

Assessment of Individuals for Special Education

Initial Assessment for Special Education Services

A comprehensive and individualized assessment shall be conducted for each child being considered for special education and related services to determine if the child meets eligibility criteria as a child with a disability and to determine the educational needs of the child. The child shall be assessed in all areas of suspected disability.

A referral for assessment means any written request for assessment to identify an individual with exceptional needs made by any of the following:

- A parent/guardian of the individual.
- a teacher or other service provider of the individual.
- A foster parent of the individual, consistent with the limitations contained in federal law.

See also SELPA Policy No. 3021 for additional information related to referrals for assessment.

Within 15 days of a referral for initial assessment, not counting days between the student's regular school session or term or days of school vacation in excess of five school days from the date of receipt of the referral, unless the parent, as defined below,/guardian agrees in writing to an extension, the student's parent/guardian shall receive a notice of parental rights related to identification, referral, assessment, instructional planning, implementation and review, including the special education local plan area's (SELPA) procedures for initiating a referral for assessment to identify individuals with exceptional needs and a written proposed assessment plan.

If the referral is made within 10 days or less prior to the end of the student's regular school year, the proposed assessment plan shall be developed within 10 days after the beginning of the next regular school year, or the student's regular school term.

The proposed assessment plan shall meet all of the following requirements:

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;

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

Parent/Guardian Consent for Assessments

Parent means any of the following:

- (1) a biological or adoptive parent of a child;
- (2) a foster parent if the authority of the biological or adoptive parent to make educational decisions on the child's behalf specifically has been limited by court order in accordance with Section 300.30(b)(1) or (2) of Title 34 of the Code of Federal Regulations;
- (3) a guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child, including a responsible adult appointed for the child in accordance with Sections 361 and 726 of the California Welfare and Institutions Code;
- (4) an individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the child lives, or an individual who is legally responsible for the child's welfare;
- (5) a surrogate parent who has been appointed pursuant to Section 7579.5 or 7579.6 of the California Government Code, in accordance with Section 300.519 of Title 34 of the Code of Federal Regulations and Section 1439(a)(5) of Title 20 of the United States Code.

The biological or adoptive parent, when attempting to act as the parent when more than one party is qualified to act as a parent, shall be presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

If a judicial decree or order identifies a specific person or persons to act as the "parent" of a child or to make educational decisions on behalf of a child, then that person or persons shall be determined to be the "parent."

Parent does not include the state or any political subdivision of government. Parent does not include a nonpublic, nonsectarian school or agency under contract with a local educational agency for the provision of special education or designated instruction and services for a child.

Upon receiving the proposed assessment plan, the parent/guardian shall have at least 15 days to decide whether or not to consent to the initial assessment. The assessment may begin as soon as informed parental consent is received by the District. The District shall not interpret parent/guardian consent for initial

assessment as consent for initial placement or initial provision of special education and related services.

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:

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; and
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 refuses to consent to the assessment, the District may file for a mediation/due process hearing. If the District prevails in a due process hearing, the assessment can be conducted without parent consent. If the District decides not to file for a due process hearing, it does not violate its obligations under the IDEA.

If the student is a ward of the state and is 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:

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

In instances where parents/guardians consent is not needed the LEA will seek consent from the agency/individual to which the educational rights of the child have been appointed by the court.

The District need not obtain parent/guardian consent before reviewing existing data as part of an assessment or administering a test or other evaluations that are administered to all students, unless consent is required from the parents/guardians of all students.

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 assessment for eligibility for special education and related services.

Assessment Process

The assessment shall be conducted by qualified personnel who are competent to perform the assessment as determined by the District, the Tulare County Office of Education, or the SELPA.

In conducting the assessment, 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.

The District's assessment 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.

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:

1. Selected and administered as to not be discriminatory or 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; and
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, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. 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 which the student has been classified.

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

Assessment of African-American Children under Larry P. Decision

The *Larry P. v. Riles* (1979) court case is the basis for precedent that disallows the administration of standardized intelligence quotient (IQ) tests to African-American students. To ensure compliance with the *Larry P.* mandate, the CDE has established compliance review procedures to evaluate how well school districts are meeting this mandate in their African-American student population. The following areas are monitored to ensure compliance with this mandate:

1. Does the plan include a description of alternative means that will be used to assess language impairment or specific learning disabilities when standard tests are considered invalid?
2. Is there evidence that the assessment will be comprehensive? Do tests and other assessment materials meet the following requirements:
 - (A) materials selected and administered that are not racially or culturally discriminatory?
 - (B) assessment procedures ensure that IQ tests are not administered to African-American students?
 - (C) assessments result in a written report which includes the findings of each assessment and contain required information?
 - (D) what extent is the assessment varied from standard conditions?
 - (E) what effects do environmental, cultural, or economic conditions have on the child's performance?

