

COMMUNITY ADVISORY COMMITTEE (C.A.C.)

SPECIAL EDUCATION LOCAL PLAN AREA (SELPA)

8005 MORRO ROAD, ATASCADERO, CA 93422

PHONE: (805) 782-7304 □ FAX: (805) 466-1473

AGENDA

Tuesday, October 18, 2016

4:30 – 6:00 p.m.

Morro Road Education Center

8005 Morro Road, Atascadero

- 1.0 ATTENDANCE CONFIRMATION
- 2.0 PUBLIC COMMENT
- 3.0 ACCEPTANCE OF MINUTES/AGENDA
- 4.0 DISCUSSION/ACTION
 - 4.1 WA1
 - 4.2 Facebook Posting
 - 4.3 Scholarships
 - 4.4 May Fundraising Event
- 5.0 SELPA REPORT
- 6.0 DISTRICT REPORTS
- 7.0 HANDOUTS/INFORMATIONAL ITEMS
 - 7.1 The Special Educator
- 8.0 CLOSING/NEXT AGENDA

COMMUNITY ADVISORY COMMITTEE (C.A.C.)

Special Education Local Plan Area (SELPA)
8005 Morro Road, Atascadero, CA 93422
Phone: (805) 782-7301 □ Fax: (805) 466-1473

MEETING NOTES

Tuesday, September 20, 2016
Morro Road Education Center
8005 Morro Road, Atascadero

Members Present:

<i>Jill Heuer</i>	<i>SELPA Liaison</i>
<i>Joy Rose</i>	<i>Almond Acres Charter Academy</i>
<i>Julie London</i>	<i>Lucia Mar Unified School District</i>
<i>Andrea Vergne</i>	<i>Lucia Mar Unified School District</i>
<i>Erin Brzycky</i>	<i>San Luis Coastal Unified School District</i>
<i>Dakota Zandt</i>	<i>Templeton Unified School District</i>
<i>Lisa Graystone</i>	<i>Coast Unified School District</i>
<i>Loretta Butterfield</i>	<i>SELPA Program Specialist</i>

Members Absent:

<i>May Nunes</i>	<i>Atascadero Unified School District</i>
<i>Christine Scholl</i>	<i>Paso Robles Joint Unified School District</i>
<i>Michelle Rauenzahn</i>	<i>San Luis Coastal Unified School District</i>
<i>Rayne Rice</i>	<i>Member-at-Large</i>
<i>Jaime Riley-Akers</i>	<i>San Luis Obispo County Office of Education</i>
<i>Julie Kirby</i>	<i>Pleasant Valley Joint Union Elementary School District</i>
<i>Open (1)</i>	<i>Atascadero Unified School District</i>
<i>Open (1)</i>	<i>Cayucos Elementary School District</i>
<i>Open (1)</i>	<i>San Luis Obispo County Office of Education</i>
<i>Open (1)</i>	<i>San Miguel Joint Union School District</i>
<i>Open (1)</i>	<i>Shandon Joint Unified School District</i>
<i>Open (1)</i>	<i>Paso Robles Joint Unified School District</i>
<i>Open (1)</i>	<i>Bellevue-Santa Fe Charter School</i>
<i>Open (1)</i>	<i>Member-at-Large</i>

Guests:

<i>DeeDee Mello-Wisch</i>	<i>Templeton Unified School District Special Education Director</i>
<i>Liz Tashma</i>	<i>Paso Robles Joint Unified School District Parent</i>
<i>Elizabeth Weatherly</i>	<i>Coast Unified School District Parent</i>

1.0 ATTENDANCE CONFIRMATION

The meeting was called to order at 4:30 p.m.

2.0 PUBLIC COMMENT

None.

3.0 ACCEPTANCE OF NOTES/AGENDA

The *May 19, 2016 meeting notes* were included as a handout and reviewed.

MOTION: GRAYSTONE/ROSE. A motion passed approving the meeting notes as presented.

4.0 DISCUSSION/ACTION

4.1 WA1

Loretta Butterfield provided an update on JPS staffing, their role, and the requirement for students placed and served.

4.2 Review of Bylaws

The group reviewed the bylaws which is required every two years.

MOTION: GRAYSTONE/BUTTERFIELD. A motion passed nominating and appointing Erin Brzycky as Communication Officer.

4.3 2016-17 Goals

The group discussed the following goals for 2016-17:

- Create and maintain a Facebook page.
- May 25th gala and scholarship fundraiser
- Participate in the Autism Walk and other resource events.
- Each active member will bring one guest at least one time to monthly meeting over the course of the year.

MOTION: GRAYSTONE/BRZYCKY. A motion passed approving the goals as presented.

