

1 **NORTH ORANGE COUNTY SPECIAL EDUCATION LOCAL PLAN AREA**
2 **FULLERTON SCHOOL DISTRICT**

3
4 **Notice to Parent/Guardian/Surrogate**
5 **Notice of Procedural Safeguards**

6 This notice is provided to you as parents, legal guardians, surrogate parents or
7 court appointed responsible adult, because your child is receiving special education
8 services or has been referred for possible placement in special education. This
9 information is your Notice of Procedural Safeguards (Notice) as required under the
10 Individuals with Disabilities Education Act (IDEA). The IDEA is a federal law that
11 requires school districts to provide a "free appropriate public education" (FAPE) to
12 eligible children with disabilities, as defined further below. This Notice will also be
13 provided to students who are entitled to these rights at age eighteen (18). The purpose
14 of this Notice is to explain to you your rights as a parent of a child with disabilities under
15 federal and state laws. In California, special education is provided to disabled students
16 between birth and twenty-one (21) years of age. Federal and state laws protect you and
17 your child throughout the procedures for evaluation and identification of special
18 education placement and services. A copy of this Notice will be given to you (1) once a
19 school year; (2) upon initial referral or your request for evaluation; (3) upon the receipt
20 of the first filing of a state complaint or due process complaint; (4) when a decision is
21 made to make a disciplinary change of placement; or (5) upon your request. The
22 definitions below will help you understand the statement of rights. (20 U.S.C. section
23 1415(d); 34 C.F.R. section 300.504; Education Code section 56301(d)(2).)

19 **DEFINITIONS**

20 **Children With Disabilities** is defined by federal law as a child with mental retardation,
21 hearing impairments (including deafness), speech or language impairments, visual
22 impairments (including blindness), emotional disturbance, orthopedic impairments,
23 autism, traumatic brain injury, other health impairments, specific learning disabilities,
24 deaf-blindness, or multiple disabilities; and who by reason thereof, needs special
25 education and related services. (20 U.S.C. section 1402(3); 34 C.F.R. section 300.8;
26 Education Code section 56026.)

26 **Evaluation** means the assessment of your child using various tests and measures in
27 accordance with state and federal laws to determine whether your child has a disability
28 and the nature and extent of special education and related services needed by your
29 child for his or her educational benefit. The assessment tools are individually selected
30 for your child and are administered by trained and knowledgeable professionals
31 employed or contracted by the school district. These tests do not include the basic tests
given to all children in the school setting. (34 C.F.R. sections 300.15, 300.304 –
300.311; Education Code sections 56302.5 and 56320.)

1 **Free Appropriate Public Education (FAPE)** is defined by federal law as special
2 education and related services (1) provided at public expense, under public supervision
3 and direction, and without charge to you; (2) meets the standards of the California
4 Department of Education (CDE); (3) is provided in conformity with a written
5 Individualized Education Program (IEP) developed for your child to confer an
6 educational benefit; and (4) is provided in an appropriate preschool, elementary or
7 secondary school program of the State, or in a nonpublic school if there is no
8 appropriate program available in a school district. (20 U.S.C. section 1402(9); 34
9 C.F.R. section 300.17; Education Code section 56040.)

10 **Least Restrictive Environment (LRE)** means that to the maximum extent appropriate,
11 children with disabilities will be educated with children who are not disabled, and that
12 special classes, separate schooling, or other removal of children with disabilities from
13 the regular education environment will occur only when the nature or severity of the
14 disability is such that education in regular classes with the use of supplementary aids
15 and services cannot be achieved satisfactorily. (20 U.S.C. section 1412(a)(5); 34
16 C.F.R. section 300.114; Education Code section 56040.1.)

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

- 21 1. Speech-language pathology and audiology services.
- 22 2. Interpreting services.
- 23 3. Psychological services.
- 24 4. Physical and occupational therapy.
- 25 5. Recreation, including therapeutic recreation.
- 26 6. Counseling services, including rehabilitation counseling.
- 27 7. Orientation and mobility services.
- 28 8. School nurse services.
- 29 9. Medical services for diagnostic or evaluation purposes only.
- 30 10. Social work services.
- 31 11. Parent counseling and training.

