

**G. BOARD BUSINESS**

9. **TITLE:** Receive for Board adoption and review **REVISED** Board Policy and Administrative Regulation 6164.4, Identification and Evaluation of Individuals for Special Education

**BACKGROUND:** Education Code 56300 and 34 CFR 300.111 require each district, Special Education Local Plan Area (SELPA), or county office of education to actively seek out all residents from birth to age 21 (not "through" age 21) who have disabilities as defined by Education Code 56026. The district, SELPA, or county office is also required to include a "child find" process to identify children with disabilities placed by their parents/guardians in private schools; see BP/AR 6164.41 - Children with Disabilities Enrolled by Their Parents in Private Schools.

Identification, evaluation, assessment, and instructional planning procedures for children younger than age 3 must conform with Education Code 56425-56432 and the California Early Intervention Services Act (Government Code 95000-95029). The California Department of Education and local education agencies are responsible for providing early intervention services to infants and toddlers who have visual, hearing, or severe orthopedic impairments; the Department of Developmental Services and its regional centers must provide services to all other eligible children in this age group. The law also requires regional centers and local education agencies to coordinate family service plans for infants and toddlers and their families. Education Code 56441.11 sets forth eligibility criteria for preschool children ages 3-5.

The district's **MANDATED** policy on identification and evaluation of students with disabilities has been revised to include notification to parents/guardians regarding their right to consent to the assessment of their child for purposes of determining the child's eligibility for special education or related services.

The supporting Regulation is revised to delete material related to parent/guardian revocation of consent for continued provision of services (now in AR 6159 - Individualized Education Program).

**ACTION RECOMMENDED:** Receive for Board review **REVISED** Administrative Regulation 6159, Individualized Education Program

**PREPARED BY:** Ellyn Schneider, Executive Director, Student Services

**DATE OF MEETING:** February 2, 2011

**AGENDA NOTE AGENDA NOTE AGENDA NOTE**

**Instruction**

**IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION**

The Governing Board recognizes the need to actively seek out and evaluate district residents from birth through age 21 who have disabilities in order to provide them with appropriate educational opportunities in accordance with state and federal law.

(cf. 0430 - Comprehensive Local Plan for Special Education)  
(cf. 6164.41 - Children with Disabilities Enrolled by Their Parents in Private School)  
(cf. 6164.6 - Identification and Education Under Section 504)

~~The Superintendent or designee shall develop processes to determine when an individual is eligible for special education services and shall establish systematic procedures for special education program identification, screening, referral, assessment, planning, implementation, review, and triennial assessment.~~ ***The Superintendent or designee shall establish a comprehensive system that includes procedures for the identification, screening, referral, and regular and triennial assessment of individuals eligible for special education, as well as procedures for the planning, implementation, and review of the education and related services provided to such individuals.*** (Education Code 56301)

~~The Superintendent or designee shall establish a method whereby parents/guardians, teachers, appropriate professionals, and others may refer an individual for assessment for special education services. Identification procedures shall be coordinated with school site procedures for referral of students with needs that cannot be met with modifications to the regular instructional program.~~ ***The district's identification procedures shall include methods for utilizing referrals from parents/guardians, teachers, appropriate professionals, and others, and shall be coordinated with school site procedures for referral of students whose needs cannot be met with modifications to the regular instructional program.*** (Education Code 56302)

The Superintendent or designee shall notify parents/guardians, in writing, of their rights related to identification, referral, assessment, instructional planning, implementation, and review, including ***the right to consent to any assessment concerning their child.*** ***In addition, the Superintendent or designee shall notify parents/guardians of the district's procedures for initiating a referral for assessment to identify individuals who need special education services.*** (Education Code 56301)

(cf. 1312.3 - Uniform Complaint Procedures)  
(cf. 3541.2 - Transportation for Students with Disabilities)  
(cf. 4112.23 - Special Education Staff)  
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

**Instruction**

**IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION**

- (cf. 5145.6 - Parental Notifications)
- (cf. 6159 - Individualized Education Program)
- (cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)
- (cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education)
- (cf. 6159.3 - Appointment of Surrogate Parent for Special Education Students)
- (cf. 6162.51 - Standardized Testing and Reporting Program)
- (cf. 6162.52 - High School Exit Examination)

Legal Reference:

EDUCATION CODE

- 44265.5 Professional preparation for teachers of impaired students
- 56000-56885 Special education programs, especially:
- 56195.8 Adoption of policies
- 56300-56304 Identification of individuals with disabilities
- 56320-56331 Assessment
- 56333-56338 Eligibility criteria for specific learning disabilities
- 56340-56347 Instructional planning and individualized education program
- 56381 Reassessment of students
- 56425-56432 Early education for individuals with disabilities
- 56441.11 Eligibility criteria, children ages 3-5
- 56445 Transition to grade school; reassessment
- 56500-56509 Procedural safeguards

GOVERNMENT CODE

- 95000-95029.5 California Early Intervention Services Act

CODE OF REGULATIONS, TITLE 5

- 3021-3029 Identification, referral and assessment
- 3030-3031 Eligibility criteria

