

Wilson Elementary: The Parent Handbook

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Introduction

The purpose of this handbook is to address parent concerns regarding their child's access to equitable education. Some of the laws discussed will include the Family and Education Rights and Privacy Act (or FERPA), the Individuals with Disabilities Act (IDEA), and the Gifted and Talented Student Education Act (GATE). Other topics include IQ testing, English Language Learners (ELL), counseling and confidentiality, due process, sex and racial discriminations laws. Other relevant laws or information as it pertains to students rights will also be provided.

FERPA

The Family and Educational Rights and Privacy Act of 1974 ensures the privacy of a student is maintained through entities that receive federal funding (20 U.S.C. § 1232g; 34 CFR Part 99). This includes disclosure of personally identifiable information such as a disability status or any accommodation requests, which may be obtained through student education records (Baker et al., 2020). Parents' rights according to FERPA include a right to privacy, access to educational records, the right to amend student records, and the right to file any complaints if records are disclosed in violation of FERPA. Student records may not be released to other individuals except for parents or guardians, or the child once they turn 18 years old (US Department of Education). Below includes a list of information that may be disclosed unless the student or parent opts out of the release of their directory information (34 CFR § 99.3 and 34 CFR § 99.37). Schools must notify parents of their FERPA rights annually, and they must give parents enough time to respond, should they opt of disclosing such information (Studentprivacy.ed.gov). Examples below include information that is not allowed to be disclosed to third parties.

FERPA Information Disclosure

Allowed	Not Allowed
<ul style="list-style-type: none">•name•address•telephone number•dates of attendance <p><i>*note: a student may opt out of providing this info</i></p>	<ul style="list-style-type: none">•disability status•accommodation requests•relationship with disabilities services offices

It is also important for parents to note that FERPA does allow schools to disclose student records under certain conditions (34 CFR § 99.31) A list of those conditions are listed below.

FERPA Information Disclosure

Allowable Conditions
<ul style="list-style-type: none">•other schools where a student is transferring to•under judicial order•state and local authorities•for audit or evaluation purposes•school officials with a legitimate educational interest•in regards to financial aid•accrediting organizations•health and safety emergencies•organizations conducting studies for or on behalf of the school

IDEA

Public Law 94-142, also known as The Individuals with Disabilities Education Act (IDEA), was created in 1975. It was the first federal law to ensure that children with disabilities

had a right to equitable education in the least restrictive environment (LRE). This education included providing students with disabilities free and appropriate public education, which is also known as FAPE (Selpa1cac.org).

Through IDEA, an intellectual disability is defined as a student who functions well below average when it comes to intellectual performance, in conjunction with maladaptive behavior adopted during the developmental period (34 CFR, §300.8[c][6]). The child's educational performance is then severely impacted (ECFR.gov).

Some rights that are given to parents under IDEA include the right for parents to receive safeguard procedures for presenting complaints, the rights for parents to inspect their child's educational records, and their rights to participate in meetings that pertain to the evaluation and placement of their child. A more comprehensive list of rights are listed below.

IDEA Rights

Parents have the right to...

- an independent educational evaluation of their child
- a written prior notice regarding their child's evaluation or placement
- deny consent
- disagree and/or appeal decisions made by the school system
- receive an explanation of procedural safeguards
- review their child's student records
- participate in meetings regarding the evaluation and placement of their child

Prior to an evaluation, a parent can talk to their child's teacher about issues their child is having in school. They may try to understand what variables are affecting their child's learning

or social-emotional well being. The parent can also meet with a student study team, and speak with an administrator, school psychologist, teacher, and so on to further discuss concerns they have about their child. In this team, everyone can discuss the issues, such as behavioral concerns, and begin to create an action plan (Selpa1cac.org). They can also follow up on said action plan and continue to revisit the plan to track progress. A Student Study Team may be helpful in identifying where problems are occurring and if minor changes outside of disability services can assist their child. It is important to note that parents do have the right to receive an assessment at any time.

