



Oakland School *for the* Arts

Special Education  
Parent Handbook

## **Introduction**

Oakland School for the Arts offers educational opportunities for qualified students regardless of their disability status. Individual Education Plans (IEPs) are implemented by an Education Specialist, who collaborates with staff and ensures that students' accommodations, modifications, services, and supports are accurately reflected in teacher practice and administrative action. Families and students are an integral part of this process and regular communication between the staff and the students' home is facilitated by the Education Specialist. Staff is given on-going training in Special Education procedures and effective classroom strategies for students with learning differences. OSA maintains a Special Education Local Plan Area (SELPA) agreement with the El Dorado County Charter SELPA..

This handbook was created by the Oakland School for the Arts (OSA) with the hope that it will serve as an informative resource for families. It is not comprehensive and OSA encourages families to read the EDCOE Charter SELPA CAC Parent Handbook, available at <http://www.edcoecharterselpa.org/> and the Parents Rights at the same web address and included in this handbook.

<b>Introduction</b>	<b>1</b>
<b>Individuals with Disabilities Education Act (IDEA)</b>	<b>3</b>
<b>Pre-Referral Process</b>	<b>4</b>
Assessment Plans	4
Family Request for Assessment	5
Assessment Timelines	5
Areas of Assessment	5
<b>Educational Benefit</b>	<b>6</b>
<b>OSA Support Systems</b>	<b>6</b>
<b>Sample Letter – Requesting a Support Team Meeting</b>	<b>7</b>
<b>Sample Letter – Referral for Special Education</b>	<b>8</b>
<b>Assessment Plan Development</b>	<b>9</b>
<b>IEP Team Meeting</b>	<b>10</b>
IEP Team Membership	11
Sample IEP Agenda	12
<b>Parent Request for Special Education Flowchart</b>	<b>13</b>
<b>Available Special Education Programs and Services</b>	<b>14</b>
Least Restrictive Environment	14
Educational Setting	14
<b>Transition</b>	<b>15</b>
<b>Notice of Procedural Safeguards and Parents’ Rights</b>	<b>16</b>
<b>Parents’ Record Keeping</b>	<b>25</b>
<b>Section 504</b>	<b>26</b>
Definition of Disability	26
Definition of Major Life Activity	26
Reasonable Accommodations	26

## **Individuals with Disabilities Education Act (IDEA)**

As the nation's special education law, The Individuals with Disabilities Act (IDEA) provides rights and protections to children with disabilities and to their parents. The Individuals with Disabilities Act (IDEA) is a federal law that mandates and affirms the right of all children with disabilities to a Free Appropriate Public Education (FAPE). The purposes of IDEA are to do the following:

- Ensure that 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 employment and independent living;
- Ensure that the rights of children with disabilities and parents of such children are protected; Assist states, localities, educational service agencies, and federal agencies to provide for the education of all children with disabilities; and
- Assess and ensure the effectiveness of efforts to educate children with disabilities.

## Pre-Referral Process

Whenever there is a concern about their child's academic or behavioral performance, OSA or the family may request a meeting to discuss the concerns. During the meeting, the student study team can document concerns and which strategies are being implemented or will be implemented to attempt to address the student's concerns related to their learning. Areas that are important to discuss and document during the meeting are:

- Developmental/medical history
- Attendance/school enrollment history
- Review of vision, hearing, speech and language screenings
- Behavior
- Academics: Performance and results of interventions

Although a referral for special education assessment may be initiated by families, teachers, the student or other persons with knowledge of the student; current law **requires** that all options in the general program be implemented prior to a referral for special education. These options may include, but are not limited to, the following:

- Accommodations within the general education program (seating, breaks, etc.)
- Research-based intervention programs (math lab, reading support)
- Consultation with appropriate staff (counseling)
- Behavior plans and/or Attendance contracts

All options are to be explored and documented by the general education staff prior to a referral for special education. The procedure to be followed when a student is first seen as having difficulty will be the responsibility of the general education staff.

When all of the resources of general education have been exhausted, documented, and are unsuccessful, the student may be referred for special education consideration.

## Assessment Plans

An Assessment Plan (AP) is a document that outlines the assessment tools and methods used to determine eligibility for special education services as well as present levels of performance, the types of measurements used to collect this information, and the individual(s) responsible for the collection/review of data. Assessments will be comprised of data from multiple sources and will require a multidisciplinary team of specialists to gather and interpret the data.

An assessment plan can be initiated for several reasons. Some examples may include:

- Upon parent request
- To initiate an assessment for an initial evaluation
- To initiate an assessment for a triennial evaluation

- If a student is identified as having a new possible area of need, such as behavior or speech and language

**PLEASE NOTE:**

Formal assessment cannot be conducted without the parent's written consent. It may also be appropriate to conduct formal assessment while the student is receiving interventions suggested through the SST process.

Parental consent is not required before reviewing existing data, or before administering a test or other assessment that is administered to all students, unless before administration of that test or assessment, consent is required of all parents.

### **Family Request for Assessment**

If a family is requesting an assessment, OSA must respond within 15 days of receipt of the written request. The family has a right to request an evaluation at any time.

OSA may deny the request for an initial assessment or additional assessment using a Prior Written Notice (PWN) if the school feels that the student is receiving a Free Appropriate Public Education (FAPE) in the general education program, which is considered Least Restrictive Environment (LRE). OSA will include data in the PWN to ensure that the student does not require assessment, such as current academic performance, average test scores, and other means.

If a family would like to request a team meeting to discuss the need for supports, they should write a specific request to the attention of the child's principal or teacher, asking for a Student Study Team meeting (see sample letter on page XX).

### **Assessment Timelines**

Any time a referral to assess a student is proposed, an Assessment Plan (AP) will be developed and sent to the parent for review within 15 calendar days of receipt of the referral. The parent shall have up to 15 calendar days from the receipt of the proposed AP to either grant or decline the proposed assessment. Winter and summer breaks may extend the timelines.