UNITED STATES CODE, TITLE 20

- 1232g Family Educational Rights and Privacy Act of 1974

1412 State eligibility

1415 Procedural safeguards

CODE OF FEDERAL REGULATIONS, TITLE 34

104.35 Evaluation and placement

104.36 Procedural safeguards

- 300.1-300.818 Individuals with Disabilities Education Act, especially:

300.301-300.306 Evaluations and reevaluations

COURT DECISIONS

Hood v. Encinitas Union School District, (2007) 486 F.3d 1099

**Instruction**

**IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION**

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEB SITES

California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>

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

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

Policy MANHATTAN BEACH UNIFIED SCHOOL DISTRICT

adopted: October 20, 2004 Manhattan Beach, California

revised: September 5, 2007

revised: May 6, 2009

revised:

REVISED ADMINISTRATIVE REGULATION  
MBUSD

AR 6164.4(a)

**Instruction**

**IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL  
EDUCATION**

Referrals for Special Education Services

A student shall be referred for special educational instruction and services only after the resources of the regular education program have been considered and used where appropriate. (Education Code 56303)

All referrals from school staff for special education and related services shall include a brief reason for the referral and description of the regular program resources that were considered and/or modified for use with the student and their effect. (5 CCR 3021)

Initial Evaluation for Special Education Services

Before the initial provision of special education and related services to ~~an individual with exceptional needs~~ **a student with a disability**, the district shall conduct a full and individual initial evaluation of the student. (Education Code 56320; 34 CFR 300.301)

*Upon receipt of a referral of any student for special education and related services, a proposed evaluation plan shall be developed* within 15 days, ~~of the referral of any student for special education and related services, the district shall develop a proposed evaluation plan, unless the parent/guardian agrees in writing to an extension. This 15-day period does not include counting days between the student's regular school session or terms or days of school vacation in excess of five school days, unless the parent/guardian agrees, in writing, to an extension.~~ from the date of receipt of the referral. If the referral is made within 10 days or less prior to the end of the student's regular school year **or term**, the proposed evaluation plan shall be developed within 10 days after the beginning of the next regular school year **or term**, ~~or the student's regular school term. In the case of the student's school vacation in excess of five school days, the 15-day deadline shall recommence on the date the student's regular school days reconvene.~~ (Education Code 56043, 56321)

The proposed evaluation plan shall meet all of the following requirements: (Education Code 56321)

1. Be in a language easily understood by the general public
2. Be provided in the native language of the parent/guardian or other mode of communication used by the parent/guardian unless it is clearly not feasible

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3. Explain the types of evaluation to be conducted
4. State that no individualized education program (IEP) will result from the evaluation without parent/guardian consent

(cf. 6159 - Individualized Education Program)

~~Prior to~~ **Before** conducting an initial evaluation, the district shall provide the parent/guardian with prior written notice in accordance with 34 CFR 300.503. In addition, as part of the evaluation plan, the parent/guardian shall receive written notice that includes all of the following information: (Education Code 56329; 34 CFR 300.304, 300.504)

1. Upon completion of the administration of tests and other evaluation materials, an IEP team meeting that includes the parent/guardian or his/her representative shall be scheduled pursuant to Education Code 56341. At this meeting, the team shall determine whether or not the student is ~~an individual with exceptional needs~~ **a student with disabilities**, as defined in Education Code 56026 and shall discuss the evaluation, the educational recommendations, and the reasons for the recommendations.
2. ~~In~~ **When** making a determination of eligibility for special education, the ~~student~~ **district** shall not be determined to be an individual with exceptional needs **that the student is disabled** if the **primary** determinant factor **for such determination** is lack of appropriate instruction in reading, **including the essential components of reading instruction as defined in 20 USC 6368**, lack of **appropriate** instruction in mathematics, or limited English proficiency.
3. A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent/guardian.
4. If a parent/guardian disagrees with an evaluation obtained by the district, ~~the parent/guardian~~ **he/she** has the right to obtain, at public expense, an independent educational evaluation (**IEE**) of the student from qualified specialists, in accordance with 34 CFR 300.502. **The parent/guardian is entitled to only one such evaluation at public expense each time the district conducts an assessment with which the parent/guardian disagrees.**

If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of a student, an equivalent opportunity shall apply to the ~~independent educational evaluation~~ **IEE**. This equivalent opportunity shall apply to the student's current placement and setting as well as observation of the district's proposed placement and setting, **if any**, regardless of whether the ~~independent educational evaluation~~ **IEE**

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is initiated before or after the filing of a due process hearing proceeding.

5. The district may initiate a due process hearing pursuant to Education Code 56500-56508 to show that its evaluation is appropriate. If the final decision resulting from the due process hearing is that the evaluation is appropriate, the parent/guardian maintains the right for an independent educational evaluation *IEE*, but not at public expense.