IDEA - Federal Law

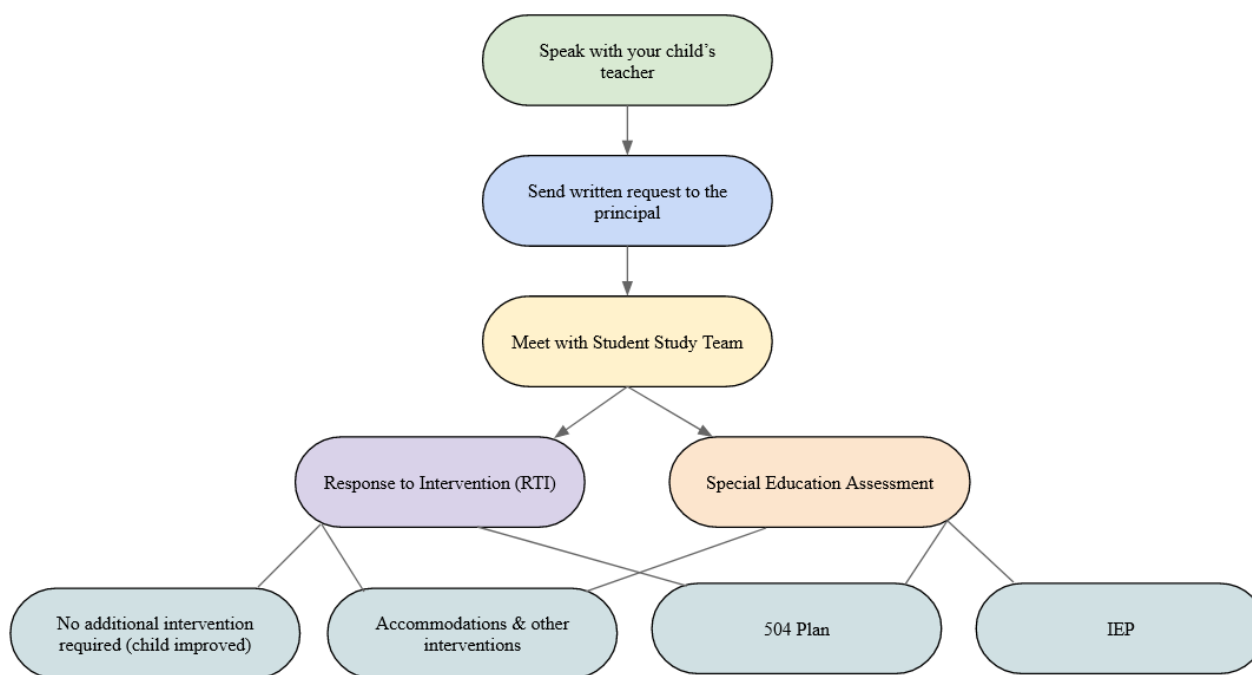
Students rights to an evaluation are listed in the IDEA. If the school is conducting an evaluation, parents must be notified accordingly. Parents must give consent for an evaluation to occur. Once consent has been received, an evaluation must be conducted within 60 days (Special Education rights and Responsibilities). From there, a determination of whether or not a child has a disability is made. Other supports are identified at the end of this evaluation process (IDEA, Sec. 614[a][1][C]). This includes supports that occur in a least restrictive environment. Alternative environments can include a special class, resource room, or regular classroom with consultation.

It is important for parents to know about a prereferral intervention. Many schools have adopted a prereferral process called an RTI (response to intervention). Up to 15% of IDEA funds can be used to fund pre-referral processes (Corey, 2019), but school districts are not required to have such processes in place. RTIs may be an alternative for students who may have a need for behavioral or academic support even though they might not need special education (PL108-466, Sec. 613[f][1]). This possible additional support is important for parents to know.

It is also important to note that RTIs are not allowed to delay an evaluation. Parents may request for an assessment even if their child is receiving RTI; a student may not be denied the possibility of receiving special education if necessary (Corey, 2019).

