



## Steering Committee

Location: Zoom

Time: Wednesday, October 14, 2020 | 2:30-4:30 pm

### Agenda

ITEM	SUBJECT	SPEAKER	PAGE
A.	Introductions and Announcements	All	
B.	SELPA Executive Committee & SELPA Superintendents' Council Meeting Report		
C.	Federal and State News		
	• Finance Report*	Bob	1
	• Office of Special Education Programs (OSERS) Q & A in response to IDEA*	Kirstin	10
	• SB117, Section 8 Update*	Kirstin	17
	• Mutual Agreement to Extend Evaluation Timeline*	Kirstin	22
	• CDE Compliance Monitoring	Kirstin	
D.	SELPA Report		
	• Special Education Plan (SEP) Update	Kirstin	
	• Shared Risk Pool*	Kirstin	24
	• Professional Learning/ DCN/SIL*	Kirstin	29
	• CAC*	Daina	31
	• Parent Resources	Daina	
E.	SEIS/CALPADS/FORMS		
	• CALPADS	Jeff	
	• 30-Day Interim Flow Chart*	Susan	32
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F.	Group Discussion		
	• Service Logs	All	
	• Inclusion Opportunities	All	
G.	Closing		

\*Denotes a handout included in the packet

#Denotes a separate handout



# SELPA PROGRAM/BUSINESS REPORT

## September 2020

### October PLN Meeting

#### BACKGROUND

The El Dorado County SELPA Allocation Plan reflects the policy decisions of the SELPA Superintendents' Council regarding how special education funding received by the SELPA is to be allocated to its member LEAs. This Program/Business Report contains program summaries and current fiscal updates on the special education funding structures established by the Allocation Plan, including budget reports on the pools created by the plan. The Program/Business Report is presented three times during the year at both the EDCOE CFO and SELPA Professional Learning Network (formerly Steering Committee) meetings.

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## SEPTEMBER REPORT SUMMARY

### Final State Budget

- No COLA
- SELPA Statewide Target Rate increased from \$557 to \$625
- No more special education deficit (proration factor) going forward
- Significant increase in Low Incidence funding from \$466 to \$2,950 per LI student
- Deferrals will apply to SpEd cash too – February through June
- SELPA funding calculated on highest of current, prior or prior-prior year ADA
- ADA Hold Harmless: 2020-21 ADA = 2019-20 ADA
- Limited ADA Growth for LEAs (requires a request of CDE)

An LEA's 19-20 2<sup>nd</sup> interim or 20-21 adopted budget must show growth of either enrollment or ADA to qualify for growth funding. If an LEA is qualified for growth funding under this eligibility test, 2020-21 funded ADA will be established as the lesser of:

- The LEA's actual Fall 2020 reported enrollment reduced by statewide average absence factors, **or**
- If the LEA is eligible based on enrollment growth: projected enrollment in the budget reduced by the statewide average absence factors.

If the LEA is eligible based on ADA growth: the 2020-21 ADA reflected in the budget.

- For the 2020–21 fiscal year and each fiscal year thereafter, ERMHS funding shall be available for all mental health-related services, services for pupils with or without an individualized education program, including, but not limited to, all of the following:
  - Out-of-home residential services for emotionally disturbed pupils.
  - Counseling and guidance services, including counseling, personal counseling, and parental counseling and training.
  - Psychological services.
  - Social work services.
  - Behavioral interventions.
  - Any other mental health-related service not necessarily required by the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

### 2020-21 Overview

- Shared OT/PT cost estimate lower than last year
- Out of Home Care funding model unchanged – will generate surplus
- Small growth in Shared Risk Pool balance is projected
- ERMHS budget projected to break even
- Low Incidence materials & equipment reserve balance will be spent down to \$10K trigger point

## OT/PT SERVICES – REGIONAL PROGRAMS

OT/PT services costs for students in the EDCOE regional classrooms are proportionately shared based on prior year P-2 certified ADA.

### Budget Update

- a) EDCOE currently budgeting \$345K (≈\$17/ADA) for OT/PT services to regional program students.

	OT/PT	2017-18 Final	2018-19 Final	2019-20 Final	2020-21 Estimate June 2020
1	Cost	252,574	366,584	438,932	344,510

- b) Staffing costs reduced and fewer service hours anticipated.  
c) 50% of projected costs at first interim transferred in January; trued up to actual in June.

### Background on OT/PT Services and Funding

Effective 2016-17, the costs to support EDCOE regional classroom OT/PT services are shared on a per ADA basis and costs for services to students in district programs are paid in full by districts based on their individual usage.

### Additional Documentation

OT/PT Transfer Detail (see appendix).

## OUT OF HOME CARE POOL

Annual expenditures are traditionally less than the funding, which is based on the county bed count vs. students. The surplus funds the Shared Risk Pool. We are expecting changes in how the CDE allocates Out-of-Home-Care funds to SELPAs resulting from AB 403. At this point, there is still no information on the new distribution methodology. At this time no changes have been made to the funding formula for 2020-21.

### Budget Update

- a) 2019-20 final LCI costs were \$188K, down from 2018-19, delivering \$990K to Shared Risk Pool (line 8)
- b) Adopted 2020-21 budget for revenue reflects a 0% COLA (line 1).
- c) Expectation is more placements in 2020-21, so cost estimate is \$250K (line 3).
- d) The projected Out of Home Care surplus for 2020-21 is estimated at \$901K (line 8).

Out of Home Care	2017-18 Final	2018-19 Final	2019-20 Final	2020-21 Estimate June 2020
1 Base Funding	1,091,894	1,118,336	1,158,015	1,158,015
2 Total Income	1,091,894	1,118,336	1,180,974	1,158,015
3 LCI Costs	174,432	242,615	187,849	250,000
4 PY LCI Adj	(14,456)	(6,481)	-	-
5 Adjusted Claims	159,976	236,134	187,849	250,000
6 Income less Expense	931,918	882,203	993,125	908,015
Distributions				
7 Assessment	6,540	5,520	3,600	7,500
8 Balance to Shared Risk	925,378	876,683	989,525	900,515

### Background on Out of Home Care

Out of Home Care funds are used for educational costs associated with students placed in LCIs (Licensed Children's Institutions) located in the SELPA. Changes to the funding for LCI and FFH (Foster Family Home) placements were enacted by the Legislature for 2004. As a result, the SELPA was no longer funded based on actual costs, but has received an allocation based on the number of LCI/FFH beds in the county.

The SELPA pays for LCI placement costs (net of LCFF revenue generated by the LCI ADA reported by the district of residence). LEAs are reimbursed for case management and assessment of the LCI/FFH students who live in their districts and attend NPS programs.

Out-of-Home Care funding has historically exceeded the costs incurred for placement and assessment/case management. Funds in excess costs are moved to the Shared Risk Pool at the close of the fiscal year.

## SHARED RISK POOL

The 2020-21 budget report for the Shared Risk Pool is shown below.

### Budget Update

- a) The Shared Risk Pool balance is projected to grow to \$4.6M in 2020-21 (line 17).
- b) On-going pool revenue consists of the Out of Home Care surplus, AB602 "off-the-top" funds, COLA and interest. (lines 3-6).
- c) In anticipation of increased NPS placements and legal challenges resulting from COVID closure, costs are conservatively estimated at \$750K and \$150K (lines 11 & 12).