If the parent/guardian obtains an ~~independent educational evaluation~~ *IEE* at private expense, the results of the ~~evaluation~~ *IEE* shall be considered by the district with respect to the provision of a free appropriate public education (FAPE) to the student, and may be presented as evidence at a due process hearing regarding the student. If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of a student, an equivalent opportunity shall apply to an ~~independent educational evaluation~~ *IEE* of the student in the student's current educational placement and setting, ~~if any,~~ **and in any educational placement and setting** proposed by the district, regardless of whether the ~~independent educational evaluation~~ *IEE* is initiated before or after the filing of a due process hearing.

6. If a parent/guardian proposes a publicly financed placement of the student in a nonpublic school, the district shall have an opportunity to observe the proposed placement and, if the student has already been unilaterally placed in the nonpublic school by ~~the~~ *his/her* parent/guardian, the student in the proposed placement. Any such observation shall only be of the student who is the subject of the observation and ~~may~~ **shall** not include the observation or evaluation of any other student in the proposed placement unless that other student's parent/guardian consents to the observation or evaluation. The results of any observation or evaluation of another student in violation of Education Code 56329(d) shall be inadmissible in any due process or judicial proceeding regarding FAPE of that other student.

(cf. 5145.6 - Parental Notifications)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

**(cf. 6164.41 - Children with Disabilities Enrolled by their Parents in Private School)**

Parent/Guardian Consent for Evaluations

Upon receiving the proposed evaluation plan, the parent/guardian shall have at least 15 days to decide whether or not to consent to the initial evaluation. The district shall not interpret parent/guardian consent for initial evaluation as consent for initial placement or initial provision of special education services. (Education Code ~~56320, 56321~~; 34 CFR 300.300, ~~34 CFR 300.301~~;) )

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Informed parental consent means that the parent/guardian: (*Education Code 56021.1*; 34 CFR 300.9)

1. Has been fully informed, *in his/her native language or other mode of communication*, of all information relevant to the activity for which consent is sought, ~~in his/her native language or other mode of communication~~
2. Understands and agrees, in writing, to the carrying out of the activity for which his/her consent is sought and the consent describes that activity and lists the records (if any) that will be released and to whom
3. Understands that the granting of consent is voluntary on his/her part and may be revoked at any time
4. Understands that if he/she revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked)

The district shall make reasonable efforts to obtain the informed consent of the parent/guardian for an initial evaluation or reevaluation of a student. The district shall maintain a record of its attempts to obtain consent, including: (*Education Code 56321, 56341.5*; 34 CFR 300.300, 300.322)

1. Detailed records of telephone calls made or attempted and the results of those calls
2. Copies of correspondence sent to the parent/guardian and any responses received
3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits

If a parent/guardian refuses to consent to the initial evaluation or fails to respond to a request to provide consent, the district may, but is not required to, pursue an evaluation by utilizing the procedural safeguards, including the mediation and due process procedures pursuant to 20 USC 1415 and 34 CFR 300.506-300.516. (*Education Code 56321*; 34 CFR 300.300)

For a student who is a ward of the state and not residing with his/her parent/guardian, the district may conduct an initial evaluation without obtaining informed consent if any of the following situations exists: (*Education Code 56321*; **20 USC 1414**; 34 CFR 300.300)



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1. Despite reasonable efforts to do so, the district cannot discover the whereabouts of the parent/guardian of the student.
2. The rights of the parent/guardian of the student have been terminated in accordance with California law.
3. The rights of the parent/guardian to make educational decisions have been subrogated by a judge in accordance with California law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student.

(cf. 6159.3 - Appointment of Surrogate Parent for Special Education Students)

The district need not obtain parent/guardian consent before reviewing existing data as part of an evaluation or administering a test or other evaluation that is administered to all students, unless consent is required from the parents/guardians of all students. (*Education Code 56321*; 34 CFR 300.300)

Conduct of the Evaluation

The district shall complete the determination as to whether the student is ~~an individual with exceptional needs,~~ *a student with a disability*, conduct the initial evaluation to determine his/her educational needs, and develop an IEP within 60 days of receiving informed parent/guardian consent for the evaluation. (Education Code 56344; 34 CFR 300.300, 34 CFR 300.301)

The evaluation shall be conducted by qualified personnel who are competent to perform the assessment as determined by the district, ~~county office of education, or special education local plan area (SELPA)~~. (Education Code 56320, 56322)

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. (34 CFR 300.302)

In conducting the evaluation, the district shall use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student. The district shall also use any information provided by the parent/guardian that may assist the district in making the determination as to whether the student is a student with a disability and, if so, the necessary components of his/her IEP when the IEP is developed, including information related to enabling the student to be involved in and to progress in the general education curriculum. (34 CFR 300.304)

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The district's evaluation shall not use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability and for determining the appropriate educational program for the student. The assessment shall use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors. (34 CFR 300.304)

The district shall also ensure that assessments and other evaluation materials provide relevant information that ~~directly~~ assists persons in determining the student's educational needs and are: (Education Code 56320; 34 CFR 300.304)

