each district's board policies
 - Category of a specific record may vary from district to district



Three Types of Pupil Records

- A student's name will appear in every type of record.
- A student's gender may not appear in all records
 - But gendered pronouns (he/him, she/her) may appear!
- For transgender and gender diverse students, do you use the student's:
 - Legal name or chosen name?
 - Assigned gender or identified gender? Assigned or preferred pronouns?



Three Types of Pupil Records

- Use legal name or chosen name?
- Mandatory permanent pupil records include/require a student's **legal** name. Other types do not.
 - For mandatory permanent pupil records ONLY: Need legal documentation of name change to update student's legal name
 - All other types of records: Upon request, use student's chosen name, whether or not district has received legal documentation
 - But whose request?



Three Types of Pupil Records

- Use assigned gender or identified gender?
Assigned or preferred pronouns?
- For mandatory permanent pupil records ONLY
 - We are not aware of any legal authority that requires legal documentation to change a student's gender within their mandatory permanent pupil record
 - We are also not aware of any legal authority that prohibits use of legal documentation to change a student's gender in mandatory permanent pupil records



Three Types of Pupil Records

- Mandatory permanent pupil records continued:
 - CALPADS guidance: "There is no specific requirement regarding what documents LEAs should review or require, or what specific process LEAs should follow, in determining the gender to be recorded on the mandatory permanent pupil record, or whether and when to update that recorded gender."
 - Note that you do not need a court ordered recognition of gender change to change your California driver's license, California birth certificate, social security card, or U.S. passport.
- All other types of records: Upon request, use student's identified gender and preferred pronouns
 - But whose request?

<https://www.cde.ca.gov/ds/sp/cl/calpadsupdf158.asp>

<https://www.courts.ca.gov/25797.htm>



Mandatory Permanent Pupil Records

- Maintained in perpetuity (either original or exact copy).
- Records which schools are required to compile by state law or administrative directive.
- Records (either original or exact copy) are forwarded upon request if the student enrolls or intends to enroll in another public or private school.
- **The only record “type” that requires a student’s LEGAL name!**
- **Need legal verification of a name change in order to change a student’s name in this type of record.**

See 5 CCR § 430(d)(1) and 5 CCR § 432(b)(1).



Mandatory Permanent Pupil Records

- Such records shall include:
 - **Legal name of pupil.**
 - Date of birth.
 - Method of verification of birth date.
 - **Sex of pupil.**
 - Place of birth.
 - Name and address of parent of minor pupil.
 - Address of minor pupil if different than the above.
 - An annual verification of the name and address of the parent and the residence of the pupil.
 - Entering and leaving date of each school year and for any summer session or other extra session.
 - Subjects taken during each year, half-year, summer session, or quarter.
 - If marks or credit are given, the mark or number of credits toward graduation allows for work taken.
 - Verification of or exemption from required immunizations.
 - Date of high school graduation or equivalent.

See 5 CCR § 432(b)(1).



Mandatory Permanent Pupil Records

- To determine if a record falls into this category:
 - Check state statutes and regulations
 - Check list in 5 CCR § 432(b)(1)
 - Check District's board policies and administrative regulations
 - Is District required to retain any records in perpetuity?
- Depending on board policies, common examples may include:
 - Transcript. But consider:
 - Official transcript?
 - Unofficial transcript?
 - California School Immunization Record ("CSIR Cards")
 - Verification of birth documents (e.g., birth certificate)



Mandatory Interim Pupil Records

- Records which schools are required to maintain for stipulated periods of time and then destroy, as required by state law or administrative directive
- Do not need legal verification to change a student's name and/or gender on these records

See 5 CCR §430(d)(2) and 5 CCR §432(b)(2).



Mandatory Interim Pupil Records

■ Such records include:

- A log identifying people or organizations outside the school requesting or receiving information from the record.
- Health information, including Child Health Developmental Disabilities Prevention Program verification or waiver.
- Participation in special education programs including required tests, case studies, authorizations, and actions necessary to establish eligibility for admission or discharge.
- Language training records.
- Progress slips, grade reports, report cards as required by Education Code Sections 49066 and 49067
- Parental restrictions regarding access to directory information or related stipulations.
- Parent or adult pupil responses to challenged records and to disciplinary action.
- Parental authorizations or prohibitions of pupil participation in specific programs.
- Results of standardized tests administered within the preceding three years.

5 CCR §432(b)(2).



Mandatory Interim Pupil Records

- To determine if a record falls into this category:
 - Check state statutes and regulations
 - Check District's board policies and administrative regulations
 - Is District required to retain any records for X amount of time, and then destroy the record?
- Depending on board policies, common examples may include:
 - Progress reports
 - Report cards
 - Special education assessments
 - IEPs
 - 504 Plans
 - Standardized test scores
 - ELPAC/CELDT scores
 - Disciplinary records: **ONLY** responses/appeals received from parent or adult student



Permitted Pupil Records

- Important to the current educational process of the student
- May be maintained for appropriate educational purposes
- Do not need legal verification to change a student's name and/or gender on these records
- Depending on board policies, common examples may include:
 - Objective counselor and/or teacher ratings.
 - Routine discipline data and disciplinary notices.
 - Attendance records

See 5 CCR §430(d)(3) and 5 CCR §432(b)(3).



Other Relevant School Records

- Schools generate lots of other items that may include a student's name and/or gender. Such items may or may not be pupil records. For example:
 - Student ID cards or badges
 - Classroom and homeroom rosters
 - Sports and other extracurricular team rosters
 - School newspapers or newsletters
 - Yearbooks
 - Certificates or awards
 - Letters home to parents



A Note About Diplomas

- Type of record that diploma falls under may vary from district to district, depending on board policy
- We can locate no legal authority that a diploma must have a student's legal name on their diploma
- AB 245 (2021): Public colleges in CA must allow use of student's chosen name on diploma, regardless of legal documentation



CREATING PROSPECTIVE RECORDS OF CURRENT STUDENTS



Is Parent Consent Required?

- To use a student's chosen name and/or gender in their prospective records
- Two schools of thought:
 1. No, do not require parent consent
 - CDE guidance supports this approach
 2. Yes, require parent consent
 - No specific legal requirement for this
- **Disclaimer! Mandatory Permanent Pupil Records**
 - Legal documentation is required to change a student's name in these records
 - As discussed previously, unclear whether legal documentation is required to change student's gender in these records
 - Discussion of parent consent applies to all other records



Regardless of Option...

- Student has the right to privacy regarding their gender identity and transgender status
- Upon request, staff must use student's chosen name and preferred pronouns at school
 - Deliberate use of a student's incorrect name could constitute bullying or harassment and should be dealt with accordingly
- CDE: "If a student so chooses, district personnel shall be required to address the student by a name and the pronouns consistent with the student's gender identity, without the necessity of legal documentation or a change to the student's official district record."

<https://www.cde.ca.gov/re/di/eo/faqs.asp>



Option 1: Parent Consent NOT Required

- Can update student's name and/or gender in their records (prospectively) without parent consent or knowledge
- However, parents have the right to review their student's records



Option 1: Parent Consent NOT Required

- If student requests change, talk to them!
 - Explain parents' right to view their records
 - Is student out to their parents?
 - Is student comfortable with parents seeing their chosen name in student records, in notes home, etc.?
 - The intent is NOT to counsel Student away from coming out or changing records, but to ensure that they understand the impact and prioritize their safety
 - Who can/will be informed of the student's gender identity?
- Discuss with student what records they are comfortable changing



Option 1: Parent Consent NOT Required

- Do you document the discussion?
 - Gender Support Plan, messages to student's current teachers, etc.
 - The document may become a pupil record. Parents would have a right to view it.
 - If student does not want parents to know, consider:
 - Maintaining any documentation in personal possession
 - Having verbal conversations with other staff on a "need to know" basis



Option 1: Parent Consent NOT Required

- CDE: “With rare exceptions, schools are required to respect the limitations that a student places on the disclosure of their transgender status, including not sharing that information with the student’s parents.”
- Discuss: Parent notification if necessary to protect the health or safety of student and/or otherwise required by law

<https://www.cde.ca.gov/RE/DI/eo/faqs.asp>



Option 1: Parent Consent NOT Required

- CDE guidance: Even if district has not received documentation of student's legal name and/or gender change, district should update all unofficial records to student's chosen name, identified gender, and preferred pronouns

<https://www.cde.ca.gov/RE/DI/eo/faqs.asp>



Option 1: Parent Consent NOT Required

- District must protect against inadvertent disclosure of student's legal name and/or gender
 - Separate records with student's legal name and/or gender so only authorized staff can access them
 - Authorized staff can be school psychologist, guidance counselor, special education assessors, nurse, etc.
 - Paper records: Place in a separate location, include note in main file that other records separated
 - Electronic records: "Lock" access in student information system

<https://www.cde.ca.gov/re/di/eo/faqs.asp>



Option 1: Parent Consent NOT Required

- Benefits of this approach
 - Prioritizes privacy of student's gender identity
 - Allows student more control over disclosure of identity
 - Minimizes risk of student being "deadnamed" or "outed" as transgender, which could subject student to bullying or harassment
- Not a "one size fits all" approach



Option 1: Parent Consent NOT Required

- Student may request that school withhold their chosen name and gender identity from parents
- How to address letters, other items that go home with student? Suggestions:
 - Some schools issue two ID cards to student, one with legal and one with chosen name, so student can present whichever they feel is safer/more appropriate
 - Some schools have a list of students whose names are changed temporarily in electronic records before mass mailings.
 - Talk to IT
 - Talk to the student



Option 2: Require Parent Consent

- There appears to be no legal authority that requires districts to obtain parent consent to change a student's name and/or gender in prospective records
- Some districts still require parent consent
- “One size fits all” approach



Option 2: Require Parent Consent

- Logistical challenge: Refer to students by chosen name and preferred pronoun, but use legal name and assigned gender in all records
- Privacy challenge: Risks unintentional disclosure of student's transgender status
 - E.g., Substitute teacher calls student by legal name, listed on class roster, outing student
- This approach may be based on Ed. Code §49070, challenging the content of a pupil record
 - Ed. Code §49070 was amended in 2020 to allow parents and former students to change name and/or gender of student in existing records
 - In general, Ed. Code §49070 is about correcting records that have already been created, not about how future records will be created
 - Ed. Code §49070 only allows parents of current students to challenge content of pupil record. It does not explicitly allow current student to do so
 - May analogize this process to apply to prospective records too, allowing only parents to define the content (name and/or gender) of prospective records



CHANGING EXISTING RECORDS OF CURRENT STUDENTS



Existing Records of Current Students

- Records that were created before the request came in
- State law provides one option for challenging (changing) existing records of current students: Ed. Code §49070
 - Does not specify what must be done with all existing records
 - Under state law, current students do not have authority to change the content of existing records.



