

CHAPTER 6. THE SPECIAL EDUCATION PROCESS: DETERMINING ELIGIBILITY

The special education process determines whether or not your child is eligible for special education service, and if so, what special education service(s) are appropriate for your child. There are six basic steps in the special education process:

1. Provision of supports, interventions, and modifications to the child's general education program
2. Referral for assessment (if these interventions are ineffective)
3. Assessment and determination of eligibility for special education services
4. Development and implementation of an Individualized Education Program (IEP)
5. IEP review at least annually
6. Reassessment every three (3) years thereafter



Who is responsible for identifying children who may have disabilities?

Each public school district, special education local plan area, or county office is required by law to identify all individuals who have disabilities as specified in the IDEIA. These individuals are of ages birth-21 years who reside in the district or are under the jurisdiction of the special education local plan area (SELPA). They also include students enrolled in private school. The school districts in the Solano County SELPA conduct ongoing search and serve efforts to identify these students.

School staff has a responsibility to identify children and youth who have exceptional needs and refer them for assessment. This means that teachers may be asking parents and others to join them in the identification process. Parents are encouraged to make referrals to the local school for assessment of their child's possible needs if they are concerned that their child may have a disability.

How are children who may have disabilities identified?

Although the legal responsibility for identifying children who may benefit from special education services belongs to the school district, parents may also refer their children for consideration for special education services. Before making a referral, however, parents who are concerned about their child's educational performance should contact their child's teachers or the school principal.

When a child may have special needs, he/she may be referred for an assessment to determine whether or not he/she is eligible for special education services. Parents, teachers, the principal, a doctor, a community agency, the school's Student Study Team (SST), any concerned individual, or the child may make a referral.

If a child continues to have difficulty after general education modifications, supports and supplementary services have been implemented; the referring person prepares a special

education referral form and gives it to one of the special education staff at their school. The following information is provided to the parents:

- Notification of the referral,
- Information in writing of parent rights and due process procedures, and
- An assessment plan that parents are asked to sign giving permission to the school to assess the child. (An assessment plan must be developed and presented to the parents within 15 days of the referral.)

Parent referrals should be made in writing. SELPA form "Parent and/or Agency Referral for Special Education services," may be used or the parent may refer by writing a letter such as the following to the principal and/or school psychologist.

Referral for Special Education Sample Letter

Date

Name, Director of Special Education
Local Unified School District
Address
City State, Zip Code

Dear Name:

I am the parent of (child's name) who is currently enrolled at the _____
School in the _____ grade. My child has not been doing well in school, and I am
concerned about his/her educational progress.

I am writing to make a referral for assessment for special education services for (child's
name). He/She may be eligible for special education assistance. I am requesting that
(child's name) be given a comprehensive assessment by the school district and that an IEP
meeting be scheduled for him/her.

I look forward to receiving an assessment plan within 15 days. If you have any questions,
please feel free to contact me. Thank you for your cooperation and assistance.

Sincerely,

Your Name
Address
City, State, Zip Code
Telephone Number(s)

Children should be referred to special education only after all other school resources have been considered and appropriately used in a general education program. Referrals of infants (birth through 2 years) are made by calling North Bay Regional Center Warmline at 800-646-3268. Parents, daycare providers, agencies, and public and private preschools who wish to refer preschool students (ages 3-5) should contact the district director of special education who then notifies the appropriate staff to proceed with the assessment. For children attending other than a public school or for children not of school age, parents should contact the public school the child would normally attend if enrolled in a public school to begin the referral process.

Note: A referral to special education does not mean that a child will automatically receive special education services. A referral does mean that a child shall be considered for assessment.

Who tests my child and what do they assess?

When a request for assessment is received from the SST/CST or the parents, the student is considered for assessment by appropriate staff. If the assessment is appropriate, the child will be tested in all areas of suspected disability, by a multidisciplinary team.

No assessment for special education can be conducted without prior written consent of the parent. This requirement does not apply to the generalized screening and routine testing given to all students in school, but it does apply to any activity that will lead to in-depth testing or placement in special education. Within 15 days of the receipt of the referral, the school district will develop an assessment plan.

After a child is referred by school staff, a representative of the district (often the school psychologist or resource specialist) will contact the parent(s) or guardian and will:

- Review the reason(s) for the proposed assessment.
- Describe the materials and procedures that will be used to obtain more information about the child.
- Explain the rights of the parent(s) related to assessment.
- Determine the student's primary language and language proficiency status.
- Describe alternate assessment means as appropriate.
- Ask the parent(s) to provide written permission for an evaluation to be conducted.
- Obtain written consent for the release of any confidential information.