### **Areas of Assessment**

The Assessment Plan must be comprehensive and allow for assessing the student in all areas related to the suspected disability, typically, this include:

1. Health and developmental history
2. Speech and language function
3. General intelligence or cognitive level
4. Processing skills
5. Academic achievement
6. Social and emotional and behavioral status

In order to be eligible under IDEA, a student must meet criteria and be identified under one of the thirteen categories:

1. Autism
2. Deaf-blind
3. Deafness
4. Emotional Disturbance (Mental Health)
5. Hearing Impairment
6. Intellectual Disability
7. Multiple Disabilities
8. Orthopedic Impairment
9. Other Health Impairment (such as Attention Deficit, some mental health)
10. Specific Learning Disabilities (such as reading disabilities, processing disabilities, dyslexia, dyscalculia)
11. Speech-Language Disabilities
12. Traumatic Brain Injury
13. Visual Impairment (that cannot be corrected by glasses)

In addition to being identified under one of the above categories, the team must determine that the disability impacts the student's learning and requires special education services in order to receive educational benefit. The term "educational benefit" refers to a student making meaningful progress from instruction with supports and services in place through an individualized education program.

## **Educational Benefit**

The concept of "Educational Benefit" is different for every student based on their ability. Individualized Education Plans for students should be analytical, thoughtful and consistently designed based on individually assessed needs and the growth made from one year to the next. When anyone reads the IEP, they should be able to track threads through the document. Assessment report data should be visible in present levels. Needs should be visible in present levels. Services/supports and goals should be chosen and designed in response to specific, identified needs, and measurable growth should result. The result of this process over time is **Educational Benefit**.

## **OSA Support Systems**

OSA has multiple supports in place for students. Please talk with the counseling department for more information.

## Sample Letter – Requesting a Support Team Meeting

Your Name  
Address  
City, State, Zip Code  
Telephone Number  
Date

Mr./Ms. Principal  
OSA  
530 Eighteenth Street  
Oakland, CA 94612

Dear Mr./Ms. Principal:

I am the parent of (Student name), who is currently enrolled at the (School Name) in the (XX) grade. (Student name) is not doing well in school and I am concerned about his academic performance. Specifically, he/she is having trouble with \_\_\_\_\_ (some examples are reading comprehension, math word problems, decoding, executive functioning, or peer relations.)

I am therefore requesting a Student Study Team meeting to develop educational strategies and interventions for (Student name).

Sincerely,

<p><b>PLEASE NOTE: Before using a letter such as this, please be sure you have had the opportunity to communicate with your child's counselor</b></p>
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## Sample Letter – Referral for Special Education

Your Name  
Address  
City, State, Zip Code  
Telephone Number  
Date

Director of Special Education  
OSA  
530 Eighteenth  
Oakland, CA 94612

Dear Director:

I am the parent of (Student name), who is currently enrolled at the (School Name) in the (XX) grade. We have had a team meeting and the recommendations of that team have been implemented. (Student name) is still not doing well in school: (define here what those concerns are):\_\_\_\_\_.

I am writing to make a referral for assessment to determine eligibility for special education services for (Student name). I am requesting that OSA give (Student name) a comprehensive assessment in the following area(s) of suspected disability(ies):

\_\_\_\_\_ to determine if s/he is eligible for special education and/or related services under IDEA and/or Section 504. I am requesting all written reports be provided to me prior to the meeting for my review.

I look forward to receiving an assessment plan within 15 days. If you have any questions, please feel free to contact me.

Thank you for your cooperation and assistance.

Sincerely,

<p><b>PLEASE NOTE: Before using a letter such as this, please be sure you have had the opportunity to communicate with your child's counselor</b></p>
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## **Assessment Plan Development**

After a student is referred for special education assessment, OSA will contact the parent to develop or review an assessment plan. The school will:

1. Review the reason(s) for referral;
2. Explain the evaluation process and the methods or tests which will be used to obtain more information about the student. Testing will be done in the student's native language or other means of communication, unless other provisions are necessary. Areas of assessment will be specified in the assessment plan and decided upon collaboratively with both the school and parent input. All areas of suspected disability should be assessed as part of this assessment.
3. Provide a copy of Procedural Safeguards to the family.
4. Ask the parents to provide written consent for an assessment to be conducted. This would be in the form of an Assessment Plan.

The evaluation process, parent rights and the assessment plan may be offered at a meeting in which the initial referral has been made. However, this process may happen afterward.

The assessment process has two major purposes:

1. To gather all the information possible about the student by assessing his/her needs through observation, testing, and gathering pertinent information, written or otherwise from those who have worked with the student, including the parent, teachers, nurses, therapists and psychologists; and
2. To determine if the student is eligible for special education programs and services.

The school has 60 calendar days (excluding days during school breaks of more than 5 school days) from the time of the school receives the signed parent assessment plan to complete all assessments, prepare assessment results, schedule and hold the initial IEP team meeting.

In order to gather as much pertinent information about the student as possible, the school may ask the parent to sign an Exchange of Information form. This form would allow the appropriate school personnel to contact outside service providers working with the student.

## **IEP Team Meeting**

Once assessments are completed, a meeting will be held within the 60-day timeline, to review the results and determine special education eligibility. If the student is found eligible, the team will develop an Individualized Education Program (IEP) which is designed to identify what areas of need will be targeted for intervention and how such an intervention will actually be carried out. Before the student receives any special education services, this program must be developed at the IEP team meeting, and parents must provide written consent. Parents have the right and are encouraged to present information during the IEP team meeting, or prior to, for use in developing the most appropriate IEP for the student. Parents may request, in writing, the assessment results and draft IEP forms to become familiar with the documents, as well as other information pertinent to the IEP, such as drafted reports or drafted goals prior to the IEP team meeting.

A number of items make up the Individualized Education Program (IEP). They include:

- Statements of the student's level of educational performance and needs provided by parents and staff;
- Statements of yearly goals;
- Lists individuals responsible for helping to accomplish the goals;
- Criteria and evaluation procedures for measuring the achievement of the educational goals;
- A statement of the specific special education program, the related services needed by the student, and the degree of participation anticipated in the general education program;
- The date that special education service(s) will begin and how long the service(s) should continue; and
- Determination of participation in assessments.

The parent(s) or guardian will be asked to give written approval of the newly developed IEP at the IEP team meeting. Parents are not required to sign the IEP at this time. The parent(s) or guardian must give permission a change in educational placement or program of the student is implemented.

The student's program is a cooperative effort between the school, the home, and the student. Communication between home and school should continue after the IEP team meeting takes place.

Requests for informal conferences with the student's teachers, requests to visit the student's classroom, notes or phone calls are all ways of learning about the student's program and performance.

It is the team's and the parents' right and responsibility to request an IEP team meeting or review at any time. An IEP meeting will be held at least annually to review the IEP and the student's educational progress. In addition, the student will be re-evaluated no less than every three years to determine continued eligibility for special education services.