Existing Records of Current Students

- Parents of current students can request that district correct student's name and/or gender in its records
 - Using process in Ed. Code §49070(c)(5) for challenging content of pupil record
 - Parent must provide a list of records requested to be corrected
 - Law does not prohibit parent from requesting that ALL records be corrected



Existing Records of Current Students

- If district agrees, district must add a new document to the student's record that includes all of the following information:
 - Date of the request.
 - Date the requested records were corrected.
 - List of the records requested to be corrected.
 - Type of documentation, if any, provided to demonstrate a legal change to the pupil's or name, gender, or both.
 - Such documentation is NOT required under this process
 - Name of staff that completed the request.
 - Corrected and former names, genders, or both, of the student
- Document must be maintained indefinitely in a confidential manner

See Education Code § 49070(c)(5)



Existing Records of Current Students

- Practice tips for changing existing records of current students. Note that none of these items are required by law. These are simply practical considerations:
 - Check board policies for any rules about segregating records
 - Separate old records with deadname from records with student's chosen name and identified gender
 - Keep old records in a locked location
 - Allows necessary staff to access vital information about Student's history for assessments, health reports, etc.
- There appears to be no legal requirement that districts change student's name and/or gender in all prior records, such as:
 - Records that were created before the student requested that their name be changed
 - Records created by a third party (e.g., medical report, records from old school district, etc.)



Existing Records of Current Students

- If district declines to change some or all of student's records:
 - Parent may appeal to the school board
 - School board will determine whether to sustain or deny parent's request to change student's name and/or gender in their records
 - If school board sustains request, district must add document to student's records documenting change, as in Ed. Code §49070(c)(5)
 - If school board denies request, parent may submit a written statement of their objections, which will become part of student's records
 - District may be subjected to complaints of discrimination, harassment, and/or bullying
 - Parent or student may file a complaint with the USDOE OCR
- What happens if a student requests that prospective records use their chosen name and preferred gender, and Parents file a request to change them back? What process would Parents use?
 - Who prevails? Student using chosen name or parents requesting use of birth name?



CHANGING RECORDS OF FORMER STUDENTS



If Legal Documentation IS Provided

- If former student provides district with legal documentation of legal name and/or gender change, district must update former pupil's records with updated legal name or gender
- Legal documentation includes, but is not limited to:
 - State-issued driver's license
 - Birth certificate.
 - Passport.
 - Social security card.
 - Court order indicating a name change or a gender change, or both.

See Education Code § 49062.5



If Legal Documentation IS Provided

- District must reissue any documents to former pupil with updated legal name and/or gender, if requested
 - E.g., transcript, a high school diploma, a high school equivalency certificate
- Do not need to modify any documents that former student has not requested be modified or reissued
- See Education Code § 49062.5



If Legal Documentation IS Provided

- After reissuing the records, district must add a new document to the former pupil's file that includes all of the following:
 - Date of the request.
 - Date the requested records were reissued
 - List of the records that were requested by, and reissued to, the former pupil.
 - Type of documentation provided by the former pupil in order to demonstrate the legal name or gender change.
 - Name of the staff person that completed the request
 - Current and former name or gender of the former pupil.

See Education Code § 49062.5



If Legal Documentation is NOT Provided

- Former student can use the process to challenge a pupil record as described in Education Code §49070
- This process applies to former students and parents of current students



If Legal Documentation is NOT Provided

- Former student can request to change their name and/or gender
- If district agrees, district must add a new document to the student's record that includes all of the following information
 - Date of the request.
 - Date the requested records were corrected.
 - List of the records requested to be corrected.
 - Type of documentation, if any, provided to demonstrate a legal change to the pupil's or name, gender, or both.
 - Such documentation is NOT required under this process
 - Name of staff that completed the request.
 - Corrected and former names, genders, or both, of the student
- Document must be maintained indefinitely in a confidential manner

See Education Code § 49070(c)(5)



Recourse if District Refuses to Change Student's Records

- What if district denies former student's request to update records?
 - Student may file a complaint of discrimination or harassment
 - Complaint is filed with District
 - Decision may be appealed to CDE
 - Student may file a complaint with the USDOE OCR
 - District attract unwanted media attention



SUPPORTING TRANSGENDER AND GENDER DIVERSE STUDENTS ON CAMPUS



Statistics

- 9.2% of kids self-identify as gender diverse (*Pediatrics*, June 2021)
- .7% of individuals ages 13-17 identify as transgender (UCLA School of Law Williams Institute, January 2017)
- 20-40% of homeless youth identify as LGBT (youth.gov)
- 13% of youth detained in juvenile justice system identify as LGBT (youth.gov)
- 85% of LGBT youth reported experiencing bullying in school (GLSEN)
- 30% of youth in foster care identify as LGBTQ+ (childwelfare.gov)
- Transgender and gender diverse youth face mental health conditions at higher rates than cisgender youth (*Pediatrics*, May 2018)
 - Risk of developing a mental health condition was three to 13 times higher
 - Risk of attention deficit disorder was three to seven times greater
 - Risk of depression was four to seven times greater



Communicating with ALL Students

- Affirming students' identities to create a safer, more inclusive campus
- Reduce stigma and discrimination with respect to LGBT identity
- Make all students aware of counseling, other resources for transgender and gender diverse students
 - Orientation/Welcome packets
 - Ongoing reminders, posters
 - Awareness activities
 - Identifying trusted adults to talk to



Communicating with Transgender and Gender Diverse Students

- If you think a student may be questioning their gender identity and may need support:
 - Who initiates communication?
 - When it appropriate for staff to initiate?
 - What triggers the communication?
 - What should be communicated?
- Communication should be based on student themselves, not on expected gender roles or gender presentation.
 - Exercise caution, don't presume intervention or support is needed simply because student has changed their appearance or affect
- Documenting your communication?
 - Is the document a pupil record?
- If a student approaches you regarding bullying or harassment, how do you address it?
- Be realistic and transparent with student about privacy. Do your best to protect the student's privacy, but remind the student that their parents may learn about their gender identity from their records, or even from peers



Staff Training and Support

- Do staff know to use appropriate, inclusive language?
 - Inclusive, gender-neutral terms such as “parent” instead of “mom and dad” or “partner” instead of “girlfriend”
 - Reflecting student’s self-identification (chosen name, preferred pronouns)
- Do staff understand the importance of respecting a student’s privacy related to their gender identity?
- Do staff know what to do if a student comes out to them?
 - Are there resources that staff can share with students questioning their gender identity?
 - Do staff know where they can turn to if they have questions?
 - Do staff understand the fluidity of gender identity, and that a student’s gender identity can change even after they come out?
- Are staff aware of training requirements and legal obligations related to transgender and gender diverse students?
- Staff must understand that they must set aside their personal biases when working with transgender and gender diverse students



Gender Support Plan

- Document to help student and staff understand where and to whom student is “out,” to identify staff members student can go to for support
- Not required for all transgender or gender diverse students
 - Some students may be out and secure in their gender identity
 - Some may request or require support
- Contents can vary. Consider including:
 - Whether parent/guardian is aware, is supportive
 - To whom student is out, among both staff and peers
 - Student’s chosen name and preferred pronouns, and whether student wants everyone or only certain people to use these
 - Student’s preference regarding updating records
 - “Go to” adults if student has a safety issue
 - Which facilities will student use?
 - What sports team will student play on?



Gender Support Plan

- Living document! May change as student's gender identity evolves
- Who may be informed?
- Who may be involved in creating this?
 - Ask student if they wish for parents to be involved
- Is this a pupil record?
 - Depends on the contents of the plan and who it is shared with
 - Pupil record does not include informal notes related to a pupil compiled by school staff, that remain in the sole possession of the maker and are not accessible or revealed to anyone except a substitute. (Ed. Code 49061)
 - If parents are unaware of student's gender identity, discuss with the student that parents have access to their student records, and may have access to gender support plan
 - The intent is NOT to counsel student away from coming out or changing records, but to ensure that they understand the impact and prioritize their safety



ACCESS TO FACILITIES



Access to Facilities

- “A pupil shall be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with his or her gender identity, irrespective of the gender listed on the pupil’s records.”

California Education Code 221.5(f)



Access to Facilities

- Students must be allowed to participate on the sports team that is consistent with their gender identity
- Student must be allowed to use the locker room/changing room that is consistent with their gender identity
 - School can offer Student a private changing area or single-stall restroom, but cannot require the student to use it



Sports Hypotheticals

- AFAB student now identifies as nonbinary, uses he/they. Student wants to continue in female sports. Student currently plays on girls' basketball team. School has a boys' basketball team as well.
 - What does school do?
 - What sports team does Student play on?
- Can a student play girls' basketball and boys' soccer?
- Can a student play both boys' and girls' water polo? (fall and spring seasons, respectively)



Sports Considerations

- Where does the student feel safe?
 - It's not where district thinks they would feel the safest
 - Student-centered decision-making
- Let student know to check in with staff if uncomfortable
 - Staff should continue to monitor and follow up with student to ensure student remains safe and comfortable
- CIF has bylaws regarding participation of transgender student athletes in sports, they can provide guidance on specific situations that may arise
- If you have questions about CIF participation rules, contact CIF to explain the situation.