Your consent is essential for the district to determine whether special education is an option for your child. Without your consent, the district has no authority to proceed. When parents sign the assessment plan, they give the school district the authority to proceed with assessments and testing specified in the plan.

The parents or legal guardian may take as much time as they feel necessary to sign and return the assessment plan. If the parents or their representatives cannot be contacted, a log of the efforts to contact is maintained which may include telephone calls, home visits, and copies of communications sent by registered mail.

If you have any questions about the assessment plan for your child, do not hesitate to contact the appropriate staff member for further explanation. If you have assessment information from another specialist (e.g., doctor, therapist, etc.), this information should be shared with the IEP/IFSP team.

A multidisciplinary team, including at least one teacher or specialist knowledgeable in the area of the suspected disability is designated by the IEP team chairperson to conduct the assessment. The assessment team maintains a complete written record of all procedures, conclusions, and suggestions as to the student's future programming. Parent participation in the development of the assessment plan is encouraged to provide an optimum view of the student's unique needs.

Available information from recent assessments, including available independent assessments, and information provided by the parent are considered along with the school's assessments when determining the child's eligibility, programs, and/or services.



When will the assessment be performed and completed?

The school has sixty (60) days, not counting school vacations greater than five (5) days, from the receipt of your signed assessment plan to complete the assessment and hold an Individualized Education Program (IEP) meeting.

If you do not consent to the assessment plan, the school may take steps to protect your child if it believes that he or she is being denied appropriate special education services. The school may request to meet with you informally or initiate a due process hearing to override your refusal to consent. If the school determines an assessment is not necessary, the parent has the right to initiate a due process hearing if they believe an assessment is appropriate.

What kind of assessment procedures are used to determine a child's eligibility for special education?

An assessment involves gathering information about your child to determine whether your child has a disability, if he or she is eligible, and the nature and extent of special education services that your child may need.

Assessment procedures might include observation of the child in classroom and real-life settings, standardized tests, review of school records, interviews, conferences, and a review of steps already taken to help the child. The specific procedures used will depend on the child's suspected disability. No single assessment procedure is to serve as the sole means of determining eligibility for special education. Parents have the right to participate in the development of an assessment plan and are encouraged to do so.

- Your child will be assessed in all areas related to his or her suspected disability.
- The assessment will be administered in your child's primary language or a qualified interpreter will be provided.
- The assessment must include a variety of appropriate tests to measure your child's strengths and needs. The persons administering these tests must be qualified to do so.
- The assessment will be adapted for students with impaired sensory, physical, or speaking skills.
- A multidisciplinary team, including at least one teacher or other specialist with knowledge in the area of your child's suspected disability, will assess your child.
- Testing and assessment materials and procedures must not be racially, culturally, or sexually discriminatory.



The procedures and materials used in assessment must avoid discrimination against the child on the basis of race, culture, or sex. They must also be:

- Used and provided in the language with which the child is most comfortable, if feasible. (If it is not feasible to do so, the reason must be stated in the assessment plan, which also must indicate the language in which the assessment will be conducted.)
- Appropriate for the specific purposes for which they are intended.
- Administered by trained personnel, knowledgeable about the disabilities the child may have.
- Tailored to the child's specific educational needs.

What happens to the assessment information/results?

Once an assessment is completed, the school district personnel who conducted the assessment prepare a written report. The report must provide a recommendation as to whether the child needs special education and related services and explain how the decision was made. It must describe the behavior of the child observed during assessment and explain the relationship of that behavior to the child's academic performance and social interactions. It also must describe any health and development, and medical findings that might have a bearing on the child's education. If environmental, cultural, or economic disadvantages were found to affect the child's educational performance, these are to be noted and explained also.



What if I don't agree with the assessment results?

If you disagree with the school's assessment of your child, you may obtain an independent educational assessment of your child. Upon your request, the school must give you information about how to obtain this independent assessment by a qualified examiner who is not employed by the district.

You have the right to request that the district pay for the independent educational assessment of your child. Whenever the district pays for an independent educational assessment,

the criteria under which the assessment is obtained, including the location of the assessment and the qualifications of the examiner, must be the same criteria used by the district when it initiates an assessment.

The district may initiate a due process hearing to show its assessment was proper. If the final decision of the hearing officer is that the district's assessment was proper, you still have the right to an independent educational assessment, but you will be required to pay for that assessment. If you obtain an independent educational assessment at your own expense, the results of the assessment must be considered by the district in any decision made concerning your child's education, and may be presented as evidence at a due process hearing regarding your child.

If a hearing officer requests an independent educational assessment as part of a hearing, you will not have to pay for that assessment.

Remember, assessment does not necessarily result in special education placement. Your child may not be eligible for nor need special education services. However, the decision regarding special education eligibility is made by the complete IEP team, including the parent.