	Shared Risk Pool	2017-18 Final	2018-19 Final	2019-20 Final	2020-21 Estimate June 2020
1	PY Adjustments	4,768	133,109	2,976	
2	Beg Balance	2,347,636	3,041,351	3,556,668	4,134,735
3	AB 602 (off the top)	367,900	375,467	385,816	401,335
4	Out of Home Care	925,378	876,683	989,525	900,515
5	COLA/Base Rate Adjustments	7,560	7,373	15,519	36,462
6	Interest	26,164	63,181	72,631	75,000
7	Total Income	1,327,002	1,322,704	1,463,491	1,413,312
8	1st Yr District ADA Growth	34,742	39,454	46,508	-
9	SELPA ADA Loss	14,203	-	37,923	-
10	NPS Infant Reserve	-	6,629	5,579	4,500
11	NPS Placements	605,671	537,850	653,097	750,000
12	Legal	49,206	105,369	78,427	150,000
13	Special Circumstance Students	62,575	61,339	63,890	75,000
14	Contribution to ERMHS (Residential)		59,721	-	-
15	Total Expenditures	766,397	810,362	885,424	979,500
16	Income - Expense	560,605	512,341	578,067	433,812
17	Ending Balance	2,908,242	3,553,692	4,134,735	4,568,547

### Funding Set-Asides

In the past, amounts were set aside from the two pools that were consolidated into the Shared Risk Pool for specific purposes: providing one-time growth funds for districts which increased in ADA from year to year and covering the cost of infant NPS/NPA placements. The running totals for these set asides are shown below.

Shared Risk One-time Growth		NPS/NPA Infant Reserve	
Beginning Balance 2009-2010	400,000	Beginning Balance 2013-14	150,000
09-10 through 16-17	192,746	13-14 through 17-18	17,201
2017-18 Final	34,742	2014-15 Final	7,539
2018-19 Final	39,454	2018-19 Final	6,629
2019-20 Final	46,508	2019-20 Final	5,579
2020-21 June 20 Estimate	-	2020-21 June 2020 Estimate	4,500
Projected Usage thru 2020-21	313,450	Projected Usage thru 2020-21	41,448
Projected Available	86,550	Projected Available	108,552

### Background on Shared Risk Pool

The EL Dorado County SELPA Superintendents approved the final plan to consolidate the NPS and Special Needs pools into one Shared Risk Pool, which provides partial reimbursement for three types of claims: qualifying NPS costs, legal costs, and costs associated with serving an extraordinarily high-need student. All approved claims to the pool are reimbursed at 50%.

## Summary

- NPS Claims
  - Education & transportation costs
  - LCFF revenue recovery from placing district
  - ERMHS and other related service costs are not reimbursable
- Legal Claims
  - Legal costs for OCR/due process/compliance complaints
  - Settlement agreement costs (legal and comp ed)
  - Costs for personnel, transportation and assessments excluded
  - Minimum claim tiered by district ADA
  - Max reimbursement period of 6 months per claim
  - Maximum of \$50,000 per claim
  - Exceptional requests outside limits may be acted on by Superintendents
- Special Circumstances Student Claims
  - Minimum claim of \$100,000 (\$50,000 reimbursement)
  - Total reimbursement limit of \$75,000/student
  - Same district may reapply annually
- Residential placement costs are paid from federal ERMHS grant. Any amount over that is covered by the Shared Risk pool.

## EDUCATIONALLY RELATED MENTAL HEALTH SERVICES (ERMHS)

The updated 2020-21 budget report for ERMHS is shown below.

### Budget Update

- a) 1.0 FTE of Behavior Analyst cost to serve regional program students is covered by ERMHS revenue (line 8). A reduction in cost is expected in 2019-20 due to newly hired staff that is lower on the salary schedule than the previous behaviorist.
- b) The amount of our federal mental health grant (line 2) is set as the budget for residential placements. A contribution from the shared risk pool is used if actual costs exceed that amount.

	ERMHS Budget	2017-18 Final	2018-19 Final	2019-20 Final	2020-21 Estimate June 2020
1	ERMHS State RS6512	1,326,759	1,358,026	1,399,857	1,399,857
2	ERMHS Federal Grant 3327	251,544	250,563	250,389	250,389
3	PPY Adjustments			4,123	-
4	Contribution from Shared Risk (Residential)		59,721	-	-
5	<b>Total Available Funding</b>	<b>1,578,303</b>	<b>1,668,310</b>	<b>1,654,369</b>	<b>1,650,246</b>
6	Level 3 - Residential	255,667	310,284	224,229	250,389
7	EDCOE Regional Program	230,000	230,000	230,000	230,000
8	Behavior Analyst	214,445	176,876	112,046	180,472
9	Professional Development	20,000	20,000	-	-
10	District Allocation (PY P-2)	992,772	987,956	980,147	979,925
11	COE Charter (PY P-2)	11,199	9,199	10,770	10,167
12	<b>Total expenditures</b>	<b>1,724,083</b>	<b>1,734,315</b>	<b>1,557,192</b>	<b>1,650,953</b>
13	Beginning Balance (PY Ending Balance)	377,120	185,340	119,335	216,512
14	Income less expenditures	(191,781)	(66,005)	97,177	(707)
15	<b>Ending Balance</b>	<b>185,340</b>	<b>119,335</b>	<b>216,512</b>	<b>215,805</b>

### Additional Documentation

District ERMHS Allocations Estimate (see appendix).

### Background on ERMHS Funding

In 2011, AB 114 ended the state mandate on county mental health agencies to provide mental health services to students with disabilities. School districts became solely responsible for ensuring that students with disabilities receive special education and related services, including some services previously arranged for or provided by county mental health agencies. The scope and content of an LEA's assessment process now includes the need to directly assess students with suspected mental health needs, and to assist IEP teams in selecting appropriate services and goals to serve identified students with mental health issues.

Guidance from CDE on this transition can be found here:

[AB 114 Transition Guidance](#)    [AB 114 Use of Funds](#)



## LOW INCIDENCE POOL

Low Incidence funding received by the SELPA is based on pupil counts for students identified for special education with a primary or secondary Low Incidence (LI) eligibility.

### Budget Update

- a) Significantly higher Low Incidence revenue was approved in the final 2020-21 state budget. Estimated to grow from \$60K to \$378K (line 2).
- b) Each year, total LI revenue received is directed to EDCOE regional programs to offset the cost of LI services provided.

	Low Incidence Funding	2017-18 Final	2018-19 Final	2019-20 Final	2020-21 Estimate June 2020
1	Beg Balance	59,773	45,780	30,344	15,311
2	Income	61,670	58,213	59,671	377,600
3	Regional Programs	61,670	58,213	59,671	377,600
4	Low Incidence	13,993	15,435	15,034	15,000
6	Income-Expense	(13,993)	(15,435)	(15,034)	(15,000)
7	Ending Balance	45,780	30,344	15,311	311

- AB602 base funding to regional programs is reduced by an equal amount, which in turn increases the districts' base funding by the amount of LI revenue received.
- c) The pool balance (line 7) is reserved for 50% reimbursement to districts for eligible LI materials and/or equipment.
- d) This year, the reserve will likely drop below the \$10,000 threshold set by SELPA Superintendents Council. Per the allocation plan, that would trigger the council to reevaluate the viability of this pool.

### Background on Low Incidence Materials/Services

The SELPA receives this revenue to offset costs related to the provision of LI services, materials, and equipment for students with LI disabilities (Visually Impaired, Deaf, Hard of Hearing, and Orthopedically Impaired).

In June 2016, the Superintendents' Council decided to direct the annual LI revenue to offset the cost of LI services in regional programs (DHH, VI, OI teachers). This offset reduces the amount of AB 602 base funding allocated to regional programs and in turn increases the districts' allocation by the corresponding amount. A further decision was made to utilize the LI reserve to reimburse costs associated with the LI materials and equipment.

The following parameters were put in place for the materials/equipment reserve:

- a. A minimum claim amount of \$2,000.
- b. 50% reimbursement criteria.
- c. When the materials and equipment reserve drops below \$10,000, SELPA Superintendent's Council will take action to establish an ongoing funding source in order to continue the pool or discontinue LI materials and equipment reimbursement.