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

32 **Special Education** means specially designed instruction, at no cost to parents, to meet
33 the unique needs of a child with a disability, including instruction conducted in the
34 classroom, in the home, in hospitals and institutions, and in other settings, and
35 instruction in physical education. (20 U.S.C. section 1402(29); 34 C.F.R. section
36 300.39; Education Code section 56031.)

- 1 3. A description of each evaluation procedure, assessment, record, or report
- 2 the school district used as a basis for the proposed or refused action.
- 3 4. A description of other options that the IEP team considered and the
- 4 reasons why those options were rejected.
- 5 5. A description of other factors that are relevant to the school district's
- 6 proposal or refusal.
- 7 6. A statement that the parents of a child with a disability have protection
- 8 under the procedural safeguards, and if this notice is not an initial referral
- 9 for evaluation, the means by which a copy of a description of the
- 10 procedural safeguards can be obtained.
- 11 7. Sources for parents to contact to obtain assistance in understanding the
- 12 provisions of this part.
- 13 (20 U.S.C. section 1415(c); 34 C.F.R. sections 300.503 and 300.300(b)(4); Education
- 14 Code section 56500.4.)

INFORMED PARENTAL CONSENT

12 The IDEA requires that school districts obtain informed consent from you before

13 the commencement of an initial evaluation of your child to determine if your child

14 qualifies as a child with disabilities. Informed consent means you have been fully

15 informed in your native language, or other mode of communication, of all information

16 about the action for which you are giving consent and that you understand and agree in

17 writing to the evaluation and educational placement decision for your child. Your

18 consent is voluntary and may be withdrawn at any time. Your consent for the initial

19 evaluation does not imply or grant consent for placement and receipt of special

20 education and related services. The school district will request your consent for special

21 education and related services separately and at a later date. The school district will

22 also obtain your informed consent for reevaluations of your child and will not conduct a

23 reevaluation unless you fail to respond to requests for your consent.

24 If you do not provide consent for an initial assessment or fail to respond to a

25 request to provide the consent, the school district may pursue the initial assessment by

26 utilizing due process procedures.

27 If you refuse to consent to the initiation of special education and related services,

28 the school district must not provide special education and related services and shall not

29 seek to provide services through due process procedures.

30 If at any time after the initial provision of special education and related services,

31 you revoke consent in writing for the continued provision of special education and

 related services after having consented to those services in the past, the school district

 must provide you prior written notice before ceasing the provision of special education

 and related services to your child and shall not seek to provide services through due

 process procedures.

1 If you consent in writing to the receipt of special education and related services
2 for your child but do not consent to all of the components of the IEP, those components
3 of the program to which you have consented must be implemented so as not to delay
4 providing instruction and services. If the school district determines that the proposed
5 special education program component to which you do not consent is necessary to
6 provide a free appropriate public education to your child, the school district must file a
7 request for a due process hearing. If a due process hearing is held, the hearing
8 decision shall be final and binding.

9 In the case of reevaluations, the school district must document reasonable
10 measures to obtain your consent. If you fail to respond, the school district may proceed
11 with the reevaluation without your consent. (20 U.S.C. sections 1414(a)(1)(D), 1414(c)
12 and 1415; 34 C.F.R. sections 300.9 and 300.300; Education Code sections 56021.1,
13 56321(c) and (d), 56346, 56381(f) and 56506(e).)

14 When a parent cannot be identified and the school district cannot locate the
15 whereabouts of a parent, the school district must ensure that an individual is assigned
16 to act as a surrogate for the parents of a child with a disability. A surrogate parent may
17 also be appointed for unaccompanied homeless youth or a child who is a dependent or
18 ward in which an educational representative has not been appointed by the Court.
19 (20 U.S.C. section 1415(b)(2); 34 C.F.R. section 300.519; Education Code section
20 56050; CA Rules of Court Rule 5.650.)

21 **PROTECTION IN EVALUATION PROCEDURES**

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

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

1. Use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information, including information provided by the parent, that may assist in determining whether the child is

1 a child with a disability and the content of the child's IEP, including
2 information related to enabling the child to be involved in and progress in
3 the general curriculum or, for preschool children, to participate in
appropriate activities;

- 4 2. Not use any single procedure as the sole criterion for determining whether
5 a child is a child with a disability or determining an appropriate educational
6 program for the child; and
- 7 3. Use technically sound instruments that may assess the relative contribution
8 of cognitive and behavioral factors, in addition to physical or developmental
9 factors.

