

***DEL MAR UNION SCHOOL DISTRICT
INSTRUCTION***

BOARD POLICY 6159: INDIVIDUALIZED EDUCATION PROGRAM

The Governing Board desires to provide educational alternatives that afford students with disabilities full educational opportunities. Students with disabilities shall receive a free, appropriate public education and be placed in the least restrictive environment, which meets their needs to the extent provided by law.

The Superintendent or designee shall ensure that the district follows the North Coastal Consortium for Special Education (NCCSE) Local Plan.

To the extent permitted by federal law, a foster parent shall have the same rights relative to his/her foster child's IEP as a parent/guardian. (Education Code 56055)

Legal Reference:

EDUCATION CODE

51225.3 Requirements for high school graduation and diploma
56055 Rights of foster parents pertaining to foster child's education
56136 Guidelines for low incidence disabilities areas
56195.8 Adoption of policies
56321 Development or revision of IEP
56321.5 Notice to include right to electronically record
56340.1-56346 Instructional planning and individualized education program
56350-56352 IEP for visually impaired students
56380 IEP reviews; notice of right to request
56390-56393 Certificate of completion, special education
56500-56508 Procedural safeguards
60640-60649 Standardized Testing and Reporting Program
60850 High school exit examination, students with disabilities

FAMILY CODE

6500-6502 Age of majority

GOVERNMENT CODE

7572.5 Seriously emotionally disturbed child, expanded IEP team

WELFARE AND INSTITUTIONS CODE

300 Children subject to jurisdiction
601 Minors habitually disobedient
602 Minors violating law defined as crime

CODE OF REGULATIONS, TITLE 5

852-853 Standardized Testing and Reporting Program, accommodations for students with disabilities
1216-1218 High School Exit Examination, accommodations for students with disabilities
3021-3029 Identification, referral and assessment
3040-3043 Instructional planning and the individualized education program

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act of 1974
1400-1487 Individuals with Disabilities Education Act

CODE OF FEDERAL REGULATIONS, TITLE 34

300.1-300.756 Individuals with Disabilities Education Act

COURT DECISION

Shapiro v. Paradise Valley Unified School District, No. 69 (9th Circuit, 2003) 2003 US.App. LEXIS 1395

Sacramento City School District v. Rachel H. 14 F.3d 1398 (9th Cir. 1994)

Management Resources:

FEDERAL REGISTER

34 CFR 300.a Appendix A to Part 300 - Questions and Answers
34 CFR 300.a1 Attachment 1: Analysis of Comments and Changes

WEB SITES

CDE: <http://www.cde.ca.gov>

US Department of Education, Office of Special Education and Rehabilitative Services:

<http://www.ed.gov/offices/OSERS>

**DEL MAR UNION SCHOOL DISTRICT
INSTRUCTION**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 6159:
INDIVIDUALIZED EDUCATION PROGRAM**

At the beginning of each school year, the district shall have an individualized education program (IEP) in effect for each student with a disability within district jurisdiction. (34 CFR 300.342; Education Code 56344)

Members of the IEP Team

The IEP team for any student with a disability shall include the following members: (20 USC 1414(d)(1); 34 CFR 300.344; Education Code 56341, 56341.2, 56341.5)

1. One or both of the student's parents/guardians, and/or a representative selected by the parent/guardian
2. If the student is or may be participating in the general education program, not less than one general education teacher

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

3. Not less than one special education teacher or, where appropriate, not less than one special education provider for the student.
4. A representative of the district who is:
 - a. Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities.
 - b. Knowledgeable about the general education curriculum.
 - c. Knowledgeable about the availability of district and/or Special Education Local Plan Area (SELPA) resources.
5. An individual who can interpret the instructional implication of assessment results.

6. At the discretion of the parent/guardian or district, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate.

The determination of whether the individual has knowledge or special expertise regarding the student shall be made by the party who invites the individual to be a member of the IEP team. (Education Code 56341)

7. Whenever appropriate, the student with the disability.

8. For transition service participants:

- a. The student, of any age, with the disability if the purpose of the meeting is the consideration of the student's transition service needs.