4.4 ListServe/Facebook

A discussion was held and the following noted:

- Erin Brzycky and Lisa Graystone volunteered to provide two postings on Facebook monthly. The group will review prior to posting.
- The focus will be on resources, SELPA trainings, and local non-profit agencies.
- Facebook page will present similar to a “billboard” and messages will be disabled.
- A post on educators was suggested.
- Once active, add the Facebook page to the CAC flyer and the link to the SELPA website.

Jill Heuer will discuss rules of page with the COE technology department.

4.5 Parent Orientation – SPED 101

A discussion was held on distribution of the flyer.

4.6 Fundraising and Awards/Scholarships’ Event

A discussion was held on the scholarship timeline and process, and the Monday Club was suggested as a possible venue for the ceremony.

Scholarships and May Fundraising Event will be included on the October 18 CAC agenda for further discussion.

5.0 SELPA REPORT

Jill Heuer's report included the following:

- Topics discussed at the CBO/Director/Superintendents joint meeting held on Sept 9.
- Upcoming workshops and trainings.

6.0 DISTRICT REPORTS

CUSD: Lisa Graystone reported on programs in the district.

TUSD: DeeDee Mello-Wisch reported on new students and reviewed programs within the district.

LMUSD: Julie London updated the group on her meeting with their new director.

AACA: Joy Rose reported on the district philosophy of team work to support the students.

SLCUSD: Erin Brzycky reported on meeting with staff, district program specialists and director on a regular basis. Co-teaching and use of technology continues to increase throughout the district which is helping support LRE.

LMUSD: Andrea Vergne updated the group on SB1095.

7.0 HANDOUTS/INFORMATIONAL ITEMS

The following handouts/information items were included in the packet:

- 7.1 Retreat Notes
- 7.2 CAC Brochures
- 7.3 The Special Educator
- 7.4 SEOC Membership 2016-17

8.0 CLOSING/NEXT AGENDA

The meeting was adjourned at 6:30 p.m.

May special ed director present final FAPE offer after mandatory IEP team members have left meeting?

A California district held two IEP meetings in which the parent of a 6-year-old with autism and the other necessary team members engaged in robust conversations regarding the child's programming and placement.

At the end of the second meeting, the district was ready to present its offer of FAPE. Some required team members had already left, albeit without the parent's written consent. Nevertheless, the special education director orally presented the district's offer to the parent.

Each individual who attended the IEP meetings, other than the parent, later testified that they believed the proposed IEP was appropriate.

The parent filed a due process complaint alleging that the district violated the IDEA procedurally because the director was the only staff member who contributed to and made the offer.

A mandatory IEP team member may be excused from an IEP meeting involving a modification to or discussion of the member's area of the curriculum or related services, if the parent and district consent in writing and the member submits input prior to the meeting. 34 CFR 300.321(e)(2).

Does absence of required IEP team participants render district's offer procedurally defective?

A. Yes. A parent's written consent is required before a mandatory IEP team member may be excused from an IEP meeting involving a modification to or discussion of the member's area of the curriculum or related services.

B. Yes. Had other team members been present, their input might have changed the district's offer.

C. No. By the time the director presented the offer, the IEP team had already finished discussing and developing the proposed IEP.

How the ALJ ruled: C.


The fact that the special education director presented the district's final offer of FAPE orally when not all team members were on hand didn't render the offer procedurally defective. *San Bruno Park Unified Sch. Dist.*, 116 LRP 17626 (SEA CA 04/11/16).

The ALJ acknowledged that the district's offer was presented at the end of the second meeting when various team members already had excused themselves. However, the offer "was the culmination of several hours of active, robust, and informative discussions that took place with an appropriately configured IEP team," the ALJ wrote. Thus, the ALJ concluded, the task of articulating the offer to the parent was "ministerial in nature" and other members were not required to be present.

A is incorrect. The ALJ effectively found that the IEP team meeting discussions already had been completed and the district was simply presenting its offer of FAPE.

B is incorrect. Other than the parent, each team member who attended the IEP meetings testified that the IEP was appropriate.

Editor's note: This feature is not intended as instructional material or to replace legal advice. ■

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Does result of MDR permit disciplinary removal of student with suspected disability?

During the 2014-15 school year, a first-grader was involved in several violent altercations at school. On Sept. 17, 2014, the Pennsylvania district referred the student for an initial IDEA evaluation.

By October 2014, the student had served 15 cumulative days of out-of-school suspension for defiance, property damage, and fights with peers. The district conducted a manifestation determination review on Nov. 3, 2014. At the MDR, the parents produced medical records showing the student had recently been diagnosed with ODD and ADHD and was prescribed medication for behavior control. They also provided academic records indicating that the student presented similar violent behaviors in kindergarten.

The MDR team concluded that the student's misconduct was unrelated to a disability and that he had full control of his actions. Following the MDR, the district decided to expel the child for the rest of the school year.