If the student does not qualify for special education services, he or she may or may not be eligible for services under Section 504 of the Rehabilitation Act of 1973. For additional information regarding Section 504, please see the OSA 504 Handbook. See page XX in this handbook that discusses 504 plans.

### **IEP Team Membership**

The following individuals are required members of an IEP team for purposes of developing, revising or reviewing the IEP, determining eligibility, and/or recommending placement for a student:

1. An administrator or an administrative designee (other than the student's teacher) who is knowledgeable of program options appropriate for the student. This person must be authorized to make decisions and allocate resources. This is usually the director of special education or the principal.
2. Not less than one general education teacher. It is recommended that the student's current general education teacher attend the meeting.
3. The student's special education teacher(s).
4. The student's parent(s)/legal guardian(s)/surrogate parent, or an individual selected by the parent. It is important to note that no individual or agency is authorized to sign with consent to an IEP unless they possess educational rights for the student.
5. The student. While not legally required, OSA thinks it is important for students to be active participants in their own education.

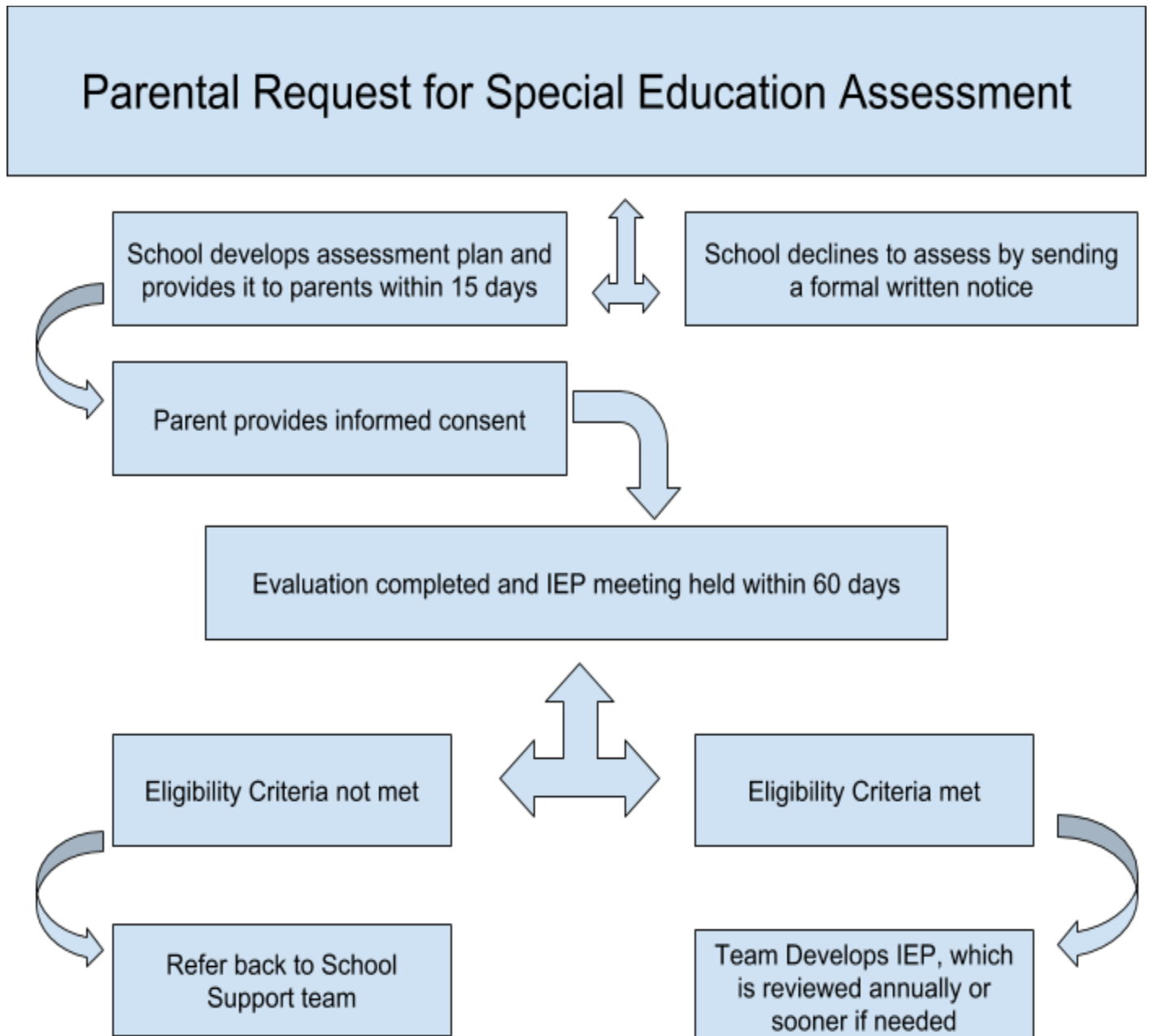
When appropriate, the IEP team may also include others with specific knowledge of the student and their needs.

## **Sample IEP Agenda**

Agenda for (student's name) Annual (or triennial) IEP on (date)

1. Welcome/Start Up
  - a. Introductions
  - b. Purpose/Expected Outcomes
  - c. Agenda Overview
  - d. Child/Parent Rights
  - e. Establish Time Parameters
2. Present Levels of Performance/Eligibility and Transition for Students 16 Years and Older
  - a. Complete Transition Paperwork in conjunction with Present Levels, Goals and Services
  - b. Student Strengths/Preferences/Interests
  - c. Parent Concerns
  - d. Review of Reports (General Education, Specialists, School Psychologist, and other agencies, if applicable)
  - e. Review of Progress on Current Goals/Objectives
3. New Goals/Objectives Based on Current Needs
4. Offer of Program/Services Based on Goals/Objectives
  - a. Service Delivery Options
  - b. Supplementary Aids, Services and Other Supports for School Personnel, or for the Student, or On Behalf of the Student
  - c. Accommodations/Modifications
  - d. Special Education and Related Services
  - e. Extended School Year?
  - f. Testing accommodations
2. Offer of Educational Setting
  - a. % of time in/out of general education classes/rationale for time out of general education
  - b. Promotion Criteria
  - c. Progress Monitoring/Progress Reporting Special Education Transportation? Graduation Plan (if appropriate)
3. Wrap up
  - a. Confirm Agreements
  - b. Signatures
  - c. Follow-up

## Parent Request for Special Education Flowchart



## **Available Special Education Programs and Services**

The Oakland School for the Arts provides a range of special education programs and services for eligible students in grades six through twelfth grade.