## 2020-21 BASE FUNDING ESTIMATES

### Budget Update

At the September CFO meeting, your CFO/CBO received current year estimates of special education revenue and allocations updated to reflect the final 2020-21 state budget and the addition of two regional program classrooms approved by the Superintendents' Council. The two new classrooms for 2020-21 are a fourth mod-severe high school class and a fifth autism class.

### Background on AB 602 Base Funding within the Allocation Plan

AB 602 special education base funding consists of state and federal dollars. The Allocation Plan apportions this base funding first to the regional programs operated by EDCOE and El Dorado Union High School district. The remainder goes to help fund the special education programs operated by each district. EDCOE regional programs typically serve students in the SELPA with more severe disabilities. El Dorado Union High School district also operates three severely disabled special day classes. Regional programs serve students throughout the SELPA. Regional programs also include speech and language programs operated by EDCOE.

AB 602 base funding to the SELPA is adjusted for SELPA-wide ADA growth or decline and any COLA included in the state budget. Regional programs and districts share proportionally in these adjustments. In years where there is ADA growth, any accumulated losses in regional program funding resulting from declining enrollment reductions in prior years is restored to the extent possible.

Regional programs are funded based on rates established in the Allocation Plan for the certificated and classified units required to operate the programs (see table below). All districts are funded based on prior year ADA at the same rate, which is recalculated each year. ADA growth experienced by any district in the current year is also funded.

Classroom Unit Rates:		DHOH = Deaf and Hard of Hearing SH = Severely Handicapped							
		2017-18		2018-19		2019-20		2020-21	
COLA		1.56%		2.71%		3.26%		0.00%	
		COE	LEA	COE	LEA	COE	LEA	COE	LEA
NSH Class/No Aide		87,620	78,002	89,995	80,116	92,929	82,728	92,929	82,728
NH Aide		35,764	31,630	36,733	32,487	37,930	33,546	37,930	33,546
SH Class/No aide	OI Teachers	95,695	80,072	98,288	82,242	101,492	84,923	101,492	84,923
SH Aide		40,855	36,550	41,962	37,541	43,330	38,765	43,330	38,765



**UNITED STATES DEPARTMENT OF EDUCATION**  
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES  
OFFICE OF SPECIAL EDUCATION PROGRAMS

OSEP QA 20-01

September 28, 2020

The Office of Special Education Programs (OSEP), within the U.S. Department of Education's (Department) Office of Special Education and Rehabilitative Services, issues this Question and Answer (Q & A) document in response to inquiries concerning implementation of the Individuals with Disabilities Education Act (IDEA) Part B provision of services in the current COVID-19 environment.

Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

To review other Q & A documents that OSEP has provided related to COVID-19, please visit <https://sites.ed.gov/idea/topic-areas/#COVID-19>. Information specific to the COVID-19 pandemic may be found online at <https://www.ed.gov/coronavirus>. Additional OSEP K-12 resources, strategies and support materials are available at <https://ncsi.wested.org/>.

## **IDEA PART B SERVICE PROVISION**

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State educational agencies (SEAs) and local educational agencies (LEAs) are facing new and unexpected challenges in providing meaningful instruction to children, including children with disabilities, for the 2020-2021 school year. OSEP recognizes that the COVID-19 pandemic has impacted various parts of the nation in different ways. OSEP also recognizes that circumstances continue to rapidly change, and ultimately, the health and safety of children, families, and the school community is most important.

Decisions about the 2020-2021 school year, including how and when educational and other services are provided, are being made by State and local officials, with continued academic growth and the safety of the local school community being of paramount significance. As public agencies and officials grapple with challenging decisions, administrators, educators, and parents<sup>1</sup> may need to consider multiple

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<sup>1</sup> Under [34 C.F.R. § 300.30\(a\)](#), the term "parent" means: (1) a biological or adoptive parent of a child; (2) a foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent; (3) a guardian generally authorized

options for delivering instruction, including special education and related services to children with disabilities. Those options could include remote/distance instruction, in-person attendance, or a combination of both remote/distance instruction and in-person attendance (hybrid model). However, OSEP reminds SEAs and LEAs **that no matter what primary instructional delivery approach is chosen, SEAs, LEAs, and individualized education program (IEP) Teams remain responsible for ensuring that a free appropriate public education (FAPE) is provided to all children with disabilities.** If State and local decisions require schools to limit or not provide in-person instruction due to health and safety concerns, SEAs, LEAs, and IEP Teams are not relieved of their obligation to provide FAPE to each child with a disability under IDEA.

This document is meant to aid LEAs and parents in identifying steps they can take to ensure that as the 2020-2021 school year continues, children with disabilities are well-positioned with an educational program that meets each child's unique needs. Just as a child's needs may change during the school year, so can the circumstances needed to ensure the health and safety of children and the entire school community. Therefore, school staff and parents are encouraged to work together to find ways to meet the needs of children with disabilities, notwithstanding the COVID-19 challenges.

**Q1. What steps can an LEA take to ensure each child with a disability has an IEP in effect at the start of the 2020-2021 school year?**

Under [34 C.F.R. § 300.323\(a\)](#), at the beginning of each school year, each public agency, which includes LEAs, must have an IEP in effect for each child with a disability within its jurisdiction. To ensure that an appropriate IEP is in place for each child, the LEA may need to convene a meeting of the child's IEP Team, which includes the individuals described in Q2, to determine whether any revisions to the IEP are needed. [34 C.F.R. § 300.324\(b\)\(1\)](#).

We understand circumstances are always subject to change and recognize that ultimately the health and safety of children, families, and the school community is most important. SEAs and their public agencies must make every effort to continue to provide children with disabilities with the special education and related services appropriate to their needs.

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to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State); (4) an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or (5) a surrogate parent who has been appointed in accordance with [34 C.F.R. § 300.519](#) or [Section 639\(a\)\(5\)](#) of the IDEA.

As conditions continue to change throughout the country, some of the special education and related services included in a child's IEP may need to be provided in a different manner; however, all children with disabilities must continue to receive FAPE and must have “the chance to meet challenging objectives.”<sup>2</sup> Therefore, IEP Teams should identify how the special education and related services included in a child's IEP will be provided and should consider a variety of instructional methods and settings.

For example, IEP Teams can discuss how a child's IEP will be implemented with traditional in-person instruction and how services also could be provided through remote/distance instruction if circumstances require a change to distance learning or a hybrid model. In making these determinations, IEP Teams should consider alternate available instructional methodologies or delivery, such as online instruction, teleconference, direct instruction via telephone or videoconferencing, or consultative services to the parent (if feasible).

**Q2. Which members of the IEP Team must participate in the review discussed in Q1?**

The IEP Team members referenced in [34 C.F.R. § 300.321\(a\)](#) are generally required to participate in meetings to develop, review, and revise a child's IEP. This list includes, among other participants, the parents of the child; not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment); and not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child. Under [34 C.F.R. § 300.321\(e\)](#), it is permissible for certain members to be excused from attending the IEP Team meeting, in whole or in part, if the parent of a child with a disability and the public agency agree, in writing, 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 in the meeting. If the IEP Team meeting involves a modification to or discussion of the member's area of the curriculum or related services, the member may be excused from attending an IEP Team meeting, in whole or in part, if the parent, in writing, and the public agency consent to the excusal; and the member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

**Q3. When is an LEA permitted to use the IEP amendment process in 34 C.F.R. § 300.324?**

The IDEA Part B regulations provide in [34 C.F.R. § 300.324\(a\)\(4\)\(i\)](#), that in making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an

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<sup>2</sup> [Endrew F. v Douglas County School District Re-I, 137 S.Ct. 988, 1000](#) (2017).

