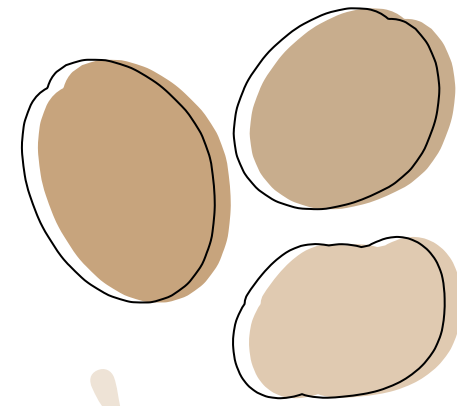


# Summary of Procedural Safeguards

Prepared for the Community Advisory Committee by  
the North Orange County SELPA

January 19, 2023

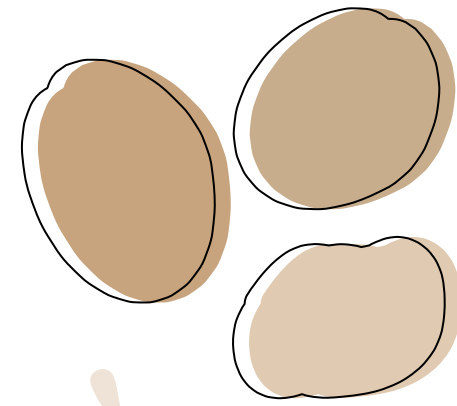




# What are Procedural Safeguards (Parent Rights)?

Parents of children with disabilities from ages three through twenty-one have specific educational rights under the Individuals with Disabilities Education Act (IDEA). These rights are called procedural safeguards. Individuals who are serving as surrogate parents and students age 18+ receiving special education services are also entitled to these rights.

# What is IDEA?



## Individuals with Disabilities Education Act

A federal law that requires school districts to provide a “Free Appropriate Public Education” (FAPE) to eligible students with disabilities.

### What is FAPE?

FREE= at no cost to the parent

APPROPRIATE= an IEP that satisfies the IDEA’s procedural requirements & is designed to allow a child to receive educational benefit

PUBLIC EDUCATION= provided by agencies that receive federal IDEA funds (not private schools)



# Organization of the Procedural Safeguards Approved for Orange County (January 2016)

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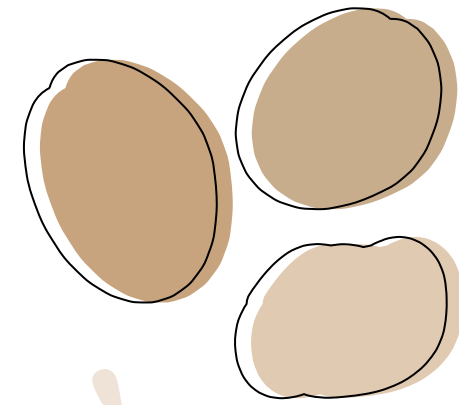
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# Please Note

Today's presentation will provide a brief introduction to the Procedural Safeguards. It is intended to orient you to the information that can be found in the document and highlight some key information.

For a more comprehensive and detailed description of your rights, and the rights that are afforded to the District, we encourage you to reference the Procedural Safeguards. Members of your IEP Teams, your District Special Education Office, and staff here at the North Orange County SELPA are available to answer any questions that you may have.



# Introduction & Definitions

Pages 1-4

(20 U.S.C. section 1415(d); 34 C.F.R. sections 300.29 and 300.504; Education Code sections 56021.1(a), 56301(d)(2), 56321(b), and 56506(a).)(20 U.S.C. section 1402(3); 34 C.F.R. section 300.8; Education Code section 56026; 5 CCR section 3030.)(34 C.F.R. sections 300.15, 300.304-300.311; Education Code sections 56302.5 and 56320.)(20 U.S.C. section 1414(d); 34 C.F.R. sections 300.22, 300.320-300.324; Education Code section 56345.)(20 U.S.C. section 1402(9); 34 C.F.R. section 300.17; Education Code section 56040.)(20 U.S.C. section 1412(a)(5); 34 C.F.R. section 300.114; Education Code section 56040.1.)(20 U.S.C. section 1402(26); 34 C.F.R. section 300.34; Education Code section 56363.)(20 U.S.C. section 1402(29); 34 C.F.R. section 300.39; Education Code section 56031.)