1. Selected and administered so as not to be discriminatory on a racial, cultural, or sexual basis
2. Provided and administered in the ~~student's native language or other mode of communication~~ and ~~in the~~ form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer
3. Used for the purposes for which the assessments or measures are valid and reliable
4. Administered by trained and knowledgeable personnel
5. Administered in accordance with any instructions provided by the producer of the assessments
6. Tailored to assess specific areas of educational need and not merely designed to provide a single general intelligence quotient
7. If administered to a student with impaired sensory, manual, or speaking skills, selected and administered to best ensure that the results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure

Students shall be assessed in all areas related to the suspected disability, including, if appropriate, health *and development*, vision (*including low vision*), hearing, *motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests* and social and emotional status. ~~general intelligence, academic performance, communicative status, and motor abilities.~~ *When appropriate, a developmental history shall be obtained.* The district shall ensure that the evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in

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which the student has been classified. (*Education Code 56320*; 34 CFR 300.304)

As part of the initial evaluation and any reevaluation, the IEP team and other qualified professionals, shall, if appropriate, review existing evaluation data on the student, including evaluations and information provided by the parents/guardians; current classroom-based local or state assessments and classroom-based observations; and observations by teachers and related services providers. On the basis of that review and input from the student's parent/guardian, the team shall identify what additional data, if any, are needed to determine: (*Education Code 56381*; 34 CFR 300.305)

1. Whether the student is a student with a disability, or in the case of a reevaluation, whether the student continues to have a disability, and the educational needs of the student
2. The present levels of academic achievement and related developmental needs of the student
3. Whether the student needs, or continues to need, special education and related services
4. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in his/her IEP and to participate, as appropriate, in the general education curriculum

If a student has transferred from another district in the same school year or leaves this district, the district shall coordinate with the student's prior or subsequent district as necessary and as expeditiously as possible to ensure prompt completion of full evaluations. (34 CFR 300.304)

Eligibility Determination

Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent/guardian shall determine whether the ~~child~~-*student* is a student with a disability and, *if so*, the student's *his/her* educational needs. In interpreting the data, the group shall draw information from a variety of sources, including aptitude and achievement tests, parent/guardian input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior. The group shall ensure that the information obtained from these sources is documented and carefully considered. (34 CFR 300.306)

The personnel who evaluate the student shall prepare a written report of the results of each evaluation. The report shall include, but not be limited to, the following: (*Education Code 56327*)

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1. Whether the student may need special education and related services
2. The basis for making the determination
3. The relevant behavior noted during the observation of the student in an appropriate setting
4. The relationship of that behavior to the student's academic and social functioning
5. The educationally relevant health, developmental, and medical findings, if any
6. For students with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services
7. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate
8. The need for specialized services, materials, and equipment for students with low incidence disabilities, consistent with Education Code 56136

When making a determination of eligibility for special education and related services, the district shall not determine that a student is disabled if the primary factor for such determination is a lack of appropriate instruction in reading, including the essential components of reading instruction pursuant to 20 USC 6368 ~~of the No Child Left Behind Act~~, lack of instruction in mathematics, limited English proficiency, or that the student does not otherwise meet the eligibility criteria. (Education Code 56329; 34 CFR 300.306)

If a determination is made that a student has ~~exceptional needs~~ **a disability** and needs special education and related services, an IEP shall be developed within a total time not to exceed 60 days, not counting days between the student's regular school sessions *or* terms or days of school vacation in excess of five school days, from the date of the receipt of the parent/guardian's consent for evaluation, unless the parent/guardian agrees, in writing, to an extension. (Education Code 56043; 34 CFR 300.306)

Independent Educational Evaluation

The parents/guardians of ~~an individual with exceptional needs~~ **a student with a disability** have the right to obtain an ~~independent educational evaluation~~ **IEE** at public expense under the same criteria that the district uses for a district-initiated evaluation. An independent educational evaluation is an evaluation conducted by a qualified examiner who is not employed by the

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district. Public expense means the district either pays for the full cost of the independent educational evaluation *IEE* or ensures that the evaluation is otherwise provided at no cost to the parent/guardian. (*Education Code 56329*; 34 CFR 300.502)

The parent/guardian is entitled to only one independent educational evaluation *IEE* at public expense each time the district conducts an evaluation with which the parent/guardian disagrees. (*Education Code 56329*; 34 CFR 300.502)

If a parent/guardian has requested an independent educational evaluation *IEE*, the district may ask for a reason that he/she objects to the district's evaluation. However, the parent/guardian is not required to provide the reason to the district. (34 CFR 300.502)

Upon receiving the request for an independent educational evaluation *IEE*, the district shall, without unnecessary delay, either: (34 CFR 300.502)

1. File a due process complaint to request a hearing to show that its evaluation is appropriate
2. Ensure that an independent evaluation is provided at public expense, unless the district can later demonstrate at a hearing that the evaluation obtained by the parent/guardian did not satisfy the district's criteria

If a due process hearing decision determines that the district's evaluation is appropriate, then the parent/guardian may obtain an independent evaluation *IEE* but not at public expense. (34 CFR 300.502)

