

MODESTO CITY SCHOOLS

Board Policy

INSTRUCTION

BP 6159.1

Procedural Safeguards and Complaints for Special Education

The Governing Board **recognizes its obligation to provide a free appropriate public education (FAPE) to** desires to protect the rights of students with disabilities **and to uphold the rights of parents/guardians to be involved in educational decisions regarding their child.** in accordance with the procedural safeguards set forth in state and federal law. **Parents/guardians of students with disabilities** shall receive written notice of their rights **under the federal Individuals with Disabilities Education Act.**

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
(cf. 5145.6 - Parental Notifications)
(cf. 6159 - Individualized Education Program)
(cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education)
(cf. 6159.3 - Appointment of Surrogate Parent for Special Education Students)
(cf. 6159.4 - Behavioral Interventions for Special Education Students) (N/A)
(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

Whenever there is a dispute between the district and the parent/guardian of a student with disabilities regarding the identification, assessment, or educational placement of the student or the provision of FAPE to the student, the Superintendent or designee shall encourage the early, informal resolution of the dispute at the school level to the extent possible. The district or parent/guardian may also request mediation and/or a due process hearing in accordance with law, Board policy, and administrative regulation.

The Superintendent or designee shall represent the district in any due process hearing conducted with regard to district students and shall inform the Board about the result of the hearing.

Any complaint alleging the district's noncompliance with federal or state laws or regulations related to the provision of a free appropriate public education to students with disabilities shall be filed in accordance with 5 CCR 3200-3205.

The Superintendent or designee shall address a complaint concerning compliance with state or federal law regarding special education in accordance with the district's uniform complaint procedures.

Bold Black Underline = MCS Language
Bold Red = CSBA Language
Regular Black = Common Language
→ Denotes changes being suggested

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PROPOSED REVISION
FIRST READING

BP 6159.1 (a)

INSTRUCTION

Procedural Safeguards and Complaints for Special Education

Legal Reference:

EDUCATION CODE

56000. *Education for individuals with disabilities*

56001. *Provision of the special education programs*

56020-56035 *Definitions*

56195.7. *Written agreements*

56195.8. *Adoption of policies for programs and services*

56300-56385. *Identification and referral, assessment*

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

56500-56509. *Procedural safeguards, including due process rights*

56600-56606. *Evaluation, audits and information*

CODE OF REGULATIONS, TITLE 5

3000-3100. *Regulations governing special education, especially;*

3080-3089 Procedural safeguards

3200-3205 Special education compliance complaints

4600-4670 Uniform complaint procedures

UNITED STATES CODE, TITLE 20

1232g. *Family Educational Rights and Privacy Act*

1400-1482. *Individuals with Disabilities Education Act*

UNITED STATES CODE, TITLE 29

794. *Section 504 of the Rehabilitation Act*

UNITED STATES CODE, TITLE 42

11434. *Homeless assistance*

CODE OF FEDERAL REGULATIONS, TITLE 34

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

104.36. *Procedural safeguards*

300.1-300.818. *Assistance to states for the education of students with disabilities, especially:*

300.150-300.153 State compliance complaints

300.500-300.520. *Procedural safeguards and due process for parents and students*

COURT DECISIONS

Winkelman v. Parma City School District, (2007) 550 U.S. 516

Management Resources:

FEDERAL REGISTER

Final Regulations, December 1, 2008, Vol. 73, No. 231, pages 73006-73029

WEB SITES

California Department of Education, Special Education:

<http://www.cde.ca.gov/sp/se>

Office of Administrative Hearings, Special Education Division:

<http://www.dgs.ca.gov/OAH/Case-Types/Special-Education>

U.S. Department of Education, Office of Special Education Programs:

<http://www.ed.gov/about/offices/list/osep/osep>

ADOPTED: June 25, 2018

REVIEWED:

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