

- 1 • The State Superintendent of Public Instruction, Department of Health Care Services
2 and Department of Social Services have illustrated changes to the original text in the
3 following manner: text originally proposed to be added is underlined; text proposed
4 to be deleted is displayed in ~~strikeout~~.
5

6 **Title 2. Administration**

7 **Division 9. Joint Regulations for Pupils with Disabilities**

8 **Chapter 1. Interagency Responsibilities for Providing Services to Pupils with**
9 **Disabilities**

10 **Article 1. General Provisions**

11 **§ 60000. Scope.**

12 The provisions of this chapter shall implement Chapter 26.5, commencing with
13 Section 7570, of Division 7 of Title 1 of the Government Code relating to interagency
14 responsibilities for providing services to pupils with disabilities. This chapter applies to
15 the State Departments of ~~Mental Health~~, Health Care Services, ~~Social Services~~, and
16 their designated local agencies, and the California Department of Education, school
17 districts, county offices, and special education local plan areas.

18 ...

19 NOTE: Authority cited: Section 7587, Government Code; Section 20, Health and Safety
20 Code. Reference: Sections 7570 and 12803, Government Code.

21
22 **§ 60010. Education Definitions.**

23 ...

24 (b) "Administrative designee" means the individual who fulfills the role as described
25 in paragraph (~~4~~) of subsection (b) of Section 56341 of the Education Code and
26 paragraph (~~4~~) of subsection (a) of Section ~~300.344~~ 300.321 of Title 34 of the Code of
27 Federal Regulations.

28 (c) "Assessment" means an individual evaluation of a pupil in all areas of suspected
29 disability in accordance with Sections 56320 through 56329 and Section 56337 of the
30 Education Code and Sections ~~300.530~~ 300.300 through ~~300.534~~ 300.311 of Title 34 of
31 the Code of Federal Regulations.

32 ...

33 (e) "Confidentiality" means the restriction of access to verbal and written
34 communications, including clinical, medical and educational records, to appropriate

1 parties under Section 99.30 of Title 45 34 of the Code of Federal Regulations, Section
2 ~~300.560~~ 300.610 et seq. of Title 34 of the Code of Federal Regulations, Sections 827,
3 4514, 5328, and 10850 of the Welfare and Institutions Code, ~~Section 2890 of Title 17 of~~
4 ~~the California Code of Regulations~~, and Sections 49060 through 49079 of the Education
5 Code.

6 ...

7 (i) "Individualized education program," hereinafter "IEP," means a written statement
8 developed in accordance with Section 7575 of the Government Code, Sections 56341
9 and 56342 of the Education Code and Sections ~~300.340~~ 300.320 through ~~300.350~~
10 300.328 of Title 34 of the Code of Federal Regulations, which contains the elements
11 specified in Section 56345 of the Education Code and Section ~~300.347~~ 300.320 of Title
12 34 of the Code of Federal Regulations.

13 ...

14 (l) "Local interagency agreement" means a written document negotiated between
15 two or more public agencies which defines each agency's role and responsibilities for
16 providing services to pupils with disabilities and for facilitating the coordination of these
17 services in accordance with the provisions of Section ~~56220~~ 56195.7(d) of the
18 Education Code.

19 (m) "Necessary to benefit from special education" means a service that assists the
20 pupil with a disability in progressing toward the goals and objectives listed in the IEP in
21 accordance with subsection ~~(d)~~(c) of Section 7572 and paragraph (2) of subsection (a)
22 of Section 7575 of the Government Code.

23 ...

24 (q) "Pupil" or "Pupil with a disability" means those students, birth through 21 years of
25 age, as defined in Section ~~300.7~~ 300.8 of Title 34 of the Code of Federal Regulations,
26 ~~including those with mental retardation or autism~~, who meet the requirements of Section
27 56026 of the Education Code and Sections 3030 and 3031 of Title 5 of the California
28 Code of Regulations and who, because of their impairments, need special education
29 and related services as defined in subsections ~~(22)~~(26) and ~~(25)~~(29) of Section 1401 of
30 Title 20 of the United States Code. This term includes handicapped children, children
31 with disabilities and individuals with exceptional needs as defined in Section 56026 of
32 the Education Code. The determination that an individual is a pupil with a disability is

1 made only by an IEP team pursuant to Section 56342 of the Education Code.