IEP Team meeting for the purpose of making those changes, and instead, may develop a written document to amend or modify the child's current IEP. It is important to note that an amendment to an IEP cannot take the place of an annual IEP Team meeting. See also Q6.

If changes are made to the child's IEP through a written document, the public agency must ensure that the child's IEP Team is informed of those changes. Upon request, a parent must be provided with a revised copy of the IEP with the changes incorporated. [34 C.F.R. § 300.324\(a\)\(6\)](#). In addition, under [34 C.F.R. § 300.503\(a\)](#), the public agency must provide the parent with prior written notice that meets the requirements of [34 C.F.R. § 300.503\(b\)](#) a reasonable time before the public agency (1) proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or (2) refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. This provision applies, even if the IEP is amended without convening an IEP Team meeting, pursuant to [34 C.F.R. § 300.324\(a\)\(4\)](#).

**Q4. If extended school year (ESY) services were unable to be provided during the summer due to the COVID-19 pandemic, what additional steps can public agencies take to make FAPE available to children with disabilities who require such services?**

ESY services are defined as special education and related services that are: (1) provided to a child with a disability beyond the normal school year of the public agency; (2) provided in accordance with the child's IEP; (3) are at no cost to the parents of the child; and (4) meet the standards of the SEA.

Each public agency must ensure that ESY services are available as necessary to provide FAPE to children with disabilities. [34 C.F.R. § 300.106](#). It is important to remember that IEP Team determinations regarding ESY services are prospective and not intended to make up for past denials of FAPE.

The specific analysis and standards that an IEP Team may use to determine whether a child requires ESY services in order to receive FAPE are left to States to determine. However, the determination must be based on the individual needs of the child, and not on the category of the child's disability.<sup>3</sup>

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<sup>3</sup> [34 C.F.R. § 300.106\(a\)\(3\)\(i\)](#). See also, Assistance to States for the Education of Children with Disabilities and the Early Intervention Program for Infants and Toddlers with Disabilities, Final Rule, [64 Fed. Reg. 12406, 12576-12477](#) (March 12, 1999).

A child's entitlement to needed ESY services continues to apply even if schools and other facilities are closed due to COVID-19. The Department recognizes ESY services are typically provided to children with disabilities during the summer months. We understand that some ESY services, particularly those that require direct, in-person contact, may not have been able to be delivered this past summer. In such instances, public agencies should consider providing ESY services to the child during the normal school year, during school breaks or vacations where appropriate to the child's needs and consistent with applicable standards.<sup>4</sup>

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## INITIAL EVALUATION

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**Q5. What exceptions are available to an LEA in meeting the timeline requirement for conducting initial evaluations and IEP Team meetings when access to school buildings is limited or current health restrictions prevent face-to-face meetings?**

Under [34 C.F.R. § 300.301\(c\)\(1\)](#), the initial evaluation must be conducted within 60 days of receiving parental consent for the evaluation, or if the State has established a timeframe within which the evaluation must be conducted, within that timeframe. The exceptions to the initial evaluation timeframe are set forth in [34 C.F.R. § 300.301\(d\)](#). Those exceptions permit extension of the timeframe if a parent repeatedly fails or refuses to produce the child for the assessment; or if the child enrolls in a new school in a new public agency after the relevant timeframe has begun. States may specifically adopt a timeframe within which the initial evaluation must be conducted, including adopting the IDEA 60-day timeframe. States that specifically adopt a timeframe within which the initial evaluation must be conducted, including adopting the IDEA 60-day timeframe, also have the flexibility to establish additional exceptions through State regulation or policy.

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## INITIAL AND ANNUAL IEP TEAM MEETINGS

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**Q6. What flexibilities are available to an IEP Team in meeting the initial and annual IEP Team meeting requirements when access to schools is limited or local restrictions prevent face-to-face meetings?**

Within 30 days of determining a child needs special education and related services, an IEP must be developed for the child in accordance with

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<sup>4</sup> See also, [Questions and Answers on Providing Services To Children With Disabilities During The Coronavirus Disease 2019 Outbreak](#) (March 12, 2020), Q&A A-1, regarding consideration of compensatory services, if needed to make up for any skills that may have been lost, when FAPE cannot be provided.



[34 C.F.R. §§ 300.320 through 300.324](#), [34 C.F.R. §§ 300.306\(c\)\(2\)](#) and [300.323\(c\)\(1\)](#). In addition, under [34 C.F.R. § 300.324\(b\)\(1\)\(i\)](#), each child's IEP must be reviewed periodically, but not less than annually to determine whether the annual goals are being achieved.

The Department recognizes that some States, due to operational constraints because of the COVID-19 pandemic, are currently unable to conduct face-to-face IEP Team meetings. Under [34 C.F.R. § 300.322\(a\)](#), LEAs must take steps to ensure that one or both parents attend or are afforded the opportunity to participate in an IEP Team meeting by notifying them of the meeting early enough to ensure that they can attend and by scheduling the meeting at a mutually agreed upon time and place. If face-to-face meetings are not feasible or practicable, the Department encourages the use of the flexibility included in [34 C.F.R. § 300.328](#) which allows LEAs to conduct initial and annual IEP Team meetings through alternate means. Such alternate means could include a telephone or video conference call (if feasible and consistent with privacy standards) if acceptable to the parents and other IEP Team meeting participants.

## REEVALUATION

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### **Q7. How can LEAs conduct reevaluations to determine a child's continued eligibility for IDEA Part B when staff cannot conduct in-person meetings or evaluations due to the pandemic?**

Under Part B of IDEA, a reevaluation must occur at least once every three years, unless the parent and the public agency agree that a reevaluation is unnecessary.

[34 C.F.R. § 300.303\(b\)\(2\)](#). The Department acknowledges that, during the pandemic, social distancing measures and each child's individual disability-related needs may make administering some in-person evaluations impracticable and may place limitations on how evaluations and reevaluations are conducted under IDEA Part B.

LEAs should investigate all appropriate assessment instruments and tools to determine if some can be administered or completed remotely during the pandemic, provided that evaluation of the child is based on personal observation (whether in person or through videoconferencing). LEAs should also work with the developers of their current assessment instruments to determine if the instruments can be administered or completed remotely, without significantly impacting the validity and reliability of the results. However, under [34 C.F.R. § 300.304\(c\)\(1\)\(iii\)-\(v\)](#), tests and other evaluation materials must be used for the purposes for which the assessments or measures are valid and reliable, and must be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the assessments.

Note that when conducting reevaluations under Part B, the IEP Team and other qualified professionals must conduct a review of existing evaluation data on the child.



A reevaluation based solely on a review of existing evaluation data must be sufficiently comprehensive to determine whether the child continues to have a disability and the educational needs of the child. [34 C.F.R. § 300.305\(a\)](#). The review of existing evaluation data on the child may occur without a meeting and without obtaining parental consent. [34 C.F.R. §§ 300.300\(d\)\(1\)](#) and [300.305\(a\) and \(b\)](#).

**76 IDELR 104**

**120 LRP 10623**

**Supplemental Fact Sheet Addressing the  
Risk of COVID-19 in Preschool,  
Elementary, and Secondary Schools While  
Serving Children with Disabilities**

**Office of Special Education and  
Rehabilitative Services**

**Office for Civil Rights**

N/A

**March 21, 2020**

**Related Index Numbers**

**200.050 Right to FAPE**

**405.043 FAPE**

**519. VIRTUAL/CYBER SCHOOLS**

**Judge / Administrative Officer**

N/A

**Ruling**

In a fact sheet, the Office of Special Education and Rehabilitative Services and the Office for Civil Rights reminded districts seeking ways to deliver instruction during the coronavirus pandemic that efforts to shift school online shouldn't stop due to IDEA or Section 504 worries. The agencies explained that the determination of how FAPE is to be provided "may need to be different in this time of unprecedented national emergency."

