

CLASSIFICATION: Instruction**ADOPTED:** 7/23/96**REVISED:** 7/13/16**REVIEWED:** 6/21/16**SUBJECT: Identification and Evaluation of
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This administrative regulation establishes procedures for the identification, screening, referral, and regular and triennial assessment of students enrolled in school programs under the jurisdiction of the County Superintendent of Schools who are eligible for special education. In addition, this administrative regulation presents procedures for the planning, implementation, and review of the education and related services provided to such students.

The County Superintendent of Schools assigns responsibility for ensuring compliance with this administrative regulation and applicable state and federal law to the special education administrator, or his/her designee, directing the special education services provided in school programs operated by the County Superintendent of Schools (special education administrator or designee).

Referrals for Special Education Services

A student shall be referred for special education instruction and services only after the resources of the regular education program have been considered and used where appropriate.

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

Initial Evaluation for Special Education Services

Before the initial provision of special education and related services to a student with a disability, personnel assigned by the special education administrator or designee shall conduct a full and individual initial evaluation of the student.

A proposed evaluation plan shall be developed within 15 calendar days of the date of receipt of a referral of a student for special education and related services, unless the parent/guardian agrees, in writing, to an extension. Calendar days between the student's regular school sessions or terms or days of school vacation in excess of five school days shall not be counted in determining the 15-day time period. If the referral is

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made within 10 calendar days of the end of the student's regular school year or term, the proposed evaluation plan shall be developed within 10 calendar days of the beginning of the next regular school year or term.

The proposed evaluation 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 evaluation to be conducted
4. State that no individualized education program (IEP) will result from the evaluation without parent/guardian consent

Before conducting an initial evaluation, personnel assigned by the special education administrator or designee shall provide the parent/guardian with prior written notice in accordance with Title 34, Code of Federal Regulations (34 CFR) 300.503. In addition, as part of the evaluation plan, the parent/guardian shall receive written notice that includes all of the following information:

1. Upon completion of the administration of tests and other evaluation materials, an IEP team meeting that includes the parent/guardian or his/her representative shall be scheduled pursuant to Education Code section 56341. At this meeting, the team shall determine whether or not the student is a student with disabilities, as defined in Education Code section 56026, and shall discuss the evaluation, the educational recommendations, and the reasons for the recommendations.
2. When making a determination of eligibility for special education, the special education administrator or designee shall not determine that the student is disabled if the primary factor for such determination is lack of appropriate instruction in reading, including the essential components of reading instruction as

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defined in Title 20, United States Code (20 USC) 6368, lack of appropriate instruction in mathematics, or limited English proficiency.

3. A copy of the evaluation report and the documentation of the determination of eligibility shall be given to the parent/guardian.
4. If the parent/guardian disagrees with an evaluation obtained by personnel assigned by the special education administrator or designee, he/she has the right to obtain, at public expense, an independent educational evaluation (IEE) of the student from qualified specialists, in accordance with 34 CFR 300.502. The parent/guardian is entitled to only one such evaluation at public expense each time personnel assigned by the special education administrator or designee conducts an assessment with which the parent/guardian disagrees.

If personnel assigned by the special education administrator or designee observed the student in conducting the evaluation, or if the evaluation procedures make it permissible to have in-class observation of the student, an equivalent opportunity shall apply to the IEE. This equivalent opportunity shall apply to the student's current placement and setting as well as observation of the proposed placement and setting, if any, regardless of whether the IEE is initiated before or after the filing of a due process hearing proceeding.

5. Personnel assigned by the special education administrator or designee may initiate a due process hearing pursuant to Education Code section 56500-56508 to show that the evaluation is appropriate. If the final decision resulting from the due process hearing is that the evaluation is appropriate, the parent/guardian maintains the right for an IEE, but not at public expense.

If the parent/guardian obtains an IEE at private expense, the results of the IEE shall be considered by personnel assigned by the special education administrator or designee with respect to the provision of a free appropriate public education (FAPE) to the student, and may be presented as evidence at a due process hearing regarding the student. If personnel assigned by the special education administrator or designee observed the student in conducting the evaluation, or if

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the evaluation procedures make it permissible to have in-class observation of a student, an equivalent opportunity shall apply to an IEE of the student in the student's current educational placement and setting and in any educational placement and setting proposed by the personnel assigned by the special education administrator or designee, regardless of whether the IEE is initiated before or after the filing of a due process hearing.

