

SECTION E

From Assessment to IEP Meeting



(SPECIAL EDUCATION LOCAL PLAN AREA)

Introduction

As previously stated, after general education interventions have been exhausted and a student is still not progressing, referral for assessment to determine special education eligibility may be made. This process is defined by state law. Each step in the process has established timelines and requires parent permission.

Notice of Referral

When a student is being considered for special education eligibility, the parent/legal guardian is notified of the referral. This referral usually occurs through the Student Study Team (SST). The parental rights, assessment plan, and procedures are reviewed with the parent at the time of the referral.

Notification of Parent/Legal Guardian/Individual Education Rights

The *Parental Rights and Procedural Safeguards* shall be given:

1. At least once per year
2. At the initial referral
3. Upon development of Assessment Plan
4. When parent/legal guardian files a complaint
5. When parent/legal guardian files for pre-hearing mediation or request for due process
6. Upon parent/legal guardian request
7. Upon parent/legal guardian request for evaluation

Parents/legal guardians may opt not to receive additional copies of the parental rights. Be sure to indicate this on the *IEP* when this is the case during one of the above required times.

Defining a Parent

The Education Code (56028) defines the parent as (SELPA guidance has been added in italics):

1. A person having legal custody of a child. *Legal custody if in question requires documentation in the form of court documents.*
2. Any adult student for whom no guardian or conservator has been appointed. *Students are considered adults at the time of their 18th birthday.*
3. A person acting in the place of a natural or adoptive parent, including a grandparent, stepparent, or other relative with whom the child lives. *Generally it is good practice when possible to have the natural parent verify the role in writing.*
4. A foster parent, if the authority of a parent to make educational decisions on the student's behalf has been limited by court order. *Court documents are required for verification of such action by the court.*

Section E From Assessment to IEP Meeting

5. A CASA who has been appointed by the court to represent the interests of the child (*Welfare & Institutions Code 361*).
6. A trained surrogate parent appointed by the SELPA (EC 7579.5 and Welfare & Institutions Code 361).

Parent does not include:

1. State or any political subdivision of government (EC 56028). *This means that probation officers or social workers cannot act as the parent.*
2. Anyone who would have a conflict of interest in representing the student (EC 7579.5). *This would include attorneys who receive fees for representing the student and group home/NPS/NPA employees where the child resides or receives services.*

Rights of Parents Who are Divorced

If one parent requests that the district not communicate with the other, it is important to make it clear that the district cannot comply with the request unless there is a valid court order in place prohibiting such contact, and a copy of the order is supplied to the district.

The district is within its rights to require someone who claims to be the child's other parent to verify his or her identity and to notify the custodial parent of the contact.

If you have questions or concerns, contact your special education director or designee.

Screening vs. Assessment

There is a clear difference between educational screening and assessment. Screening of a student by a teacher or specialist to determine appropriate instruction strategies for curriculum implementation is not considered assessment (EC 56321 g). Therefore parental permission is not required for these instructionally related activities.

If a specialist is screening informally to determine whether assessment is recommended and the student is singled out or removed from the classroom the parent should be notified. Generally the results of the screening are shared with the parent either by the specialist or by the classroom teacher.

Assessment on the other hand consists of observation, testing, and/or evaluation of a student on an individual basis for the purpose of determining eligibility as a student with a disability or for the development or revision of an IEP (EC 56321). Such activities require parent permission on signed *Notification and Plan for Assessment* forms.

Note: In many cases an IEP may be modified based on a classroom evaluation of student progress and present levels of performance which does not require a *Notification and Plan for Assessment*.

Assessment Guidelines

The California Education Code specifies the assessment process for an initial referral and triennial assessment for special education program services. This includes the following:

1. Assessments are conducted by a multidisciplinary team, which includes at least one teacher or specialist knowledgeable in the area of suspected disability and relevant information provided by the parent/legal guardian. Relevant information must include details related to enabling the child to be involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities).
2. Standardized tests must be validated for the specific purpose for which they are used.
3. Assessment personnel are competent and appropriately trained to administer and interpret test results and, when necessary, are knowledgeable and understanding of cultural and ethnic backgrounds and competent in both the oral and written skills of English learners. When appropriate, an interpreter must be used and the assessment report must document this use.
4. For students with suspected learning disabilities, a general education teacher participates in the assessment, and a member of the IEP team observes the student's academic performance in the general classroom setting.
5. Individuals are assessed in all areas related to the suspected disability, including vision, hearing, and when appropriate, health and development, social and emotional status, general cognitive ability, academic performance, self-help, communication, fine and gross motor abilities, and vocational skills/interest.
6. Individuals must be assessed in their dominant language or mode of communication whenever possible. A test administered to a student with impaired sensory/manual/speaking skills should produce results that accurately reflect student skills.
7. Nondiscriminatory assessment materials and procedures are selected and administered to reflect academic, functional, and developmental levels of student.
8. The assessment process ensures that no single procedure is the sole criterion for determining the appropriate educational program.
9. Intelligence tests are not administered to African-American students.
10. An individual with a perceived low incidence disability is assessed in his/her mode of communication consistent with state guidelines.
11. Assessment results are documented, contain all required information, and include a statement regarding the validity of the assessment.
12. Each individual is re-evaluated at least every three years from the date of the signing of the initial IEP to determine eligibility. If a complete assessment and IEP are held sooner than the scheduled triennial, a new three-year timeline is initiated.
13. Individually administered tests of intellectual or emotional functioning shall be administered by a credentialed school psychologist.

Notification and Plan for Assessment

Initial Assessment

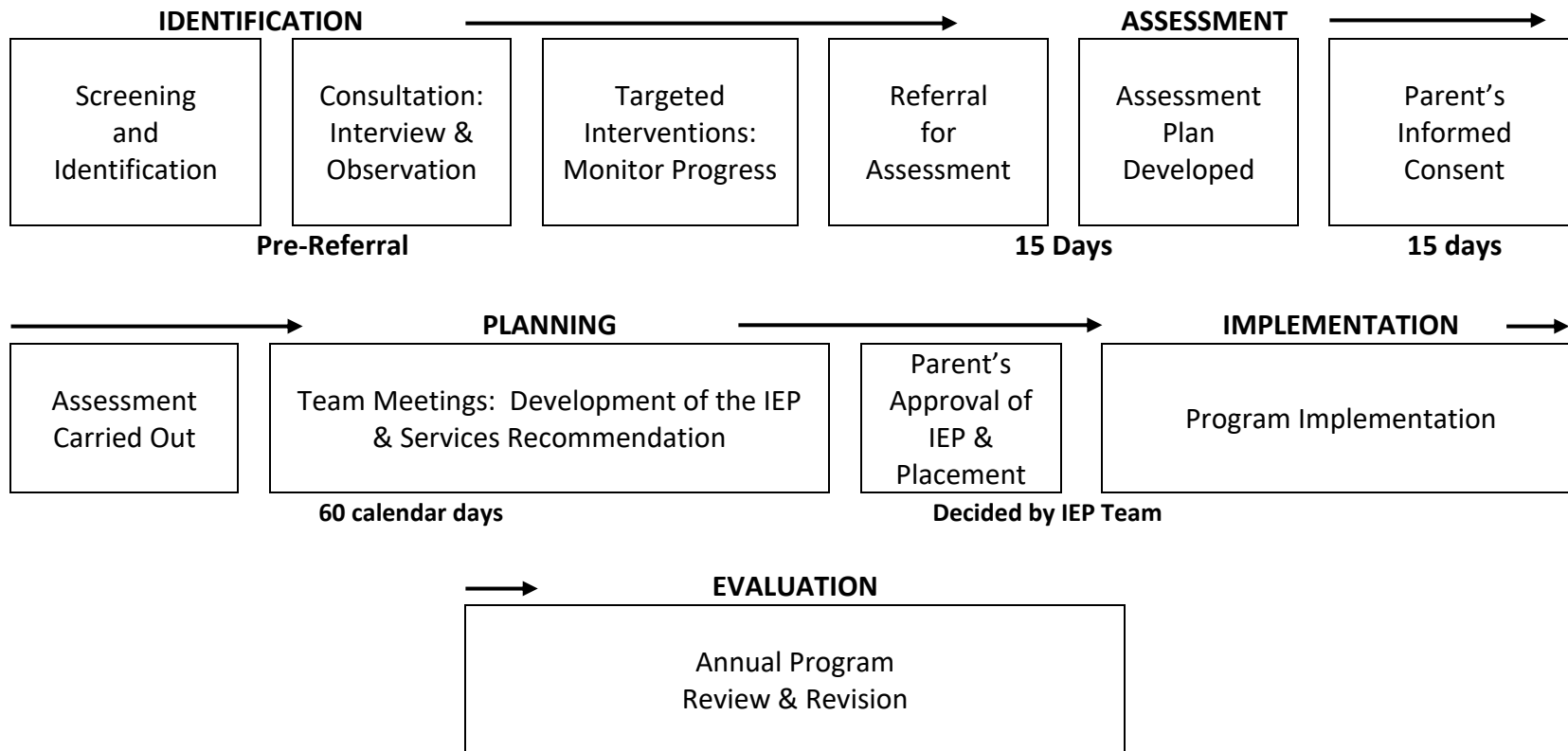
The initial *Notification and Plan for Assessment* is developed by a team, which includes the parent/legal guardian. The plan must be completed within 15 calendar days of the referral and is usually based on SST findings, prior interventions, progress monitoring and recommendations.