Students receiving special education and related services will be educated with general education peers to the maximum extent appropriate. These students will be integrated as much as possible in school activities and general education classroom activities as determined by the IEP team. This may include programs that are not on the OSA campus. Special education and related services will be provided on behalf of the student, without cost.

Please note: Eligible students are able to continue to receive special education and related services documented in the IEP until they receive a high school diploma -OR- they reach the age of 22.

### **Least Restrictive Environment**

“Least Restrictive Environment (LRE)” is the placement or program, which can best meet an individual student’s needs and does so with a minimum loss of contact with general education curriculum, programs and typically developing peers.

For OSA, this means keeping students in general education classes, which includes full participation in their arts emphasis.

### **Educational Setting**

OSA offers a range of special education programs to meet the instructional needs of students with disabilities and are described below. For additional information regarding the special education programs that are offered at OSA, please contact the director of special education.

The primary program at OSA provides a range of services to students with mild to moderate disabilities. An Education Specialist focuses on assisting students in accessing the grade level academic curriculum. Each student receives specially designed instruction and support services in areas of specific need as indicated on his or her Individualized Education Program (IEP). These services may be provided through a push-in/pull out model which has been found to meet the majority of students’ needs at OSA. The flexibility of the program allows for students to earn their high school diploma in a timely fashion.

In addition to the academic support, OSA offers mental health support through group and individual counseling. Other supports are made available when the need arises.

## **Transition**

Parents play an important role in their student's transition from the school setting to the world of adult living and working. Although the formal process of transition planning is not required of a school until after the student turns 15, prior to the student's 16th birthday, it is helpful for parents to begin exploring the topic much sooner.

Transition, in reference to individuals receiving special education services, is defined as a coordinated set of activities for a student with a disability that:

- Is designed to be within a results-oriented process that is focused on improving the academic and functional achievement of the student to facilitate the student's movement from school to post-school activities. These would include postsecondary education, vocational education, integrated employment (including supported employment); continuing and adult education, adult services, independent living, or community participation;
- Is based on the individual student's needs, taking into account the student's strengths, preferences, and interests; and
- Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

As a student with disabilities moves into the teen years, the Individualized Education Program (IEP) focuses more on the interests of the student and what he or she hopes for the future. According to the Individuals with Disabilities Education Act (IDEA), it is the responsibility of the IEP team, including the parent, to create a Transition Individualized Education Program (Transition IEP) to support those interests.

IDEA requires that parents and students be involved in all aspects of transition planning and decision-making.



# Notice of Procedural Safeguards and Parents' Rights

## EL DORADO COUNTY CHARTER SELPA SPECIAL EDUCATION LOCAL PLAN AREA

6767 Green Valley Road  
Placerville, California 95667  
(530) 295-2462 or (800) 524-8100 ext 2462

### NOTICE OF PROCEDURAL SAFEGUARDS AND PARENTS' RIGHTS

*Special Education Rights of Parents and Children  
Under the Individuals with Disabilities Education Act, Part B  
2004 Reauthorization (H.R. 1350)*

#### INTRODUCTION

This information provides you as parents, legal guardians, persons authorized to make educational decisions, and surrogate parents of children with disabilities from 3 years of age through age 21 with an overview of your educational rights, sometimes called procedural safeguards. This notice is also provided for students who are entitled to these rights at age 18. (20 USC 1415; EC 56321) A copy of these safeguards will be given to you once a year. Additional copies may be given upon an initial referral or parent request for evaluation, upon the first occurrence of the filing of a complaint under Section 615(b) (6) of H.R. 1350, upon provision of an assessment plan to parents and at your request. If your Charter School has a website, a copy of these procedural safeguards may be made available to you through that website. [615(d) (1) (A-B)] You may elect to receive this notice and other notices required under this section by an electronic mail (e-mail) communication, if your Charter School makes such an option available. [615(n)]

#### Participation in making decision about your child's education

You have the right to refer your child for special education services. You must be given opportunities to participate in any decision-making meeting regarding your child's special education program. You have the right to participate in an IEP meeting about the identification (eligibility), assessment, educational placement of your child and other matters relating to your child's free appropriate public education. [20 USC 1414(b)(c)(d) and (f); EC 56341(b), 56343(c)]

You also have the right to participate in the development of the IEP and to be informed of program options, and the availability of free appropriate public education.

Additionally, you have the right to electronically record the meeting on an audio tape recorder. The law requires that you notify the Charter School at least 24 hours prior to meeting if you intend to record the proceedings. (EC 56341.1)

#### Additional Assistance

When you have a concern about your child's education, it is important that you call or contact your child's teacher or administrators to talk about your child and any problems you see. Staff in the Special Education Department can answer questions about your child's education, your rights and procedural safeguards. When you have a concern, this informal conversation often solves the problem and helps maintain open communication. Additional resources are listed at the end of this document to help you understand the procedural safeguards.

#### NOTICE, CONSENT, ASSESSMENT, AND ACCESS

##### Prior Written Notice

You have the right to receive a written notice from the charter School before decisions affecting your child's special education are put into place. These include decisions to:

- identify your child as a child with a disability, or change your child's eligibility from one disability to another;
- evaluate or reevaluate your child;
- provide a free appropriate public education to your child, or change a component of your child's free appropriate public education;
- place your child in a special education program; or,
- change your child's special education placement. (20 USC 1415[b]; EC 56500.4)
- acknowledge receipt of a parental request to revoke consent for all special education and related services.

You also have the right to written notice from the Charter School if the Charter School refuses your request to take these actions.

The Prior Written Notice must include the following:

- a description of the actions proposed or refused by the Charter School;
- an explanation of why the action was proposed or refused;
- a description of other options considered and the reasons those options were rejected;
- a description of each assessment procedure, test, record or report used as a basis for the action proposed or refused;
- a description of any other factors relevant to the action proposed or refused; and
- a statement that parents of a child with a disability are protected by the procedural safeguards.