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

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

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

- 24 1. Review existing evaluation data on the child, including evaluations and
25 information provided by you, current classroom-based assessments and
26 observations, and teacher observation; and
- 27 2. On the basis of that review, and input from you, identify what additional
28 data, if any, are needed to determine:
 - 29 a. Whether the child has a particular disability, or, in case of
30 reevaluation of a child, whether the child continues to have such a
31 disability and such educational needs;
 - b. The present levels of performance and related developmental
needs of the child;

- c. Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and
- d. Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general curriculum.

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

Before determining that your child is no longer a child with a disability, the school district must conduct an assessment in accordance with the procedures discussed above. (20 U.S.C. sections 1414, 1415; 34 C.F.R. sections 300.301 – 300.306; Education Code sections 56320, 56321, 56329, and 56381.)

INDEPENDENT EDUCATIONAL EVALUATION

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

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

1 If you unilaterally place your child in a nonpublic school and you propose the
2 placement in the nonpublic school to be publicly financed, the school district must be
3 given the opportunity to first observe the proposed placement and your child in the
4 proposed placement. (20 U.S.C. section 1415(b)(1); 34 C.F.R. section 300.502;
Education Code section 56329.)

5 **IEP MEETINGS**

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

15 Federal and state law requires that the first IEP to be in effect beginning at age
16 sixteen include a statement of the transition service needs of the child and that the IEP
17 be updated annually thereafter. Beginning at age sixteen or younger, if determined
18 appropriate by the IEP Team, appropriate measurable postsecondary goals related to
19 training, education, employment, and where appropriate, independent living skills, a
20 statement of needed transition services for the child, including, when appropriate, a
21 statement of the interagency responsibilities or linkages between the agencies is
22 required. Beginning at least one year before the child reaches age eighteen (18), a
23 statement must be included in the IEP that the child has been informed of his or her
24 rights that will transfer to the child on reaching the age of majority. Under California law,
when a child turns age eighteen (18), he or she is considered an adult and unless the
parent obtains a conservatorship or guardianship over the child through court
proceedings, the child may make decisions regarding his or her education.

25 In developing an IEP for your child, the IEP Team must include positive
26 behavioral intervention strategies and supports in cases where the child's behavior
27 prevents the child from learning and consider, when appropriate, strategies, including
28 positive behavioral intervention strategies and supports to address the child's behavior.
29 The regular education teacher of your child, as a member of the IEP Team, must to the
30 extent appropriate, participate in the development of the IEP of your child, including the
31 determination of appropriate, positive behavioral intervention strategies and the
determination of supplementary agency services, program modifications and support for
the school personnel.

1 The IEP will be reviewed by the IEP Team at least annually in order to determine
2 whether the annual goals for your child are being achieved and revise the IEP as
3 appropriate to: (1) address any lack of anticipated progress toward the annual goals and
4 in the general curriculum, where appropriate, (2) to address the results of any
5 reevaluation conducted, (3) to address information about your child provided by you,
6 and 4) to address your child's anticipated needs, if necessary. Your child will also
7 receive report cards in the same manner as regular education students. You and the
8 school district may agree in writing that the attendance of an IEP Team member is not
9 necessary because the member's area of curriculum or related service is not being
10 modified or discussed at the meeting. In addition, if you and the school district agree in
11 writing to excuse a member of the IEP team from the IEP Team meeting, in whole or in
12 part, when the meeting involves a modification to or discussion of the member's area or
13 the curriculum or related service, the member must submit in writing to you and the IEP
14 Team, input into the development of the IEP prior to the meeting. Under state law, you
15 have the right to electronically record IEP meetings by audio tape if you give 24 hours
16 notice to other members of the IEP Team. After the annual IEP meeting for a school
17 year, you and the school district may agree in writing not to convene an IEP meeting to
18 make changes to the annual IEP, and instead may develop a written document to
19 amend or modify the current IEP. (20 U.S.C. section 1414(d); 34 C.F.R. sections
20 300.320-300.324; Education Code sections 56032, 56304, 56341, 56341.1, 56341.5,
21 56342.5 and 56345.)