*In any decision made with respect to providing FAPE to a student with a disability*, the results of an independent evaluation *any IEE* obtained by the *student's* parent/guardian, whether at public or private expense, shall be considered by the district if it meets district criteria. ~~in any decision made with respect to FAPE and~~ *Any such result also* may be presented as evidence at a hearing on a due process complaint. (34 CFR 300.502)

Reevaluation

A reevaluation shall be conducted when the district determines that the educational or related services needs of the student, including improved academic achievement and functional performance, warrant a reevaluation or if the student's parent/guardian or teacher requests reevaluation. Such reevaluations shall occur every three years, unless the parent/guardian and district agree in writing that a reevaluation is unnecessary. A reevaluation may not occur more than once a year, unless the parent/guardian and the district agree otherwise. (Education Code

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**AR 6164.4(j)**

**Instruction**

**IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION**

**56043, 56381; 34 CFR 300.303)**

The district shall ensure that any reevaluations of the student are conducted in accordance with the evaluation procedures pursuant to 34 CFR 300.304-300.311. (34 CFR 300.303)

Before entering kindergarten or first grade, children with disabilities who are in a preschool program shall be reevaluated to determine if they still need special education and services. IEP teams shall identify a means of monitoring the continued success of children who are determined to be eligible for less intensive special education programs to ensure that gains made are not lost by a rapid removal of individualized programs and supports for these children. (Education Code 56445)

*(cf. 5148.3 - Preschool/Early Childhood Education)*

Regulation  
approved: October 20, 2004  
revised: September 5, 2007  
reviewed:

**MANHATTAN BEACH UNIFIED SCHOOL DISTRICT**  
Manhattan Beach, California

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**G. BOARD BUSINESS**

10. **TITLE:** Receive for Board adoption and review **REVISED** Board Policy and Administrative Regulation 6173.1, Education For Foster Youth

**BACKGROUND:** MBUSD Policy 6173.1 has been updated to reflect the multiple challenges facing foster youth, adds language on strategies for building students' feelings of connectedness with the school, and inserts monitoring of suspension/expulsion rates to program evaluation.

The supporting regulation is updated to (1) expand role of district liaison to include monitoring of students' progress, (2) require regular monitoring of district liaison's caseload, (3) add a section on "Applicability of Graduation Requirements" reflecting AB 167 (2009) which exempts foster youth who transfer in grades 11-12 from locally established graduation requirements, (4) add a section on "Grades/Credits," and (5) add a further section on "Eligibility for Extracurricular Activities" reflecting AB 81 (2009) which makes foster youth who change residences immediately eligible for interscholastic sports or other extracurricular activities in the new district.

In addition, the regulation reflects **NEW LAW (SB 1353)** which states the legislative intent that, when making placement decisions for foster youth, the youth's "best interests" should include a consideration of educational stability. The Section on "Enrollment" reflects **NEW LAW (AB 1933)** which allows a foster youth to (1) continue in his/her school of origin as long as he/she is under the jurisdiction of the court, and (2) matriculate with his/her peers in accordance with established feeder patterns, whether the new school is within the district or in another district. There is also a **NEW** section on "Transportation" provides options for dealing with transportation to the foster youth's school of origin.

**ACTION RECOMMENDED:** Receive for Board adoption and review **REVISED** Board Policy and Administrative Regulation 6173.1, Education For Foster Youth

**PREPARED BY:** Ellyn Schneider, Executive Director, Student Services

**DATE OF MEETING:** February 2, 2011

**AGENDA NOTE AGENDA NOTE AGENDA NOTE**

**REVISED BOARD POLICY  
MBUSD**

**BP 6173.1(a)**

**Instruction**

**EDUCATION FOR FOSTER YOUTH**

~~The Governing Board recognizes its obligation to ensure that foster youth have access to the academic resources, services and extracurricular and enrichment activities that are available to district students.~~ *The Governing Board recognizes that foster youth may be at greater risk for poor academic performance due to their family circumstances, disruption of their educational program, and emotional, social, and other health needs.* The district shall provide *such* students in foster care within the district with access to educational opportunities and *with full access to the district's educational program* and other *support* services necessary to help such students ~~assist them in achieving the state and districts performance~~ *academic* standards.

- (cf. 5131.6 - Alcohol and Other Drugs)*
- (cf. 5147 - Dropout Prevention)*
- (cf. 5149 - At-Risk Students)*
- (cf. 6011- Academic Standards)*
- cf. 6145 - Extracurricular and Cocurricular Activities)*
- (cf. 6145.2 - Athletic Competition)*
- (cf. 6164.2 - Guidance/Counseling Services)*
- (cf. 6173 - Education for Homeless Children)*
- (cf. 6179 - Supplemental Instruction)*

The Superintendent or designee shall ensure that placement decisions for foster youth are based on the students' best interests as defined in law and administrative regulation. *To this end, he/she shall designate a staff person as a* The district's liaison for foster youth ~~shall be the Superintendent or designee.~~ *to help facilitate the enrollment, placement, and transfer of foster youth.*

*The Superintendent or designee and district liaison shall ensure that all appropriate staff, including, but not limited to, each principal, school registrar, and attendance clerk, receive training regarding the enrollment, placement, and rights of foster youth.*