If the student does not attend the IEP team meeting, the district shall take other steps to ensure that the student's preferences and interests are considered.

- b. A representative of any other agency that is likely to be responsible for providing or paying for transition services.

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

9. For students suspected of having a specific learning disability in accordance with 34 CFR 300.540 and 300.542, at least one individual who is qualified to conduct individual diagnostic examinations of the student, such as a school psychologist, speech language pathologist, or remedial reading teacher

In accordance with 34 CFR 300.542, at least one team member other than the student's general education teacher shall observe the student's academic performance in the regular classroom setting. If the child is younger than five years or not enrolled in school, a team member shall observe the child in an environment appropriate for a child of that age.

10. For students who have been placed in a group home by the juvenile court, a representative of the group home

If a student with disabilities is identified as potentially requiring mental health services, the district shall request the participation of the county mental health program in the IEP team meeting. (Education Code 56331)

Upon request of the parent/guardian of a child who was previously served under Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004), the district shall invite the Infant and Toddlers with Disabilities Coordinator or other representative of the early education or early intervention system to the initial IEP team meeting to assist with the smooth transition of services. (Education Code 56341; 20 USC 1414(d)(1)(D))

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

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

Meetings of the IEP Team

The IEP team shall meet: (20 USC 1414(d); Education Code 56045, 56341.1, 56343, 56380)

1. Whenever the student has received an initial formal assessment and, when desired, when the student receives any subsequent formal assessment
2. Whenever the student demonstrates a lack of anticipated progress
3. Whenever the parent/guardian or teacher requests a meeting to develop, review, or revise the IEP
4. Periodically, but at least annually, to:
 - a. Determine whether the student's annual goals are being achieved
 - b. Revise the IEP as appropriate to address, among other matters, the provisions for transition services specified in Education Code 56341.1
 - c. Review the IEP and the appropriateness of placement
 - d. Make any necessary revisions to the IEP

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

If a participating agency other than the district fails to provide the transition services described in the student's IEP, the team shall reconvene to identify alternative strategies to meet the transition service objectives set out for the student in the IEP. (20 USC 1414(d); Education Code 56345.1)

A meeting to develop an initial IEP shall be conducted within 30 days of a determination that a student needs special education and related services pursuant to 34 CFR 300.343. (Education Code 56344)

An IEP required as a result of an assessment of the student shall be developed within 60 days (not counting days between the student's regular school sessions, terms or days of school vacation in excess of five school days) from the date of receipt of the parent/guardian's written consent for assessment, unless the parent/guardian agrees, in writing, to an extension. (Education Code 56344)

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

When a parent/guardian requests an IEP team meeting to review the IEP, the team shall meet within 30 days of receiving the parent/guardian's written request, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five school days. If a parent/guardian makes an oral request, the district shall notify the parent/guardian of the need for a written request and the procedure for filing a written request. (Education Code 56043, 56343.5)

A regular education or special education teacher may request a review of the classroom assignment of a special education student by submitting a written request to the Superintendent or designee. The Superintendent or designee shall consider the request within 20 days of receiving it, not counting days when school is not in session or, for year-round schools, days when the school is off track. If the review indicates a need for change in the student's placement, instruction, and/or related services, the Superintendent or designee shall convene an IEP team meeting, which shall be held within 30 days of the Superintendent or designee's review, not counting days when school is not in session or days when school is off track, unless the student's parent/guardian consents in writing to an extension of time.

As a member of the IEP team, the ~~regular~~ general education teacher shall, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of: (20 USC 1414(d)(3)(C); 34 CFR 300.346; Education Code 56341)

1. Appropriate positive behavioral interventions and supports and other strategies for the student
2. Supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student, consistent with 20 USC 1414(d)(1)(A)(i)(IV)

A member of the IEP team shall not be required to attend an IEP team meeting, in whole or in part, if the parent/guardian consents in writing and the district agrees that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. If the meeting involves a discussion of the member's area of the curriculum or related service, the IEP team member may be excused from the meeting if the parent/guardian consents in writing to the excusal and the member submits to the parent/guardian and team written input into the development of the IEP prior to the meeting. (Education Code 56341; 20 USC 1414(d)(1)(C))

