

Instruction

IDENTIFICATION OF INDIVIDUALS FOR SPECIAL EDUCATION

A student shall be referred for special educational instruction and services only after the resources of the general education program have been considered and used where appropriate. An SST (Student Study Team) shall be held prior to requesting an assessment for possible Special Education service unless a written parent request has been received.

All referrals for special education and related services from school staff shall include a brief reason for the referral and describe the general education program resources that were considered and/or modified for use with the student, and their effect.

A proposed assessment plan shall be developed within 15 days of referral for assessment, not counting days between the student's regular school session or terms or days of school vacation in excess of five school days from the date of receipt of the referral. Within 15 days of a referral for assessment, the student's parent/guardian shall receive a notice of parental rights and a written proposed assessment plan. The 15-day period does not include days between the student's regular school session or term or days of school vacation in excess of five school days, unless the parent/guardian agrees in writing to an extension.

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

1. Be written in terms generally understood by the general public
2. Be provided in the primary 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 assessment to be conducted
4. State that no individualized education program (IEP) will result from the assessment without parent/guardian consent

Upon receiving the proposed assessment plan, the parent/guardian shall have at least 15 days to decide whether or not to consent to the assessment. The assessment may begin as soon as informed parental consent is given. The District shall not construe parent/guardian consent for initial assessment as consent for initial placement or initial provision of special education services.

Informed parental consent means that the parent/guardian:

1. Has been fully informed of all information relevant to the activity for which consent is sought, in his/her native language or other mode of communication

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2. Understands and agrees in writing to the assessment
3. Understands that the granting of consent is voluntary on the part of the parent/guardian and may be revoked at any time

As part of the assessment plan, the parent/guardian shall receive written notice that:

1. Upon completion of the administration of tests and other assessment materials, an IEP team meeting that includes the parent/guardian or his/her representative shall be scheduled pursuant to Education code 56341. At this meeting, the team shall determine whether or not the student is a student with disabilities as defined in Education code 56026 and shall discuss the assessment, the educational recommendations and the reasons for these recommendations. A copy of the assessment report and the documentation of determination of eligibility shall be given to parent/guardian.
2. If the parent/guardian disagrees with an assessment obtained by the District, the parent/guardian has the right to obtain, at public expense, an independent educational assessment of the student from qualified specialists, in accordance with 34 CFR 300.502.

If the District observed the student in conducting its assessment, or if its assessment procedures make it permissible to have in-class observation of a student, an equivalent opportunity shall apply to the independent educational assessment. This equivalent opportunity shall apply to the student's current placement and setting, regardless of whether the independent educational assessment is initiated before or after the filing of a due process hearing proceeding.

3. The District may initiate a due process hearing pursuant to Education Code 56500-56508 to show that its assessment is appropriate.

If the final decision resulting from the due process hearing is that the assessment is appropriate, the parent/guardian still has the right for an independent educational assessment but not at public expense.

If the parent/guardian obtains an independent educational assessment at private expense, the results of the assessment shall be considered by the District with respect to the provision of free, appropriate public education to the student, and may be presented as evidence at a due process hearing regarding the student. If the District observed the student in conducting its assessment, or if its assessment procedures make it permissible to have in-class observation of a student, an equivalent opportunity shall apply to an independent educational placement and setting, if any, proposed by the District, regardless of whether the independent educational assessment is initiated before or after the filing of a due process hearing.

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4. If a parent/guardian proposes a publicly financed placement of the student in a nonpublic school, the District shall have an opportunity to observe the proposed placement and assess the appropriateness of that placement. If the student has already been unilaterally placed in the nonpublic school by the parent/guardian, the District shall have the opportunity to observe the student in that placement. Any such observation shall only be of the student who is the subject of the observation and may not include the observation or assessment of any other student in the proposed placement unless that student's parent/guardian consents to the observation or assessment. The results of any observation or assessment of another student in violation of Education code 56329(d) shall be inadmissible in any due process or judicial proceeding regarding the free appropriate public education of that other student.

An IEP required as a result of an assessment shall be developed within a total time not to exceed 50 days, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five school days, from the date of the receipt of the parent/guardian's consent for assessment, unless the parent/guardian agrees in writing to an extension. (Education Code 56043)

Before entering kindergarten or first grade, children with disabilities who are in a preschool program shall be reassessed as necessary to determine appropriate placement.

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 to ensure that gains made are not lost by a removal of individualized programs and supports for these individuals. (Education Code 56445)