- (cf. 4131 - Staff Development)*
- (cf. 4231 - Staff Development)*
- (cf. 4331 - Staff Development)*

*The Board desires to provide foster youth with a safe, positive learning environment that is free from discrimination and harassment and promotes students' self-esteem and academic achievement. The Superintendent or designee shall develop strategies to build students' feelings of connectedness with the school, including, but not limited to, strategies that promote*



## Instruction

## EDUCATION FOR FOSTER YOUTH

*positive discipline and conflict resolution, the development of students' resiliency and interpersonal skills, and the involvement of foster parents, group home administrators, and/or other caretakers in school programs and activities.*

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 0450 - Comprehensive Safety Plan)*

*(cf. 5131 - Conduct)*

*(cf. 5137 - Positive School Climate)*

*(cf. 5138 - Conflict Resolution/Peer Mediation)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 5145.9 - Hate-Motivated Behavior)*

*(cf. 6020 - Parent Involvement)*

*To address the needs of foster youth and help ensure the maximum utilization of available funds, the Superintendent or designee shall collaborate with the county placing local agencies and other appropriate agencies to ensure maximum utilization of available funds and to meet the educational needs of foster youth within the district including, but not limited to, the county placing agency, social services, probation officers, juvenile court officers, nonprofit organizations, and advocates. The Superintendent or designee shall explore the feasibility of entering into agreements with these groups to coordinate services and protect the rights of foster youth.*

~~*(cf. 1400 - Relations between Other Governmental Agencies and the Schools)*~~

~~*(cf. 5141.6 - Student Health and Social Services)*~~

~~*(cf. 1020 - Youth Services)*~~

*The Superintendent or designee shall regularly report to the Board on the educational outcomes of foster youth enrolled in the district including, but not limited to, school attendance, student achievement test results, promotion and retention rates by grade level, graduation rates, and suspension/expulsion rates.*

~~*(cf. 0500 - Accountability)*~~

~~*(cf. 5123 - Promotion/Acceleration/Retention)*~~

~~*(cf. 5144.1 - Suspension and Expulsion/Due Process)*~~

~~*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*~~

~~*(cf. 6162.51 - Standardized Testing and Reporting Program)*~~

~~*(cf. 6162.52 - High School Exit Examination)*~~

**Instruction**

**EDUCATION FOR FOSTER YOUTH**

Legal Reference:

**EDUCATION CODE**

**32228-32228.5 Student safety and violence prevention**

42920-42925 Foster children educational services

48645.1 Juvenile court schools

48850-48859 Educational placement of students residing in licensed children's institutions

49061 Student records

49069.5 Foster care students, transfer of records

49076 Access to student records

**51225.3 High school graduation**

56055 Rights of foster parents in special education

**60851 High school exit examination**

**HEALTH AND SAFETY CODE**

**1522.41 Training and certification of group home administrators**

**1529.2 Training of licensed foster parents**

**WELFARE AND INSTITUTIONS CODE**

300 Children subject to jurisdiction

309 Investigation and release of child

361 Limitations on parental or guardian control

366.27 Educational decision by relative providing living arrangements

602 Minors violating law; ward of court

726 Limitations on parental or guardian control

727 Order of care, ward of court

**16000-16014 Foster care placement**

**UNITED STATES CODE, TITLE 29**

**794 Rehabilitation Act of 1973, Section 504**

**UNITED STATES CODE, TITLE 42**

**670-679b Federal assistance for foster care programs**

11431-11435 McKinney-Vento Homeless Assistance Act

Management Resources:

**CSBA PUBLICATIONS**

***Educating Foster Youth: Best Practices and Board Considerations, Policy Brief, March 2008***

**AMERICAN BAR ASSOCIATION PUBLICATIONS**

***Mythbusting: Breaking Down Confidentiality and Decision-Making Barriers to Meet the Education Needs of Children in Foster Care, 2005***

**CITIES, COUNTIES AND SCHOOLS PARTNERSHIP PUBLICATIONS**

***Our Children: Emancipating Foster Youth, A Community Action Guide***

**WEB SITES**

**MBUSD**

**BP 6173.1(d)**

**Instruction**

**EDUCATION FOR FOSTER YOUTH**

***CSBA:*** <http://www.csba.org>

California Department of Education, Foster Youth Services Program:

<http://www.cde.ca.gov/spbranch/ssp/fysprfa/fysrfa.htm> ~~http://www.cde.ca.gov/ls/pf/fy~~

California Department of Social Services, Foster Youth Ombudsman Office:

<http://www.fosteryouthhelp.ca.gov>

***California Youth Connection:*** <http://www.calyouthconn.org/site/cyc>

***Cities, Counties and Schools Partnership:*** <http://www.ccspartnership.org>

Policy  
adopted: September 5, 2007  
revised:

**MANHATTAN BEACH UNIFIED SCHOOL DISTRICT**  
Manhattan Beach, California

**REVISED ADMINISTRATIVE REGULATION  
MBUSD**

**AR 6173.1(a)**

**Instruction**

**EDUCATION FOR FOSTER YOUTH**

Definitions

Foster youth means a child who has been subject to one of the following: (Education Code 48853.5)