TALKING TO THE SCHOOL COMMUNITY



Talking to the School Community

- Do not disclose the identity of a transgender or gender diverse student
- If a parent complains of transgender students' access to facilities that are consistent with their gender identity:
 - Explain that the school cannot discuss confidential information about a student, including their gender and gender identity.
 - Explain that under state law, students have the right to use the school facilities that are consistent with their gender identity
 - Express support of every student's right to do so.
 - If a parent/student is not comfortable with the student using facilities alongside a transgender student, the school can offer them the use of a private or single-stall restroom and changing area.
 - Cannot prevent a transgender student from using gendered facilities because other students may be uncomfortable.
- Remind everyone that discrimination and bullying of any student will not be tolerated

See Education Code § 221.5



DRESS CODES



Dress Codes

- Nondiscriminatory gender segregated dress codes may be enforced by a school or school district pursuant to district policy.
 - Students shall have the right to dress in accordance with their gender identity, within the constraints of the dress codes adopted by the school.
 - School staff shall not enforce a school's dress code more strictly against transgender and gender diverse students than other students.
- Some districts are adopting gender-neutral dress codes
 - Revise school clothing rules to be more equitable, to apply to all students equally.
 - Example: Rules about tank tops/shoulder-baring tops apply to all students, instead of girls only
 - Prioritize comfort and safety over gendered expectations of students' attire
 - Example: "Secured clothing that protects and covers personal body parts"
 - Enforcement
 - Staff are trained to avoid body shaming students for violating the dress code
 - Staff do not correct a dress code violation during instructional time or in front of other students

<https://www.cde.ca.gov/re/di/eo/faqs.asp>

Turlock Unified School District: BP/AR 5132; Student Handbook



CURRICULUM



California Healthy Youth Act (AB 329, 2015)

- LGBTQ-inclusive comprehensive sexual health and HIV prevention education
- Opt out: Parents can opt out of comprehensive sexual health curriculum
 - Opt out does not apply outside of comprehensive sexual health education

Ed. Code§ 51930-51939

<https://www.cde.ca.gov/ci/he/cf/cahealthfaq.asp>



FAIR Education Act (SB 48, 2011)

- FAIR: Fair, Accurate, Inclusive, and Respectful
- Regarding inclusion of contributions of various groups in CA and US history
- Updated to include various ethnic groups, people with disabilities, and LGBT Americans
- Instruction in history–social science, grades 1-12 should include the contributions of listed groups
 - Up to each district how to include the content
- Parents have the right to review curriculum, meet with teacher and principal
 - No opt-out provision

<https://www.cde.ca.gov/ci/cr/cf/senatebill48faq.asp>



BULLYING AND HARASSMENT



Bullying and Harassment

- Bullying and harassment **based on** student's gender, gender identity, or gender expression MUST be investigated under Uniform Complaint Procedures, not usual bullying investigation practices.
- Deliberate use of a student's incorrect name and/or pronouns could constitute bullying or harassment and should be dealt with accordingly.
- District may have adopted BP/AR 5145.3 regarding nondiscrimination and harassment
 - Includes harassment based on gender, gender identity, and gender expression

Ed. Code §33315



SPECIAL EDUCATION



Special Education Eligibility

- IDEA provides 13 eligibility categories:

- Autism
- Deaf-blindness
- Deafness
- Emotional disturbance
- Hard of hearing
- Intellectual disabilities
- Multiple disabilities
- Orthopedic impairment
- Other health impairment
- Specific learning disability
- Speech or language impairment

34 CFR § 300.8; 20 U.S.C. § 1414



□ Traumatic brain injury

□ Fagen Friedman & Fulfrore LLP

□ Visual impairment

Special Education Eligibility

- Transgender or gender diverse gender identity is not itself a qualifying condition for special education services under Section 504 or IDEA.
- BUT consider if Student has or demonstrates other conditions related to their gender identity (e.g., gender dysphoria, depression, anxiety, psychosis)
 - Conditions may not be caused by their gender identity, but by society's treatment of it
 - Could this lead to eligibility under ED, other categories?
 - This is an IEP team discussion!



Special Education Assessments

- For all students, including transgender and gender diverse students, district must assess in all areas of suspected disability to identify all areas of need
 - Identified areas of need drive development of goals
 - Development of goals drive placement and services
- When assessing a transgender or gender diverse student using a standardized instrument, what norm group should be use if there is no “combined sex” group?
 - Contact the publisher for test-specific instructions
 - Consider doing both norms, depending on age of child, recency of student’s transition, duration of transgender identity, etc.



Special Education Assessments

- A non-exhaustive list of rating scales:

Rating Scale	Combined Gender Norms Available	Gender Specific Norms Available
BASC-3	X	X Except for ages 19-21
Conners CBRS	X	X
Conners 3*	X Online Scoring Only	X Hand Scoring and Online
Conners 4 (spring 2022)	X	X
RADS -2	X	X
PAI-A	X	
MASC	X	X
ASRS*	X	
CEFI	X	
Vineland – 3	X	

*Many of the rating scales through MHS can be scored online and combined genders can be chosen. The automatically generated reports do use pronouns associated with the gender the examiner chose on the "Add New Client" screen.



Special Education Assessments

- Assessment reports
 - Assessment reports will likely need to have a cautionary statement explaining deviations from available comparative norms, or explanation that highlights the students' identity and reasons for assessing in the manner that the professional determines is appropriate based on the whole child.
 - How should the student be addressed in the report?
 - If appropriate, can staff talk to student about purpose of report, who will see it?
 - How do they wish to be referred to?
- Other considerations for assessment reports:
 - What if student is not out to parents?
 - What if a student comes out as transgender or gender diverse during the assessment process? Shortly after assessment is completed?



Developing IEPs

- Goal development
 - If student has identified needs regarding their gender identity, coming out, etc., consider goals related to self-advocacy, coping skills, etc.
 - Do not presume that every transgender or gender diverse student will need such goals. Ensure goals are based on identified needs
- Communicating with parents
 - For students who are not out to parents, ask how they wish to be addressed in IEP documents, IEP team meetings
 - How do you communicate with parents who have concerns about student's gender expression, in context of disability? For example:
 - Spending time with peers of one gender over another
 - "Acting like a girl" or "acting like a boy"
- If student has experienced bullying
 - If there is evidence that the bullying has adversely affected a student's receipt of FAPE, an IEP team should be convened to determine whether, as result of the bullying, student's needs have changed such that IEP is no longer designed to provide FAPE

Dear Colleague Letter (OCR 2014) 64 IDELR 115



Putting It Into Practice

- Sometimes a student's gender identity is relevant to their disabling condition. Sometimes it is not relevant.
- Is being transgender connected to the student's disability? If so, how? Consider the following examples:
 - A transgender student with a learning disability
 - A nonbinary student with emotional disturbance
 - A transgender student on the autism spectrum



Hypo: SLD and Gender Diversity

- Consider: Transgender student with a specific learning disability (SLD)
- SLD Definition:
 - A disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may have manifested itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations
 - Does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage

5 CCR §3030(b)(10)



Hypo: SLD and Gender Diversity

- How relevant is student's gender identity to their assessment?
 - Does gender identity impact any of the basic psychological processes involved in understanding or in using spoken or written language?
- How relevant is student's gender identity to their needs?
 - Needs may not be limited to academic needs, just because student is eligible under SLD
 - Does the student require counseling related to their social-emotional functioning and gender identity? Is it impacting the student educationally?



Hypo: ED and Gender Diversity

- Consider: Nonbinary student being evaluated for emotional disturbance (ED)
- ED definition: A condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:
 - An inability to learn that cannot be explained by intellectual, sensory, or health factors.
 - An **inability to build or maintain satisfactory interpersonal relationships** with peers and teachers.
 - Inappropriate types of behavior or feelings under normal circumstances.
 - A general pervasive mood of **unhappiness** or **depression**.
 - A tendency to develop **physical symptoms or fears associated with personal or school problems**.

5 CCR §3030(b)(4)



Hypo: ED and Gender Diversity

- What is assessor looking for?
- How relevant is student's gender identity to their assessment? How might gender identity interact with ED criteria?
 - Check your biases: Exhibiting transgender or gender diverse identity does not fall under "inappropriate types of behavior or feelings"
 - Could student have "a general pervasive mood of unhappiness or depression?"
 - Not because they are nonbinary, but because of the way their identity is viewed and treated by community, society at large
- How relevant is student's gender identity to their needs?
- What goals would the IEP team develop?
- What services would the IEP team propose?



Hypo: AUT and Gender Diversity

- Consider: Transgender student with autism (AUT)
- AUT eligibility category definition:
 - A developmental disability significantly affecting **verbal and nonverbal communication** and **social interaction**, generally evident before age three, and adversely affecting a child's educational performance.
 - Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

5 CCR §3030(b)(1)



Hypo: AUT and Gender Diversity

- Youth with ASD were 7.59 times more likely to express gender variance than the control group.
- In general, autistic individuals may struggle with:
 - Social awareness
 - Communication
 - Peer interaction

(Strang et al., *Archives of Sexual Behavior*, 2015)

(Seattle Children's Autism Center, *Gender Dysphoria and Autism Spectrum Disorder*, 2019)



Hypo: AUT and Gender Diversity

- How might autism interact with gender identity?
 - Individuals with autism may want to present as another gender, but may lack social awareness and so cannot copy behaviors well
 - Individuals with autism may struggle with how to appropriately communicate their gender diversity to others

National Association of School Psychologists and Gender Spectrum, *Gender Inclusive Schools: Counseling and Supporting Students and Families*, 2016



Hypo: AUT and Gender Diversity

- What is assessor looking for?
- How relevant is student's gender identity to their assessment? How might gender identity interact with AUT criteria?
 - Does the student have difficulty communicating their gender identity to others?
 - Does the student perseverate on issues related to gender and gender identity?
- How relevant is student's gender identity to their needs?
- What goals would the IEP team develop?
- What services would the IEP team propose?



THANK YOU!



Thank You to...