**Meaning**

The IDEA and Section 504 pose no barriers to districts using online or virtual instruction as a result of COVID-19. Instead, where due to the global pandemic and resulting closures of schools there has been an "inevitable delay in providing services ... or making decisions about how to provide services," districts must make an individualized determination about what compensatory education may be needed when normal operations resume.

**Case Summary**

Addressing a "serious misunderstanding" regarding the delivery of FAPE and the

unprecedented steps districts are taking to manage the impact of COVID-19, OSERS and OCR explained that the IDEA and Section 504 should not impede the use of virtual or online education. The agencies stated that "school systems must make local decisions that take into consideration the health, safety, and well-being of all their students and staff." Previous guidance reported at 76 IDELR 77 and 76 IDELR 78 reminded districts that if they were providing services to students during school closures, the IDEA and Section 504 required that students with disabilities continued to receive FAPE. In this latest fact sheet, OSERS and OCR clarified that compliance with the IDEA, the ADA, and Section 504 "should not prevent any school from offering educational programs through distance instruction." Answering concerns that districts shouldn't provide any distance instruction because the IDEA and Section 504 present barriers to remote education, OSERS and OCR stated "[t]his simply is not true." The agencies noted that some IEP services may be provided safely in person during a school closure. When it's not feasible to do so, however, online options or other modifications may be available. "These may include, for instance, extensions of time for assignments, videos with accurate captioning or embedded sign language interpreting, accessible reading materials, and many speech or language services through videoconferencing," the agencies wrote. OSERS and OCR further noted that when educational materials are not available in an accessible format, educators can provide "equally effective alternate access" to the curriculum. For example, the agencies explained that an educator might read a document to a student with a visual impairment over the phone. Encouraging collaboration between districts and families, the agencies also advised reaching mutually agreeable extensions of time on state complaints, due process hearings, IEP decisions, eligibility determinations, and reevaluations. "[W]here we can offer flexibility, we will," the agencies wrote.

**Full Text**

### **Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities**

We recognize that educational institutions are straining to address the challenges of this national emergency. We also know that educators and parents are striving to provide a sense of normality while seeking ways to ensure that all students have access to meaningful educational opportunities even under these difficult circumstances. No one wants to have learning coming to a halt across America due to the COVID-19 outbreak, and the U.S. Department of Education (Department) does not want to stand in the way of good faith efforts to educate students on-line.

The Department stands ready to offer guidance, technical assistance, and information on any available flexibility, within the confines of the law, to ensure that all students, including students with disabilities, continue receiving excellent education during this difficult time. The Department's Office for Civil Rights (OCR) and the Office for Special Education and Rehabilitative Services (OSERS) have previously issued non-regulatory guidance addressing these issues.\*

At the outset, OCR and OSERS must address a serious misunderstanding that has recently circulated within the educational community. As school districts nationwide take necessary steps to protect the health and safety of their students, many are moving to virtual or online education (distance instruction). Some educators, however, have been reluctant to provide any distance instruction because they believe that federal disability law presents insurmountable barriers to remote education. This is simply not true. We remind schools they should not opt to close or decline to provide distance instruction, at the expense of students, to address matters pertaining to services for students with disabilities. Rather, school systems must make local decisions that take into consideration the health, safety, and well-being of all their students and staff.

To be clear: ensuring compliance with the

Individuals with Disabilities Education Act (IDEA),\*\* Section 504 of the Rehabilitation Act (Section 504), and Title II of the Americans with Disabilities Act should not prevent any school from offering educational programs through distance instruction.

School districts must provide a free and appropriate public education (FAPE) consistent with the need to protect the health and safety of students with disabilities and those individuals providing education, specialized instruction, and related services to these students. In this unique and ever-changing environment, OCR and OSERS recognize that these exceptional circumstances may affect how all educational and related services and supports are provided, and the Department will offer flexibility where possible. However, school districts must remember that the provision of FAPE may include, as appropriate, special education and related services provided through distance instruction provided virtually, online, or telephonically.

The Department understands that, during this national emergency, schools may not be able to provide all services in the same manner they are typically provided. While some schools might choose to safely, and in accordance with state law, provide certain IEP services to some students in-person, it may be unfeasible or unsafe for some institutions, during current emergency school closures, to provide hands-on physical therapy, occupational therapy, or tactile sign language educational services. Many disability-related modifications and services may be effectively provided online. These may include, for instance, extensions of time for assignments, videos with accurate captioning or embedded sign language interpreting, accessible reading materials, and many speech or language services through video conferencing.

It is important to emphasize that federal disability law allows for flexibility in determining how to meet the individual needs of students with disabilities. The determination of how FAPE is to be provided may need to be different in this time of

unprecedented national emergency. As mentioned above, FAPE may be provided consistent with the need to protect the health and safety of students with disabilities and those individuals providing special education and related services to students. Where, due to the global pandemic and resulting closures of schools, there has been an inevitable delay in providing services - or even making decisions about how to provide services - IEP teams (as noted in the March 12, 2020 guidance) must make an individualized determination whether and to what extent compensatory services may be needed when schools resume normal operations.

Finally, although federal law requires distance instruction to be accessible to students with disabilities, it does not mandate specific methodologies. Where technology itself imposes a barrier to access or where educational materials simply are not available in an accessible format, educators may still meet their legal obligations by providing children with disabilities equally effective alternate access to the curriculum or services provided to other students. For example, if a teacher who has a blind student in her class is working from home and cannot distribute a document accessible to that student, she can distribute to the rest of the class an inaccessible document and, if appropriate for the student, read the document over the phone to the blind student or provide the blind student with an audio recording of a reading of the document aloud.

The Department encourages parents, educators, and administrators to collaborate creatively to continue to meet the needs of students with disabilities. Consider practices such as distance instruction, teletherapy and tele-intervention, meetings held on digital platforms, online options for data tracking, and documentation. In addition, there are low-tech strategies that can provide for an exchange of curriculum-based resources, instructional packets, projects, and written assignments.

The Department understands that, during this declared national emergency, there may be additional questions about meeting the requirements of federal

civil rights law; where we can offer flexibility, we will. OSERS has provided the attached list with information on those IDEA timeframes that may be extended.

OSERS' technical assistance centers are ready to address your questions regarding the IDEA and best practices and alternate models for providing special education and related services, including through distance instruction. For questions pertaining to Part C of IDEA, states should contact the Early Childhood Technical Assistance Center (ECTA) at [ectacenter.org](http://ectacenter.org). For Part B of IDEA, states should contact the National Center for Systemic Improvement (NCSI) at [ncsi.wested.org](http://ncsi.wested.org).

If you have questions for OCR, want additional information or technical assistance, or believe that a school is violating federal civil rights law, you may reach out through email at [OCRWebAccessTA@ed.gov](mailto:OCRWebAccessTA@ed.gov), call your regional office (<https://ocrcas.ed.gov/contact-ocr>), or visit the website of the Department of Education's OCR at [www.ed.gov/ocr](http://www.ed.gov/ocr). You may contact OCR at (800) 421-3481 (TDD: 800-877-8339), at [ocr@ed.gov](mailto:ocr@ed.gov), or contact OCR's Outreach, Prevention, Education and Non-discrimination (OPEN) Center at [OPEN@ed.gov](mailto:OPEN@ed.gov). You may also fill out a complaint form online at [www.ed.gov/ocr/complaintintro.html](http://www.ed.gov/ocr/complaintintro.html).