Before a district may suspend or expel a student with a disability for more than 10 consecutive or cumulative school days, it must hold an MDR. If the student's behavior is a manifestation of a disability, the district must return the student to his original placement and conduct a functional behavioral assessment. 34 CFR 300.530; and 34 CFR 300.536.

Did the district violate the IDEA when it expelled the student due to his violent behaviors?

A. No. The MDR team concluded that the student failed to misbehave, so the expulsion was justified.

B. No. The district had no duty to conduct an MDR

because the student was not eligible for IDEA services at the time of his misconduct.

C. Yes. Because the district had reason to suspect that the student's behaviors stemmed from an IDEA-eligible disability, it should not have expelled the student.

How the IHO found: C.


Finding that the results of the MDR were clearly erroneous, the IHO in *Mars Area School District*, 116 LRP 29484 (SEA PA 06/21/16), concluded that the student's expulsion denied him FAPE.

In this case, the IHO noted, the student consistently exhibited inappropriate behaviors, including impulsivity and aggression, that could be attributed to ODD and ADHD. Moreover, the IHO pointed out that the student's conduct and academic performance improved once he received classroom supports from his kindergarten teacher. This indicated that the student's behaviors were related to his underlying disabilities, the IHO opined.

A is incorrect. While the district claimed that the student misbehaved of his own volition, the IHO determined that this was "an untenable assertion" because there was no evidence that the student had any control over his violent behaviors.

B is incorrect. A student has a right to an MDR as long as the district "has knowledge that the student may have an IDEA-eligible disability," the IHO explained. The child's medical and behavioral history gave the district notice that he had a potential disability.

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TSE Advisory Board Members	THE SPECIAL EDUCATOR® - A REVIEW OF EVENTS IMPORTANT TO SPECIAL EDUCATORS		
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Shore up your preparation, support for substitute teachers of students with BIPs

The special ed behavior management teacher of an elementary school student with a mood disorder and frequent “rage episodes” goes on maternity leave.

The district assigns a substitute teacher who lacks special ed certification to take over the student’s special day class.

This decision led to a FAPE denial in *S.B. v. Murfreesboro City Schools*, 67 IDELR 117 (M.D. Tenn. 2016). The district also had to reimburse the parent for the student’s unilateral residential placement. The student received none of the behavioral services or supports listed in his IEP despite their being the sole reason for his full-time special ed placement.

Ensure your IEP teams know how to appropriately respond if they find out a behavior expert is going to be on leave. Even if there’s no notice, you have to find ways to deliver behavioral services if they are stipulated in a student’s IEP. Not just any substitute teacher will suffice.

“The parents need to be a part of the decision-making process and the solution-making process,” said Sherry Culves, a school attorney at Nelson Mullins Riley & Scarborough LLP. “You have to get creative and think about alternative ways to deliver services.”

Take these steps:

- **Be forthcoming with parents:** As soon as you know a person who works with a student on her behavior is going to go on leave, talk with the student’s parents about the various ways you can continue to implement their child’s IEP and BIP despite that expert’s absence, said Nathanya Simon, a school attorney at Schwartz Simon Edelstein & Celso LLC.

“If you’re proactive with parents, then they’ll be more understanding if an issue comes up,” she said. “If you know it’s going to be hard to find someone to fill in right away, offer compensatory services right off the bat.”

Let parents know that as soon as you find someone, you will make up for lost time, or offer ESY programming.

- **Offer substitute summary of student needs:** Ensure the substitute receives a packet that contains a copy of the student’s IEP and BIP along with the usual information on the schedule, emergency protocol, and other important materials, Simon said. You may want to include a summary of the IEP or an accommodations sheet to underscore the student’s behavioral needs, Culves said.

“Obviously IEPs can be quite long and complex, so I don’t think there’s anything wrong with providing a summary or a critical excerpt for the substitute,” she

said. “But I also believe you should include the entire IEP for best practice.”

- **Train substitute on behavior intervention:** Train the substitute on how to appropriately implement the student’s BIP, Culves said. Give the substitute the opportunity to ask questions. If the student has a complex BIP, she said, have a board-certified behavior analyst work with the substitute to physically demonstrate some of the interventions and talk through them in more detail.

- **Involve case manager, administrators:** Ensure the student’s case manager is available to consult with the substitute on behavioral interventions, Simon said.

“The case manager can go into the classroom and see what’s going on,” she said. “That person always has oversight responsibilities to make sure the IEP is being implemented and determine the need for additional supports.”

The principal or special ed administrator may want to regularly observe the classroom to uncover concerns and show parents that the situation is being monitored, Culves said. “You can tell parents, ‘We’re attempting to find someone qualified as soon as possible, but in the meantime, it’s all hands on deck,’” she said.

