

March 11, 2021

Executive Director Alexia Ritchie & Dr. Cynthia Ortiz-Front
Albany Unified School District
819 Bancroft Way
Berkeley, CA 94710

Re: Request for Public Records, Gov't Code § 6250 *et seq.*

Pursuant to the California Public Records Act (California Government Code § 6250 *et seq.*), the Albany Disability Squad (“ADS” or “the Squad”) writes to request public records from the Albany Unified School District.

Definitions Used in this Request

For purposes of this request, the terms “document or record” include, but are not limited to, all writings, reports, emails, text messages, data, evaluations, memoranda, correspondence, electronic information, charts, graphs, flyers, brochures, handbooks, letters, notes, notices, meeting agendas and minutes, diagrams, forms, DVDs/CDs, audio or video recordings, notes, or other similar materials.

The term “school” includes any and all preschool, transitional kindergarten, kindergarten, elementary, middle, and high schools in the District as well as any alternative programs, including, but not limited to, transition programs.

The term “characteristics” includes but is not limited to: the school attended, age, grade, race, ethnicity, gender, disability status, English Language Learner status, Socio-Economic Status or Free and Reduced Lunch status, and Foster and Homeless Youth status.

The term “SELPA” means the North Region Special Education Local Plan Area. The term “Local Plan” means the Special Education Local Plan approved by or in the process of approval by the member districts of the North Region SELPA and published on the North Region SELPA website or referred to in board policies or reports.

The term “ACOE” means the Alameda County Office of Education. The term “CDE” means the California Department of Education.

The term “NPS” means “Non-Public Schools”; the term “Non-Public Schools” means a private school approved by the CDE to provide specialized services to students with disabilities in lieu of a public school program, for a student placed through their IEP.

The term “Non-Public Agency” means an agency approved by the CDE to provide contracted special education and related services to an eligible student.

The term “CLP” means Continuity Learning Plan, Distance Learning Plan, and/or Learning Continuity Plan.

Records Requested

Please provide copies of the records specified below. Each lettered or numbered paragraph should be considered a separate request under the California Public Records Act. For each set of records produced, please identify the paragraph to which the records are intended to respond.

1. Any and all documents containing information or data related to AUSD obligations and commitments in existing IEP/504 plans, and how they are being fulfilled during remote instruction during the COVID-19 pandemic. Responsive records include, but are not limited to, all of the following information:
 - a. # of students with IEPs and # of students with 504 plans;
 - b. # of students with IEPs and 504 plans disaggregated by grade level;
 - c. # of students receiving out-of-district placements;
 - d. # of students placed in CDE approved Non-Public Schools (NPS)
 - e. # of students receiving related services and specialized academic instruction through Non-Public Agencies (mental health, behavior, instruction, healthcare)
 - f. Cumulative # of service hours required to fulfill all IEPs, including and disaggregated by:
 - i. Specialized academic instruction in a separate classroom in a public integrated facility (e.g., SDC class) to be delivered by a credentialed special education teacher
 - ii. Specialized academic instruction in a regular classroom/public day school to be delivered by credentialed special education teacher
 - iii. Intensive individual services to be delivered by a credentialed special education teacher
 - iv. Specialized academic instruction in a regular classroom/public day school delivered by a paraeducator
 - v. Language and speech services
 - vi. Occupational therapy services
 - vii. Adapted physical education services
 - viii. Physical therapy services
 - ix. Adaptive technology services
 - x. Psychological services
 - g. Cumulative # of service hours required to fulfill all 504 plans including and disaggregated by the services listed in request 1.f.
 - h. How the district is supporting students who require supervision during distance learning but whose families are not able to supervise
 - i. Policies and procedures to monitor delivery of instruction and related services in student IEPs
 - j. Policies and procedures for tracking when service minutes required by Continuity Learning Plans (CLPs) are not delivered, how make up services are provided and how parents are informed.
 - k. Policies and procedures, training documents and protocols as to how delivery of instruction is monitored by administrators.
 - l. Reports to North Region SELPA, the Alameda County Office of Education, and the California Department of Education regarding process, model documents, procedures, and protocols for developing distance/continuity learning plans, securing parent consent, implementation procedures, staff training and monitoring progress toward goals in a virtual/distance learning modality.