Additional information specific to the COVID-19 pandemic may be found online at <https://www.ed.gov/coronavirus>.

## **IDEA Timelines**

As a general principle, during this unprecedented national emergency, public agencies are encouraged to work with parents to reach mutually agreeable extensions of time, as appropriate.

## **Part B of IDEA**

### **State Complaints**

Absent agreement by the parties, a state may be able to extend the 60-day timeline for complaint resolution if exceptional circumstances exist with respect to a particular complaint. 34 C.F.R. §

300.152(b)(1). Although the Department has previously advised that unavailability of staff is not an exceptional circumstance that would warrant an extension of the 60-day complaint resolution timeline, the COVID-19 pandemic could be deemed an exceptional circumstance if a large number of SEA staff are unavailable or absent for an extended period of time.

### **Due Process Hearings**

When a parent files a due process complaint, the LEA must convene a resolution meeting within 15 days of receiving notice of the parent's complaint, unless the parties agree in writing to waive the meeting or to use mediation. 34 C.F.R. § 300.510(a). While the IDEA specifically mentions circumstances in which the 30-day resolution period can be adjusted in 34 C.F.R. § 300.510(c), it does not prevent the parties from mutually agreeing to extend the timeline because of unavoidable delays caused by the COVID-19 pandemic.

Additionally, although a hearing decision must be issued and mailed to the parties 45 days after the expiration of the 30-day resolution period or an adjusted resolution period, a hearing officer may grant a specific extension of time at the request of either party to the hearing. 34 C.F.R. § 300.515(a) and (c).

### **Individualized Education Programs (IEPs)**

If a child has been found eligible to receive services under the IDEA, the IEP Team must meet and develop an initial IEP within 30 days of a determination that the child needs special education and related services. 34 C.F.R. § 300.323(c)(1).

IEPs also must be reviewed annually. 34 C.F.R. § 300.324(b)(1). However, parents and an IEP Team may agree to conduct IEP meetings through alternate means, including videoconferencing or conference telephone calls. 34 C.F.R. § 300.328. Again, we encourage school teams and parents to work collaboratively and creatively to meet IEP timeline requirements.

Most importantly, in making changes to a child's

IEP after the annual IEP Team meeting, because of the COVID-19 pandemic, the parent of a child with a disability and the public agency may agree to not convene an IEP Team meeting for the purposes of making those changes, and instead develop a written document to amend or modify the child's current IEP. 34 C.F.R. § 300.324(a)(4)(i).

### **Initial Eligibility Determination**

An initial evaluation must be conducted within 60 days of receiving parental consent under IDEA, or within the state-established timeline within which the evaluation must be conducted. 34 C.F.R. § 300.301(c). Once the evaluation is completed, IDEA does not contain an explicit timeline for making the eligibility determination but does require that the IEP be developed in accordance with 34 C.F.R. §§ 300.320-300.324 (34 C.F.R. § 300.306(c)(2)).

### **Reevaluations**

A reevaluation of each child with a disability must be conducted at least every three years, unless the parents and the public agency agree that a reevaluation is unnecessary 34 C.F.R. § 300.303(b)(2). However, when appropriate, any reevaluation may be conducted through a review of existing evaluation data, and this review may occur without a meeting and without obtaining parental consent, unless it is determined that additional assessments are needed. 34 C.F.R. § 300.305(a).

## **Part C of IDEA**

### **State Complaints**

Under 303.433(b)(1)(i), the lead agency's state Complaint procedures permit an extension of the 60 day timeline for a written decision if "exceptional circumstances exist with respect to a particular complaint" or the parent or organization and the agency or early intervention services (EIS) provider agree to extend the time for engaging in mediation.

### **Due Process Hearings**

A state may choose to adopt Part B procedures for Due Process resolution under 34 C.F.R. §§ 303.440 - 303.449 or Part C procedures under 34

C.F.R. §§ 303.435 - 303.438. Conditions for extending the applicable timelines are similar under both sets of procedures.

Under 34 C.F.R. §303.447(c), the hearing or review officer may grant specific extensions of the Due Process timeline at the request of either party. Under 34 C.F.R. § 303.447(d), each hearing and each review involving oral argument must be conducted at a time and place that is reasonably convenient to the parents and child involved.

Section 303.437 (a) and (c) provides similar language regarding scheduling a hearing at a time and place convenient to the parents and hearing officers granting extensions at the request of either party.

### **Initial eligibility/Individual Family Service Plan (IFSP)**

Under 34 C.F.R. § 303.310, the initial evaluation and assessments of child and family, as well as the initial IFSP meeting, must be completed within 45 days of the lead agency receiving the referral. However, under 34 C.F.R. § 303.310(a), the 45-day timeline does not apply if the family is unavailable due to "exceptional family circumstances that are documented" in the child's early intervention (EI) records.

The Department has previously provided guidance to states indicating that weather or natural disasters may constitute "exceptional family circumstances." The COVID-19 pandemic could be considered an "exceptional family circumstance."

\*See Fact Sheet: Addressing the Risk of COVID-19 in Schools While Protecting the Civil Rights of Students (March 16, 2020); OCR Short Webinar on Online Education and Website Accessibility Webinar (Length: 00:07:08) (March 16, 2020); Questions and Answers on Providing Services to Children with Disabilities During the COVID-19 Outbreak (March 12, 2020); Fact Sheet: Impact of COVID-19 on Assessments and Accountability under the Elementary and Secondary Education Act (March 12, 2020); and Letter to Education Leaders on Preventing and Addressing potential discrimination

associated with COVID-19

\*\*References to IDEA in this document include both Part B and Part C.

## Mutual Agreement to Extend Evaluation Timeline Due to COVID-19

Each local educational agency (“LEA”) has an obligation to conduct a comprehensive evaluation for each child being considered for initial placement into special education and to conduct a comprehensive reevaluation of each child eligible for special education at least every three (3) years or when circumstances warrant a reevaluation. The purpose of an evaluation for special education is to:

- Determine whether the child is or continues to be a child with a disability as defined by state and federal law;
- Gather information that will help determine and evaluate the child’s educational needs; and
- Guide decision-making about an appropriate educational placement for the child.

As you are aware, you previously signed consent for an evaluation or reevaluation of your child to determine whether he or she has, or continues to have, a disability and is eligible for special education and related services. This evaluation is being conducted in accordance with the documented decision of your child’s IEP team, of which you are a member, in regard to the nature and scope of the evaluation.

State and federal special education law imposes various timelines on LEAs regarding when an initial evaluation for special education or reevaluation must be completed. An initial evaluation for special education must be completed, and an IEP meeting must be held to review the results of the initial evaluation and determine the child’s eligibility for special education, within 60 days of receiving parental consent to an assessment plan. A reevaluation for special education, including triennial assessments, must also be completed within 60 days of receiving parental consent to an assessment plan. Nonetheless, state and federal law authorizes these timelines to be extended upon mutual written agreement of the child’s parent/guardian and the LEA.

Guidance from the U.S. Department of Education (USDOE) in response to the COVID-19 global pandemic provides that if an evaluation of a student with a disability requires face-to-face assessment or observation, the evaluation should be delayed until school reopens for instruction. Additionally, guidance issued by the Office of Special Education and Rehabilitative Services (OSERS) on May 21, 2020 encourages collaboration between LEAs and parents to reach mutually agreeable extensions of special education timelines whenever possible. The following circumstances prevent the LEA from completing the evaluation/reevaluation within the timeline set by state and federal law: [list details regarding LEA’s school closures, applicable state/county guidance, etc.] In addition, the LEA considered the following alternative methods for completing the evaluation/reevaluation within the applicable timelines (and the reasons those alternatives were rejected): [list individual student details].