16 **PLACEMENT ("STAY-PUT") DURING THE PENDENCY OF** 17 **DUE PROCESS PROCEDURES**

18 As a parent of a child with disabilities, should you get involved in a disagreement
19 with the school district over the identification, evaluation or placement of your child and
20 you file a request for a due process hearing, your child will remain ("stay-put") in the
21 current educational placement during the pendency of the proceedings. Unless you and
22 the school district agree to a change in placement, or the school district obtains a court
23 order or an order from a hearing officer, your child will remain in his or her current
24 educational placement during the pendency of the proceedings. For initial admission to
25 school, your child will be placed in a public school program, with parental consent, until
26 the proceedings have been completed. There are exceptions to this general rule which
27 allow the school district to place your child in an alternative educational setting for a
28 limited period of time. These exceptions will be discussed in the next section on interim
29 alternative educational settings. (20 U.S.C. section 1415(j); 34 C.F.R. section 300.518;
30 Education Code section 56505(d).)

27 **INTERIM ALTERNATIVE EDUCATIONAL SETTINGS** 28 **DISCIPLINE PROCEDURES**

29 School personnel may change the placement of your child if he or she violates a
30 code of student conduct to (1) an appropriate interim alternative educational setting; (2)
31 another educational setting, or (3) suspend your child for not more than ten (10)
consecutive school days (to the extent such alternatives would be applied to children

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

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

20 School personnel may also place your child in an interim alternative educational
21 setting for up to forty-five (45) school days without regard to whether the behavior is
22 determined to be a manifestation of your child's disability, in cases where: (1) your child
23 carries or possesses a weapon to or at school, on school premises, or to or at a school
24 function or activity; (2) your child knowingly possesses or uses illegal drugs, or sells or
25 solicits the sale of a controlled substance while at school, on school premises, or a
26 school function or activity; or (3) your child inflicts serious bodily injury upon another
27 person while at school, on school premises, or at a school function or activity. The IEP
28 team determines the interim alternative education setting for services. After a child with
29 a disability has been removed from his or her current placement for ten (10) school days
30 in the same school year, during any subsequent days of removal the school district
31 must provide services to enable the child to continue to participate in the general
education curriculum, although in another setting, and to progress toward meeting the
IEP goals. If appropriate, the child may receive a functional behavioral assessment and
behavior intervention services and modifications designed to address the behavior
violation so that it does not recur.

No later than the date on which the decision to take disciplinary action against
your child is made, the school district must notify you of that decision and notify you of
your procedural safeguards. If you disagree with any decision regarding placement, or
the manifestation determination of your child, you may request an expedited due
process hearing which must occur within twenty (20) school days of the date of the
hearing request. During the pendency of the due process hearing, your child will remain

1 in the interim alternative education setting pending the decision of the hearing officer or
2 for forty-five (45) school days, whichever occurs first, unless you and the school district
3 agree otherwise. If the school district believes it is dangerous for your child or others,
4 for your child to return to the current educational placement, the school district may
5 request an expedited hearing.

6 A hearing officer may order a change in the placement of your child to an
7 appropriate interim alternative educational setting for not more than forty-five (45) days,
8 if the hearing officer determines that maintaining your child in his or her current
9 placement is substantially likely to result in injury to your child or to others. (20 U.S.C.
10 section 1415(k); 34 C.F.R section 300.530; Education Code section 48915.5.)

11
12 **CHILDREN WITH DISABILITIES**
13 **ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOLS**

14 A school district's obligation to children with disabilities enrolled in private schools
15 is limited. Under the IDEA *"no parentally- placed private school child with a disability*
16 *has an individual right to receive some or all of the special education and related*
17 *services that the child would receive if enrolled in a public school."* School districts must
18 locate, identify and assess all private school children with disabilities, including
19 religiously affiliated school age children, who have disabilities and are in need of special
20 education and related services, referred to as "child find". The school district in which
21 the private school is located, also referred to as the "District of Location" is responsible
22 for conducting child find activities for children enrolled by their parents in private
23 schools. If the District of Location is not the same school district in which the parents of
24 the private school student reside, then the District of Location may contract with the
25 school district of residence to assess the child.

26 Children with disabilities enrolled in private school may receive equitable special
27 education services as determined through consultation with private schools and
28 parents. In order to receive such equitable services, a "Service Plan" must be
29 developed for the private school student and consented to by the parents. The school
30 district in which the private school is located, the District of Location, is responsible for
31 developing and implementing the Service Plan.