- Ventura County Schools Self-Funding Authority
- Antelope Valley SELPA
- South East Consortium SELPA
- Whittier Area Cooperative Special Education Program
- Ventura County SELPA
- CASP, Assessment Specialist: James Hiramoto
- VCASP members: Holly Minear, Jenny Ponzuric & Skye Stifel



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Assessment Plan

If an assessment for the development or revision of the Individualized Education Program is to be conducted, the parent or guardian of the student shall be **given** [by the Local Educational Agency (LEA)], in writing, a proposed assessment plan within 15 days of the referral for assessment not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days from the date of receipt of the referral, unless the parent or guardian agrees, in writing, to an extension. CA Ed Code § 56321(a)

STUDENT INFORMATION

Student Name: _____ Date of Birth: _____ Grade: _____
School Site: _____ District or LEA of Residence: _____
English Language Proficiency: English Language Learner Fluent English Proficient English Only Language spoken at home:

This notice is to inform the parent(s)/guardian(s) regarding the school district's/LEA's proposal to initiate or change the: Identification

Evaluation of the above-named student:

This prior written notice (PWN) includes a description of the proposed evaluation, an explanation of why the district or Local Educational Agency (LEA) proposed to take this action, a description of any other options that were considered and the reasons why those options were rejected, and other factors that are relevant to this proposal. Your written permission must be given before we assess your child to determine initial or continued eligibility for special education services. You have the right to be familiar with the assessment procedures and type of tests that may be given to your child. After the assessment is completed, you will be notified in writing of a meeting to discuss the results of the evaluation. If your child is found eligible for special education services, a full range of program options will be discussed.

Description of the proposed assessment:

The assessment will be conducted by qualified staff, and when appropriate, interpreters of the individual's primary language may be used. Tests conducted pursuant to these assessments may include, but are not limited to classroom observations, rating scales, one-on-one testing or some other types or combination of tests. No single procedure may be used as the sole criterion for determining an appropriate educational program. Following the completion of the assessment at the IEP meeting, you will receive a copy of the assessment findings. The results of the assessment may be a recommendation for special education services or maintenance or change of the current special education service(s). A student will not be placed in special education without consent of the parent or guardian. All information and assessment results are confidential.

Reason(s) for proposed assessment:

- To determine the student's initial eligibility for special education placement and services.
- To conduct a triennial evaluation to determine continuing eligibility, present levels of performance, and current needs for [student name].
- To conduct an individual evaluation based on a parent's request to determine the student's initial eligibility for special education placement and services.
- To conduct an individual evaluation in [area of need] to determine the student's eligibility for additional special education and related services (district proposed evaluation or parent request).

The PWN must document the district's rationale for its proposed and/or refused actions and the parent should understand how the district reached its decision on a specific action. This will assist the district in effectively proving they considered the recommendations. If there was more than one reason for each decision, the district should include each reason why it is proposing and/or refusing the action. Parents have the right to receive notice and information as to the reason(s) for any proposed assessment. For parents to make an informed decision, they should know what was proposed and/or refused. Additionally, the names of any assessments that are mentioned in the PWN should be spelled out so that the parent knows precisely to which assessment the district is referring to.

Description of other options considered and reasons for rejecting them: *(List other courses of action the LEA considered for student's educational program, including but not limited to consideration of information/requests from parent and data/screening/observation by LEA personnel, OR actions that were requested on behalf of Student; AND, explain the reasons the LEA refused those courses of action.)*

The following considerations were used as a basis for the proposed assessment:

- The team considered relying on a review of existing records, but in order to determine the present levels, derive educational needs and check whether progress has been made since the last evaluation, additional assessments are necessary.
- The parent requested [name of assessment]; however, the district is not including this evaluation because [input data and reason(s) why].
- The team considered delaying the evaluation until another [type] intervention was implemented and data could be collected, but decided against that option because student's (lack of progress, decline in grades, behavior, social/emotional, attendance, etc.) has made the need for evaluation urgent.
- The team considered proposing an additional [subject/skill] assessment, such as [name of assessment], but in reviewing scores on [name of program] or classroom-based assessment and progress on [subject/skill] goal, the team decided there is enough existing data to determine the student's educational needs at this time.



In this section, the district must describe in detail any other options which were considered and why they were rejected. If no other options were considered, avoid using phrases such as no other options considered, none, or not applicable without an explanation. The PWN must provide an explanation of options considered based on the needs of the student and further state the reasons they were rejected. The PWN should note additional sources of information that helped form the basis for the district's decision, such as teacher input and observation and should describe the facts.

Other factors relevant to the proposal:

The PWN must provide an explanation of other factors relevant to the proposed or refused action.

- List parent concerns, teacher concerns, new behaviors, family changes, social/emotional changes, grade changes, and attendance concerns.
- Describe interventions that were implemented and found unsuccessful.
- Medical and or mental health concerns/records.
- List how their disability impacts the student's access to the curriculum and to peers.
- Note if the student moved into the district without current assessment data.

Similar to the "description of any other options that the IEP team considered and the reasons for the rejection of those options" of the PWN, the district must describe in detail any other relevant factors that were used by the IEP team in formulating its decision to propose and/or refuse an action. There may be instances, however, in which no other factors were relevant to the proposed and/or refused action that were not already addressed in the other elements of the PWN. Avoid using not applicable. The use of a complete statement will provide the parent with strong documentation that this question was reviewed in completing the PWN and, if there were no other relevant factors considered, remove any doubt.

Example Language: As you are aware, your child has been receiving instructions and interventions based upon his/her needs through a response to intervention (RtI) process. Based on the response data, the district is recommending that a comprehensive evaluation be conducted. The evaluation process is required to determine if your child is a child with a disability requiring special education and related services. If eligible, an IEP will be written addressing the skill areas affected by the disability.

Example language: There were no other factors, outside of those listed above, that were considered by the IEP team. Neither the parents, nor any district personnel participating in the meeting, presented any other factors that needed to be considered.

Description of evaluation procedures, tests, records, or reports used in deciding to propose this assessment:

The PWN must include a description of any evaluations, assessments, records, or reports that serve as the basis for a proposed or refused action.

- The team used data from pre-referral interventions and input from [name/school]'s parents and classroom teacher to determine the areas to be assessed.
- The IEP team reviewed the student's existing data (progress on the IEP goals, daily classroom performance, transition services, activities, grades, transcripts and daily work) to determine appropriate areas to be assessed.

Identifying each evaluation procedure, assessment, record or report used as a basis for the proposed or refused action is critical information that the parent needs in order to form the basis for providing their consent.

The district proposes to assess your child to determine his/her eligibility for special education services or continued eligibility and present levels of academic performance and functional achievement to determine services. Your child will be assessed in all areas of suspected disability as needed.* To meet your child's individual education needs, this assessment will consist of an evaluation in only the areas checked by the local educational agency (LEA)/district. *Tests conducted pursuant to these assessments may include, but are not limited to classroom observations, rating scales, one-on-one testing or some other types or combination of tests.

Student Name: _____ Date of Birth: _____ Grade: _____

ASSESSMENT INFORMATION

Reason(s) for referral/assessment: Initial Annual Triennial Behavior Counseling/Behavioral Health Services Other: _____
Referred by: Parent/Guardian Teacher Special Ed. Teacher Psychologist Nurse Administrator IEP Team Other: _____
The assessment will be administered in: English Spanish Braille Sign Language Other: _____



ASSESSMENTS CHECKED BELOW WILL BE COMPLETED TO ADDRESS THE AREAS OF SUSPECTED DISABILITY

- ACADEMIC/PRE-ACADEMIC ACHIEVEMENT:** These tests measure current readiness skills or achievement levels in reading, spelling, arithmetic, oral and written language skills, and /or general knowledge.
- AUGMENTATIVE/ALTERNATIVE COMMUNICATION (AAC)** **ASSISTIVE TECHNOLOGY (AT):** An assessment to measure the need for any aid and/or device that can be used to increase, maintain, or improve functional capabilities of a student with a disability.
- CAREER AND VOCATIONAL DEVELOPMENT:** These tests allow a student to identify interest areas and aptitudes that assist in setting vocational goals and making career choices.
- COGNITIVE/INTELLECTUAL DEVELOPMENT AND LEARNING ABILITY:** These tests measure how well a student thinks, remembers, and solves problems, and evaluates a student's general learning aptitude and/or state of intellectual maturation by measuring performance across a variety of verbal, numerical, and visual-spatial tasks.
- FUNCTIONAL BEHAVIORAL ASSESSMENT (FBA):** An assessment to measure and/or identify circumstances and consequences associated with a certain behavior and methods/interventions recommended to address them.
- HEALTH/DEVELOPMENTAL/MEDICAL:** These tests measure vision, hearing, current health status, and early childhood development.
- OBSERVATIONS/INTERVIEWS:** Includes observations of a student's academic and behavioral functioning in the school and/or natural setting.
- PERCEPTUAL/MOTOR DEVELOPMENT:** These tests measure coordination, body movements, and small and large muscle activities. Physical fitness, visual, and perceptual skills may also be measured.
- POST-SECONDARY TRANSITION:** Age appropriate transition assessments related to training, education, employment and where appropriate independent living skills.
- SELF-HELP/ADAPTIVE:** This assessment measures how the student takes care of personal needs at home, school and in the community and will help determine the level of personal development in activities of daily living, socialization, and communication skills.
- SOCIAL/EMOTIONAL/BEHAVIORAL DEVELOPMENT:** This assessment measures how the student feels about him/herself, gets along with others, and will help determine adjustment in social, emotional, and behavioral areas.
- SPEECH/LANGUAGE/COMMUNICATION DEVELOPMENT:** This assessment measures a student's ability to use and understand language. Areas that may be assessed are articulation, receptive and expressive language, fluency, voice, and/or social/pragmatic use of language.

TO BE COMPLETED BY (Examiner Title)

District County NPA Other

District County NPA Other

District County NPA Other

District County NPA Other

District County NPA Other

District County NPA Other

District County NPA Other

District County NPA Other

District County NPA Other

District County NPA Other

District County NPA Other

District County NPA Other

REVIEW OF ANY RECENT ASSESSMENT(S): _____

OTHER: (If using alternative means of assessment, explain why and what will be utilized for this assessment.) _____

FOR QUESTIONS PLEASE CONTACT THE LEA OFFICE:

Name: _____

Contact Phone: _____

PARENT/GUARDIAN/ADULT STUDENT AUTHORIZATION

ASSESSMENT CANNOT BEGIN UNTIL A COPY OF THIS FORM HAS BEEN SIGNED AND DATED BY THE PARENT/GUARDIAN/ADULT STUDENT AND RETURNED TO THE LEA. AT THAT TIME, THE ASSESSMENT TIMELINE WILL BEGIN.

INITIAL HERE Please initial each *applicable* statement below.