As such, due to the COVID-19 pandemic, and to ensure that comprehensive in-person assessments are completed as soon as safely possible and in accordance with relevant state and federal public health guidelines, [add school name] is requesting an extension of the timeline to complete your child’s initial evaluation or reevaluation and hold an IEP meeting to review the completed evaluations.

[Add school name] is proposing to extend the evaluation timeline for the assessment plan signed by Parent/Guardian on [date] to \_\_\_\_\_ for the reason(s) discussed above.

**LEA Agreement to Extend the Timeline:**

[Add school name] hereby agrees to extend the evaluation timeline as specified above.

LEA Representative's Name (print) \_\_\_\_\_

LEA Representative's Title: \_\_\_\_\_

LEA Representative's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Parent/Guardian Agreement to Extend the Timeline:**

I agree to extend the timeline as specified above to complete a special education evaluation of my child due to the COVID-19 global pandemic.

Parent/Guardian's Name (print): \_\_\_\_\_

Child's Name (print): \_\_\_\_\_ Child D.O.B.: \_\_\_\_\_

Parent/Guardian's Signature: \_\_\_\_\_

Date: \_\_\_\_\_





**ED MANANSALA, Ed.D., County Superintendent of Schools**  
**DAVID M. TOSTON, Associate Superintendent**

## **Shared Risk Pool - Participation Procedures**

The El Dorado SELPA's Allocation Plan allows districts to apply to the Shared Risk Pool for partial reimbursement for Non-public School (NPS), legal, or special circumstances costs. The procedures below have been developed to assist districts in submitting requests to the Shared Risk pool.

Districts wishing to access the pool should complete a Shared Risk Pool Participation Form (one form per student). This form will ensure accurate information is being collected, as well as streamline the request process for our districts. You can only access the online form using a Google account. This Google document is located at the following link:

<https://goo.gl/forms/Z1MLe35luoliyOhq2>.

Only the relevant sections of the form need to be completed and submitted to the SELPA. For example, if the district is only submitting for reimbursement for legal costs, then the NPS and Special Circumstances sections of the form do not need to be completed. If any required sections of the Shared Risk Pool form are incomplete or require additional information, a SELPA representative will contact the district to request clarification or additional information. Depending on the request, districts will be notified in writing after one or more of the following review the request: a SELPA representative, SELPA Executive Committee, or SELPA Superintendents' Council. Requests will be forwarded for review to the SELPA Executive Committee if they are submitted for special circumstances or legal requests that cover more than 6 months or exceed \$25,000. Legal requests that exceed \$50,000 will be reviewed by the SELPA Superintendents' Council.

### **Non-Public Schools (NPS)**

The education and transportation costs associated with placing a student in NPS may be eligible for up to 50% reimbursement from the Shared Risk Pool. Total per student reimbursement will be based on actual days of attendance not to exceed 185 days of regular school year attendance and 25 days of extended school year attendance, net of the LCFF revenue received for the student. In order to be eligible for reimbursement, claims must meet all of the reimbursement criteria.

Costs for transportation to and from the NPS are only eligible for reimbursement if transportation is required per the student's IEP. If the parent transports the student, the cost of transportation will be reimbursed for each day of attendance at the current federal mileage reimbursement rate for daily mileage to and from the student's residence and the non-public school. If transportation is provided by the district, the SELPA and the district will agree on a single daily reimbursement rate consisting of a labor component and mileage component.

Completed Shared Risk Pool Participation Forms are due to the SELPA office no later than October 15<sup>th</sup> for all existing non-public school placements. After October 15, forms for new NPS placements should be submitted within 30 days of the first day of placement.

Costs associated with providing related services for students in nonpublic school (e.g. OT, PT, speech, mental health, etc.) are not eligible for reimbursement through the NPS pool.

Claims that meet all program requirements and are approved prior to May will receive funding up to 75% of total eligible expected claim costs in the month approved. In May, all approved claims will receive up to 90% of the eligible expected claim costs less any funding released previously. The balance of the eligible claim costs will be released, or recovered, in July after final expenditures are verified.

#### NPS Reimbursement Criteria:

LEAs requesting reimbursement from the Shared Risk Pool for costs associated with the placement of a student in nonpublic school (NPS) should meet all of the following criteria:

- **SELPA Involvement:** When an LEA is considering a nonpublic school placement, a SELPA representative should be meaningfully involved prior to the determination of an NPS placement. The SELPA representative could be a program specialist, coordinator, director or designee. This involvement may include participation in IEP meetings or consultation. The SELPA representative's role is to ensure that the LEA has explored possible alternatives prior to determining that an NPS placement is the least restrictive environment for the student. The SELPA representative will also support the LEA in making sure that all other reimbursement criteria are met.
- **State Certification:** The NPS in which the student is placed must be certified by the California Department of Education.
- **Master Contract/ISA:** The LEA shall have a completed and signed El Dorado County SELPA Master Contract with the NPS in which the student has been placed. The LEA should also have an Individual Services Agreement (ISA) with the NPS, specifying the services the NPS will provide to the individual student. The services in the ISA should reflect the services agreed to and documented in the student's current IEP.
- **IEP:** The student's current IEP should contain all of the components below in order to be considered for reimbursement from the pool:

- ☐ A behavior intervention plan for all students being placed due to behavioral concerns;
- ☐ A transition plan (for students 16 and older or who will turn 16 prior to the next annual IEP);
- ☐ School type of (70) Non-public day school indicated on the educational setting page of the IEP (or code 71 or 72 when appropriate for residential placements);
- ☐ Appropriate low incidence services when student qualifies with a low incidence disability;
- ☐ Goals in all areas of need as identified on the present levels page of the IEP;
- ☐ Mental health goals for students who are eligible for special education under the criteria for Emotional Disturbance;
- ☐ Documentation that all required team members, including a school psychologist, were in attendance at the IEP meeting where NPS placement was determined; and
- ☐ Goals to address all behaviors or areas of need that led to the placement in a non-public school.

**Participation Procedure:**

1. Complete the Shared Risk Form for NPS placement
2. Attach all required documentation.
  - Copy of student's current IEP with NPS placement highlighted
  - Copy of Master Contract (first time only) with each Non-Public School
  - Copy of completed Individual Service Agreement (one per student)

Once all pool participation documents have been received, the SELPA Administrator or designee will review the documents to ensure that all criteria have been met. If any of the above elements are missing, the SELPA will notify the district representative for the district submitting the pool participation request.

**Legal Costs**

Legal costs associated with any of the following are eligible for 50% reimbursement from the Shared Risk Pool.

- Legal costs associated with Office for Civil Rights Complaints, Due Process Complaints, Compliance Complaints, or any other legal proceeding.
- Costs associated with Settlement Agreements (including legal fees and compensatory education).

Eligible costs must relate to an individual student where the student qualifies for special education and where the legal issue is related to the provision of a free and appropriate public education or where the dispute concerns whether the student should qualify for special education.

In order to apply for reimbursement from the Shared Risk Pool for legal costs, districts must have explored other resources and demonstrated a good faith effort to bear a portion of the costs associated with the request. Costs associated with personnel (including para-educators), transportation, and assessments are not eligible for reimbursement from the Shared Risk Pool.

Prior to applying for access to the Shared Risk Pool, the total legal costs must meet the thresholds below according to the total district ADA:

- Districts with prior year P2 ADA of 200 or lower, the application must meet a minimum amount of \$2,000. This would result in an award of \$1,000+.
- Districts with prior year P2 ADA between 201 and 1000, the application must meet a minimum amount of \$5,000. This would result in an award of \$2,500+.
- Districts with prior year P2 ADA of more than 1000, the application must meet a minimum amount of \$10,000. This would result in an award of \$5,000+.