As part of the team, parents/legal guardians can address their areas of concern and share any other information available. The parent/legal guardian indicates agreement or disagreement by signing and dating the *Notification and Plan for Assessment* and returning it to the LEA. The parent/legal guardian has 15 calendar days in which to review the form before signing. No assessment may occur without parental permission.

Upon receipt by the LEA of the signed *Notification and Plan for Assessment* form, an IEP meeting to determine eligibility must be held within 60 calendar days.

If the parent/legal guardian does not agree to the assessment plan, a meeting to discuss their concerns should be held with all appropriate staff. Consultation with the site principal, school psychologist, and special education administrator may be needed. Any LEA requests to assess the student shall be documented.

Individualized Education Program (IEP) Process or Timeline



Ongoing Assessment

A *Notification and Plan for Assessment* shall be developed anytime an **individual standardized assessment** is being conducted. The case manager or school psychologist completes the Assessment Plan indicating the personnel positions responsible for conducting the assessment in each area of suspected disability. A description of any alternative assessment, including observation, must be included on the *Notification and Plan for Assessment*.

Assessment timelines may be extended for school recesses in excess of five school days, including summer, with parent written permission. If the consent for assessment is received within the final 20 calendar days of the school year and the **parent waives the 60 day timeline**, an IEP must be developed within the first 30 calendar days following the opening day of school in the subsequent school term.

Assessing Language Minority Students for Disabilities

Student Study Team (SST)

When it has been determined through the SST (see *Section D*, page 1) process that an assessment for special education is appropriate, the procedures for obtaining parental permission to assess are completed.

Assessment

Assessment personnel must use the information regarding the student's dominant language or mode of communication in planning the assessment. It must be determined how each language will be used in the assessment:

1. If the student is native language dominant or mode of communication dominant, assess in the native language or mode of communication whenever possible, but consider English language skills.
2. If the student is English dominant, assess in English, but consider native language skills or mode of communication.
3. If the student has no clear dominance, assess in both languages or in the dominant language of the parents whenever possible.

The assessment battery to meet eligibility criteria, using both formal and informal procedures, shall be selected. If a bilingual examiner is not available, the use of an interpreter is acceptable and shall be documented in the assessment report. All teaching staff shall be trained in linguistic, cultural, and other variables that influence student performance.

It is important to document within the assessment report:

Section E From Assessment to IEP Meeting

1. All adaptations of assessment and a statement concerning that the validity of the scores must be determined when adaptations are implemented
2. A determination of the effects of environmental, cultural, and/or economic disadvantage, where appropriate
3. Information related to enabling the student to be involved in and progress in the general curriculum

IEP Meeting

Eligibility is based on a determination that the student has a legally defined disability and requires special education services to meet his/her educational needs. Assurances must be provided that the student's needs are not primarily due to factors of lack of appropriate instruction, environment, cultural differences, or economic disadvantage.

The IEP team consists of the required members, and if needed, an interpreter. The IEP meeting, **when requested by the parent**, must be translated in the native language. The "Present Levels of Performance" section documents the student's performance in both English and the native language and includes results of required EL statewide assessments (K-12). Annual goals, objectives (if required) must be linguistically appropriate based on the student's skills. The IEP also indicates who will provide ELD services for the student. The language or mode of communication in which the goals and objectives (if required) will be accomplished should be indicated.

Triennial Assessment Guidelines

Triennials/Three-Year Reviews

Federal and state laws require that all students in special education be reevaluated at least once every three years unless the parent and the LEA agree in writing that reassessment is unnecessary. The triennial meeting includes documentation and consideration of the following:

1. Continued special education eligibility
2. Present levels of performance and education needs of the child
3. Whether any additions or modifications to the special education are needed
4. Related services needed to enable the child to meet the measurable goals set out in the IEP
5. Participation, as appropriate, in the general curriculum

Three-Year Reevaluation Process

The school psychologist has the responsibility for monitoring the triennial evaluation timelines.