2. Any and all documents containing information or data related to staff and qualifications available to fulfill IEP obligations and 504 plan commitments during the COVID-19 pandemic from March 16, 2020 to March 12, 2021. Responsive records include, but are not limited to, all of the following information:
 - a. FTE of credentialed special education instructors on duty during the time period
 - b. FTE of licensed related service providers on duty during the time period disaggregated by classroom type (e.g., SDC), subject (e.g., math and English)
 - c. FTE of paraprofessionals on duty during the time period
 - d. Staffing gap analysis comparing & contrasting special education staffing needs with special education staffing availability
 - e. Monthly hours of specialized academic service delivered disaggregated by grade level
 - f. Monthly hours of related services delivered disaggregated by grade level
 - g. Monthly hours of paraprofessional services delivered disaggregated by grade level
 - h. Service minutes gap analysis comparing & contrasting special education service minutes required with special education service minutes actually delivered
 - i. Data the district gathered and analyzed to match staffing availability and service requirements with family constraints created by shelter-in-place during the COVID-19 pandemic
 - j. Paraeducator training protocols, requirements, and process for assigning paraeducators
 - k. Percentage of Specialized Academic Instruction (SAI) delivered through paraeducators compared to direct instruction from credentialed special educators
 - l. Policies and procedures for monitoring and supervising paraeducators to ensure special education staff are providing modified/adapted materials, instruction, curriculum and paraeducators are implementing services and supports but not teaching.

3. Any and all documents containing information or data related to preparations for and delivery of in-person cohort academic instruction during the COVID-19 pandemic for students with IEPs and 504 plans, English Language Learners, students with free and reduced lunch, and other vulnerable student populations. Responsive records include, but are not limited to, all of the following information:
 - a. Surveys of students and caregivers, including:
 - i. Copies of survey questions and survey forms distributed
 - ii. # of families and students to whom surveys were distributed
 - iii. # of survey responses received
 - iv. Aggregate responses to each survey question, by demographic
 - v. Summary charts, tables, findings, and conclusions from surveys
 - vi. Reports to the CDE and/or COE related to special education outcomes, staffing, parent satisfaction and concerns regarding special education including internal and external reviews and audits including CDE verification reviews in the most recent 4-year period

 - b. Surveys of instructional staff and support staff, including:
 - i. Copies of survey questions and survey forms distributed
 - ii. # of staff to whom surveys were distributed, including staff roles, such as special education instructors, general education instructors, related service providers, paraprofessionals, administrative staff, and support staff (e.g., nurses, janitors, food service workers, etc.)

- iii. # of survey responses received
 - iv. Aggregate responses to each survey question by staff category
 - v. Summary charts, tables, findings, and conclusions from surveys
- c. Cohort classes provided for students with IEPs and 504 plans, English Language Learners, students with free and reduced lunch, and other vulnerable student populations, including:
- i. Number of students invited to participate in cohorts
 - ii. Criteria for determining who was invited and how they were selected
 - iii. Number of individual students that actually participated in cohorts
 - iv. Dates, times, setting, and grade level of *social/emotional cohorts*, credentials of instructional staff, and # of student-hours of cohort service delivered
 - v. Dates, times, setting, and grade level of *instructional cohorts*, credentials of instructional staff, and # of student-hours of cohort instruction delivered
 - vi. Safety measures implemented prior to, during, and after cohort instruction
 - vii. Survey results or feedback from cohort participants
- d. Number of students with IEPs or 504 plans who have left the district from March 13, 2020 through March 12, 2021
- e. Number of students placed in Non-Public Schools from March 13, 2020 through March 12, 2021
- f. Number of inter-SELPA placements
- i. Into AUSD
 - ii. Out of AUSD
4. Breakdown of AUSD placements by percentage of inclusion/Least Restrictive Environment (LRE), including but not limited to resource program students, Special Day Class (SDC) and NPS placements, disaggregated by gender and race/ethnicity.
- a. Percentage of students moving to increased or decreased inclusion time from preschool to elementary.
 - b. Percentage of students moving to increased or decreased inclusion time from elementary school to middle school.
 - c. Percentage of students moving to increased or decreased inclusion time from middle school to high school
5. Evaluations
- a. Number of initial evaluation/assessment requests, including referrals through the Student Study Team (SST) process, direct teacher referrals, and parent/guardian requests in the most recent 2-year period, broken down by
 - i. Total number of requests
 - ii. Number refused for which Prior Written Notice was provided to parent
 - iii. Number approved
 - 1. Number of students found eligible for an IEP or 504 plan as a percentage of total requests made, disaggregated by gender, race, and Socioeconomic status.