A parent of a child enrolled by that parent in a private school has the right to file a
due process complaint only regarding the school district's child find activities. A due
process complaint must be filed with the school district in which the private school is
located, the District of Location, and the California Department of Education (CDE).
However, because there is no individual right to services for children enrolled by their
parents in private school, any complaints regarding a Service Plan can only be filed in
accordance with the CDE's compliance complaint procedures. (20 U.S.C. section
1412(a)(10)(A); 34 C.F.R. section 300.130–300.144; Education Code sections 56170–
56177.)

1 **UNILATERAL PLACEMENT BY PARENTS IN PRIVATE SCHOOL**

2 If you decide to unilaterally enroll your child in a private school after the school
3 district made a free appropriate public education available to your child, the school
4 district is not required to pay for the cost of your child’s education. In order to obtain
5 reimbursement for the cost of the private school from the school district, including
6 special education and related services, you must first attempt to obtain the consent of
7 the school district, and establish that the school district does not have an appropriate
8 program for your child. Reimbursement may be denied or reduced if: 1) at the most
9 recent IEP meeting that you attended prior to removal of your child from the public
10 school, you did not inform the IEP Team that you were rejecting the placement
11 proposed by the school district to provide a free appropriate public education to your
12 child, including a statement of your concerns and your intent to enroll your child in a
13 private school at public expense; or 2) at least 10 business days prior to the removal of
14 your child from the public school, you did not give written notice to the school district of
15 your concerns regarding the school district's proposed placement and your intent to
16 enroll your child in a private school at public expense.

17 If the school district notifies you prior to the removal of your child from the public
18 school that the school district wishes to evaluate your child and indicates the purpose of
19 the evaluation, you should make your child available for the evaluation. If you have not
20 complied with these requirements, a court or hearing officer may find that you acted
21 unreasonably in unilaterally removing your child from the public school and in placing
22 your child in a private school. The court or hearing officer may deny you reimbursement
23 unless you can show one or more of the following: 1) you are illiterate and cannot write
24 in English, or 2) the school district’s placement would result in physical or serious
25 emotional harm to your child. (20 U.S.C. section 1412(a)(10)(C); 34 C.F.R. section
26 300.148; Education Code sections 56175-56177.)

27 **OPPORTUNITY TO PRESENT AND RESOLVE COMPLAINTS**

28 **A. STATE COMPLAINT PROCEDURES**

29 The IDEA grants parents an opportunity to present and resolve complaints with
30 respect to any matter relating to the identification, evaluation or educational placement
31 of your child or the provision of a free appropriate public education to your child. Written
complaints may be filed with the school district or the state or federal agencies at the
addresses listed below. Compliance complaints must allege a violation that occurred
not more than one (1) year prior to the date the complaint is received. A copy of the
written complaint must also be provided to the school district serving the child at the
same time it is filed with the state agency. The school district, state or federal agency
has sixty (60) days from the date of receipt of the complaint to render a decision in the
matter. For complaints filed with the school district, within fifteen (15) days of receiving
the school district’s decision, you may appeal the school district’s decision to the
California Department of Education (CDE). Complaints may also be filed directly with
the CDE.

1 Fullerton School District
2 Laura S. Rydell
3 Director of Special Education
4 1401 W. Valencia Drive
5 Fullerton, CA 92833
6 Phone: (714) 447-7500
7 Fax: (714) 447-7793

8 California Department of Education
9 Special Education Division
10 Procedural Safeguards Referral Service
11 1430 N Street, Suite 2401
12 Sacramento, California 95814
13 Phone: 1-800-926-0648
14 Fax: (916) 327-3704

15 United States Department of Education
16 Office for Civil Rights
17 50 Beale Street, Suite 7200
18 San Francisco, CA 94105
19 Phone: (415) 486-5555
20 Fax: (415) 486-5570
21 TDD: (877) 521-2172

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

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

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

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

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

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

4 Office of Administrative Hearings
5 Attn: Special Education Division
6 2349 Gateway Oaks Drive, Suite 200
7 Sacramento, CA 95833-4231
8 Phone: (916) 263-0880
9 Fax: (916) 376-6319