- _____ I understand that no educational placement will result from this evaluation without my written permission.
- _____ I have additional assessments or information that I wish to have considered in determining a free appropriate public education (FAPE).
- _____ I prefer to discuss the assessment plan before I give approval.
- _____ I **DO NOT** approve of this assessment plan.

By signing this form below, I acknowledge that I am the educational rights holder for this child OR that I am an adult student holding my own educational rights and hereby authorize/consent to the assessments listed above. I understand that the results of the assessments will be kept confidential and will be reviewed with me. My signature also acknowledges receipt of a copy of special education procedural safeguards (attach SELPA form D/M 77).

Date: _____ Parent/Guardian/Adult Student Signature: _____

Date: _____ Interpreter Signature: _____

***LEA USE ONLY – MIS DATA ***

Date of Referral: _____ Date Sent to Parent: _____ Date Signed Assessment Plan Received: _____ IEP Meeting Date: _____

7.5 Reimbursement of ADR And Learning Recovery Funds

Verbal report, no materials



Desert / Mountain Children's Center
17800 Highway 18
Apple Valley, CA 92307-1219

P 760-552-6700
F 760-946-0819
W www.dmchildrenscenter.org

MEMORANDUM

DATE: November 17, 2021
TO: Special Education Directors
FROM: Linda Llamas, Director

SUBJECT: Desert/Mountain Children's Center Client Reports

Attached are the opened and closed cases for the following services:

- Screening, Assessment, Referral and Treatment (SART)
- Early Identification Intervention Services (EIIS)
- School-Age Treatment Services (SATS)
- Student Assistance Program (SAP)
- Speech and occupational therapy

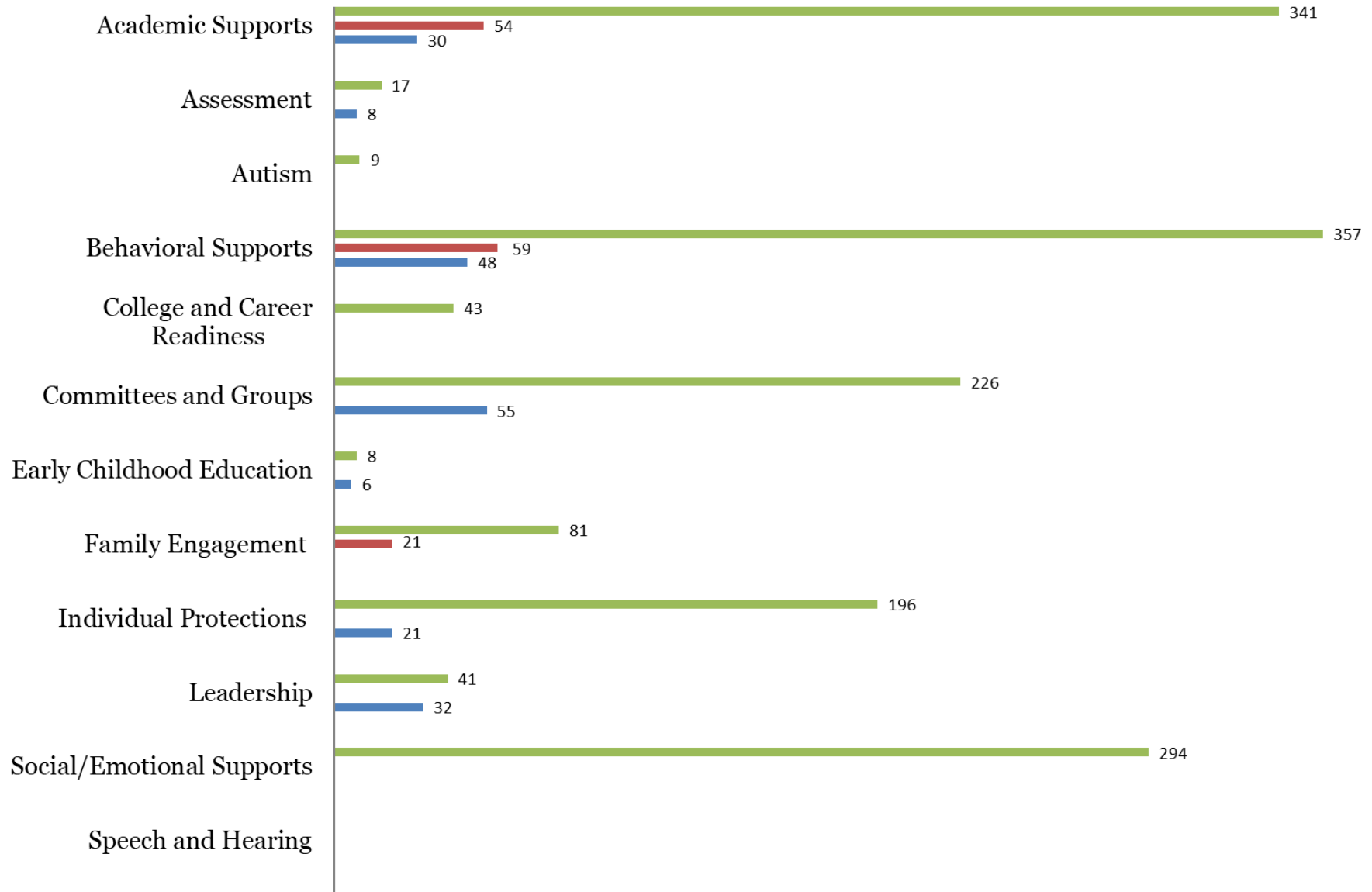
If you should have any questions, please contact me at (760) 955-3606 or by email at linda.llamas@cahelp.org

D/M SELPA PROFESSIONAL LEARNING PARTICIPATION SUMMARY

OCTOBER 2021 - 334 PARTICIPANTS

1613 YEAR-TO-DATE PARTICIPANTS

■ Total Participants YTD by Content Area ■ On-Site Trainings ■ Regional Trainings





CAHELP PRESENTS THE 2021-22 I-MTSS SYMPOSIUM

WE RISE BY LIFTING OTHERS



12:00 - 4:00 p.m. | Wednesday, March 2, 2022

Half-Day Symposium featuring
Kevin Hines & Anne Moss Rogers

Lunch provided for in person attendees

Location:

Spring Valley Lake Country Club

Price:

\$125 For Virtual | \$175 For In Person

Registration:

<https://sbcss.k12oms.org/52-211981>

Get in Touch |

Email:

Marysol.Hurtado@cahelp.org

Phone:

(760) 955-3552

OUR SPEAKERS



Kevin Hines is a storyteller at heart. He is a best selling author, global public speaker, and award winning documentary filmmaker. In the Year 2000, Kevin attempted to take his life by jumping off the Golden Gate Bridge. Many factors contributed to his miraculous survival including a sea lion which kept him afloat until the Coast Guard arrived. Kevin now travels the world sharing his story of hope, healing, and recovery while teaching people of all ages the art of wellness and the ability to survive pain with true resilience.



Despite her family's best efforts, Anne Moss's 20-year-old son Charles died by suicide on June 5, 2015, after many years of struggle with anxiety, depression, and ultimately addiction.

Anne Moss started a blog, EmotionallyNaked.com, that has reached millions and chronicled her family's tragedy in a newspaper article that went viral. She has been featured in the New York Times and was the first suicide loss survivor ever invited to speak at the National Institute of Mental Health (NIMH).

Anne Moss is a certified suicide prevention trainer, NAMI Virginia Board member, 2 End the Stigma (addiction) board member, and YWCA 2019 Pat Asch fellow.



**Desert/Mountain Charter SELPA
Due Process Summary
July 1, 2021 - November 18, 2021**

D = Complaint Dismissed W = Complaint Withdrawn

DISTRICT										CASE ACTIVITY FOR CURRENT YEAR				
	14/15	15/16	16/17	17/18	18/19	19/20	20/21	21/22	Total	D /W	Resolution	Mediation	Settled	Hearing
Allegiance STEAM Acad - Thrive	N/A	N/A	N/A	N/A	0	0	0	0	0	0	0	0	0	0
Aveson Global Leadership Acad	N/A	2	1	5	1.5	0	0	2	11.5	0	2	0	0	0
Aveson School of Leaders	N/A	0	3	1	1.5	0	0	5	10.5	0	4	0	1	0
Ballington Acad for Arts & Sci	N/A	N/A	N/A	0	2	0	0	0	2	0	0	0	0	0
Desert Trails Prep Academy	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Elite Academic Acad - Lucerne	N/A	N/A	N/A	N/A	0	0	4	0	4	0	0	0	0	0
Encore Junior/Senior High School	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Julia Lee Performing Arts Acad	N/A	N/A	N/A	N/A	0	0	0	0	0	0	0	0	0	0
LaVerne Elem Preparatory	0	0	0	0	0.5	0	0	0	0.5	0	0	0	0	0
Leonardo da Vinci Health Sci	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Odyssey Charter School (Altadena)	N/A	0	0	0	0	0	0	1	1	0	0	0	1	0
Odyssey Charter School -South (Pasadena)	N/A	N/A	N/A	N/A	0	0	0	0	0	0	0	0	0	0
Pasadena Rosebud Academy	N/A	N/A	N/A	N/A	1	0	0	0	1	0	0	0	0	0
Pathways to College	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Taylion High Desert Academy	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Virtual Prep Academy at Lucerne	N/A	N/A	N/A	N/A	N/A	N/A	0	0	0	0	0	0	0	0
SELPA-WIDE TOTALS	0	2	4	6	6.5	0	4	8	30.5	0	6	0	2	0

Desert/Mountain Charter SELPA
Due Process Activity Summary
July 1, 2021–November 18, 2021