6. If the parent/guardian proposes a publicly financed placement of the student in a nonpublic school, personnel assigned by the special education administrator or designee shall have an opportunity to observe the proposed placement and, if the student has already been unilaterally placed in the nonpublic school by his/her parent/guardian, the student in that proposed placement. Any such observation shall be of only the student who is the subject of the observation and shall not include the observation or evaluation of any other student in the proposed placement unless that other student's parent/guardian consents to the observation or evaluation. The results of any observation or evaluation of another student in violation of Education Code section 56329(d) shall be inadmissible in any due process or judicial proceeding regarding FAPE of that other student.

Parent/Guardian Consent for Evaluations

Upon receiving the proposed evaluation plan, the parent/guardian shall have at least 15 calendar days to decide whether or not to consent to the initial evaluation. Personnel assigned by the special education administrator or designee shall not interpret parent/guardian consent for initial evaluation 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, in his/her native language or other mode of communication, of all information relevant to the activity for which consent is sought

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2. Understands and agrees, in writing, to the carrying out of the activity for which his/her consent is sought and the consent describes that activity and lists the records, if any, that will be released and to whom
3. Understands that the granting of consent is voluntary on his/her part and may be revoked at any time
4. Understands that if he/she revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked)

Personnel assigned by the special education administrator or designee shall make reasonable efforts to obtain the informed consent of the parent/guardian for an initial evaluation or reevaluation of a student and shall maintain a record of the 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
3. Detailed records of visits made to the parent's/guardian's home or place of employment and the results of those visits

If a parent/guardian refuses to consent to the initial evaluation or fails to respond to a request to provide consent, personnel assigned by the special education administrator or designee may, but is not required to, pursue an evaluation by utilizing the procedural safeguards, including the mediation and due process procedures pursuant to 20 USC 1415 and 34 CFR 300.506-300.516.

For a student who is a ward of the state and not residing with his/her parent/guardian, personnel assigned by the special education administrator or designee may conduct an initial evaluation without obtaining informed consent if any of the following situations exists:

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1. Despite reasonable efforts to do so, personnel assigned by the special education administrator or designee cannot discover the whereabouts of the parent/guardian of the student.
2. The rights of the parent/guardian of the student have been terminated in accordance with California law.
3. The rights of the parent/guardian to make educational decisions have been subrogated by a judge in accordance with California law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student.

Personnel assigned by the special education administrator or designee need not obtain parent/guardian consent before reviewing existing data as part of an evaluation or administering a test or other evaluation that is administered to all students, unless consent is required from the parents/guardians of all students.

Conduct of the Evaluation

Personnel assigned by the special education administrator or designee shall complete the determination as to whether the student is a student with a disability, conduct the initial evaluation to determine his/her educational needs, and develop an IEP within 60 calendar days of receiving informed parent/guardian consent for the evaluation.

The evaluation shall be conducted by qualified personnel who are competent to perform the assessment as determined by the special education administrator or designee.

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 evaluation for eligibility for special education and related services.

In conducting the evaluation, personnel assigned by the special education administrator or designee shall use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student. Personnel

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assigned by the special education administrator or designee shall also use any information provided by the parent/guardian that may assist 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 evaluation conducted by personnel assigned by the special education administrator or designee 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.

Personnel assigned by the special education administrator or designee shall also ensure that assessments and other evaluation materials provide relevant information that assists in determining the student's educational needs and are:

1. Selected and administered so as not to be discriminatory on a racial, cultural, or sexual basis
2. Provided and administered in the language and 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

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6. Tailored to assess specific areas of educational need and not merely designed to provide a single general intelligence quotient
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 and development, vision (including low vision), hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. When appropriate, a developmental history shall be obtained. Personnel assigned by the special education administrator or designee 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.

As part of the initial evaluation and any reevaluation, the IEP team and other qualified professionals shall, if appropriate, review existing evaluation data on the student, including evaluations and information provided by the parent/guardian, current classroom-based local or state assessments and classroom-based observations, and observations by teachers and related services providers. On the basis of that review and input from the student's parent/guardian, the team shall identify what additional data, if any, are needed to determine:

1. Whether the student is a student with a disability, or in the case of a reevaluation, whether the student continues to have a disability, and the educational needs of the student
2. The present levels of academic achievement and related developmental needs of the student

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3. Whether the student needs, or continues to need, special education and related services
4. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in his/her IEP and to participate, as appropriate, in the general education curriculum

If, in the same school year, a student enrolled in a school district special education program enrolls in, or disenrolls from, a special education school program under the jurisdiction of the County Superintendent of Schools, personnel assigned by the special education administrator or designee 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.

Eligibility Determination

Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent/guardian shall determine whether the student is a student with a disability and, if so, his/her educational needs. When interpreting the data, the group shall draw information from a variety of sources, including aptitude and achievement tests, parent/guardian input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior. The group shall ensure that the information obtained from these sources is documented and carefully considered.