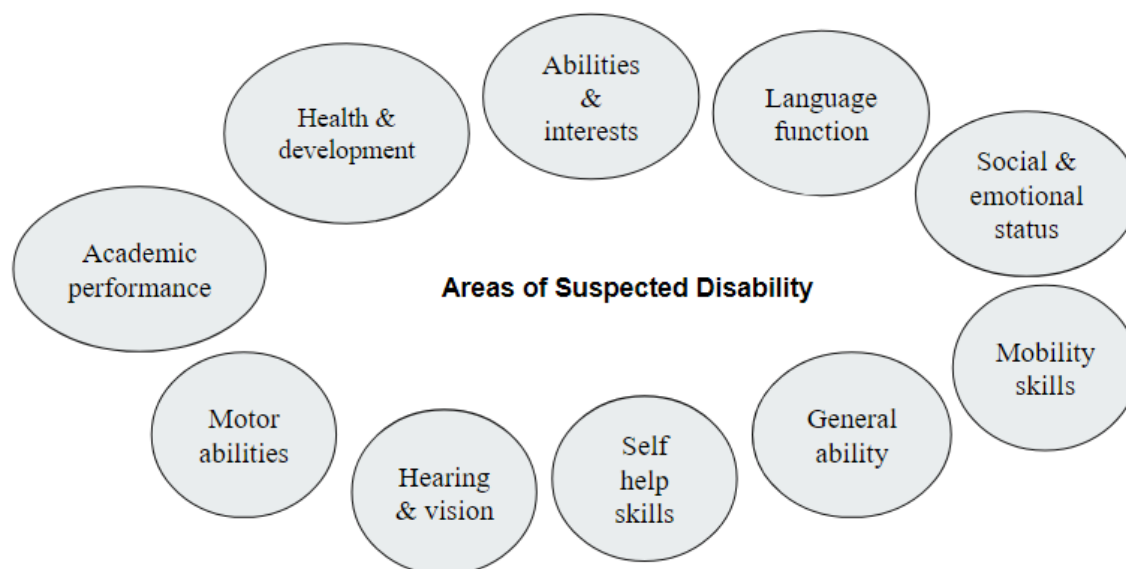
Assessments and Evaluations - California Law

Per California law (cde.ca.gov), school districts require a written referral from a parent to begin the assessment process [5 Cal. Code of Regulations (C.C.R.) Sec. 3021.] Within 15 days of receiving written consent from a parent, parents must receive an assessment plan for special education (Disability Rights California). Parents then have a minimum of 15 days to respond and sign the assessment plan. From there, California and federal law require that an assessment is completed within 60 days. Per 34 C.F.R. Secs. 300.306(a)(2) & 300.613(a), parents can receive a copy of the assessment results prior to the IEP meeting. California Education code Section 56327 discusses the type of information that a report needs to have. This includes information pertaining to special education or related services, the impact that special education services may have on the child, if a child needs special education to begin with, the reasoning for why they may need special education, and any health or medical findings. Other items include behavior that the assessor had seen during observations, how that behavior relates to any academic or social functioning, any socioeconomic, environmental, or cultural effects, and if there are other difficulties the child is having that may not be solved through special education (Special Education Rights and Responsibilities). If a child is having difficulties in school and parents suspect that it is due to a disability, they may follow the process below.



Included in the report are areas of suspected disabilities. An image is provided below to include items an assessment may encompass.

[Cal. Ed. Code Sec. 56320(f); 34 C.F.R. Sec. 300.304(c)(4).]



Within this multifactored evaluation (also known as an MFE), a variety of assessment tools must be used. The MFE must include potential services that a child may benefit from. It must also discuss how the child will continue to be included in the general education curriculum (Corey, 2019). Parents are encouraged to reach out to the school psychologist regarding questions about assessments and evaluations.

Confidentiality & Counseling

Confidentiality and Counseling - Federal Law

FERPA states that parents have a right to their child's records when their child is under age 18 (Corey, 2019), and parents do have a right to obtain student test record forms. Per FERPA, custodial and non-custodial parents have a right to such forms, unless prohibited by the court. However, if the student may harm themselves or others, a breach of confidentiality is required (Stone, 2008). The information that is disclosed should only be pertinent to the issue at hand.

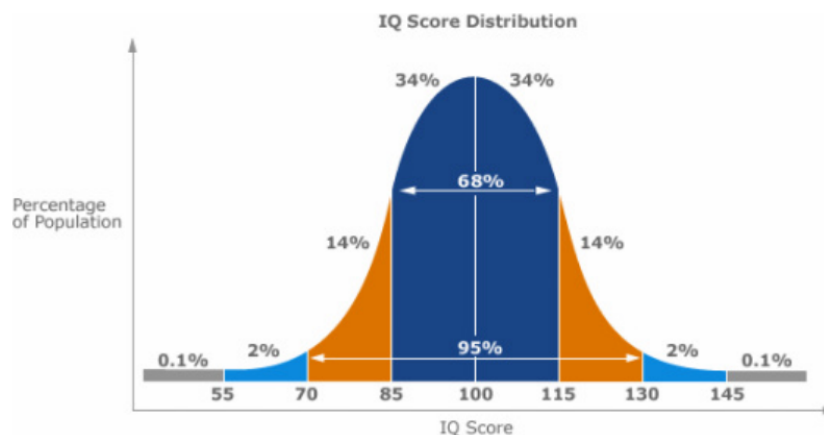
Confidentiality and Counseling - California Law