Place an emphasis on data collection in the classroom to be sure to catch any signs of regression.

- **Seek help from colleagues in the district:** You may also want to see if a teacher from another school in the district can find time to work with the student on his behavior, Culves said.

“Maybe she can’t be there at the same portions of the day that the other one had been,” she said, “but maybe she can meet with the student after school to continue working on those behavioral concerns.”

Parents may also be willing to let their child move to another classroom if that teacher can address their child’s needs, Culves said. Make sure you document their response, especially if they decline.

If the substitute is seriously struggling to implement behavioral interventions, you may want to assign an aide to follow the student’s BIP, Simon said.

“If a student is throwing things or becoming overly disruptive or dangerous to others, you may want an aide to walk with the student in the hall,” she said.

- **Work with private providers:** If a student also receives private therapy, you may want to offer to compensate his family for additional services to make up for what the substitute can’t provide, Simon said.

You may also want to consult with a private provider for advice on how to work with the student until you find a qualified substitute, Culves said. ■

Be sensitive to cultural differences when evaluating ELs for special ed

Imagine taking a test entirely in Chinese, but you only know a few words of that language. Naturally, you'd probably do poorly. How can an evaluator distinguish between your knowledge of the answers and your ability to understand the test questions?

This is an issue that ELs often face when they are being evaluated for a suspected disability, said Hallie Smith, a bilingual speech-language pathologist and currently senior director of marketing at Scientific Learning. If an evaluator isn't careful, an EL's lack of English proficiency could lead to her being misidentified for special education — or the evaluator could miss signs of a potential learning disability or speech/language impairment.

Remind your staff members to check their cultural biases when working with ELs with disabilities and their families, Smith said. Keep these tips in mind:

Understand how 'special education' may translate across cultures

Many languages don't have a direct translation for "special education," so parents from other cultures may not understand what their child is being evaluated for, said Melissa Katz, ELL specialist at the New York City Charter School Center. Try using the term "extra help" instead, such as, "Your child is struggling with reading and needs extra help," Smith suggested.

In addition, be sensitive to the potential stigma against disabilities in some cultures, Katz said. Parents may be under a cultural belief that a disability is a failure on the parent's part or will reflect poorly on the family, she said.

Provide accommodations for parents

Ensure an interpreter or translator is present at every meeting with an EL's family, said Dixon Deutsch, vice president, special populations at the New York City Charter School Center. Provide all special education forms, documents, or notices in the parents' native language. Connect with community organizations that help new immigrants or people learning English to obtain services for ELs' families.

In your initial meeting with an EL's parents, explain the special education process — which interventions you have tried, how you will evaluate their child, and what type of support is available if their child is found eligible. Describe real-life scenarios to help parents understand what their child can achieve through special education services, Smith said. For example, you may say to the parent of a student with moderate needs, "I want your child to be able to cross the street safely," or, "I want your child to be able to read silently for 10 minutes."

Understand how the parents' cultural background may influence their actions, Smith said. She has worked with parents who aren't comfortable asking questions or advocating strongly for their child because their culture encourages deference to a teacher's authority.

"They think the teacher will know more and defer to them," she said.

Be aware that just because a parent agrees with you doesn't mean they understood you, she said.

Account for cultural differences during evaluation

Under the IDEA, an evaluation of a student whose native language is not English must be: 1) not discriminatory on a racial or cultural basis; and 2) administered in the student's native language, unless clearly not feasible. 34 CFR 300.304(c)(1).

If an EL struggles with English, she will clearly score low on a test administered in English, Smith said. Assess ELs in both their native language and English to account for language acquisition difficulties.

Most importantly, ensure your test questions are culturally responsive, Katz said. For example, you may have a student from a tropical country who has never seen snow in her life. If you show the student a picture of snow during an evaluation and ask her to make inferences about it, she may not be able to answer the questions. That isn't due to a learning disability or language difficulty; it's because your test is culturally biased, Katz said.

Along with this, question any cultural assumptions you may hold, Smith said. Imagine answering a test question about fruits that refers to "durian" and "rambutan," fruits not commonly found in the U.S. Smith experienced a similar situation when working with students from Mexico. From an American perspective, it's easy to make an assumption that "apples" and "bananas" are common fruits, but for Mexican students, "melon" might be a better choice, she said.

Use dynamic assessments

For a more accurate evaluation of an EL's abilities, consider using the dynamic assessment model of "test, teach, retest," Smith said. For example, first test a student on 10 vocabulary words, of which he may know only one or two. Then, teach all 10 words in an activity. Finally, test the student again on the 10 words. By using this type of interactive assessment, you emphasize the learning process and compare the student against himself rather than arbitrary standards, Smith said. ■