- ~~1. Has been removed from his/her home pursuant to Welfare and Institutions Code 309 (investigation and release of child)~~
- ~~2. Is the subject of a petition filed under Welfare and Institutions Code 300 (jurisdiction of juvenile court) or 602 (minors ward of court, violating law)~~
3. ***Has been removed from his/her home and is the subject of a petition filed under Welfare and Institutions Code 300 or 602 removed from his/her home pursuant to Welfare and Institutions Code 309, is the subject of a petition filed under Welfare and Institutions Code 300 or 602, or has been removed from his/her home and is the subject of a petition filed under Welfare and Institutions Code 300 or 602. (Education Code 48853.5)***

Person holding the right to make educational decisions means a responsible adult appointed by a court pursuant to Welfare and Institutions Code 361 or 727.

School of origin means the school that the foster youth attended when permanently housed or the school in which the student *he/she* was last enrolled. If the school the foster youth attended when permanently housed is different from the school in which he/she was last enrolled, or if there is some other school that the foster youth attended within the preceding 15 months and with which the youth is connected, the district liaison shall, in consultation with and with the agreement of the foster youth and the person holding the right to make educational decisions for the youth, determine, in the best interest of the foster youth, the school of origin. (Education Code 48853.5)

Best interest means a placement that ensures that the youth is placed in the least restrictive educational program and has access to academic resources, services, and extracurricular and enrichment activities that are available to district students. ***that, in making educational and school placement decisions for a foster youth, consideration is given to, among other factors, educational stability, the opportunity to be educated in the least restrictive educational setting necessary to achieve academic progress, and the foster youth's access to academic resources, services, and extracurricular and enrichment activities that are available to all district students.*** (Education Code 48850, 48853)

**Instruction**

**EDUCATION FOR FOSTER YOUTH**

District Liaison

The Superintendent ~~or designee~~ designates the following position as the district liaison for foster youth: (Education Code 48853.5)

Executive Director of Student Services  
325 S. Peck Avenue  
Manhattan Beach, CA 90266  
310-318-7345

(cf. 6173 - Education for Homeless Children)

The district's liaison for foster youth shall: (~~Education Code 48645.5, 48853.5~~)

1. Ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of students in foster care (***Education Code 48853.5***)

(~~cf. 1400 - Relations between Other Governmental Agencies and the Schools~~)  
(~~cf. 5141.6 - Student Health and Social Services~~)

2. ~~Assist foster youth when transferring from one school to another or from one district to another in ensuring proper transfer of credits, records, and grades, including ensuring that records reflect full or partial credit for courses taken~~

(~~cf. 5121 - Grades/Evaluation of Student Achievement~~)  
(~~cf. 5125 - Student Records~~)  
(~~cf. 6146.3 - Reciprocity of Academic Credit~~)

***Ensure proper transfer of credits, records, and grades when students in foster care transfer from one school to another or from one district to another (Education Code 48853.5, 48645.5)***

(***cf. 5117 - Interdistrict Attendance***)  
(***cf. 5125 - Student Records***)  
(***cf. 6146.3 - Reciprocity of Academic Credit***)

***3. As needed, make appropriate referrals to ensure that students in foster care receive necessary special education services and services under Section 504 of the federal Rehabilitation Act of 1973***

(***cf. 6164.4 - Identification and Evaluation of Individuals for Special Education***)  
(***cf. 6164.6 - Identification and Education Under Section 504***)

## Instruction

## EDUCATION FOR FOSTER YOUTH

*4. Ensure that students in foster care receive appropriate school-based services, such as supplemental instruction, counseling, or after-school services*

- (cf. 5141.6 - School Health Services)*
- (cf. 5148.2 - Before/After School Programs)*
- (cf. 5149 - At-Risk Students)*
- (cf. 6164.2 - Guidance/Counseling Services)*
- (cf. 6172 - Gifted and Talented Student Program)*
- (cf. 6174 - Education for English Language Learners)*
- (cf. 6177 - Summer School)*
- (cf. 6179 - Supplemental Instruction)*

*5. Develop protocols and procedures so that district staff, including principals, school registrars, and attendance clerks, are aware of the requirements for the proper enrollment, placement, and transfer of foster youth*

- (cf. 4131 - Staff Development)*
- (cf. 4231 - Staff Development)*
- (cf. 4331 - Staff Development)*

*6. Collaborate with the county placing agency, social services, probation officers, juvenile court officers, nonprofit organizations, and advocates to help coordinate services for the district's foster youth*

- (cf. 1020 - Youth Services)*
- (cf. 1400 - Relations Between Other Governmental Agencies and the Schools)*
- (cf. 5113.1 - Chronic Absence and Truancy)*
- (cf. 5149 - At-Risk Students)*

*7. Monitor the educational progress of foster youth and provide reports to the Superintendent or designee and the Governing Board based on indicators identified in Board policy*

*The Superintendent or designee shall regularly monitor the caseload of the district liaison, as well as his/her additional duties outside of the foster youth program, to determine whether adequate time and resources are available to meet the needs of foster youth in the district.*

- (cf. 4115 - Evaluation/Supervision)*
- (cf. 4315 - Evaluation/Supervision)*

**Instruction****EDUCATION FOR FOSTER YOUTH**Enrollment

A foster youth placed in a licensed children's institution or foster family home shall attend programs operated by the district unless one of the following circumstances applies: (Education Code 48853, **488.53.5**)

1. The student has an individualized education program requiring placement in a nonpublic, nonsectarian school or agency or in another local educational agency.