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

IEP Team Meetings: Parent/Guardian Notice and Attendance

The Superintendent or designee shall take steps to ensure that one or both of the parents/guardians of the student with a disability are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include notifying the parents/guardians of the meeting and scheduling the meeting at a mutually agreed upon time and place. (34 CFR 300.345; Education Code 56341.5)

The Superintendent or designee shall send parents/guardians notices of IEP team meetings early enough to ensure that they will have an opportunity to attend. These notices shall: (34 CFR 300.345; Education Code 56341.5)

1. Indicate the purpose, time, and location of the meeting
2. Indicate who will be in attendance at the meeting
3. Inform the parents/guardians of the provisions of 34 CFR 300.345(b)(1)(ii) relating to their right to have on the IEP team other individuals who have knowledge or special expertise about the student
4. Identify any other local agency that is likely to be responsible for providing or paying for transition services in accordance with 34 CFR 300.344
5. For students beginning at age 16 (or younger than 16 if deemed appropriate by the IEP team):

- a. Indicate that the purpose of the meeting will be the consideration of postsecondary goals and transition services for the student pursuant to Education Code 56345.1 and 20 USC 1414(d)(1)(A)(i)(VIII)
- b. Indicate that the district will invite the student to the IEP team meeting
- c. Identify any other agency that will be invited to send a representative

At each IEP team meeting convened by the district, the district administrator or specialist on the team shall inform the parent/guardian and student of the federal and state procedural safeguards included in the notice of parental rights provided pursuant to Education Code 56321. (Education Code 56500.1)

If no parent/guardian can attend the meeting, the Superintendent or designee shall use other methods to ensure parent/guardian participation, including video conference, individual or conference telephone calls. (20 USC 1414(f); 34 CFR 300.345; Education Code 56341.5)

An IEP team meeting may be conducted without a parent/guardian in attendance if the district is unable to convince the parent/guardian that he/she should attend. In this case, the district shall maintain a record of its attempts to arrange a mutually agreed upon time and place for the meeting, including: (34 CFR 300.345; Education Code 56341.5)

1. Detailed records of telephone calls made or attempted and the results of those calls.
2. Copies of correspondence sent to the parent/guardian and any response received.
3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits.

Parents/guardians and the district shall have the right to audiotape the proceedings of IEP team meetings, provided members of the IEP team are notified of this intent at least 24 hours before the meeting. If the district gives notice of intent to audiotape a meeting, and the parent/guardian objects or refuses to attend because the meeting would be audiotaped, the meeting shall not be audiotaped. Parents/guardians also have the right to: (Education Code 56341.1)

1. Inspect and review the audiotapes.

2. Request that the audiotapes be amended if the parents/guardians believe they contain information that is inaccurate, misleading, or in violation of the student's privacy rights or other rights.
3. Challenge, in a hearing, information that the parents/guardians believe is inaccurate, misleading, or in violation of the student's privacy rights or other rights.

The district shall take any action necessary to ensure that the parent/guardian understands the proceedings at a meeting, including arranging for an interpreter for parent/guardians with deafness or whose native language is not English. (Education Code 56345.1)

Contents of the IEP

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

1. A statement of the present levels of the student's academic achievement and functional performance, including the manner in which the student's disability affects his/her involvement and progress in the general curriculum (i.e., the same curriculum as for nondisabled students)
 - a. For a preschool child, as appropriate, the manner in which the disability affects his/her participation in appropriate activities
 - b. For students with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives
2. A statement of measurable annual goals, including academic and functional goals, designed to do the following:
 - a. Meet the student's needs that result from his/her disability in order to enable the student to be involved in and progress in the general curriculum
 - b. Meet each of the student's other educational needs that result from the student's disability
3. A description of the manner in which the progress of the student toward meeting the annual goals described in item #2 above will be measured and when the district will provide periodic reports on the progress the student is making toward

meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards

4. A statement of the specific special educational instruction and related services and supplementary aids and services, based on peer-reviewed research, to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided for the student to:
 - a. Advance appropriately toward attaining the annual goals
 - b. Be involved and make progress in the general curriculum in accordance with item #1 above and to participate in extracurricular and other nonacademic activities
 - c. Be educated and participate with other students with disabilities and nondisabled students in the activities described in Education Code 56345(a)
5. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in the extracurricular and other nonacademic activities described in item #4(c) above.
6. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on state and districtwide assessments.