The personnel who evaluate the student shall prepare a written report of the results of each evaluation. 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

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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
8. The need for specialized services, materials, and equipment for students with low incidence disabilities, consistent with Education Code section 56136

When making a determination of eligibility for special education and related services, personnel assigned by the special education administrator or designee shall not determine that a student is disabled if the primary factor for such determination is a lack of appropriate instruction in reading, including the essential components of reading instruction pursuant to 20 USC 6368, lack of instruction in mathematics, limited English proficiency, or that the student does not otherwise meet the eligibility criteria.

If a determination is made that a student has a disability and needs special education and related services, an IEP shall be developed within a total time not to exceed 60 calendar days, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days, from the date of receipt of the parent's/guardian's consent for evaluation, unless the parent/guardian agrees, in writing, to an extension. (See Administrative Regulation 6159, Individual Education Program)

CLASSIFICATION: Instruction**ADOPTED:** 7/23/96**REVISED:** 7/13/16**REVIEWED:** 6/21/16**SUBJECT:** Identification and Evaluation of
Individuals for Special Education**PAGE:** 11 of 13Independent Educational Evaluation (IEE)

The parent/guardian of a student with a disability has the right to obtain an IEE at public expense under the same criteria that was used by personnel assigned by the special education administrator or designee to conduct the evaluation.

An independent educational evaluation is an evaluation conducted by a qualified examiner who is not employed by the County Superintendent of Schools. Public expense means the office of the County Superintendent of Schools either pays for the full cost of the IEE or ensures that the evaluation is otherwise provided at no cost to the parent/guardian.

The parent/guardian is entitled to only one IEE at public expense each time personnel assigned by the special education administrator or designee conducts an evaluation with which the parent/guardian disagrees.

If a parent/guardian has requested an IEE, personnel assigned by the special education administrator or designee may ask for the reason that he/she objects to the evaluation. However, the parent/guardian is not required to provide the reason.

Upon receiving the request for an IEE, personnel assigned by the special education administrator or designee shall, without unnecessary delay, either:

1. File a due process complaint to request a hearing to show that the evaluation conducted by personnel assigned by the special education administrator or designee is appropriate
2. Ensure that an IEE is provided at public expense, unless personnel assigned by the special education administrator or designee can later demonstrate at a hearing that the evaluation obtained by the parent/guardian did not satisfy their criteria

If a due process hearing decision determines that the evaluation conducted by personnel assigned by the special education administrator or designee is appropriate, the parent/guardian may obtain an IEE but not at public expense.

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In any decision made with respect to providing FAPE to a student with a disability, the result of any IEE obtained by the student's parent/guardian shall be considered by personnel assigned by the special education administrator or designee if it meets their criteria. Any such result also may be presented as evidence at a hearing on a due process complaint.

Reevaluation

A reevaluation shall be conducted when personnel assigned by the special education administrator or designee determines that the educational or related service needs of the student, including improved academic achievement and functional performance, warrant a reevaluation or if the student's parent/guardian or teacher requests reevaluation. Such reevaluations shall occur every three years, unless the parent/guardian and personnel assigned by the special education administrator or designee agree in writing that a reevaluation is unnecessary. A reevaluation may not occur more than once a year, unless the parent/guardian and personnel assigned by the special education administrator or designee agree otherwise.

Personnel assigned by the special education administrator or designee shall ensure that any reevaluations of the student are conducted in accordance with the evaluation procedures pursuant to 34 CFR 300.304-300.311.

Before entering kindergarten or first grade, children with disabilities who are in a preschool program shall be reevaluated to determine whether they still need special education and services. 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 rapid removal of individualized programs and supports for these children.

SAN DIEGO COUNTY OFFICE OF EDUCATION

**ADMINISTRATIVE
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Legal Reference: Education Code

56000, 56001, 56020 – 56035, 56195.7, 56195.8, 56300 – 56385, 56440 – 56447.1,
56500 – 56509, 56600 – 56606

California Code of Regulations, Title 5

3000 – 3100, 4600 – 4671

United States Code, Title 20

1232g Family Educational Rights and Privacy Act of 1974

1400 et seq. Individuals with Disabilities Education Act

United States Code, Title 29

794 Section 504 of the Rehabilitation Act of 1973

United States Code, Title 42

11434

Code of Federal Regulations, Title 34

99.10 – 99.22, 104.36, 300.1 – 300.818, 300.500 – 300.520

Management Resources:

California Department of Education: www.cde.ca.gov

U.S. Department of Education, Office of Special Education and Rehabilitative
Services: www.ed.gov/about/offices/list/osers/osep