Reimbursable costs may not cover a period of more than six months for any one student issue without approval of the SELPA Executive Committee. In the following circumstances, a SELPA representative will review the file and determine the merit of the case:

- When the billable costs continue for more than six consecutive months; and/or
- When the billable costs total more than \$25,000 (\$12,500 reimbursed amount).

If, after a complete file review, the SELPA believes that the case has merit and warrants continued reimbursement, then a recommendation will be made to Executive Committee for approval of the request.

Total reimbursement from the pool for a single student matter shall not exceed \$50,000 without approval from the full Superintendents' Council.

After review from the SELPA Executive Committee, or the SELPA Superintendents Council, the claimant will receive a letter of approval or denial. If approved, a transfer will be completed by the SELPA and the district will be notified of the transfer amount and reference number in the approval letter, if available, or via email.

### **Special Circumstances Students**

Districts may be reimbursed up to 50% for costs related to providing intensive services and supports to special education students. In order to qualify for reimbursement from the pool, special education costs associated with an individual student must meet a minimum threshold of \$100,000 (50% reimbursement = \$50,000). Total annual reimbursement from the pool may not exceed \$75,000 per student (for a \$150,000 claim). Districts must submit a Shared Risk Pool Participation Form annually demonstrating that the district has explored all other resources and made a good faith effort to bear a portion of the costs associated with the request. Shared Risk Pool Participation Forms for special circumstances students will be reviewed by a SELPA representative and submitted to the Executive Committee for approval. Applications will document SELPA involvement and participation of a SELPA representative at IEP meetings, when possible. Applications must be re-submitted annually.

After review from the SELPA Executive Committee the claimant will receive a letter of approval or denial. If approved, a transfer will be completed by the SELPA and the district will be notified of the transfer amount and reference number in the approval letter, if available, or via email.

If you have any questions, please call the SELPA office at (530) 295-2462.



## ***Professional Learning Year-at-a-Glance***

### **FALL 2020**

<b>Date</b>	<b>Start Time</b>	<b>End Time</b>	<b>Title of Training</b>	<b>Registration Link</b>
10/21/2020	10:00	11:30	DCN Training PR-006 For Paraeducators - Behavior Supports in the Classroom: How to Implement Effective Reinforcement	<a href="https://forms.gle/RmvKNxEhNWnac1Qi6">https://forms.gle/RmvKNxEhNWnac1Qi6</a>
10/27/2020	10:30	11:30	Improving Outcomes for English Learners: Pre-referral and Referral, Assessment, and IEP Processes for English Learners who May be eligible for Special Education (PART 1)	<a href="http://icoe.k12oms.org/1168-191544">http://icoe.k12oms.org/1168-191544</a>
10/28/2020	8:30	12:30	Youth Mental Health First Aid	<a href="https://qrgo.page.link/AuaQg">https://qrgo.page.link/AuaQg</a>
10/29/2020	10:30	11:30	Improving Outcomes for English Learners: Pre-referral and Referral, Assessment, and IEP Processes for English Learners who May be eligible for Special Education (PART 2)	<a href="http://icoe.k12oms.org/1168-191546">http://icoe.k12oms.org/1168-191546</a>
11/4/2020	8:30	10:30	SEIS Navigation	<a href="https://qrgo.page.link/WrTpy">https://qrgo.page.link/WrTpy</a>
11/4/2020	2:00	4:00	Part 3 Understanding Evidence- Based Practices for Students with Autism Spectrum	<a href="https://qrgo.page.link/bCjYL">https://qrgo.page.link/bCjYL</a>
11/4/2020	8:30	3:30	SEIS Navigation	<a href="https://qrgo.page.link/D3RRY">https://qrgo.page.link/D3RRY</a>
11/10/2020	2:00	3:30	DCN Training IN011 How to Design a Day of Effective Direct Instruction for Students with Significant Learning Needs	<a href="https://forms.gle/RmvKNxEhNWnac1Qi6">https://forms.gle/RmvKNxEhNWnac1Qi6</a>
12/8/2020	2:00	3:30	Better Together! Creating an Effective Co-Teaching Service Delivery Model	<a href="https://qrgo.page.link/3JB58">https://qrgo.page.link/3JB58</a>



## Professional Learning Year-at-a-Glance

### SPRING 2020

Date	Start Time	End Time	Title of Training	Registration Link
1/11/2021	12:00	2:00	Speech and Language: Understanding the Thread of Educational Benefit (PART 1)	<a href="https://qrgo.page.link/CyFsw">https://qrgo.page.link/CyFsw</a>
1/20/2021	2:00	4:00	Part 1 Introduction to Autism Spectrum Disorder	<a href="https://qrgo.page.link/ME9fX">https://qrgo.page.link/ME9fX</a>
1/21/2021	8:30	3:30	Understanding and Using Accommodations and Modifications to Promote Student Access to Grade Level Instruction	<a href="https://qrgo.page.link/Azx6U">https://qrgo.page.link/Azx6U</a>
1/25/2021	10:30	11:30	Meeting the Needs of English Learners & English Learners with Disabilities	<a href="http://icoe.k12oms.org/1168-191547">http://icoe.k12oms.org/1168-191547</a>
2/3/2021	8:30	11:30	CPI Enhanced Nonviolent Crisis Intervention Recertification	<a href="https://qrgo.page.link/bMTph">https://qrgo.page.link/bMTph</a>
2/18/2021	1:00	4:00	Part 2 Supporting Students with Autism in School Settings	<a href="https://qrgo.page.link/HLfs5">https://qrgo.page.link/HLfs5</a>
3/8/2021	12:00	2:00	Part 2 Speech and Language: Understanding the Thread of Educational Benefit (March Opp.)	<a href="https://qrgo.page.link/iTJnd">https://qrgo.page.link/iTJnd</a>
3/18/2021	2:00	4:00	Part 3 Understanding Evidence-Based Practices for Students with Autism Spectrum	<a href="https://qrgo.page.link/ikfer">https://qrgo.page.link/ikfer</a>
4/19/2021	10:30	11:30	Literacy Development & Students with Disabilities who are English Learners (SWD-ELs)	<a href="http://icoe.k12oms.org/1168-191548">http://icoe.k12oms.org/1168-191548</a>

# COMMUNITY ADVISORY COMMITTEE (CAC)

## About CAC

The El Dorado County SELPA's Community Advisory Committee is a dynamic, collaborative partnership comprised of educators, parents/guardians, and community members from across 14 districts in El Dorado County. The CAC provides an opportunity for members to be involved and provide input to the SELPA regarding the Special Education Local Plan, annual priorities, parent/guardian education, and other special education-related activities. The CAC holds three meetings annually to address topics of interest to families of children and young adults with disabilities.

## Why Join the CAC?

- Assist in building relationships and communication between schools, parents/guardians and related agencies.
- Encourage community and parental/guardian involvement in the review of the Special Education Local Plan.
- Provide families an opportunity to share resources and support within their school and community.



## Meeting Dates

October 6, 2020	9:00 am – 10:30 am
	<a href="https://bit.ly/3dOWORZ">https://bit.ly/3dOWORZ</a>
January 7, 2021	9:00 am – 10:30 am
	<a href="https://bit.ly/3dCKlvo">https://bit.ly/3dCKlvo</a>
April 27, 2021	9:00 am – 10:30 am
	<a href="https://bit.ly/2Z4OhGO">https://bit.ly/2Z4OhGO</a>

## Where Do I Find More Information About CAC?

For additional information regarding CAC, please visit the El Dorado County SELPA Community Advisory Committee webpage at: <http://edcoe.org/educational-services/selpa-special-education-local-plan-area/for-parents/community-advisory-committee>.