At least sixty days (60) days prior to the triennial due date, the school psychologist communicates with mandated IEP team members to determine:

1. The need for review of a student (existing information is sufficient to document the child's disability and continued need for special education services, and the team does not require additional information on the area or areas of disability)

Section E From Assessment to IEP Meeting

-or-

2. The need for a more comprehensive reevaluation

If the IEP team members decide a **review** will provide relevant information, they will:

1. Begin a review of records, curriculum-based assessment and observations, and teacher and related service provider observations

-concurrently-

2. Send the parents a letter that includes:
 - a. A request for a health history update of their child, input on their child's progress, and any questions or concerns they may have
 - b. A notification that school staff believes existing information is sufficient to document the child's disability and continued need for special education services
 - c. An explanation of the parent's rights to request an additional assessment
 - d. A copy of the *Parental Rights and Procedural Safeguards for Special Education*

Parental/legal guardian consent **is not** required before reviewing existing data, including teacher and related service provider observations and ongoing classroom evaluation.

Parents/legal guardians respond with the requested information and an agreement for review, **or** a request for additional assessments.

If additional assessment is requested:

1. Parent/legal guardian participate in developing an assessment plan for the student
2. Assessment is completed in compliance with the assessment plan and legal timelines
3. IEP team members and parents are given reasonable notification for a triennial review meeting to discuss the results of the assessment

Annual and Triennial Reviews for Students Served by Regional Program Providers

For students who are being provided special education from a Regional Program Provider, the LEA representatives will be notified of all IEPs for students who reside in their LEA. (The Regional Program Provider will inform the LEA's representative about any possible problems or changes to placement and services.) The LEA's representative shall attend the IEP if there are any concerns about the student's services or if a change of placement into the LEA is being considered, unless otherwise mutually agreed to by the Regional Program Provider and the Regional Program Consumer.

The Regional Program Provider's school psychologists are responsible for arranging for all Regional Program Provider multidisciplinary assessments for triennial reevaluations. The LEA representative will be notified of the triennial reevaluation meeting. A copy of the triennial reevaluation report will be maintained by the Regional Program Provider in the student file.

Section E From Assessment to IEP Meeting

Related Services and Triennial Reviews (Autism Services, Vision, APE, OT, OM, OI)

The LEA is responsible for scheduling annual and triennial reviews of LEA students receiving the contracted DIS services. The Regional Program Provider's personnel are responsible for completing the assessments, writing reports, and participating in the meeting. A copy of the *Notification and Plan for Assessment* and the *Notice of Meeting* for IEPs should be sent directly to the Related Services' provider(s).

Prior Written Notice

Prior Written Notice Requirement:

Prior Written Notice is required when a local educational agency (LEA) either (1) proposes to initiate or change the identification, evaluation, or educational placement of a student of the provision of a free, appropriate public education (FAPE) to the student; or (2) refuses to initiate or change the identification, evaluation, or educational placement of a student of the provision of a free, appropriate public education (FAPE) to the student. Examples of situations in which Prior Written Notice should be given include: proposals/refusals to assess (initials, triennials, etc.), proposals/refusals to change placement and/or services, proposals/refusals to add, delete or change eligibility category(ies), and proposals to exit a student from special education or to award a diploma.

Timing of Notice:

Prior Written Notice should be provided when an LEA proposes a covered action. The notice is the proposal itself.

Prior Written Notice should be provided when agreeing to or refusing a response to a parent request for a covered action.

Prior Written Notice must be given within a reasonable time of the proposed or refused action.

Contents of Notice:

The contents of a Prior Written Notice must include:

1. A description of the action proposed or refused by the LEA;
2. An explanation of why the LEA proposes or refuses to take the action;
3. A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
4. A statement that the parents of a child with a disability have protection under the procedural safeguard of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
5. Sources for parents to contact to obtain assistance in understanding these provisions;
6. A description of other options that the IEP Team (or, LEA) considered and the

Section E From Assessment to IEP Meeting

reasons why those options were rejected;

7. A description of other factors that are relevant to the LEA's proposal or refusal
The Prior Written Notice must be provided in language understandable to the general public, and in the native language or other mode of communication used by the parent, unless it is clearly not feasible to do so.

Relationship to IEP Document:

An IEP document itself may fulfill the requirements of a Prior Written Notice so long as all elements of the contents of a Prior Written Notice are included within the IEP document itself, including the IEP notes.

As a matter of practice, an LEA may send a Prior Written Notice following an IEP even if all required elements of a Prior Written Notice are included within the IEP. For example, the subsequent Prior Written Notice may clarify and/or reiterate the components of the Prior Written Notice contained within the IEP document itself.

Legal Reference:

20 USC §1415(c)

34 CFR 300.503

Education Code §56500.4. 56500.5

Revised and approved by Governing Council on March 10, 2017

Revised June 21, 2018