2 ...

3 (s) "Related services" means those services that are necessary for a pupil with a
4 disability to benefit from his or her special education program in accordance with
5 ~~paragraph~~ Title 20, United States Code Section 1401~~(22)~~(26).

6 (t) "Special education" means specially designed instruction and related services to
7 meet the unique needs of a pupil with a disability, as described in Section 56031 of the
8 Education Code and Section ~~300.26~~ 300.39 of Title 34 of the Code of Federal
9 Regulations.

10 (u) "Special education local plan" means a plan developed in accordance with
11 Sections ~~56200~~ 56205 through ~~56218~~ 56213 of the Education Code which identifies
12 each participating LEA's roles and responsibilities for the provision of special education
13 and related services within the service area.

14 (v) "Special education local plan area," hereinafter "SELPA," means the service area
15 covered by a special education local plan, and is the governance structure created
16 under any of the planning options of Section ~~56200~~ 56205 of the Education Code.

17 NOTE: Authority cited: Section 7587, Government Code. Reference: Sections 7570 and
18 7579.5, Government Code; Section 5328, Welfare and Institutions Code; Sections
19 1240, 56023, 56026, 56028, 56031, 56034, 56035, 56050, ~~56200-56220~~ 56205-56208,
20 56320-56329, and 56341 ~~and 56325~~, Education Code; Clovis Unified School District
21 (1990, Ninth Circuit) 903 F.2d 635; Section 1401, Title 20, United States Code; and
22 Sections ~~300.7~~ 300.8, ~~300.326~~ 300.39, ~~300.330~~, ~~300.340-300.350~~ 300.320-300.328,
23 ~~300.530-300.534~~ 300.300-300.311 and ~~300.560~~ 300.610, Title 34, Code of Federal
24 Regulations.

25

26 **Article 7. Exchange of Information Between Education and Social Services**

27 **§ 60510. Prior Notification.**

28 (a) The court, regional center for the developmentally disabled, or public agency
29 other than an educational agency shall notify the SELPA director, in writing or by
30 telephone, prior to placing a pupil with a disability in a ~~facility listed in Section 60025,~~
31 ~~and provide the following relevant information within ten days~~ any of the following
32 facilities:

1 (1) A “certified family home” as defined in Welfare and Institutions Code Section
2 11400(c).

3 (2) A “community care facility” as defined in Health and Safety Code Section
4 1502(a). For the purposes of this chapter, a community care facility means those
5 facilities listed and defined in this article that provide 24-hour residential care to children.

6 (3) A “community treatment facility” as defined in Health and Safety Code Section
7 1502(a)(8).

8 (4) A “foster family agency” as defined in Welfare and Institutions Code Section
9 11400(g) and Health and Safety Code Section 1502(a)(4).

10 (5) A “foster family home” as defined in Health and Safety Code Sections 1502(a)(5)
11 or 1505.2. For the purposes of this Chapter, a foster family home includes a small family
12 home pursuant to Education Code Section 56155.5(b), or the approved home of a
13 relative.

14 (6) A “group home” as defined in Health and Safety Code Section 1502(a)(13).

15 (7) A “licensed children’s institution” as defined in Education Code Section
16 56155.5(a). For the purposes of this Chapter, a licensed children’s institution means the
17 following community care facilities licensed by the California Department of Social
18 Services: a group home, foster family agency, and community treatment facility.

19 (8) A “small family home” as defined in Health and Safety Code Section 1502(a)(6).

20 (b) When placing a pupil in a facility listed in subdivision (a), the court, regional
21 center for the developmentally disabled, or public agency other than an educational
22 agency shall provide the following relevant information to the SELPA director in writing
23 within 10 days of placement:

24 (1) The name of the last school attended, the contact person at that school, and the
25 available educational records, including the current IEP.

26 (2) A copy or summary of the most recent psychological and medical records
27 relevant to educational planning which are maintained by the agency.

28 (3) The name, address and telephone number of the parent who has the
29 responsibility to represent the pupil in educational matters and to sign the IEP for
30 special education, designated instruction and services and related services.