Under California Education Code § 49602, students 12 years or older who receive counseling from a school counselor have the right to maintain confidentiality of their information (schoolcounselor.org). It also states that information disclosed by the parent(s) to the counselor is to remain confidential (American School Counselor Association). Information disclosed by parents and/or the student is not a part of the student record unless the parent or student provides written consent (schoolcounselor.org). It is important for parents to note that a disclosure of counseling notes can affect the client-therapist relationship. While a parent may access these

notes if they are included in student records, a student may learn to trust their counselor less and less as a result. In the future, this may mean a child will not disclose any information (be it counselors, school psychologists, or any other professionals). Parents are encouraged to speak to their child, and to build a healthy relationship with them so that their child may disclose information to them directly. Parents may reach out to the school counselor should they have additional questions about counseling and confidentiality, or additional counseling resources..

IQ Testing

IQ testing includes the concept of standard deviation. This includes a comparison of a child's scores to the average in a norming sample. For a child to have a disability, they must be two standard deviations from average scores (Corey, 2019). In the graph below, scores 70 or below would be two standard deviations or more. The average IQ per the graph below indicates a score of 85 to 115. About 68% of the population fall under this test score. Meanwhile, less than 2% of the population fall below two standard deviations. If a child tests 70 or below on the IQ test, this can indicate some form of a disability. Alternatively, an IQ score of 75 or more may still be associated with a disability (Corey, 2019). It is important to note that IQ testing is simply one way of potentially identifying a disability, there are additional tests that can help solidify a diagnosis. The benefits of IQ testing include demonstrating deficits in cognitive functioning and prediction of school performance and achievement (Corey, 2019).



In 1979, in the case of *Larry P. v. Riles*, African American students were found to have been discriminated against due to racially biased IQ tests (justia.law.com). These students were wrongfully classified as having had disabilities after their test scores indicated that they had some form of a disability. The result of this court case concluded that any test seeking to measure intellectual ability is prohibited from being given to a student who is African American (Special Education Rights and Responsibilities). This is important for parents to note, especially those seeking testing services for their child who may have a disability. Parents are encouraged to reach out to disabilityresources@wusd.org for questions about non-discriminatory testing.

ELL (English Language Learners)

The California Education Code, section 60811 requires approved English language development (ELD) standards for students who are found to be English learners (cde.ca.gov). Students must be provided programs and services in many instructional and school settings. These settings can include specialized ELD instruction, a separate ELD class, or bilingual language class. It may also include an English immersion program or a mainstream program. ELD programs and classes must be grouped in accordance to proficiency level. ELD standards must also be upheld in regular classrooms such as math, science, history, and so on. English learners (known as ELs) are required to participate in their education through critical thinking as

well as written and verbal speech. They may also “read, analyze, interpret, and create a variety of literary and informational text types” (California Department of Education). Funding for ELL students is done through the Title III English Learner Student Subgrant. Local educational agencies must apply for the fund if they have one or more EL students for that school year. Grade levels and ages include pre-k and up, and ages 3-21 (cde.ca.gov). Parents are encouraged to reach out to the administrative assistant of Wilson Elementary to find out additional resources available to their child who is an English language learner.

GATE

GATE (which is also known as Gifted and Talented Education) is available for children who may learn very quickly, have a large vocabulary, be very creative, and need stimulating and challenging activities. They may also be highly sensitive (perhaps to certain sounds or lights), and individuals may find them to be intense (California Association of the Gifted). Under the Javits Gifted and Talented Students Education Act of 1988 (PL 100-297), gifted and talented is defined as “students who give evidence of high achievement and capability in intellectual, creative, artistic, leadership positions” (Corey, 2019). Their needs may not be met by the school so they may need additional resources to continue to practice those skills. Gifted and talented (or GT) students are included in IDEA and they qualify for special education services should they have qualifying disabilities.

