

PROCEDURAL HANDBOOK

SECTION

2

Assessment

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Updated March 1, 2021

THE LAW AND ASSESSMENT

EC 56320. Before any action is taken with respect to the initial placement of an individual with exceptional needs in special education instruction, an individual assessment of the pupil's educational needs shall be conducted by qualified persons in accordance with requirements including, but not limited to, all of the following:

1. Testing and assessment materials and procedures used for the purposes of assessment and placement of individuals with exceptional needs are selected and administered so as not to be racially, culturally, or sexually discriminatory. The materials and procedures shall be provided in the pupil's native language or mode of communication, unless it is clearly not feasible to do so.
 - a. Native language if used with reference to an individual of limited English proficiency means: (a) the language normally used by the individual or, in the case of a child, the language normally used by the parents of the child except as provided in section (b) of this paragraph. (b) In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment. (c) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or oral communication).
2. Tests and other assessment materials meet all the following requirements:
 - a. Are provided and administered in the language and form most likely to yield accurate information on what the pupil knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer.
 - b. Are used for purposes for which the assessments or measures are valid and reliable.
 - c. Are administered by trained and knowledgeable personnel and are administered in accordance with any instructions provided by the producer of the assessments, except that individually administered tests of intellectual or emotional functioning shall be administered by a credentialed school psychologist.
3. Tests and other assessment materials include those tailored to assess specific areas of educational needs and not merely those, which are designed to provide a single general intelligence quotient.
4. Tests are selected and administered to best ensure that when a test administered to a pupil with impaired sensory, manual, or speaking skills produces test results that accurately reflect the pupil's aptitude, achievement level, or any other factors the test purports to measure and not the pupil's impaired sensory, manual, or speaking skills unless those skills are the factors the test purports to measure.
5. No single measure or assessment is used as the sole criterion for determining whether a pupil is an individual with exceptional needs or determining an appropriate educational program for the pupil.

6. The pupil is 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. A developmental history shall be obtained, when appropriate. For pupils with residual vision, a low vision assessment shall be provided in accordance with guidelines established pursuant to Section 56136.
7. The assessment of a pupil, including the assessment of a pupil with a suspected low incidence disability, shall be conducted by persons knowledgeable of that disability. Special attention shall be given to the unique educational needs, including, but not limited to, skills and the need for specialized services, materials, and equipment consistent with guidelines established pursuant to Section 56136.

IMPORTANT

In conducting the evaluation, the assessors must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent or guardian.