LEA Case Number	Issue(s)	Date Filed	Resolution Scheduled	Mediation Scheduled	Pre-Hearing Conference	Due Process Hearing	Status
1. Odyssey Charter Case No. 2021070313	Child Find and Denial of FAPE: 1. Failed to appropriately assess in all areas of suspected need (AT, OT) 2. Failure to qualify for SPED 3. Lack of parental participation 4. Substantively deny FAPE	7/19/21	7/28/21		9/3/2021	9/14–9/16/2021	Effective upon full execution of the settlement agreement on 8/23/2021: Reimburse Parents for educational and counseling expenses. Settlement Agreement CLOSED
2. Aveson Case No. 2021080796	Denial of FAPE: 1. Failure to provide appropriate program and adequate support. 2. Denial of parental participation. 3. Lack of educational benefit	8/25/2021	9/9/2021	11/9/2021	10/11/2021	10/19 - 10/21/2021 1/25-27/2021	Parent unrepresented at Resolution. No settlement. 10/2021 - mediation scheduled
3. Aveson Case No. 2021090088	Denial of FAPE: 1. Failure to assess in all areas of suspected need / TRI 2. Failure to provide appropriate program and adequate support 3. Inappropriate placement and services 4. Failure to offer a BIP	9/2/2021	9/14/2021 9/20/2021		10/18/2021	10/26-27/2021	Parent seeking private school placement and reimbursement for unilateral placement. No settlement. 10/19/21 - settlement agreement, partial placement. CLOSED

Desert/Mountain Charter SELPA
 Due Process Activity Summary
 July 1, 2021–November 18, 2021

LEA Case Number	Issue(s)	Date Filed	Resolution Scheduled	Mediation Scheduled	Pre-Hearing Conference	Due Process Hearing	Status
4. Aveson Case No. 2021090785 Aveson cross filed Case No. 2021100682	Child Find and Denial of FAPE: 1. Impeded participation 2. Assessment not thorough 3. Lack of Ed benefit 4. Discrimination 1. Defend assessment 2. Defend IEP of 4/12/2021	9/23/2021 10/25/2021	10/5/2021 Not required		11/8/2021	11/16-18/2021	No settlement, expecting to go to mediation. 10/25/21 - Aveson filed to defend.
5. Aveson Case No. 2021100051	Denial of FAPE: 1. Inadequate assessments, PLOPS/goals, services program and placement. 2. Failed to implement IEP during distance learning. 3. Failed to provide prior written notice 4. Unclear offer of FAPE. 5. Predetermination 4. Impede parent participation	10/1/2021	10/7/2021 10/28/21		11/15/2021	11/23-24/2021	

Desert /Mountain Charter SELPA
Legal Expense Summary
As Reported at Steering November 18, 2021

2000-2001	0.00
2001-2002	0.00
2002-2003	0.00
2003-2004	0.00
2004-2005	0.00
2005-2006	0.00
2006-2007	0.00
2007-2008	0.00
2008-2009	0.00
2009-2010	0.00
2010-2011	0.00
2011-2012	0.00
2012-2013	0.00
2013-2014	0.00
2014-2015	0.00
2015-2016	7,378.00
2016-2017	33,886.61
2017-2018	70,994.67
2018-2019	113,834.81
2019-2020	58,033.90
2020-2021	43,640.20
2021-2022	72,190.96



Facilitated IEP Workshop: Conflict Prevention Resolution Part 1

This workshop trains educators on the best way to conduct an IEP meeting. Participants learn and practice skills that allow them to facilitate IEP meetings, recognize and prevent conflict, and focus on constructive outcomes that promote student achievement. Participants will learn to: guide IEP teams to agree on appropriate, compliant, and effective IEPs; channel communication to building mutual understanding based on respect; create agreements based on full participation from all members; generate informed discussions, prevent, reduce, and resolve conflict. Participants will go through actual simulations of IEP meetings so they have the chance to practice the skills presented in a safe learning environment.

Presented By

Doug Little , Founding Partner of Key2Ed., Inc.

Dates and times

January 24-28, 2022: 8:30 a.m. - 12:30 p.m.

February 7-11, 2022: 8:30 a.m. - 12:30 p.m.

Location

Virtual training, a link will be forwarded to each participant prior to the training. **This training may be recorded.** In-person trainings will adhere to the Center for Disease Control's guidelines for sanitizing and social distancing.



Audience

LEA Alternative Dispute Resolution (ADR) teams.

Cost

There are no fees associated with these trainings.

Registration

Please register online at:

<https://sbcss.k12oms.org/eventdetail.php?id=204051>

Special Accommodations

Please submit any special accommodation requests at least fifteen working days prior to the training by notating your request when registering.

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

CASE NO. 2021070206

VICTOR VALLEY UNION HIGH SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

DECISION

October 20, 2021

On July 7, 2021, the Office of Administrative Hearings, called OAH, received a due process hearing request from Victor Valley Union High School District, naming Student. On July 26, 2021, OAH granted Student's request to continue the matter. Administrative Law Judge Marlo Nisperos heard this matter by videoconference September 21 and 22, 2021.

Jack Clarke, attorney at law, represented Victor Valley Union High School District. Dr. Margaret Akinnusi, Director of Special Education, attended both hearing days on Victor Valley's behalf. Parent represented Student and attended the first day of hearing. Student did not attend the hearing.

After Victor Valley concluded its case-in-chief, OAH granted Student's request to continue the matter until the next day, prior to Student's opening statement. On September 22, 2021, Parent called OAH and informed a case manager that Parent was unable to attend the hearing based upon a family emergency. Parent provided a telephone number requesting the ALJ call during the hearing. The hearing on September 22, 2021, began as scheduled and the ALJ twice called Parent using the videoconference technology with Victor Valley's attorney and director of special education present. The ALJ delayed the hearing for 30 minutes after Parent did not answer the telephone call at the number provided. Parent did not answer the second telephone call and did not attend or participate in the second day of hearing. The hearing then commenced and the evidentiary phase concluded.

OAH continued the matter at Victor Valley's request to September 28, 2021, for written closing briefs. Student was notified in writing of the right to submit a closing brief. Both parties timely submitted closing briefs. Student's brief was submitted without a proof of service. OAH notified Parent via telephone to resubmit the brief with a proof of service. Student failed to resubmit the brief with a proof of service. Typically, the brief would be stricken. However, in this case, due to the unusual nature of this matter proceeding on the last day without Parent, Student's brief was considered. On October 7, 2021, OAH provided Victor Valley a copy of Student's closing brief. Additionally, Victor Valley suffered no prejudice from the delay because OAH ordered simultaneous briefing rather than responsive briefing. The record was closed and the matter was submitted on September 28, 2021.

ISSUE

May Victor Valley Union High School District assess Student pursuant to the May 19, 2021 assessment plan without Parents' consent?

JURISDICTION

This hearing was held under the Individuals with Disabilities Education Act, its regulations, and California statutes and regulations. (20 U.S.C. § 1400 et seq.; 34 C.F.R. § 300.1 (2006) et seq.; Ed. Code, § 56000 et seq.; Cal. Code Regs., tit. 5, § 3000 et seq.) The main purposes of the Individuals with Disabilities Education Act, referred to as the IDEA, are to ensure:

- all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living, and
- the rights of children with disabilities and their parents are protected. (20 U.S.C. § 1400(d)(1); see Ed. Code, § 56000, subd. (a).)

The IDEA affords parents and local educational agencies the procedural protection of an impartial due process hearing with respect to any matter relating to the identification, assessment, or educational placement of the child, or the provision of a free appropriate public education, referred to as FAPE, to the child. (20 U.S.C. § 1415(b)(6) & (f); 34 C.F.R. § 300.511 (2006); Ed. Code, §§ 56501, 56502, and 56505; Cal. Code Regs., tit. 5, § 3082.) The party requesting the hearing is limited to the issues alleged in the complaint, unless the other party consents, and has the burden of proof by a preponderance of the evidence. (20 U.S.C. § 1415(f)(3)(B); Ed. Code, § 56502, subd. (i); *Schaffer v. Weast* (2005) 546 U.S. 49, 57-58, 62 [126 S.Ct. 528, 163 L.Ed.2d 387]; and see 20 U.S.C. § 1415(i)(2)(C)(iii).) Victor Valley filed the request for due process hearing, so it had the burden of proof. The factual statements in this Decision constitute the written findings of fact required by the IDEA and state law. (20 U.S.C. § 1415(h)(4); Ed. Code, § 56505, subd. (e)(5).)

Student was 17 years old at the time of hearing. Student resided within Victor Valley's geographic boundaries at all relevant times. Student was eligible for special education under the primary eligibility category of other health impairment due to a medical diagnosis of attention deficit hyperactivity disorder and secondary eligibility category of specific learning disability.

ISSUE: MAY VICTOR VALLEY ASSESS STUDENT PURSUANT TO THE MAY 19, 2021 ASSESSMENT PLAN WITHOUT PARENTS' CONSENT?

Victor Valley contended it provided a procedurally compliant assessment plan to Parents on May 19, 2021, and Parents refused to consent. Victor Valley claimed that it tried to obtain parental cooperation for many months without success. Victor Valley asserted the proposed assessments were necessary to complete Student's required three-year, called triennial, assessment. Victor Valley also contended it needed fresh educational data to create a new individualized education program, referred to as an IEP, for Student.

Victor Valley argued that the assessment plan was appropriate and that highly qualified and experienced assessors would conduct the assessments in accordance with the requirements of the law. Victor Valley contended that it met all procedural and substantive requirements to receive authorization to conduct assessments without parental consent. Victor Valley also sought an Order that it is not required to provide special education and related services to Student if it prevails and Parents do not comply with OAH's Order.

Parent objected to Victor Valley assessing Student without consent. Parent did not raise specific legal objections to the assessment plan or the assessors' qualifications. Rather, Parent asserted that due to a 2018 incident at school, Parent objects to Student's

then and proposed placement. Parent noted there is ongoing legal action regarding that incident. Parent is also concerned that given the prior incident, Student's mental health would be harmed by being assessed at school and by Victor Valley employees. Despite making reasonable efforts to work with Victor Valley, Parent is not willing to consent to the assessment plan unless the placement issue is resolved and Parent's concerns regarding who would assess and where are satisfactorily resolved.

VICTOR VALLEY GAVE PARENTS PROPER NOTICE OF THE MAY 19, 2021 ASSESSMENT PLAN

A FAPE, means special education and related services that are available to an eligible child that meets state educational standards at no charge to the parent or guardian. (20 U.S.C. § 1401(9); 34 C.F.R. § 300.17 (2006).) Parents and school personnel develop an IEP for an eligible student based upon state law and the IDEA. (20 U.S.C. §§ 1401(14), 1414(d)(1); and see Ed. Code, §§ 56031, 56032, 56341, 56345, subd. (a), and 56363, subd. (a); 34 C.F.R. §§ 300.320, 300.321, and 300.501 (2006).)