If the notice is not in regard to an initial referral for assessment, the notice must provide a statement that you have protection under procedural safeguards, information on how you can obtain a copy of described procedural safeguards, and sources of additional assistance in understanding the procedural safeguards. (20 USC 1415[c])

#### **Parent Consent**

Parents' written approval is required for:

- **First Evaluation:** The Charter School must have your informed written consent before it can evaluate your child. You will be informed about the evaluations to be used with your child. Your Charter School must make reasonable efforts to obtain your informed consent for a first evaluation.
  - **Re-evaluation:** The Charter School must have your informed written consent before reevaluating your child. To avoid confusion, you should inform the school in writing if you want to refuse consent to a reevaluation. The Charter School may reevaluate your child without your written consent if the Charter School has taken reasonable measures to get your consent and you have not responded.
- Initial and Continued Placement in Special Education:** You must give informed written consent before the Charter School can place your child in a special education program. You can refuse consent for an evaluation, a reevaluation or the initial placement of your child in special education. The Charter School may seek to evaluate or continue your child's placement in special education through a due process hearing, if it believes that it is necessary for your child's education. You and the Charter School may agree to first try mediation to resolve your disagreements. (EC 56321[c], 56346, 56506[e]; 20 USC 1414[a][c])

Consent forms must describe the activity for which consent is sought and list the records (if any) that will be released and to whom. You can revoke consent at any time, except that revocation is not retroactive (does not negate actions that occurred after consent was given and before consent was revoked). (34 CFR 300.300)

#### **Surrogate Parent Appointment**

In order to protect the rights of the child, Charter Schools must ensure that an individual is assigned to act as a surrogate parent for the parents of a child with a disability when a parent cannot be identified and the Charter School cannot discover the whereabouts of a parent. A surrogate parent may be appointed if the child is an adjudicated dependent or ward of the court under the state Welfare and Institutions Code and the child is referred to special education or already has an IEP. A Charter School must make reasonable efforts to appoint a surrogate within 30 days after determining that a surrogate is needed. (20 USC 1415[b]; EC 56050)

#### **Age of Majority**

When your child reaches the age of 18, all rights under Part B of the Individuals with Disabilities Education Act (IDEA) will transfer to your child. The only exception will be if your child is determined to be incompetent under State Law. (34 CFR 300.517 30; EC 56041.5)

#### **Parent Revocation of consent for Student to Receive All Special Education and Related Services**

Changes to the federal regulations for the Individuals with Disabilities Act give parents (or the adult student) the right to revoke their consent for the student to receive special education and related services. You can revoke your consent without any recourse from the Charter School. You must submit this statement of revocation in writing and you are not required to state a reason. The Charter School may inquire as to the reason, but you are not obligated to respond. Revocation may not be effective retroactively.

Upon receipt of your written request revoking consent for special education and related services, the Charter School is required to provide you with Prior Written Notice acknowledging your revocation of special education and related services

and must include the date on which all services will cease. This date must be within a reasonable time and the Charter School may not postpone ceasing services. The Charter School may not require the parent to attend a meeting to discuss the revocation. The Charter School may not file for due process or dispute resolution to delay your request. Under the regulations, the Charter School will not be considered in violation of FAPE by this revocation. Upon the cessation of services, your child will be considered a general education student for all purposes, including discipline, graduation and state testing requirements; procedural safeguards (with the exception of Child Find requirements provided under IDEA) will no longer be available to your child. Accommodations and modifications provided to your child under the IEP process will also be discontinued. The Charter School is not required to amend your child's records to remove any references to your child's prior receipt of special education and related services. If your child attended a school other than his or her neighborhood school through the IEP process, there may be implications for your child's enrollment.

You may not choose to reinstate the consent for your child to receive special education and related services. However, you, or the Charter School, may re-refer your child for special education at any time. In this case, the referral will be treated as an initial request for an evaluation, including timeline and assessment requirements.

#### **Assessment**

##### **Nondiscriminatory Assessment**

You have the right to have your child assessed in all areas of suspected disability. Materials and procedures used for assessment and placement must not be racially, culturally, or sexually discriminatory. Assessment materials must be provided and the test(s) administered in your child's native language or mode of communication, unless it is clearly not feasible to do so. No single procedure can be the sole criterion for determining eligibility and developing an appropriate education program for your child. (20 USC 1414(a)(b); EC 56001(j) and 56320)

##### **Assessment Plan**

When the Charter School is seeking to assess your child, you will be given a written, proposed assessment plan. Along with that plan you will receive a copy of this Procedural Safeguards document. When the assessment is completed, an individualized education program team meeting, which includes you, the parent or guardian, and or your representatives, will be scheduled to determine whether the student qualifies for special education services. The IEP Team will discuss the assessment, the educational recommendations and the reasons for these recommendations. A copy of the assessment report and the documentation of determination of eligibility will be given to you. (EC 56329 (a))

##### **Independent Educational Evaluation**

If you disagree with the results of the assessment conducted by the Charter School, you have the right to ask for one independent education evaluation (IEE) for your child, per evaluation conducted by the Charter School, from a person qualified to conduct the assessment, at public expense. The Charter School must respond to your request for independent educational evaluation and provide you information, upon request, about where to obtain an independent educational evaluation. Alternatively, the Charter School must request a due process hearing to prove that its assessment was appropriate. If the Charter School prevails, you still have the right to an independent assessment but not at public expense. The IEP Team must consider independent assessments.

The Charter School assessment procedures may allow in-class observation of students. If the Charter School observed your child in his or her classroom during an assessment, or if the Charter School would have been allowed to observe your child, an individual conducting an independent educational assessment must also be allowed an equivalent opportunity to observe your child in the classroom. If the Charter School proposes a new school setting for your child, an independent educational assessor must be allowed to first observe your child in the proposed new setting. (ED 56329(b)and(c))

##### **Access to Educational Records**

All parents of a child enrolled in the Charter School have the right to inspect records under the federal Family Educational Rights and Privacy Act (FERPA), which has been implemented in California under Education Code sections 49060-49079. Under IDEA, parents of a child with disabilities (including noncustodial parents whose rights have not been limited) have the right to review all educational records regarding the identification, evaluation and educational placement of the child and the provision of a free appropriate public education and to receive an explanation and interpretation of the records. Under California statutes, the parents have the right to review and to receive copies of educational records. These rights transfer to a nonconserved pupil who is eighteen years old or attending an institution of post secondary education.

Parental consent, or the consent of an adult student, is required before personally identifiable information is released to officials of participating agencies providing or paying for transition services related to post secondary goals.