# Introduction and Definitions

Includes the definitions of frequently used terms in special education that are referenced in the Procedural Safeguards.

## Procedural Safeguards are Provided:

- At least one time a school year
- When you ask for a copy
- The first time your child is referred for a special education assessment
- Each time you are given an assessment plan to evaluate your child
- Upon receipt of the first state or due process complaint in a school year
- When the decision is made to make a disciplinary change of placement





# Confidentiality & Access to Educational Records

Pages 4-7

(20 U.S.C. section 1232g; 34 C.F.R. sections 99.1-99.67; 34 C.F.R. sections 300.610-300.625, 300.613; Education Code sections 48980, 49060-49079; Education Code sections 56041.5, 56043(n) and 56504; 5 CCR section 432(b)(1).)



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# Confidentiality & Access to Educational Records

- Parents have the right to inspect, review, and obtain copies of their child's educational records.
- School districts must protect the confidentiality of personally identifiable information.

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# Prior Written Notice (PWN)

Pages 7-8

(20 U.S.C. section 1415(c); 34 C.F.R. sections 300.503 and 300.300(b)(4); Education Code section 56500.4.)

# Prior Written Notice (PWN)

Must be provided when:

- The school district proposes or refuses to initiate or make any changes to your child's identification for special education, evaluations, educational placement, or the provision of FAPE for your child.
- You revoke consent in writing for the continued provision of special education and related services.



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# Informed Parental Consent

Pages 8-10

(20 U.S.C. section 1415(b)(2); 34 C.F.R. section 300.519; Education Code section 56050; CA Rules of Court Rule 5.650.)



# Informed Parental Consent

- 🍃 You have been given all information about the action that you are agreeing to
- 🍃 Information is provided to you in your native language
- 🍃 The district must ensure that parents understand proceedings of an IEP team meeting
- 🍃 Must be provided before your child is evaluated, provided with any special education services or changes in special education programming and services occur
- 🍃 You do not have to provide consent for assessment or placement in special education
- 🍃 Consent is voluntary and can be withdrawn at any time

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# Protection in Evaluation Procedures & Independent Educational Evaluations (IEE)

Pages 10-14

(20 U.S.C. sections 1414, 1415; 34 C.F.R. sections 300.301-300.306; Education Code sections 56320, 56321, 56329, and 56381; 5 CCR section 3022.)  
(20 U.S.C. section 1415(b)(1); 34 C.F.R. section 300.502; Education Code section 56329.)

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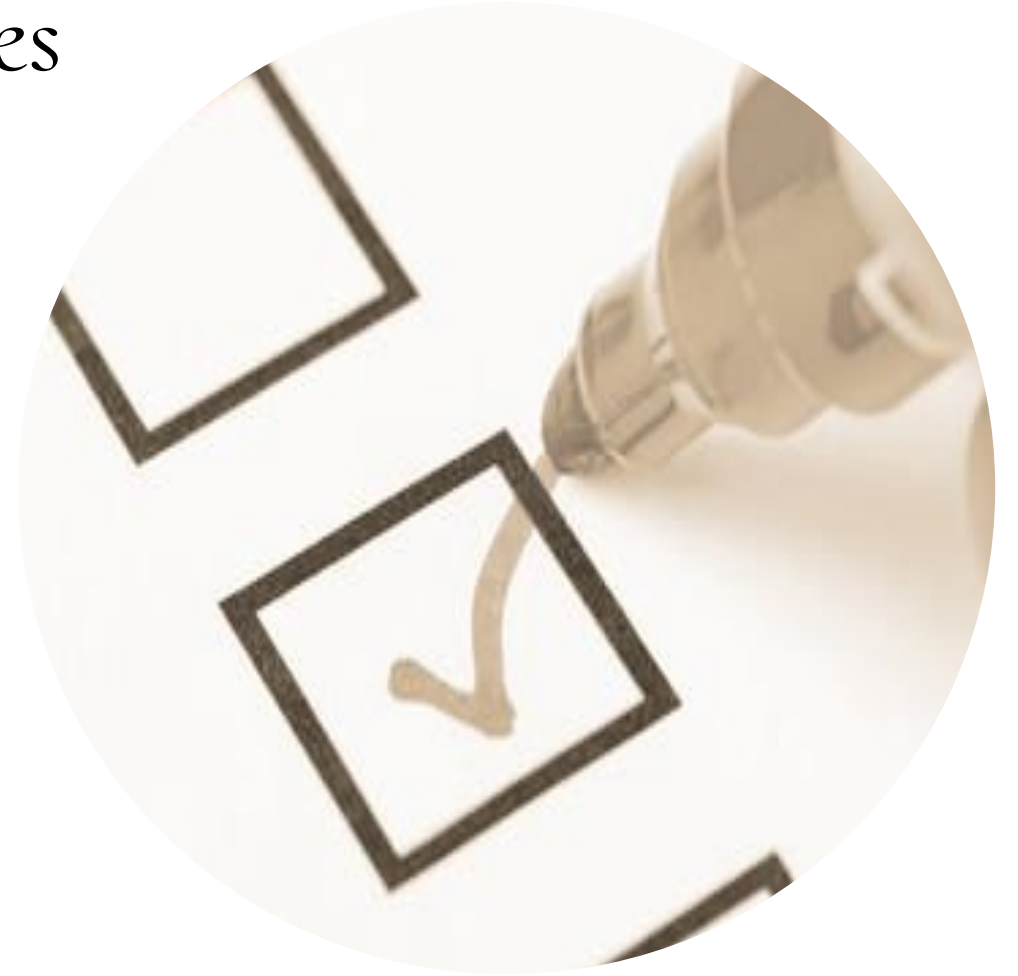
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# Protection in Evaluation Procedures