10 In California, mediation is voluntary. You may request a due process hearing or
11 mediation-only. Mediation-only means you are asking for mediation without asking for a
12 due process hearing. Mediation is an informal proceeding conducted in a
13 nonadversarial manner. If you request mediation-only you and the school district will
14 receive a notice that mediation has been scheduled, and the notice will contain the time,
15 date and location of the mediation as well as the name, address, and phone number of
16 a knowledgeable and impartial mediator assigned to the case. The mediation must be
17 scheduled within 15 days of the Office of Administrative Hearing's receipt of the request.
18 Attorneys cannot attend mediation-only. However, you or the school district may be
19 accompanied and advised by non-attorney representatives. Statements made by you
20 and the school district during mediation are confidential and may not be used in a due
21 process hearing or court action. Any agreement reached during mediation must be in
22 writing and signed by all parties. You may also ask the school district to resolve
23 disputes through Alternative Dispute Resolution (ADR), which is also less adversarial
24 than a due process hearing. ADR and mediation are voluntary methods of resolving a
25 dispute. If the dispute is not resolved during mediation or through ADR, you may
26 proceed to a due process hearing. Mediation or ADR are not prerequisites to
27 requesting a due process hearing.

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

Prior to the opportunity for an impartial due process hearing, within fifteen (15)
days of receiving your due process hearing complaint, the school district is required to
convene a mandatory resolution meeting with you and the relevant members of the IEP
Team who have specific knowledge of the facts raised in your complaint, where you can
discuss your complaint and the facts that form the basis of your complaint, and the

1 school district is provided the opportunity to resolve the complaint. The resolution
2 meeting must include a representative from the school district who has decision making
3 authority on behalf of the school district, but may not include an attorney for the school
4 district unless the parent is also accompanied by an attorney. Attorneys' fees may not
5 be awarded relating to a resolution meeting. Unless the school district agrees, you may
6 not waive the mandatory resolution meeting. If resolution is reached to resolve the
7 complaint at the mandatory resolution meeting, the parties must sign a legally binding
8 agreement. If the school district has not resolved the complaint to your satisfaction
9 within thirty (30) days of the receipt of the complaint, the due process hearing may
10 move forward and all applicable timelines for a due process hearing shall commence.

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

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

25 In general, a hearing officer's decision should be made on substantive grounds
26 based on a determination of whether your child received FAPE. The hearing officer
27 must reach a final decision and mail a copy of the written decision to you and the school
28 district within forty-five (45) days of the receipt of the request for a hearing by the Office
29 of Administrative Hearings or State Superintendent of Public Instruction, unless a
30 continuance has been granted for good cause. The decision made in a due process
31 hearing is final, except that any party involved in the hearing may appeal the decision by
filing a civil action with respect to the findings and decision in the due process
complaint. (20 U.S.C. sections 1415(b)(7)(a)–1415(j); 34 C.F.R. sections 300.506–
300.518; Education Code sections 56500.3, 56502–56507; 5 CCR section 3082.)

CIVIL ACTIONS

Either you or the school district may appeal the hearing officer's decision by filing
a civil action. In a civil action, the records and transcription of the administrative
proceedings shall be filed with the court. The court may hear additional evidence at the
request of either party and must base its decision on the preponderance of the
evidence. The action may be filed in the United States District Court or in Orange

1 County Superior Court. The action must be filed within ninety (90) days of the receipt of
2 the hearing officer's decision. (20 U.S.C. section 1415(i); 34 C.F.R. sections 300.514,
3 300.516; Education Code section 56505(k).)

4 **ATTORNEYS' FEES**

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

18 You may not be awarded attorneys' fees and related costs if you unreasonably
19 prolonged the final resolution of the controversy or the amount of the fees requested is
20 unreasonable. In addition, attorneys' fees or related costs may not be awarded for
21 attorney time spent attending resolution meetings or IEP Team meetings, unless the
22 IEP team meeting is convened as a result of an administrative proceeding or judicial
23 action. (20 U.S.C. section 1415(i)(3); 34 C.F.R. section 300.517; Education Code
24 section 56507(b).)

25 **STATE SPECIAL SCHOOLS**

26 The State Special Schools operated by CDE provide services to students who
27 are deaf, hard of hearing, blind, visually impaired, or deaf-blind at each of its three
28 facilities: the California Schools for the Deaf in Fremont and Riverside and at the
29 California School for the Blind in Fremont. Residential and day school programs are
30 offered to students from infancy to age 21 at both State Schools for the Deaf and from
31 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. (Education Code section 56321.6.)