If the IEP team determines that the student shall take an alternate assessment on a particular state or districtwide assessment, a statement of the following:

- a. The reason that the student cannot participate in the regular assessment
 - b. The reason that the particular alternate assessment selected is appropriate for the student
7. The projected date for the beginning of the services and modifications described in item #4 above and the anticipated frequency, location, and duration of those services and modifications

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

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

2. Extended school year services when the IEP team determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education
3. Provision for transition into the general education program if the student is to be transferred from a special class or center, or nonpublic, nonsectarian school, into a general education program in a public school for any part of the school day

The IEP shall include descriptions of activities intended to:

- a. Integrate the student into the general education program, including indications of the nature of each activity and the time spent on the activity each day or week
 - b. Support the transition of the student from the special education program into the general education program
4. Specialized services, materials, and equipment for students with low incidence disabilities, consistent with the guidelines pursuant to Education Code 56136

Development, Review, and Revision of the IEP

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

1. The strengths of the student
2. The concerns of the parents/guardians for enhancing the education of their child
3. The results of the initial assessment or most recent assessment of the student
4. The academic, developmental, and functional needs of the student
5. In the case of a student whose behavior impedes his/her learning or that of others, if appropriate, the use of positive behavioral interventions and supports and other strategies to address that behavior
6. In the case of a student with limited English proficiency, the language needs of the student as such needs relate to the student's IEP
7. In the case of a student who is blind or visually impaired, the need to provide for instruction in Braille and instruction in the use of Braille

However, such instruction need not be included in the IEP if the IEP team determines that instruction in Braille or the use of Braille is not appropriate for the

student. This determination shall be based upon an assessment of the student's reading and writing skills, his/her future needs for instruction in Braille or the use of Braille, and other appropriate reading and writing media.

8. The communication needs of the student, and in the case of a student who is deaf or hard of hearing, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode

The team shall also consider the related services and program options that provide the student with an equal opportunity for communication access, including the following:

- a. The student's primary language mode and language, which may include the use of spoken language with or without visual cues and/or the use of sign language
- b. The availability of a sufficient number of age, cognitive, and language peers of similar abilities which may be met by consolidating services into a local plan area-wide program or providing placement pursuant to Education Code 56361
- c. Appropriate, direct, and ongoing language access to special education teachers and other specialists who are proficient in the student's primary language mode and language consistent with existing law regarding teaching training requirements
- d. Services necessary to ensure communication-accessible academic instructions, school services, and extracurricular activities consistent with the federal Vocational Rehabilitation Act and the federal Americans with Disabilities Act

9. Whether the student requires assistive technology devices and services

If, in considering the special factors in items #1-9 above, the IEP team determines that a student needs a particular device or service, including an intervention, accommodation, or other program modification, in order to receive a free appropriate public education, the IEP team must include a statement to that effect in the student's IEP. (34 CFR 300.346; Education Code 56341.1)

All IEPs shall be reviewed on an annual basis for student progress, appropriateness of placement, and to include any necessary revisions. (Education Code 56380)

The IEP team shall review the IEP periodically, but at least annually, to determine whether the annual goals for the student are being achieved and to revise the IEP, as appropriate, addressing, among other matters, the following: (20 USC 1414(d)(4); Education Code 56341.1)

1. Any lack of expected progress toward the annual goals and in the general curriculum, where appropriate
2. The results of any reassessment conducted pursuant to Education Code 56381

A reassessment of the student shall be conducted at least once every three years, or more frequently if the district determines that the educational or related services needs, including the academic achievement and functional performance of the student, warrant a reassessment, if conditions warrant a reassessment, or if the student's parent/guardian or teacher requests a reassessment and a new IEP to be developed. (Education Code 56381)

3. Information about the student provided to or by the parents/guardians regarding review of evaluation data pursuant to Education Code 56381(b)
4. The student's anticipated needs
5. Other relevant matters