**“Education record”** means those records that are directly related to a pupil and maintained by an educational agency or a party acting for the agency or institutions, and may include (1) the name of the child, the child’s parent or other family member; (2) the address of the child; (3) a personal identifier such as the child’s social security number, student number, or court file number; (4) a list of personal characteristics or other information that would make it possible to identify the child with a reasonable certainty. Both federal and state laws further define a pupil record as any item of information directly related to an identifiable pupil, other than directory information, which is maintained by a Charter School or required to be maintained by an employee in the performance of his duties whether recorded by handwriting, print, tapes, film, microfilm, computer or by other means. Pupil records do not include informal personal notes prepared and kept by a school employee for his/her own use or the use of a substitute. If records contain information about more than one student, a parent can have access only to that portion of the record pertaining to his/her child.

Pupil records may be kept at the school site or Charter School office, but a written request for records at either site will be treated as a request for records from all sites. The Charter School custodian of records will provide you with a list of the types and locations of pupil records (if requested).

The custodian of the records shall limit access to those persons authorized to review the pupil record, which includes the parents of the pupil, a pupil who is at least sixteen years old, individuals who have been authorized by the parent to inspect the records, school employees who have a legitimate educational interest in the records, post secondary institutions designated by the pupil, and employees of federal, state and local education agencies. Unauthorized access will be denied unless the parent has provided written consent to release the records or the records are released pursuant to a subpoena or court order. The Charter School shall keep a log indicating the time, name and purpose for access of those individuals who are not employed by the Charter School.

You have a right to inspect and review all of your child’s educational records without unnecessary delay, including prior to a meeting about your child’s IEP or before a due process hearing. The Charter School must provide you access to records and copies, if requested, within five business days after the request has been made orally or in writing. A fee for copies, but not the cost to search and retrieve, may be charged unless charging the fee would effectively deny access to the parent. (20 USC 1415[b]; EC 56501, 56504, and 49069)

Parents who believe that information in the education records collected, maintained or used by the Charter School is (among other things) inaccurate, misleading or violates the privacy or other rights of the pupil may request in writing that the Charter School amend the information. If the Charter School concurs, the record will be amended and the parent will be informed. Should the Charter School refuse to make the amendment requested, the Charter School shall notify the parent of the right to and provide a hearing, if required, to determine whether the challenged information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the pupil. If it is decided by the governing board after the hearing that a record will not be amended, the parent shall have the right to provide what he/she believes is a corrective written statement to be permanently attached to the record. The Charter School has policies and procedures governing the retention and destruction of records. Parents wishing to request the destruction of records, which are no longer necessary to the Charter School, may contact the Charter School’s Custodian of Records. However, the Charter School is required to maintain certain information in perpetuity. (34CFR99; CFR300.561—573; 20USC 1415 [b](1); 34 CFR 500.567; EC 49070)

### **INDIVIDUALIZED EDUCATION PROGRAM (IEP)**

The public education agency initiates and conducts meetings for the purpose of developing, reviewing and revising the individualized education program of each child with a disability. The IEP documents the child’s eligibility for special education services and parents receive a copy of each IEP for their child. These meetings are conducted by the individualized education program (IEP) team.

When the IEP has been completed and appropriate parental consent has been provided, it is implemented as soon as possible following the IEP team meeting. A copy of the IEP is provided to the parents at no cost and if necessary, a copy of the IEP will be provided in the primary language of the parent(s), at the request of the parent(s). An individualized family service plan (IFSP) for a child aged three through five may serve as the IEP after a full explanation of the difference and written parent consent. The IEP team must consider the concerns of the parents for enhancing the education of their child.

### **IEP Team Members and Responsibilities**

The IEP team includes:

- An administrator or a representative designated by administration who is knowledgeable about program options appropriate for the child and who is qualified to provide, or supervise the provision of special education;
- At least one general education teacher of the child, if the child is, or may be participating, in the general education environment;
- At least one special education teacher of the child, or if appropriate, at least one special education provider of the child; and,
- One or both of the child's parents, individuals selected by the parent, or both.

When appropriate, the IEP team will also include:

- The child, including when the team will discuss transition services;
- Other persons who possess expertise or knowledge necessary for the development of the IEP;
- When the child has been assessed for purposes of developing, reviewing or revising the IEP, a person who has conducted an assessment of the child or who is knowledgeable about the assessment procedures used to assess the child and is familiar with the results of the assessment; and,
- When the child is suspected to have a learning disability, at least one member of the IEP team, other than the child's regular teacher, will be a person who has observed the child's educational performance in an appropriate setting. If the child is younger than five years or is not enrolled in a school, a team member will observe the child in an environment appropriate for a child that age.

A member of the IEP team may be excused from an IEP team meeting, in whole or in part, when the LEA and the parent agree that the attendance of the member is not necessary because the member's area of curriculum or related services is not being modified or discussed at the meeting. When the member's area of curriculum or related services is being modified or discussed at the meeting, a required member of the IEP team may be excused, but only when the LEA and the parent consent to the excusal in writing, and the member submits in writing input into the development of the IEP prior to the meeting. The excusal provisions do not apply to parents, the student or persons with special knowledge or expertise.

If the child does not attend an IEP team meeting where transition services will be discussed, the Charter School will ensure that the child's needs and preferences are considered. The Charter School may invite representatives from other agencies that are likely to be responsible for transition services.

## HOW DISPUTES ARE RESOLVED

### Due Process Hearing

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

- The identification of your child for special education eligibility.
- The assessment of your child.
- The educational placement of your child.
- The provision of a free appropriate public education (FAPE) for your child.

