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RE: Prior Written Notice Re Special Education Timelines for Infants and Toddlers In Light of District Closure to Prevent/Contain the Spread of COVID-19 (Coronavirus)

Dear Parent(s)/Guardian(s) of an Infant/Toddler with a Disability:

This letter is to provide you with written notice, pursuant to 34 CFR § 300.503, of the Stockton Unified School District's ("SUSD" or "District") obligations during the school closure with regards to special education timelines for infants and toddlers with disabilities under the Individuals with Disabilities Act ("IDEA"). As you are aware, the District determined that it was necessary to close its schools through April 17, 2020, to prevent/contain the spread of COVID-19. Should the timeline for closure be extended, we will provide further updates.

At this time, the Governor has issued shelter-in-place orders so that most District employees are prohibited from leaving their homes except as necessary to access food, prescriptions and health care, and are ordered to practice social distancing when they do leave their homes. (Executive Order N-33-20, March 19, 2020.) The Governor also signed emergency legislation Senate Bill ("SB") 117, which included several provisions that affects special education.

Under SB 117, certain timelines for special education were extended; however, timelines that exist under the federal IDEA laws and regulations were not waived or extended. The timelines that were not changed include several that are related to your child's Individualized Family Service Plan ("IFSP"). Nevertheless, the U.S. Department of Education ("USDOE") recognizes the practical problems school districts face in attempting to comply with the IDEA's procedural requirements during the current crisis. The USDOE has stated that: "School districts and postsecondary schools have significant latitude and authority to take necessary actions to protect the health, safety, and welfare of students and school staff. School officials have discretion to make educational decisions based on local health needs and concerns, and [the Office for Civil Rights] recognizes this decision-making authority." (OCR Fact Sheet, March 16, 2020.)

To this end, the USDOE has issued guidance that special education teams are not required to meet in-person while schools are closed. It has also acknowledged that "[i]f an evaluation of a student with a disability requires a face-to-face assessment or observation, the evaluation would need to be delayed until school reopens. Evaluations and re-evaluations that do not require face-to-face assessments or observations may take place while schools are closed, so long as a student's parent or legal guardian consents." (Id.) The California Department of Education has also stated that: "LEAs should do their best in

adhering to IDEA requirements, including federally mandated timelines, to the maximum extent possible.” (CDE Special Education Guidance for COVID-19, March 23, 2020.)

Thus, while federal requirements for convening special education meetings still exist, both the federal and state governments have expressed their intent to evaluate a district’s compliance liberally, in light of the need to ensure the health, safety and welfare of students and staff and abide by all health and safety restrictions that may be in effect.

The District understands that certain federal timelines apply to your child’s IFSP, such as evaluations, 6-month and annual reviews, and transition meetings. The District will, to the maximum extent possible, make efforts to hold required IFSP meetings through alternate means such as telephone or video conferencing provided you are in agreement with proceeding in this manner. Any face-to-face assessments or observations will be delayed until school reopens.

We recognize that the impact of school closure will vary substantially among students, their families, teachers and staff, as well as the entire community. SUSD’s primary concern is to prioritize the long term health and well-being of its students, families, and employees, and it is committed to mitigating the impact of school closure on each student upon reopening.

In making its determination, SUSD reviewed and considered the following:

- Recommendations from the Center for Disease Control (“CDC”);
- Recommendations from the California Department of Education (“CDE”);
- Recommendations from the United States Department of Education, Office of Special Education Programs and Office for Civil Rights;
- Recommendations from state and local government officials, including departments of public health; and
- All other relevant information available to the District.

Finally, please be advised that the parents of a child with a disability have protection under the federal parental rights and procedural safeguards set forth in 34 C.F.R. Part 300. Copies of parental rights and procedural safeguards are attached and on the District website, to advise of your parental rights. Please contact me with questions about this letter, and you are also free to contact any agency listed in your notice of rights. District staff members are doing our very best to respond in a timely manner. Your patience with this is greatly appreciated in this evolving emergency.

Sincerely,

Vincent Hernandez, II

Vincent Hernandez II
Interim Director of Special Education
Stockton Unified School District

Enclosure: Parental Rights and Procedural Safeguards