Assessment Report

The personnel who evaluate the student shall prepare a written report, or reports, as appropriate, of the results of each assessment and the parent/guardian shall be

informed as to the results of the assessment. The report shall include, but not be limited to, the following:

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; and
8. The need for specialized services, materials, and equipment for students with low incidence disabilities.

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; lack of appropriate instruction in mathematics; limited school experience; poor school attendance; temporary physical disabilities; social maladjustment; environmental, cultural, or economic disadvantage; or limited English proficiency.

If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions must be included in the assessment report.

Reevaluation

A reassessment 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 reassessment or if the student's parent/guardian or teacher requests reassessment.

Reevaluations shall occur every three years, unless the parent/guardian and District agree, in writing, that a reevaluation is unnecessary.

Each of these reviews shall be conducted within the required timeline with proper parent notification.

A reassessment may not occur more than once a year, unless the parent and the District agree otherwise.

As part of a reassessment, the IEP team and other qualified professionals shall review existing data on the student, including assessments and information provided by parents, current classroom-based assessments and observations, and teacher and related service providers' observations.

On the basis of that review and input from the student's parent(s), the IEP team will identify what additional data is necessary, if any, to determine the following:

- a. whether the student has or continues to have a disability;
- b. present levels of performance and educational needs of the student;
- c. whether the student needs or continues to need special education and related services; and
- d. whether any additions or modifications to the special education special education and related services are needed to enable the child to make progress on his or her goals and to participate in the general curriculum.

The District shall ensure that any reassessments of the student are conducted in accordance with the above-referenced assessment procedures.

Prior to transitioning an individual with exceptional needs from preschool to a kindergarten, or first grade as the case may be, an appropriate assessment shall be conducted to determine if they still need special education and services.

It has been identified as a priority by the California Legislature that gains made in special education programs are not lost by too rapid a removal of individualized programs and supports for preschool aged students. As such, 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.

For children who are determined to no longer qualify for special education as a result of the preschool assessment, the IEP team conducting the exit IEP shall ensure that the child's performance levels and learning style is noted in the child's IEP, and made available to the child's regularly education teacher during the following school year.

Federally-Mandated Functional Behavior Assessments

A functional behavioral assessment (FBA) is an assessment that evaluates a student's behavioral deficits and needs and identifies positive behavioral supports,

interventions and strategies to maximize positive behavior and minimize maladaptive behavior. An FBA may include a review of records, interviews with parents, teachers and service providers, administration of behavior assessment scales, and observation of student behavior and/or environmental conditions.

As with any assessment, the district must provide parents with an assessment plan and obtain written parent approval prior to conducting an FBA.

An FBA must be conducted under the following circumstances:

1. After a manifestation determination finding that the conduct was a manifestation of the student's disability and the student does not already have a behavioral intervention plan (BIP) the district must conduct an FBA and implement a BIP.
2. After a manifestation determination finding that the conduct was not a manifestation of the student's disability, the student may receive, as appropriate, an FBA and behavioral intervention services and modifications.
3. At any time the IEP team believes that an FBA is warranted based on the student's needs. Following the FBA, the IEP team will develop a BIP and/or include one or more behavioral goals in the student's IEP, if appropriate.
4. In the event of an emergency intervention and completion of a behavioral emergency report on a student who does not have a BIP. Within two days of the emergency intervention, the district must schedule an IEP meeting to review the emergency report, determine the necessity for an FBA, and determine the necessity for an interim plan. The IEP team must document the reasons for not conducting the FBA, not developing an interim plan, or both.

References:

EC
EC 56026,
EC 56029
EC 56043,
EC 56136,
EC 56195.8,
EC 56300-56304,
EC 56320-56331,
EC 56333-56338,
EC 56381, , 56441.11,
EC 56445,
EC 56500-56509,
56521.1
Title 5 C.C.R. 3021-3029;
Title 5 C.C.R. 3030-3031
20 USC 1232,
20 USC 1412,
20 USC 1415

Title 34 C.F.R. 104.35;
Title 34 C.F.R. 104.36;
Title 34 C.F.R. 300.1-300.818;
Title 34 C.F.R. 300.301-300.306.

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Title 34 C.F.R. 300.530

SELPA Publications: Procedural Guide for Special Education Referrals
Breaking the Fail First Cycle
Tulare County/District Local Plan for Special Education