In general, a child eligible for special education must be provided access to specialized instruction and related services which are individually designed to provide educational benefit through an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. (*Board of Education of the Hendrick Hudson Central School Dist. v. Rowley* (1982) 458 U.S. 176, 201-204; *Endrew F. v. Douglas County School Dist. RE-1* (2017) 580 U.S. ____ [137 S.Ct. 988, 1000].)

Dr. Akinnusi was Victor Valley's director of special education for seven years. Dr. Akinnusi's job duties included making sure Victor Valley followed federal regulations relative to the identification, placement, and program development for special education students living in the district. Dr. Akinnusi earned a doctorate degree in

educational leadership, master's degree in special education, a clear administrative service credential, a moderate to severe special education credential, and a cross language and academic development credential. Dr. Akinnusi testified at hearing and was knowledgeable regarding the procedural and substantive requirements under state and federal law to develop an assessment plan. Dr. Akinnusi's testimony was credible and was given significant weight.

Reassessment of a student requires parental consent. (20 U.S.C. § 1414(c)(3); Ed. Code, § 56381, subd. (f)(1).) To obtain parental consent, school districts must follow procedural safeguards. (20 U.S.C. § 1414(a)(2)(A)(i).) The school district must provide proper notice to the parents. (20 U.S.C. §§ 1414(b)(1), 1415(b)(3)&(c)(1); 34 C.F.R. § 300.304(a) (2006).)

School districts must give notice of the proposed assessment plan and a copy of the parents' procedural safeguards, a copy of parental procedural rights under the IDEA and related state laws. (20 U.S.C. § 1415(c), (d); Ed. Code, § 56321, subd. (a).) The assessment plan must be accompanied by notice that advises parent that an IEP team meeting will be scheduled to discuss the assessment results and recommendations. (Ed. Code, § 56329, subd. (a)(1).)

Dr. Akinnusi prepared the May 19, 2021 assessment plan, and sent it to Parent with a notice of an IEP team meeting scheduled for June 1, 2021. The IEP team meeting was scheduled for reasons unrelated to the assessment; however, Dr. Akinnusi's notice stated the parties could discuss any questions regarding the intended assessments. Dr. Akinnusi also provided Parent with a copy of procedural safeguards and parental rights under the IDEA and related state laws. Dr. Akinnusi sent these documents to Parent via certified mail and email on May 19, 2021. Victor Valley established by a preponderance of the evidence that it provided proper notice to Parents.

The assessment plan must be in language easily understood by the public and in the native language of the parent; explain the types of assessments to be conducted; and state that no IEP will result from the assessment without the consent of the parent. (Ed. Code, § 56321, subd. (b)(1)-(4); 20 U.S.C. § 1415(b)(3)&(4); see also 34 C.F.R. § 300.9(a) (2006).) They must explain the evaluation procedures and the areas of proposed reassessment. (20 U.S.C. §§ 1415(c), 1414(b)(1).)

The May 19, 2021 assessment plan explained the evaluation procedures and the areas of reassessment. The assessment plan was written in language easily understood by the public and was in the English language, Parent's native language. It explained the types of assessments to be conducted and what each assessment measured, what functional ability was being tested, and stated that no IEP would result from the assessment without Parent's consent.

The May 19, 2021 assessment plan contained many of the same areas of assessment as Student's last triennial assessment plan dated November 3, 2016. The assessment plan listed the following assessments to be conducted to address all areas of Student's suspected disability: academic and pre-academic achievement; career and vocational development; cognitive, intellectual development, and learning ability; health, developmental, and medical; observations and interviews; perceptual and motor development; self-help and adaptive; social, emotional, and behavioral development; and speech, language, and communication development. The assessment plan identified assessment examiners, including a special education teacher, nurse, school psychologist, and speech therapist. Accordingly, Victor Valley established by a preponderance of the evidence that the May 19, 2021 assessment plan provided proper notice to Student's Parents of the suspected areas of need in which Victor Valley intended to assess Student.

THE REASSESSMENT WAS TIMELY AND NECESSARY

The IDEA provides for reevaluations, referred to as reassessments in California law, to be conducted no more frequently than once a year, but at least once every three years, unless the parent and the agency agree that it is unnecessary. (20 U.S.C. § 1414(a)(2)(B)(ii); 34 C.F.R. § 300.303(b)(2) (2006); Ed. Code, §§ 56043, subd. (k), 56381, subd. (a)(2).)

The district must also conduct a reassessment if it determines that the educational or related service needs of the child, including improved academic achievement and functional performance, warrant a reassessment. (20 U.S.C. § 1414(a)(2)(A)(i); 34 C.F.R. § 300.303(a)(1) (2006); Ed. Code, § 56381, subd. (a)(1), (2).)

Reassessments must be conducted by persons competent to perform them, as determined by the local educational agency. (20 U.S.C. § 1414(b)(3)(A)(iv); 34 C.F.R. § 300.304(c)(1)(iv) (2006); Ed. Code, § 56322.) Any psychological assessments of pupils shall be made in accordance with Education code section 56320 and shall be conducted by a credentialed school psychologist who is trained and prepared to assess cultural and ethnic factors appropriate to the pupil being assessed. (Ed. Code, §§ 56322, 56324, subd. (a).)

Student was initially found eligible for special education and related services on January 23, 2009. Student's most recent comprehensive triennial assessments were discussed in a two-part IEP team meeting held November 3, 2016, and February 13, 2017. The November 3, 2016 triennial assessment plan assessed Student in the following areas of suspected disability: academic and pre-academic achievement; cognitive, intellectual development, and learning ability; functional behavioral assessment; observations and interviews; social, emotional, and behavioral development;

and speech, language, and communication development. Parent timely consented to the triennial assessment plan on October 25, 2016.

Student's most recent triennial assessments were reviewed at an IEP team meeting held on February 13, 2017. Accordingly, Student's next triennial assessment was due by February 13, 2020. (20 U.S.C. § 1414(a)(2)(B)(ii); 34 C.F.R. § 300.303(b)(2) (2006); Ed. Code, §§ 56043, subd. (k), 56381, subd. (a)(2).)

Dr. Akinnusi established that Student should be reassessed in accordance with the May 19, 2021 assessment plan because, among other reasons, Victor Valley did not have information regarding Student's current needs as he had not attended school since March 2018. Dr. Akinnusi contended the assessment plan would assist the IEP team in developing a program using current information regarding Student's functioning and present levels of performance to offer Student a FAPE. Dr. Akinnusi established that although Student will be an adult soon, he is still entitled to special education and related services and the assessments would help determine needed accommodations in the educational setting. Dr. Akinnusi's testimony was persuasive and established that Victor Valley needed to evaluate Student pursuant to the May 19, 2021 assessment plan to determine Student's educational or related service needs.

Dr. Bevans was a credentialed school psychologist for Victor Valley for 10 years and previously assessed Student in October 2016. Dr. Bevans earned a doctorate degree in educational psychology, a master's degree in psychology and a pupil personnel services credential. Dr. Bevans had training and experience assessing students' psychological, social and educational needs, including administering intelligence tests, achievement tests, personality tests, tests measuring perceptual and motor development, and other tests as needed for those requiring periodic re-evaluation. Dr. Bevans was prepared to assess cultural and ethnic factors appropriate

to Student. Dr. Bevans intended to complete the psychoeducational reassessment pursuant to the May 19, 2021 assessment plan if Victor Valley was given authorization to assess Student.

Dr. Bevans' 2016 psychoeducational report for Student was thorough and included details about assessment results. Dr. Bevans explained that the psychoeducational report provided data to the IEP team to understand Student's educational needs, strengths and weaknesses as a learner, which helped the team determine an appropriate program. Dr. Bevans established that the May 19, 2021 assessment plan met Student's needs and was appropriate because it covered areas that would provide adequate data to facilitate educational planning. Dr. Bevans established that comprehensively assessing Student was necessary based on the date of Student's last triennial, and the fact that Student's IEP team did not have current information regarding Student's needs.

Randall Habovsky was a certified and licensed speech and language pathologist since 2016. As a speech and language pathologist for Victor Valley, Habovsky had education, training and experience to assess, diagnose and provide intervention for communication disorders of varying levels of severity. Habovsky held a certification of clinical competence from the American Speech-Language-Hearing Association since 2017 and was qualified to render an opinion in this matter. Habovsky reviewed Student's 2016 speech and language and psychoeducational triennial evaluations to prepare for his testimony at hearing. Based on a review of the assessments, Habovsky established that Student should be reevaluated as proposed in the May 19, 2021 assessment plan. Habovsky observed that Student performed moderately low in the 2016 speech and language assessment and noted that limited areas were examined at that time; only one portion of the Goldman-Fristoe Test of Articulation was completed

and Student was only tested in the area of semantics. Habovsky established that a comprehensive evaluation in all five areas of language should be conducted to determine Student's current areas of need.

The evidence established that the assessment plan and its delivery to Parents procedurally met the requirements of the IDEA. The evidence further established that the assessments were necessary for Student's IEP team to develop an educational program that would appropriately address Student's needs. Victor Valley established the assessments selected would provide the information required for the IEP team to design Student's educational program based on Student's current academic strengths and weaknesses. The evidence established that Victor Valley employed qualified assessors to assess Student. Victor Valley proved by a preponderance of the evidence that a reassessment was required based upon the date of the last triennial assessment and was necessary to develop Student's IEP based on Student's present functioning.

VICTOR VALLEY MADE REASONABLE EFFORTS TO OBTAIN PARENT'S CONSENT TO THE ASSESSMENT PLAN BEFORE FILING FOR DUE PROCESS

The district must give the parent at least 15 days to review, sign, and return the proposed assessment plan. (Ed. Code, § 56321, subd. (a).) If parents do not consent to a reassessment plan, the district may request judicial override by showing at a due process hearing that it needs to reassess the student and it is lawfully entitled to do so. (20 U.S.C. § 1414(c)(3); 34 C.F.R. § 300.300(c)(1)(ii) (2006); Ed. Code, §§ 56381, subd. (f)(3), 56501, subd. (a)(3).) Without an order after a due process hearing, reassessments require parental consent. (20 U.S.C. § 1414(c)(3); Ed. Code, § 56381, subd. (f)(1).)