(cf. 6159 - Individualized Education Program)

(cf. 6159.2 - Nonpublic Nonsectarian School and Agency Services for Special Education)

2. The parent/guardian or other person holding the right to make educational decisions for the student determines that it is in the best interest of the student to be placed in another educational program.

*(cf. 6159.3 - Appointment of Surrogate Parent for Special Education Students)*

3. *At the initial placement or any subsequent change in placement, the student is entitled exercises his/her right to remain continue* in his/her school of origin, as defined above.

~~At the initial detention or placement, or any subsequent change in placement of a foster youth, the district shall allow the student to continue his/her education in the school of origin for the duration of the academic school year. However, the district liaison may, in consultation with and with the agreement of the foster youth and the person holding the right to make educational decisions for the youth, recommend that the youth's right to attend the school of origin be waived and he/she be enrolled in any school that students living in the attendance area in which the foster youth resides are eligible to attend. All decisions shall be made in accordance with the foster youth's best interest. (Education Code 48853.5)~~

~~Prior to making any recommendation to move a foster youth from his/her school of origin, the liaison shall provide the youth and the person holding the right to make educational decisions for the youth with a written explanation of the basis for the recommendation and how this recommendation serves the youth's best interests. (Education Code 48853.5)~~

~~The role of the liaison shall be advisory with respect to placement decisions and determination of the school of origin. (Education Code 48853.5)~~

*a. The student may continue in the school of origin for the duration of the court's jurisdiction or, if the court's jurisdiction is terminated prior to the end of a school year, then for remainder*

**Instruction****EDUCATION FOR FOSTER YOUTH**

*of the school year.*

*b. To provide the student the benefit of matriculating with his/her peers in accordance with the established feeder patterns of school districts, a student who is transitioning between school grade levels shall be allowed to continue in the district of origin in the same attendance area. A student who is transitioning to a middle school or high school shall be allowed to enroll in the school designated for matriculation in another school district.*

*The district liaison may, in consultation with and with the agreement of the foster youth and the person holding the right to make educational decisions for the youth, recommend that the youth's right to attend the school of origin be waived and he/she be enrolled in any school that students living in the attendance area in which the foster youth resides are eligible to attend. All decisions shall be made in accordance with the foster youth's best interests. (Education Code 48853.5)*

*Prior to making any recommendation to move a foster youth from his/her school of origin, the liaison shall provide the youth and the person holding the right to make educational decisions for the youth with a written explanation of the basis for the recommendation and how this recommendation serves the youth's best interests. (Education Code 48853.5)*

*The role of the liaison shall be advisory with respect to placement decisions and determination of the school of origin. (Education Code 48853.5)*

If the liaison, in consultation with the foster youth and the person holding the right to make educational decisions for the foster youth, agrees that the best interests of the youth would be served by his/her transfer to a school other than the school of origin, the principal or designee of the new school shall immediately enroll the foster youth. The youth shall be immediately enrolled even if he/she has outstanding fees, fines, textbooks, or other items or monies due to the school last attended or is unable to produce records, such as academic *or* medical *records*, ~~or~~ proof of residency, or clothing normally required for enrollment. (Education Code 48853.5)

(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)

(cf. 5132 - Dress and Grooming)

(cf. 5141.26 - Tuberculosis Testing)

(cf. 5141.31 - Immunizations)

(cf. 5141.32 - Health Screening for School Entry)



**Instruction**

**EDUCATION FOR FOSTER YOUTH**

Within two business days of *a request for* enrollment, the liaison shall contact the school last attended by the student to obtain all academic and other records. Upon receiving a request from a new school, the liaison for the school last attended shall provide all records within two business days of receiving the request. (Education Code 48853.5)

If a ~~parent/guardian or~~ *person with the right to make educational decisions for a* foster youth *or the foster youth* disagrees with the liaison's enrollment ~~decision~~ *recommendation*, he/she may appeal ~~the decision~~ to the Superintendent. The Superintendent shall make a determination within 30 days of receipt of the appeal. Within 30 days of receipt of the Superintendent's decision, the parent/guardian or foster youth may appeal that decision to the ~~Governing~~ Board. The Board shall consider the issue at its next regularly-scheduled meeting. The Board's decision shall be final.

If any dispute arises regarding the request of a foster youth to remain in the school of origin, the youth has the right to remain in the school of origin pending resolution of the dispute. (Education Code 48853.5)

Regulation  
approved: September 5, 2007  
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**MANHATTAN BEACH UNIFIED SCHOOL DISTRICT**  
Manhattan Beach, California