California public schools may use educational funds for GATE programs and services. These resources include testing, providing challenging curriculum, practicing social skills, and counseling. Additionally, funds may also be used to train teachers and other faculty, as well as providing resources to parents so they may advocate and plan for GATE services.

Outside of the classroom students can participate in internship and mentor programs, specialized courses, project based learning, summer programs, and international experiences. They may also attend special schools for GT students, participate in resource rooms, cluster performance groups, cooperative learning groups, and so on (Corey, 2019).

According to the California Association for the Gifted, a “written plan defining how the district will meet the needs of gifted children as articulated in the state GATE standards must be submitted to the California Department of Education” (CDE). The CDE will process this submission and approve the written plan for one to three years. In the state of California, GT students receive funding through their local schools. Parents are highly encouraged to reach out to the school psychologist to learn more about resources for testing of gifted students.

Due Process

Due Process - Federal Law

The Fourteenth Amendment of The United States that a person has basic rights to life, liberty, and property, and that these rights may not be taken away without going through due process.

Due Process - California Law

According to California Constitution Article 1, “a person may not be deprived of life, liberty or property without due process of law...” (law.justia.com). Parents have a right to go through due process should they find that their child is not receiving the assistance they need.

Within the school districts of California, those seeking to find a resolution have the option to go through an alternative dispute resolution, which is also known as an ADR (cde.ca.gov). Title 34 (34 *CFR*), Section 300.152(a)(3)(ii) gives parents an opportunity for mediation, if they have already filed a complaint (cde.ca.gov). Through this process, parents can

negotiate, communicate, and collaborate with school districts to find a solution that works for their children. If parents have concerns regarding accommodations, IEPs, implementation, and they are unable to find a resolution with the district directly, they may find that an ADR is a better alternative. If a parent has reached out to a lawyer at this point, the lawyer may call the ADR center to see if the school district can negotiate without filing or going to court.

If parents do have to go to court, they may contact an educational attorney to help represent them. Cde.ca.gov indicates that due process is done through the Office of Administrative Hearings (also known as the OAH). Attorneys will look to see if there is a basis for going to court and then file a complaint for due process. If the disagreement is related to FAPE, the district must offer a reaction session within 15 days of receiving the complaint. If no resolution is reached, they participate in mediation with a judge present. The judge makes no decision, and they are only present to help facilitate the interaction. If the issue is still not resolved, a due process hearing will occur. Parents are encouraged to speak to educational attorneys to better understand their rights and their children's rights during this process. Educational attorneys who are familiar with state and federal case laws are recommended.

Sex and Racial Discrimination Laws

Sex and Racial Discrimination laws - Federal

In Title VI of the Civil Rights Act of 1964, laws were set in place to ensure that individuals were not discriminated against based on their national origin, race, color, religion, disability, and sex (cde.ca.gov). Sex discrimination laws included sex, sexual orientation, as well as gender identity. Race laws included equal treatment regardless of national origin, color, and race.

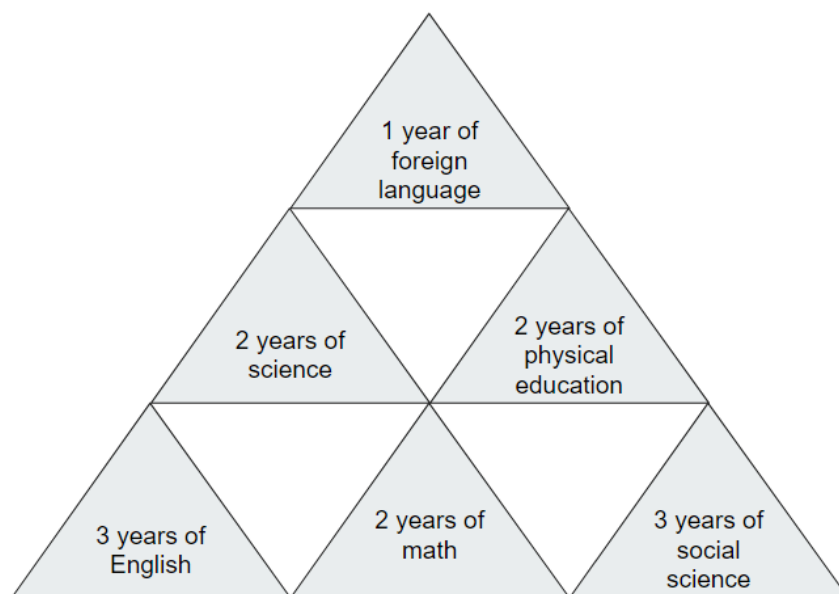
Sex and Racial Discrimination Laws - California