A school district must establish it made reasonable efforts to obtain consent by keeping a record of its attempts to obtain consent, such as detailed records of telephone calls made or attempted, and the results of those calls; copies of correspondence sent to parents and any response from them, and detailed records of visits made to the parents' home or work, and the results of those visits. (34 C.F.R. §§ 300.300(d), 300.322 (d) (2006).)

To proceed with a reassessment over a parent's objection, a school district must demonstrate at a due process hearing that the parent has been provided an appropriate written reassessment plan to which the parent has not consented, that the student's triennial reassessment is due, that conditions warrant reassessment, or that the student's parent or teacher has requested the reassessment. (Ed. Code § 56318, subd. (a).)

Victor Valley closed down schools in March 2020 based on the COVID-19 pandemic and reopened in April or May 2021. Dr. Akinnusi did not have contact with Parent during the school closure and became concerned Student may have moved out of the district. Dr. Akinnusi knew from prior experiences that families often move out of the district without informing the school they had moved. Based upon the lack of communication with Parent during the COVID-19 school closure, Dr. Akinnusi asked the school resource officer to conduct a welfare check at Student's home on November 4, 2020. The school resource officer conducted a home visit and informed Dr. Akinnusi that Student still resided in the district.

Victor Valley made a reasonable effort to obtain Parents' consent to the assessment plan by sending it to Parent via certified mail and email on May 19, 2021. Parent did not consent to the assessment plan after 15 days. Parent argued that Victor Valley should not be permitted to assess Student based on health and safety concerns, including Student's mental health. Even if such a contention were established, Student

provided no legal authority that it would prevent assessment. Rather, had the record indicated a suspected mental health concern, that would establish an even greater need to assess Student.

Victor Valley had the burden to prove it complied with all laws prior to receiving authorization to conduct assessments without parental consent. Accordingly, Victor Valley demonstrated that it provided Parent an appropriate written reassessment plan to which parent has not consented, and that Student's triennial is due and that reassessment was warranted at this time. Victor Valley proved by a preponderance of the evidence that it complied with all requirements under state and federal law to permit it to assess Student over parent's objection.

CONCLUSIONS AND PREVAILING PARTY

As required by California Education Code section 56507, subdivision (d), the hearing decision must indicate the extent to which each party has prevailed on each issue heard and decided.

Victor Valley Union High School District may assess Student according to its May 19, 2021 assessment plan without Parents' consent. Victor Valley prevailed on the sole issue in this case.

REMEDIES

In its closing brief, Victor Valley requested an Order that it not be required to offer or provide special education and related services of any type to Student until Parent complies with OAH's Order granting Victor Valley authorization to assess Student without Parents' consent. To support its proposition, Victor Valley cited three OAH decisions that made the order that Victor Valley is requesting.

OAH decisions are not binding precedent, but may be persuasive authority. (Cal. Code Regs., tit. 5, § 3085.) Special education due process hearings are limited to an examination of the time frame pleaded in the complaint and as established by the evidence at the hearing and expressly do not include declaratory decisions about how the IDEA would apply hypothetically. (Gov. Code, § 11465.10-11465.60; Cal. Code Regs., tit. 5, § 3089; see also *Princeton University v. Schmid* (1982) 455 U.S. 100, 102 [102 S.Ct. 867, 70 L.Ed.2d 855] [“courts do not sit to decide hypothetical issues or to give advisory opinions”]; *Stonehouse Homes v. City of Sierra Madre* (2008) 167 Cal.App.4th 531, 539-542 [court deemed the matter not ripe for adjudication because it was asked to speculate on hypothetical situations and there was no showing of imminent and significant hardship].)

Victor Valley sought an advisory opinion determining how special education law should be applied if Parents refuse to comply with the ordered assessments. Victor Valley’s request is denied. The issue of whether Parents will comply with the Order made in this Decision is not ripe as this hypothetical situation has not occurred. Victor Valley’s request is also denied because the order requested exceeds the scope of the claim it raised in the request for due process hearing, namely permission to assess Student without Parents’ consent.

ORDER

Victor Valley may assess Student pursuant to the May 19, 2021 assessment plan without parental consent. The 60-day timeline to complete the assessments and hold an IEP team meeting to review the assessments shall begin on the date of this Decision.

RIGHT TO APPEAL THIS DECISION

This is a final administrative decision, and all parties are bound by it. Pursuant to Education Code section 56505, subdivision (k), any party may appeal this Decision to a court of competent jurisdiction within 90 days of receipt.

Marlo Nisperos

Marlo Nisperos

Administrative Law Judge

Office of Administrative Hearings

7.10 Prevention and Intervention Updates
Verbal report, no materials

7.11 Compliance Updates
Verbal report, no materials



Desert/Mountain Special Education Local Plan Area
17800 Highway 18
Apple Valley, CA 92307-1219

P 760-552-6700
F 760-242-5363
W www.dmselpa.org

MEMORANDUM

Date November 2, 2021
To: Directors of Special Education
From: Peggy Dunn, Program Manager

Subject: **Occupational and Physical Therapy Reports**

Attached are the occupational and physical therapy Referral Status, and Current Students Direct Services reports by district.

If you have any questions concerning either report, please contact me at (760) 955-3568 at peggy.dunn@cahelp.org

California Association of Health and Education Linked Professions

Upcoming Trainings

Date/Time	Event	Location
11/30/2021 1:30 PM - 4:00 PM	TISA: DETERMINING THE NEED AND WORKING EFFECTIVELY WITH INTENSIVE SUPPORTS	ONLINE
12/1/2021 -	FORMS AND FACTS 101 (SELF-PACED)	VIRTUAL
12/1/2021 -	LEGALLY COMPLIANT IEP PRESENT LEVELS OF PERFORMANCE (PLOPS), GOALS, AND EDUCATIONAL BENEFIT (SELF-PACED)	VIRTUAL
12/1/2021 -	PRIOR WRITTEN NOTICE (SELF-PACED)	VIRTUAL
12/1/2021 -	STRUCTURED LITERACY - WHAT, WHY, WHO, AND HOW?	VIRTUAL
12/2/2021 9:00 AM - 10:30 A	WEBIEP AM QUESTION AND ANSWER SESSION	VIRTUAL
12/2/2021 2:00 PM - 3:30 PM	WEBIEP PM QUESTION AND ANSWER SESSION	VIRTUAL
12/7/2021 1:00 PM - 4:00 PM	UNIVERSAL SCREENER OVERVIEW	VIRTUAL
12/7/2021 2:00 PM - 3:30 PM	WEBEIP PM QUESTION AND ANSWER SESSION	VIRTUAL
12/8/2021 8:30 AM - 12:30 PM	BASIC RESTORATIVE PRACTICES AND USING CIRCLES EFFECTIVELY	VIRTUAL

For more information, visit the CAHELP Staff Development calendar ([url: www.cahelp.org/calendar](http://www.cahelp.org/calendar))
17800 Highway 18, Apple Valley, California 92307
(760) 552-6700 Office * (760) 242-5363 Fax

Upcoming Trainings

Date/Time	Event	Location
12/8/2021 8:00 AM - 2:00 PM	YOUTH MENTAL HEALTH FIRST AID	VIRTUAL
12/17/2021 2:00 PM - 3:00 PM	FAMILY FUN DAYS	VIRTUAL/DMESC

For more information, visit the CAHELP Staff Development calendar ([url: www.cahelp.org/calendar](http://www.cahelp.org/calendar))
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(760) 552-6700 Office * (760) 242-5363 Fax

MANIFESTATION DETERMINATION, FUNCTIONAL BEHAVIOR ASSESSMENT (FBA), & BEHAVIOR INTERVENTION PLAN (BIP)

Presented by:

Jessica M. Lascano, MA, LEP #3613, APCC #8762, NCSP, SBCSS School Psychologist

DAY 1 of this live webinar will help school psychologists, and administrators to learn about the manifestation determination process, including how to conduct a manifestation determination, information to consider when conducting a manifestation determination, and how to make defensible decisions. Participants will be exposed to real life examples of manifestation determination cases and will have the opportunity to practice via case studies. Additionally, participants will learn about the relationship between behavioral supports, including Functional Behavioral Analysis, and manifestation determinations. Participants will leave the training with several tools, and resources to help them to conduct thorough manifestation determinations.

Presented by:

East Valley SELPA Program Specialists

Courtney Beatty, MA, BCBA, Mary Ann Klenske, MA, and Shannon Vogt, MA

DAY 2 & 3 of this live webinar covers the core components of both an effective and comprehensive Functional Behavior Assessment (FBA) and resulting Behavior Intervention Plan (BIP). Initially, participants will learn the three main components of a legally defensible FBA which include Indirect Assessment, Direct Assessment and Analysis of data to determine the function of the behavior, This information comes directly from researched literature on ABA. Part-two will cover how to develop interventions specific to the function of the behavior identified for change. This will include staff instructions, teaching strategies, visual supports and crisis intervention procedures in order to decrease identified behavior and increase the use of the new positive behavior (FERB).

Objectives:

- Participants will become familiar with the EV SELPA process of collecting data, analyzing the information and developing a plan.
- Using the forms developed by EV SELPA, participants will become proficient with how to effectively analyze data.
- Using the EV SELPA FBA and BIP Guidebooks, participants will gain knowledge of the appropriate steps in developing a comprehensive and legally compliant Functional Behavior Assessment and Behavior Intervention Plan.

Audience: Certified Personnel, Administrators, Special Education teachers, School Psychologists, Program Specialists, and BCBA's

Wednesday, Thursday, & Friday
August 25, 26, & 27, 2021
8:30 am—12:30 pm

Register Online:

<https://sbcss.k12oms.org/46-205251>



Tuesday, Wednesday, & Thursday
October 19, 20, & 21, 2021
8:30 am—12:30 pm

Register Online:

<https://sbcss.k12oms.org/46-205252>



If you are interested in attending ONLY Day 1: Manifestation Determination

August 25, 2021, 8:30 am—12:30 pm, Register Online: <https://sbcss.k12oms.org/46-205377>

October 19, 2021, 8:30 am—12:30 pm, Register Online: <https://sbcss.k12oms.org/46-205378>