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

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

When an IEP calls for a residential placement as a result of a review by an expanded IEP team, the IEP shall include a provision for a review, at least every six months, by the full IEP team of all of the following: (Education Code 56043)

1. The case progress
2. The continuing need for out-of-home placement

3. The extent of compliance with the IEP
4. Progress toward alleviating the need for out-of-home care

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

Transfer Students

If a student with a disability transfers to this district from a district within this district's SELPA during the school year, this district shall continue, without delay, to provide services comparable to those described in the existing IEP, unless the parent/guardian and district agree to develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325)

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

If a student with a disability transfers to this district from a district out of state during the school year, the district shall provide the student with a free appropriate public education, including services comparable to the out of state district's IEP, in consultation with the parent/guardian, until such time as the district conducts an assessment, if the district determines such an assessment is necessary, and develops a new IEP, if appropriate. (Education Code 56325)

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

Due Process/Mediation

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

the parent/guardian does not consent to all of the components of the IEP, then those components of the IEP to which the parent/guardian has consented shall be implemented so as not to delay providing instruction and services to the student. (Education Code 56346)

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

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

Updated 3/06

**DEL MAR UNION SCHOOL DISTRICT
INSTRUCTION**

BOARD POLICY 6159.1:
PROCEDURAL SAFEGUARDS AND COMPLAINTS FOR SPECIAL EDUCATION

Procedural Safeguards/Due Process Hearings

In order to protect the rights of students with disabilities and their parents/guardians, the district shall follow all procedural safeguards as set forth in law.

Parents/guardians shall receive written notice of their rights, including the right to a due process hearing for any dispute related to the identification, assessment or educational placement of a child or the provision of a free, appropriate public education to the child.

The Superintendent or designee shall represent the district in any due process hearings conducted with regard to district students and shall provide the Governing Board with the results of these hearings.

Complaints for Special Education

Complaints concerning compliance with state or federal law regarding special education shall be addressed in accordance with the district's uniform complaint procedures.

Copies of the SELPA approved procedural safeguards and complaints for special education are available at the district office and at each school site.

Legal Reference:

EDUCATION CODE

56000 Education for individuals with exceptional needs

56001 Provision of the special education programs

56020-56035 Definitions

56195.7 Written agreements

56195.8 Adoption of policies for programs and services

56300-56381 Identification and referral, assessment, instructional planning, implementation, and review

56440-56447.1 Programs for individuals between the ages of three and five years

56500-56507 Procedural safeguards, including due process rights

56600-56606 Evaluation, audits and information

CODE OF REGULATIONS, TITLE 5

3000-3089 Regulations governing special education

4600-4671 Uniform complaint procedures

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act

CODE OF FEDERAL REGULATIONS, TITLE 34

99.10-99.22 Inspection, review and procedures for amending education records

104.36 Procedural safeguards

300.500-300.517 Due process procedures for parents and children

Management Resources:

WEB SITES

CDE: <http://www.cde.ca.gov>

**DEL MAR UNION SCHOOL DISTRICT
INSTRUCTION**

BOARD POLICY 6159.3:

**APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION
STUDENTS**

In order to protect the rights of students with disabilities, the Superintendent or designee shall appoint a surrogate parent to represent a student with disabilities as necessary in accordance with law. He/she shall develop procedures for recruiting, training and assigning adults to serve as surrogate parents.

Legal Reference

EDUCATION CODE

56028 Parent

56050 Surrogate parents

56055 Rights of foster parents

GOVERNMENT CODE

7570-7588 Interagency responsibilities for providing services to disabled children, especially:

7579.5 Surrogate parent; appointment; qualifications; liability

WELFARE AND INSTITUTIONS CODE

300 Children subject to jurisdiction

361 Limitations on parental control

601 Minors habitually disobedient or truant

602 Minors violating laws

726 Limitations on parental control

UNITED STATES CODE, TITLE 20

1414-1482 Individuals with Disabilities Education Act, especially:

1415 Procedural safeguards

UNITED STATES CODE, TITLE 42

11434a Definitions

CODE OF FEDERAL REGULATIONS, TITLE 34

300.20 Definition parent

300.515 Surrogate parents

Management Resources:

FEDERAL REGISTER

34 CFR 300.a Appendix A to Part 300 - Questions and Answers

34 CFR 300.a1 Attachment 1: Analysis of Comments and Changes

WEB SITES

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office of Special Education and Rehabilitative Services:

<http://www.ed.gov/about/offices/list/osers/index.html>

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**DEL MAR UNION SCHOOL DISTRICT
INSTRUCTION**

ADMINISTRATIVE REGULATIONS TO BOARD POLICY 6159.3:
APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION
STUDENTS

Conditions Necessitating a Surrogate

The Superintendent or designee shall appoint a surrogate parent to represent a student with disabilities under one or more of the following circumstances: (Government Code 7579.5; 20 USC 1415(b)(2); 34 CFR 300.515)

1. No parent/guardian for the student can be identified.
2. The district, after reasonable efforts, cannot discover the location of a parent or legal guardian of the student.
3. The student is adjudicated a dependent or ward of the court pursuant to Welfare and Institutions Code 300, 601 or 602 and all of the following conditions are satisfied:
 - a. The court has referred the student for special education and related services or the student has a valid individualized education program (IEP)
 - b. The court has specifically limited the right of the parent/guardian to make educational decisions for his/her child
 - c. The student has no responsible adult to represent him or her pursuant to Welfare and Institutions Code 361 or 726 or Education Code 56055
4. The student is an unaccompanied homeless youth not in the custody of a parent/guardian, as defined in 42 USC 11434a
5. The student has reached the age of majority but has been declared incompetent by a court of law

Appointment of Surrogate Parents

Upon a determination that a student needs a surrogate parent, the Superintendent or designee shall make reasonable efforts to ensure that the surrogate is appointed within 30 days. (20 USC 1412(b)(2)(B))

When appointing a surrogate parent, the Superintendent or designee shall give first preference to a relative caretaker, foster parent or court-appointed special advocate, provided any of these individuals exists and is willing and able to serve. If none of these individuals is willing or able to act as a surrogate parent, the Superintendent or designee shall select the surrogate parent of his/her choice. If the student is moved from the home of the relative caretaker or foster parent who was appointed as the student's surrogate parent, the Superintendent or designee shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the student. (Government Code 7579.5)

The Superintendent or designee shall ensure that individuals to be appointed as surrogate parents have passed a criminal background check and have demonstrated interest and skill in working with students with disabilities.

Surrogate parents shall have no interests that conflict with the student's educational interests and shall have knowledge and skills that ensure adequate representation of the student. If a conflict of interest arises after the appointment of a surrogate parent, the Superintendent or designee shall terminate the appointment and appoint another surrogate parent. (34 CFR 300.515; Government Code 7579.5)

Duties of Surrogate Parent

The surrogate parent shall have all the rights relative to the student's education that a parent has under the Individuals with Disabilities Education Act pursuant to 20 USC 1414-1482 and 34 CFR 300.1-300.756. The surrogate parent may represent the student in all matters relating to identification, assessment, instructional planning and development, educational placement, review and revision of the IEP, and in other matters relating to the provision of a free and appropriate public education. (Education Code 56050; Government Code 7579.5)

In addition, the representation of the surrogate parent shall include the provision of written consent to the IEP including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to Government Code 7570-7588. (Education Code 56050)

Surrogate parents shall volunteer their services to the district and serve without compensation. The district may reimburse them for mileage and other incidental expenses directly associated with their duties as surrogate parents.

Surrogate parents shall have access to the student's school records as necessary to fulfill their responsibilities as surrogate parents and in accordance with Board policy and administrative regulation.

Termination of Appointment

The Superintendent or designee shall terminate the appointment of a surrogate parent under the following conditions:

1. When the student is no longer in need of special education (G. C. 7579.5)
2. Another responsible adult is appointed to make educational decisions for the student (Government Code 7579.5)
3. The right of the parent/guardian to make educational decisions for the student is fully restored (Government Code 7579.5)
4. When the surrogate parent no longer satisfies the requirements for appointment as a surrogate parent, as specified above

(6/94 6/99) 3/05