31 (4) The name, address and telephone number of the individual with designated
32 responsibility to sign for consent for non-emergency medical services.

1 (5) The name of the administrator/designee, address, telephone number, and
2 licensing status of a home under consideration for the pupil.

3 (6) A description of any special considerations related to transporting the pupil.

4 (7) Signed consents by the parent to exchange information relevant to IEP planning
5 and individual program planning.

6 (8) When an agency makes an emergency placement to protect the physical, mental
7 health or safety of a pupil, the agency shall furnish the SELPA director the required
8 information within three days after the placement.

9 ~~(b)~~(c) The SELPA director shall provide the placing agency with information about
10 the availability of an appropriate special education program in the SELPA in which the
11 home is located. This should occur within seven days of receipt of the notice of
12 placement.

13 (1) If no appropriate special education placements exist within the SELPA, and the
14 placement options are home instruction or in a public or nonpublic facility located in
15 another SELPA, the placing agency should make every effort to place the pupil in
16 another SELPA that has appropriate available residential and educational programs.

17 (2) When the agency places a pupil in a licensed children's institution, as defined in
18 this Chapter which has an on-grounds, certified, nonpublic, nonsectarian school, the
19 pupil may attend the education program only if the SELPA's IEP team has determined
20 that there is no appropriate public education program in the community and that the on-
21 grounds program is appropriate and can implement the pupil's IEP.

22 (3) When the IEP team makes the determination that the on-grounds program is
23 appropriate, the LEA may then contract for educational services with the nonpublic
24 school.

25 NOTE: Authority cited: Section 7587, Government Code. Reference: Sections 7579 and
26 7580, Government Code; and Section 56156, Education Code.

27
28 **Article 8. Procedural Safeguards**

29 **§ 60550. Due Process Hearings.**

30 ...

31 (e) The hearing officer shall be knowledgeable in the laws governing administrative
32 hearings. In addition, the hearing officer shall be knowledgeable about the provisions of

1 Chapter 26.5 of the Government Code and applicable laws relevant to special
2 education, ~~community mental health~~ and the California Children's Services Program.
3 For hearings related to the provision of occupational and/or physical therapy, the
4 hearing officer shall rule according to Government Code Section 7575(a) which
5 specifies:

6 (1) "Notwithstanding any other provision of law, the State Department of Health Care
7 Services, or any designated local agency administering the California Children Services,
8 shall be responsible for the provision of medically necessary occupational therapy and
9 physical therapy, as specified by Article ~~25~~, commencing with Section 123825 et. seq.
10 of the Health and Safety Code, by reason of medical diagnosis and when contained in
11 the pupil's IEP.

12 (2) Related services or designated instruction and services not deemed to be
13 medically necessary by the State Department of Health Care Services, which the IEP
14 team determines are necessary in order to assist a pupil to benefit from special
15 education, shall be provided by the LEA by qualified personnel whose employment
16 standards are covered by the Education Code and implementing regulations."

17 ...

18 NOTE: Authority cited: Section 7587, Government Code; Section 20, Health and Safety
19 Code. Reference: Section 7586, Government Code; Sections 56501-56507, Education
20 Code; Section 3082 of Title 5, California Code of Regulations; ~~Section 4094, Welfare~~
21 ~~and Institutions Code~~; Sections 84068.4 and 84168.5 of Title 22, California Code of
22 Regulations; Corbett v. Regional Center of the East Bay Inc. and Linda McMahon,
23 Director of the Department of Social Services, (1988) 9th Cir. 699 F.Supp. 230; In re
24 Roger S. (1977) 19 Cal.3d. 921; and In re Michael E. (1975) 15 Cal.3d. 183.

25
26 **§ 60560. Compliance Complaints.**

27 Allegations of failure by an LEA, ~~Community Mental Health Services~~ or CCS to
28 comply with these regulations, shall be resolved pursuant to Chapter 5.1, commencing
29 with Section 4600, of Division 1 of Title 5 of the California Code of Regulations.

30 NOTE: Authority cited: Section 7587, Government Code. Reference: Section 7585,
31 Government Code; and Section 4650, Title 5, California Code of Regulations.

- 1 6-11-14 [California Department of Education, Department of Health Care Services, and
- 2 Department of Social Services]