The request for a due process hearing must be filed within two years from the date you knew or had reason to know of the facts that were the basis for the hearing request. [H.R.1350 §615(f)(3)(C)]

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

- a) the Charter School misrepresented that it had resolved the problem
- b) the Charter School withheld information that should have been provided to you. [H.R.1350 §615(f)(3)(D)]

### Mediation and Alternative Dispute Resolution (ADR)

You may ask the Charter School to resolve disputes through mediation, which is less adversarial than a due process hearing. Alternative Dispute Resolution (ADR) may also be available in your Charter School. Mediation and ADR are voluntary methods of resolving a dispute and may not be used to delay your right to a due process hearing. The parents and the Charter School must agree to try mediation before mediation is attempted. A mediator is a person who is trained in strategies that help people come to agreement over difficult issues. (20 USC 1415[e]; EC 56500.3)

### Due Process Rights

You have a right to:

1. Have a fair and impartial administrative hearing at the state level with a person who is knowledgeable of the laws governing special education and administrative hearings (*EC 56501[b]*);
2. Be accompanied and advised by an attorney and/or individuals who have knowledge about children with disabilities (*EC 56505[e]*; *20 USC 1415[h]*);
3. Present evidence, written arguments, and oral arguments (*EC 56505[e]*);
4. Confront, cross-examine, and require witnesses to be present (*EC 56505[e]*);
5. Receive a written or, at the option of the parent, an electronic verbatim record of the hearing, including findings of fact and decisions (*EC 56505[e]*; *20 USC 1415[h]*);
6. Have your child present at the hearing (*EC 56501[c]*);
7. Have the hearing be open or closed to the public (*EC 56501[c]*);
8. Be informed by the other parties of the issues and their proposed resolution of the issues at least ten calendar days prior to the hearing (*EC 56505[e]* and *56043[s]*; *20 USC 1415[b]*);
9. Receive a copy of all documents, including assessments completed by that date and recommendations, and a list of witnesses and their general area of testimony within five business days before a hearing. (*EC 56505[e]*);
10. Have an interpreter provided at the expense of the California Dept. of Education (*CCR 3082[d]*);
11. Have a mediation conference at any point during the due process hearing (*EC 56501[b]*), and
12. Receive notice from the other party, at least ten days prior to the hearing that it intends to be represented by an attorney. (*EC 56507[a]*)

In any action or proceeding regarding the due process hearing, the court, in its discretion, may award reasonable attorneys' fees as a part of the costs to you as the parent of a child with a disability if you are the prevailing party in the hearing. Reasonable attorneys' fees may also be awarded following the conclusion of the administrative hearing with the agreement of the parties. (*20 USC 1415[i]*; *EC 56507[b]*)

Fees may be reduced for any of the following:

1. The court finds that you unreasonably delayed the final resolution of the controversy;
2. The hourly attorneys' fees exceed the prevailing rate in the community for similar services by attorneys of reasonable comparable skill, reputation and experience;
3. The time spent and legal services provided were excessive; or
4. Your attorney did not provide to the Charter School the appropriate information in the due process complaint.

Attorneys' fees will not be reduced, however, if the court finds that the state or the Charter School unreasonably delayed the final resolution of the action or proceeding or there was a procedural safeguards violation. (*20 USC 1415[i]*)

Attorneys' fees may not be awarded relating to any meeting of the IEP team unless an IEP meeting is convened as a result of a due process hearing proceeding or judicial action. Attorney fees may also be denied if you reject a reasonable settlement offer made by the Charter School/public agency ten days before the hearing begins and the hearing decision is not more favorable than the settlement offer. (*20 USC 1415[d]*)

#### **Filing a Written Due Process Complaint**

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

**Office of Administrative Hearings  
Special Education Division  
2349 Gateway Oaks Drive, Suite 200  
Sacramento, CA 95833-4231  
Phone: (916) 263-0880; Fax: (916) 376-6319  
(916) 274-6035 after hours settlement line**

You need to file a written request for a due process hearing. The written notice shall be kept confidential. You or your representative needs to submit the following information in your request:

1. Name of the child;
2. Address of the residence of the child;
3. Name of the school the child is attending; and



4. A description of the nature of the problem, including facts relating to the problem(s) and a proposed resolution of the problem(s).

State law requires that either party filing for a due process hearing must provide a copy of the written request to the other party. (20 USC 1415[h]; EC 56502[c])

#### **Child's Placement While Due Process Proceedings are Pending**

According to the "stay put" provision of the law, a child involved in any administrative or judicial proceeding must remain in the current educational placement unless you and the school Charter School agree on another arrangement. If you are applying for initial admission to a public school, your child will be placed in a public school program with your consent until all proceedings are completed. (20 USC 1415[j]; EC 56505[d] and [i])

#### **Opportunity for Charter School to Resolve the Complaint**

If you choose to file a due process complaint as explained in the section entitled "Filing a Written Due Process Complaint," a meeting must be scheduled by the Charter School within 15 days of receiving the notice of your due process complaint. The purpose of the meeting is to give you opportunity to discuss your due process complaint and the facts on which you based your complaint so that the Charter School has a chance to address your concerns and work with you to reach a resolution. This meeting must be held before the initiation of a due process hearing unless you and the school Charter School agree in writing to waive the meeting and use the mediation process. The meeting must include the parents and other members of the IEP team who have specific knowledge of the facts. The Charter School has 30 days from the receipt of the due process complaint to resolve the due process complaint or the due process hearing may occur. These timelines are expedited if you request a hearing regarding pending disciplinary action.

If you fail to participate in the resolution session, the Charter School may (after 30 days) seek dismissal of your complaint.

If the school Charter School fails to convene or participate in a resolution session meeting within 15 days of receiving your complaint, you may ask a hearing officer to begin the due process timeline.

If the parents and the Charter School are unable to resolve the due process complaint and it goes to hearing, the hearing decision is final and binding on both parties. Either party can appeal the hearing decision by filing a civil action in state or federal court within 90 days of the final decision. (20 USC 1415[l]; EC 56505[g] and [i]; EC 56043[u])

### **SCHOOL DISCIPLINE AND PLACEMENT PROCEDURES FOR STUDENTS WITH DISABILITIES**

Children with disabilities may be suspended or placed in other alternative interim settings or other settings to the same extent these options would be used for children without disabilities.

If a child exceeds ten days in such a placement, a meeting must be held to determine whether the child's misconduct is caused by the disability. This meeting must take place immediately, if possible, or within ten school days of the school Charter School's decision to take this type of disciplinary action. (20 USC 1415[k])

As a parent, you will be invited to participate as a member of the team. The school Charter School must provide you with a written notice of the required action. The school Charter School may be required to develop an assessment plan to address the misconduct or, if your child has a behavior intervention plan, review and modify the plan, as necessary. If the team concludes that the misconduct was not a manifestation of your child's disability, the school Charter School might take disciplinary action, such as expulsion, in the same manner as it would for a child without disabilities.