In the state of California, California Code sections 220, 234.1; 42 U.S.C. does not allow discrimination, harassment, intimidation, or bullying of other students based on sex, gender, sexual orientation, gender identity, or their race, color, ancestry, national origin, ethnic group, and so on (cde.ca.gov).

To further safeguard the rights of students in schools, California created additional sex laws. AB 1266 was approved in 2013. AB 1266 allows an individual to participate in sex-segregated school programs, on the basis that it is congruent with their gender identity. This does not include the gender that is on the student's records. This law includes participation in athletic teams, as well as other programs and facilities consistent with the student's gender identity (California School Board Association). Education Code Section 234.1 also implemented anti-discriminatory laws that required educators to intervene if they did see bullying or harassment of any kind in the school setting (law.justia.com). Section 221.5 of the Education Code included anti-discriminatory laws for students enrolling in classes, career counseling, or physical education programs, regardless of sex (cde.ca.gov). If parents find that their child is being discriminated against, they are encouraged to write a complaint and submit it to the school district.

Graduation Requirements

Per the California Education Code, to graduate high school, students must complete course requirements. These course requirements include courses in English, math, social science, physical education, science, and foreign language (cde.ca.gov). The specified amount of years dedicated to each subject is listed in the image below. Parents are encouraged to speak with the school counselor to help track their child's course progress.



Conclusion

Many federal, state, and local laws exist to safeguard the rights of students with disabilities. Parents may speak with their child's administrators, teachers, school psychologists, and others to better understand the resources available for their child. They may also seek out additional resources (such as educational attorneys) should they find a need for it. Parents who suspect that their child has a disability can assist their child by learning about these laws and local resources and advocating for their child accordingly. Below are links that parents may find helpful when seeking out information regarding laws or other resources.

Additional Resources

FERPA and privacy laws:

1. <https://studentprivacy.ed.gov/content/directory-information>
2. <https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>
3. <https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-300/subpart-A/subject-group-ECFR0ec59c730ac278e/section-300.8>

Disability Rights California:

1. <https://serr.disabilityrightsca.org/serr-manual/chapter-2-information-on-evaluations-assessments/2-2-how-long-will-it-take-for-the-district-to-complete-my-childs-assessment/>

2. <https://casponline.org/pdfs/about/CA%20Education%20Code%20Related%20to%20School%20Psychologists%20all%20-%20with%20LW%20edits.pdf>
- 3.

Sex and race discrimination laws:

1. <https://www.cde.ca.gov/re/di/eo/legaladvisory.asp>

Due Process:

1. <https://law.justia.com/constitution/us/amendment-14/05-procedural-due-process-civil.html>

Larry P. and IQ Testing laws:

1. <https://law.justia.com/cases/federal/district-courts/FSupp/495/926/2007878/>
2. <https://serr.disabilityrightsca.org/serr-manual/chapter-2-information-on-evaluations-assessments/2-45-what-is-the-larry-p-v-riles-case-how-did-it-originate/>

English Language Learners (ELL):

1. <https://www.cde.ca.gov/sp/el/er/eldstandards.asp>
2. <https://www.cde.ca.gov/fg/fo/profile.asp?id=5826&recID=5826>

Gifted and Talented (GATE):

1. <https://cagifted.org/>

Counseling:

1. <https://www.schoolcounselor.org/Magazines/March-April-2012/Confidentiality.-Privileged-Communication-and-Your>

Graduation Requirements:

1. <https://www.cde.ca.gov/ci/gs/hs/cefhsgadreq.asp>

Wilson Elementary Resources:

1. Disability Resources: disabilityresources@wusd.org
2. Administrative Assistant: administrativeassistant@wusd.org
3. School Psychologist: schoolpsychologist@wusd.org
4. Superintendent: superintendent@wusd.org
5. School counselor: schoolcounselor@wusd.org
6. Address: 54321 Wilson Street, Wilson CA 90001

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