2. Number of assessments/evaluation currently pending outside of CA timelines (i.e., Assessment Plan signed, but assessments not complete and/or eligibility determination not made in compliance with state law and board policy) from March 1, 2020 through March 12, 2021.
 - b. Policies and procedures for completing initial and subsequent special education assessments, including but not limited to:
 - i. Whether the district is offering and providing parents with in-person assessment, virtual assessments and/or record reviews only.
 - ii. Number of currently outstanding assessments
 1. Number of outstanding assessments requested before March 13, 2020
 2. Number of outstanding assessments requested between September 15, 2020 and December 18, 2020.
 3. Number of outstanding assessments requested between January 4, 2021 and March 10, 2021
6. Continuity of service for students with IEPs and 504 plans, English Language Learners, students with free and reduced lunch, and other vulnerable student populations. Responsive records include, but are not limited to, all of the following information:
 - a. A list of all paraeducators laid off in response to the AUSD Board's Resolution dated May 26, 2020, the names of all paraeducators who were later reinstated, and the names of those who are still working for the District as of March 12, 2021.
 - b. Records indicating the length of retention and/or the rate of turnover of AUSD Special Education Staff currently employed by the District;
 - c. A list of the names, job titles, and school assignments of all AUSD Special Education Staff employed by AUSD as of the first day of the school year in 2017, 2018, 2019, 2020, and as of March 12, 2021;
 - d. A list of all publicly available names and employment codes of AUSD Special Education Staff that received Reduction in Force notices (i.e. pink slips) prior to the notification deadline in March of 2017, 2018, 2019, 2020, and 2021.
 - e. The total number of days when credentialed Special Education instructors were absent from regularly scheduled school days, and the total number of days when substitutes were provided to cover those absences during the 2017-18, 2018-19, 2019-20, and 2020-21 school years;
 - f. The total number of days when paraeducators assigned to students with IEPs and 504 plans were absent, and the total number of days when substitutes were provided to cover those absences during the 2017-18, 2018-19, 2019-20, and 2020-21 school years.
 - g. A list of leaves of absence taken by permanent AUSD Special Education Staff during the 2017-18, 2018-19, 2019-20, and 2020-21 school years, including
 - i. Name, title, and credential of the employee taking a leave of absence;
 - ii. The start and end date of that leave of absence;
 - iii. Name, title, and credential of the substitute;
 - iv. The start and end date of the substitute(s);
 - v. Any gaps in service during the employee's leave of absence, including the start and end date of those gaps in service and the number of hours of instruction not provided.

Full Disclosure and Specific Explanation

ADS does not seek any personally identifiable information and asks that AUSD redact the records where appropriate. If any records are claimed to be exempt from disclosure, we request that:

1. you exercise your discretion to disclose some or all of the records notwithstanding the exemption; and
2. with respect to records containing both exempt and non-exempt content, you redact the exempt content and disclose the rest. Cal. Gov. Code § 6253(a).

Additionally, if any records are withheld or redacted, please provide a written response that describes with specificity each and every record that is being withheld or redacted and the claimed reason for exemption under the California Public Records Act, along with supporting legal authority or authorities.

Waiver of Fees and Costs

Because this request furthers the public interest, we request that you waive any copying fees pursuant to *North County Parents v. Dep't of Educ.*, 23 Cal.App.4th 144 (1994). Please let us know in advance whether you will waive copying fees or, if not, the anticipated copying costs and the reason for refusing to grant a waiver.

Response Within 10 Days

We look forward to receiving a response to our request within ten days. Cal. Gov. Code § 6253(c). Please provide all public records as they become available, rather than waiting to send them together. Cal. Gov. Code §§ 6253(b), (d); see *Rogers v. Superior Court*, 19 Cal.App.4th 469, 483 (1993) (holding the city disclosed all documents in a reasonably timely manner when records not in its possession or that could not be found were promptly disclosed when they were found or became available). Further, we request that all records maintained in electronic form be produced in electronic form rather than in hard copy. Cal. Gov. Code § 6253.9.

Please provide electronic records to the Albany Disability Squad by email at albanydisabilitysquad@gmail.com. Hard copies can be picked up at the AUSD Administrative Offices.

Thank you for your attention to these requests. Please contact the Albany Disability Squad via email with any questions. The Squad looks forward to your response.

Sincerely,

Nery Castillo-McIntyre, Esq.
On behalf of the [Albany Disability Squad](#)'s Steering Committee

Cc.: Dr. Frank Wells & Assistant Superintendent Marie Williams