If you disagree with the team's decision, you may request an expedited due process hearing from the Office of Administrative Hearing. (20 USC 1415[k])

#### **Placement in an Interim Alternative Educational Setting**

Under Federal law, a school Charter School may place a child in an appropriate interim alternative placement for up to forty-five school days under certain circumstances. Those circumstances are when the child has a weapon, or has knowingly possessed or used illegal drugs or sold controlled substances at school or a school function, or has inflicted serious bodily injury upon another person. (20 USC 1415[k])

If you request a hearing or an appeal regarding disciplinary action or manifestation determination, your child will stay in the interim alternative setting or disciplinary setting unless the maximum time for that setting is reached, or the parents and school Charter School agree to another placement. (34 CFR 300.526)

Alternative educational settings, when permissible, must allow the child to continue to participate in the general curriculum and receive services designed to address the behavior so it does not recur. (20 USC 1415[k])

## STATE SPECIAL SCHOOLS

The State Special Schools provide services to students who are deaf, hard of hearing, blind, visually impaired, or deaf-blind at each of its three facilities: the California Schools for the Deaf in Fremont and Riverside and at the California School for the Blind in Fremont. Residential and day school programs are offered to students from infancy to age 21 at both State Schools for the Deaf and from ages five through 21 at the California School for the Blind. The State Special Schools also offer assessment services and technical assistance. For more information about the State Special Schools, please visit the California Department of Education Web site at <http://www.cde.ca.gov/sp/ss/> or ask for more information from the members of your child's IEP team.

## CHILDREN ATTENDING PRIVATE SCHOOL

The school Charter School is responsible for the full cost of special education in a nonpublic, nonsectarian school, when the school Charter School, together with the IEP Team, recommends that this would be the appropriate placement for the student. (20 USC[a][10][B]; CFR 300.401; CFR 300.349[c]; EC 56361)

### Observation of Your Child at a Nonpublic School

If you unilaterally place your child in a nonpublic school and you propose the placement in the nonpublic school to be publicly financed, the school Charter School must be given the opportunity to first observe the proposed placement and your child in the proposed placement. The school Charter School may not observe or assess any other child at the nonpublic school without permission from the other child's parent or guardian. (EC 56329(d))

### Unilateral Parent Placement in Nonpublic or Private School

If you unilaterally place the student in a private or nonpublic, nonsectarian school without Charter School consent or referral of a court or hearing officer, the Charter School may only be required to reimburse the parents if their child received special education and related services under the authority of a public agency before enrolling in the private school and the court or hearing officer finds that the school Charter School did not make a free and appropriate education available in a timely manner.

A court or hearing officer may not reduce or deny reimbursement to you if you failed to notify the school Charter School for any of the following reasons:

- Illiteracy and inability to write;
- Giving notice would likely result in physical or serious emotional harm to the child;
- The school prevented you from giving notice; or
- You had not received a copy of this Notice of Procedural Safeguards or otherwise been informed of this notice requirement. (20 USC 1412[a]; 34 CFR 300.403)

The court or hearing officer may reduce or deny reimbursement if you did not make your child available for an assessment upon written notice from the school Charter School. You may also be denied reimbursement if you did not inform the school Charter School that you were rejecting the special education placement proposed by the school Charter School and did not give notice of your concerns and intent to enroll your child in a private school at public expense.

### Notifying the Charter School

You must notify the Charter School of your intent to place your child in a private school:

- At the most recent IEP meeting you attended before removing your child from the public school; or
- In writing to the school Charter School at least ten business days (including holidays) before removing your child from the public school. (20 USC 1412[a]; 34 CFR 300.403)

The Charter School is not obligated to offer a free appropriate public education to a child whose parent(s) have voluntarily enrolled that child in a private school. In such cases, the Charter School will propose an Individual Services Plan for Private School Students. (20 USC 1412(a)(10)(A)(i))



## COMPLAINT PROCEDURES

### State Appeal Process

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

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

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

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

For complaints involving issues not covered by IDEA, consult your Charter School's Uniform Complaint Procedures.

**The Charter School would like to work with you to resolve all complaints at the local level whenever possible. We invite you to meet with the administrator who has been designated to work with compliance issues and attempt to resolve your concern informally before a complaint is filed. S/he will maintain confidentiality as permitted by law. If your complaint cannot be resolved, a formal investigation will be initiated or you will be referred to the appropriate agency for assistance.**

## **Parents' Record Keeping**

The parent of a child with special needs will gather a tremendous amount of information about the child from various professionals and service agencies. Record keeping is not mandatory for parents of children with disabilities, but good records prove to be extremely helpful for us to serve your child in the best way possible.

It may be helpful to have information on the following categories:

- **Family History:** May include child's birth date, place of birth, parent(s) name(s), address, phone number and family history.
- **Developmental History of the Child:** May include mother's health during pregnancy and any unusual circumstances at the birth of the child. May also include developmental milestones and at what age the child reached them.
- **Medical History and Reports:** May include information on the child and the family's health history, nature of serious illnesses, injuries and operations, record of the child's immunization, and any medications that are prescribed.
- **Educational History:** May include names and dates of schools attended, copies of IEPs, test results and progress reports.
- **Services Received from Other Agencies:** May include copies of records from any other agencies, which may have had contact with the child.

## Section 504

Section 504 is the section of the Rehabilitation Act of 1973, which applies to persons with physical or mental impairments. It is a civil rights act, which protects the civil and constitutional rights of persons with disabilities. It states that no person with a disability can be excluded from or denied benefits of any program receiving or benefiting from federal financial assistance.

### Definition of Disability

A person is considered to have a disability within the definition of Section 504 if he or she:

- has a mental or physical impairment which **substantially limits** one or more of such person's major life activities
- has a history of such impairments; or
- is regarded as having such an impairment

School staff should consider the potential existence of a disability and possible Section 504 protection if the student has been diagnosed, for example, with:

- ADHD
- Communicable diseases
- Blood/sugar disorders
- Heart malfunctions

### Definition of Major Life Activity

"Major life activities" include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. When a condition does not substantially limit a major life activity, the individual does not qualify for a Section 504 plan.

### Reasonable Accommodations

Section 504 requires a written plan describing placement and services. Placement decisions must be based upon information drawn from a variety of sources and all information must be considered. The placement decisions must be made by a group of persons knowledgeable about the student, about the meaning of the evaluation data, and about placement options. All members of the group or assistance team, including parents, must sign the "educational accommodation plan." Some examples of reasonable accommodations are:

- Untimed or extended time for assessment and/or assignments;
- Provision of readers;
- Provision of audio textbooks,
- Changes in the way tests are given; and/or
- Allow for verbal response.