- Includes initial evaluations to determine eligibility for special education and related services, as well as re-evaluations to determine continued eligibility or obtain updated information about your child's educational performance.
- School districts must adhere to certain timelines during the evaluation process.
- Evaluations must be conducted in accordance with specific requirements for how assessment tools are selected and administered, and how information is used to support decisions.
- Your child will be assessed in all areas of suspected disability.





# Independent Educational Evaluations (IEE)

## **What if I disagree with the results of the district evaluation?**

If you disagree with the results of an evaluation conducted by the school district, you have the right to ask for and obtain an independent educational evaluation (IEE) at public expense.

## **What if I seek a private evaluation at my own expense?**

If you choose to obtain an independent evaluation at your own expense, the school district must consider the results of the assessment, but are not required to accept and implement all recommendations.



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# Individualized Education Plan (IEP) Meetings

Pages 14-16

(20 U.S.C. sections 1414(d); 34 C.F.R. sections 300.320-300.324; Education Code sections 56032, 56304, 56341, 56341.1, 56342.5 and 56345; 5 CCR section 3040.)

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# IEP Meetings

- 🍃 You have the right to be a part of the IEP Team and participate in any meeting regarding the identification, assessment, and educational placement of your child.
- 🍃 You may bring individuals who have knowledge or special expertise regarding your child to the IEP meeting.
- 🍃 Team members can be excused from the meeting with your written consent if certain requirements are met.
- 🍃 The IEP is reviewed at least once annually to determine whether the annual goals are being achieved and to revise the IEP as appropriate.



# Placement (“Stay Put”) During the Pendency of Due Process Procedures & Interim Alternative Educational Settings Discipline Procedures

Pages 16-18

(20 U.S.C. section 1415(j); 34 C.F.R. section 300.518; Education Code section 56505(d).)  
(20 U.S.C. section 1415(k); 34 C.F.R. section 300.530; Education Code section 48915.5.)

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# Educational Placement

## ***“Stay Put” During the Pendency of Due Process Procedures***

Should you get involved in a disagreement with the school district over the identification, evaluation or placement of your child and you file a request for a due process hearing, your child will remain (“stay-put”) in the current education placement until the dispute is resolved.

## ***Interim Alternative Educational Settings and Discipline Procedures***

There are specific rules regarding the suspension and expulsion of students with IEPs. Generally a student with a disability may be suspended or placed in an alternative educational setting to the same extent that these options apply to students without disabilities.

If the student with a disability is in such a placement for more than ten (10) school days in the same school year, an IEP meeting must be held to consider the appropriateness of the child’s current placement and the extent to which the disability is the cause of the misconduct. Regardless of the child’s placement, the district must provide FAPE.



# Children with Disabilities Enrolled by Parents in Private School & Unilateral Placement by Parents in Private School

Pages 19-20

(20 U.S.C. section 1412(a)(10)(A); 34 C.F.R. section 300.130-300.144; Education Code sections 56170-56177.)

(20 U.S.C. section 1412(a)(10)(C); 34 C.F.R. section 300.148; Education Code sections 56175-56177.)

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# Private School

## ***Children with Disabilities Enrolled by their Parents in Private School***

The school district in which private schools are located is responsible for identifying, locating, and assessing students with disabilities enrolled in private schools by their parents.

However, school districts are not required to provide special education or related services to these students.

## ***Unilateral Placement by Parents in Private School***

If you decide to unilaterally enroll your child in a private school after the school district made a FAPE available to your child, the school district is not required to pay for the cost of your child's education.



# Opportunity to Present and Resolve Complaints, Civil Actions, & Attorney's Fees

Pages 21-26

(20 U.S.C. section 1415(b)(6); 34 C.F.R. section 300.153; Education Code section 56500.2; 5 CCR section 4600.)(20 U.S.C. section 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.)(20 U.S.C. section 1415(i); 34 C.F.R. sections 300.514, 300.516; Education Code section 56505(k).)(20 U.S.C. section 1415(i)(3); 34 C.F.R. section 300.517; Education Code section 56507(b).)

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# Presenting and Resolving Complaints

Parents have the right to present and resolve a complaint with respect to any matter relating to the identification, evaluation or educational placement of their child or the provision of FAPE. Complaints may be filed with the school district, state, or federal agencies listed in the procedural safeguards.

## **Methods of Resolving Disputes**

When you have a concern about your child's education, it is important that you connect with your child's teacher or administrator. This informal conversation often resolves concerns and helps to maintain open communication.

Family Empowerment Centers (FECs) and Parent Training and Information Centers (PTICs) provide information, training, and additional resources to support collaboration between families and districts. Our center in Orange County is TASK. The NOC SELPA also provides consultation and support to families and districts.

Additional methods of resolving disputes include Alternative Dispute Resolution (ADR), Mediation, and a Due Process Hearing. ADR and Mediation are voluntary and not prerequisites to requesting a formal due process hearing.





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# State Special Schools & Notification of Rights Regarding Use of Public Benefits of Insurance

Pages 26-29

(Education Code section 56321.6)(34 CFR Section 300.154(d)(1)(2)(i)-(v) and (e); Education Code section 56363.5.)



# State Special Schools and Use of Public Benefits

## ***State Special Schools for Students who are Deaf, Hard of Hearing, Blind, Visually Impaired, or Deaf-Blind***

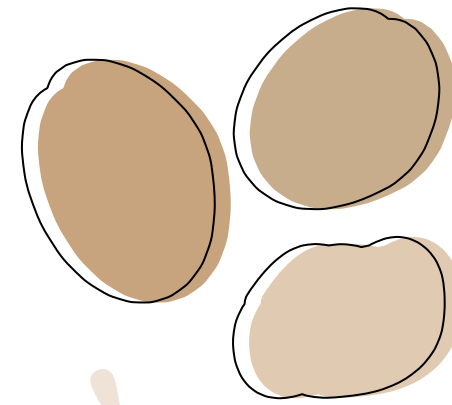
Offer assessment and technical assistance, as well as residential and day school programs in Fremont and Riverside.

## ***Notification of Rights Regarding Use of Public Benefits or Insurance***

Your school district participates in a federal reimbursement program that allows them to recuperate some of the costs associated with providing Medi-Cal related services in the school setting (i.e., speech therapy, occupational therapy, physical therapy, nursing services, mental health services and assessments).

In authorizing the school district to disclose personally identifiable information, they may submit claims for the Medi-Cal services that are provided to your child and receive reimbursements which may be used to continually support the programs and services provided to students with Medi-Cal based needs.

The school district cannot require that you provide your consent; your child will continue to receive a FAPE at no cost to you.



# Resource Links

[Procedural Safeguards by Language](#)

[Alternative Dispute Resolution \(ADR\)](#)

[North Orange County SELPA Web Page](#)



Thank  
you

**Do you have any questions?**

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