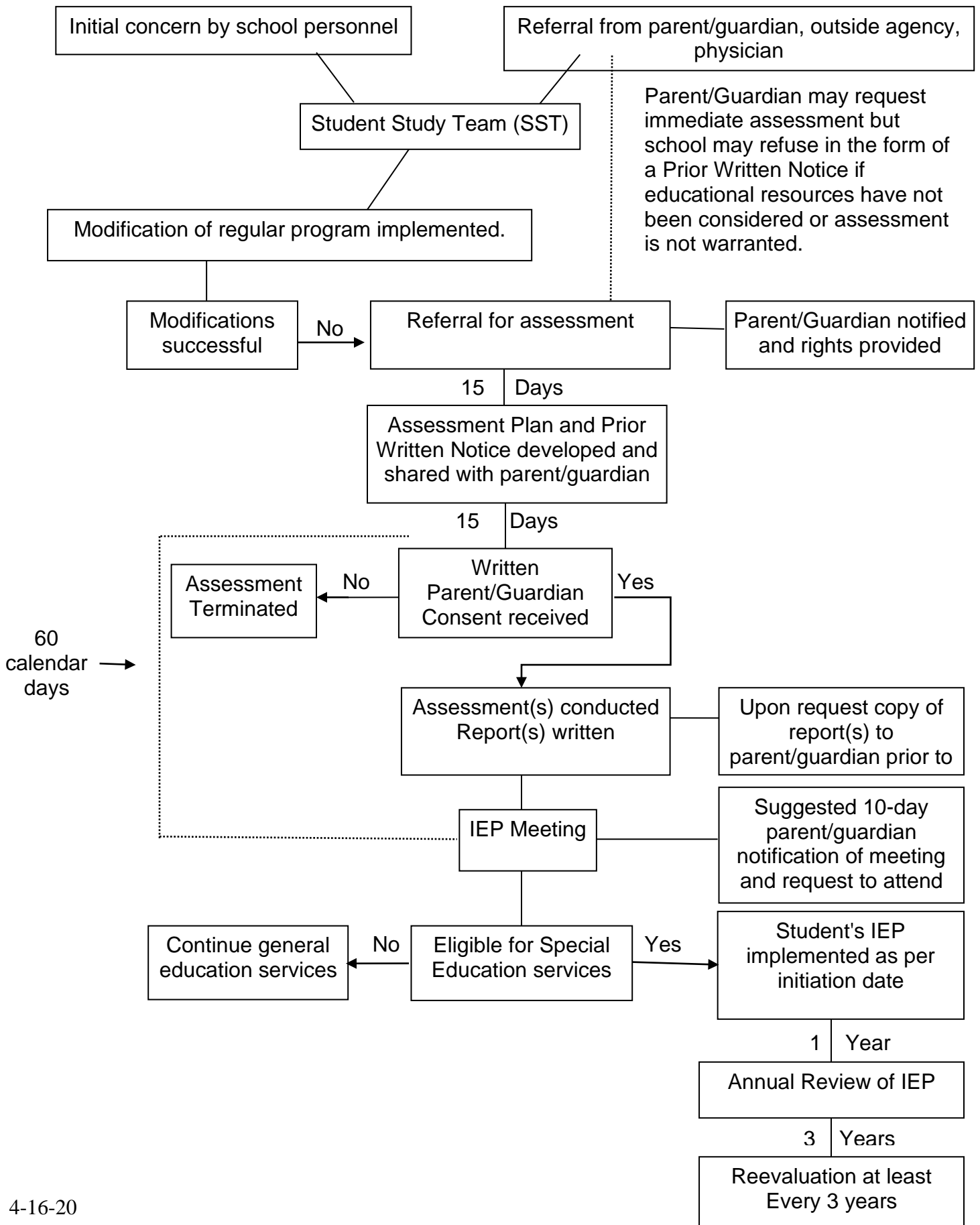
IMPORTANT

School districts are prohibited from using intelligence tests in the assessment of African American pupils who have been referred for special education services. In lieu of I.Q. tests, districts should use alternative means of assessment to determine identification and placement. Such techniques should include, and would not be limited to, assessment of pupil's personal history and health and development, adaptive behavior, classroom performance, academic achievement, and evaluative instruments designed to point out specific information relative to a pupil's abilities and inabilities in specific skill areas.

NOTE

A copy of the form, *Rights and Procedural Safeguards (SIRAS NC 1)*, must be provided to the parent or guardian along with the proposed *Prior Written Notice Assessment Plan (SIRAS NC 3)*.

TIMELINES FOR INITIAL SPECIAL EDUCATION ASSESSMENT



DEVELOPING THE ASSESSMENT PLAN

WHEN SHOULD YOU BEGIN?

Planning the assessment to determine initial eligibility for special education may begin as soon as a written referral has been received. The actual assessment cannot begin until the parents or guardian, or adult student have given consent in writing by signing and returning the assessment plan to the district.

IMPORTANT

From the date of the receipt of the written referral, you have 15 calendar days to either complete the Assessment Plan and the Prior Written Notice agreeing to the assessment or to complete a Prior Written Notice denying the assessment. In either case the Parent Rights must be attached and presented it to the parent/guardian. At the parents/guardian's option, a meeting may be held to discuss the proposed assessment. If the parents do not request such a meeting, assessment can begin as soon as written permission is received.

The 15-day timeline to develop the Assessment Plan does not count days of school vacation when the vacation exceeds five school days. In such cases, the Assessment Plan must be developed within 10 days after the start of a new school year or term when a referral has been made 10 days or less prior to the end of the regular school year or term.

WHAT IS AN ASSESSMENT PLAN?

The Assessment Plan is a document used to communicate to parents the reason for, and the content and scope of, the proposed assessment. The Assessment Plan must:

1. Be written in language easily understood by the general public.'
2. Be provided in the native language of the parent or guardian, or other mode of communication used by the parent or guardian unless to do so is clearly not feasible.

NOTE

All correspondence with parents must be written in the parent'(s)' language, or an interpreter must be provided to interpret for the parents.

3. Explain the type of assessments to be conducted, their purpose, and the test administrator by position(s).
4. Include a description of any recent assessments, including available independent assessments and any assessment information the parent requests to be considered.
5. Indicate the pupil's native language and native language proficiency.
6. Explain why the assessment is necessary.
7. State that no individualized education program will result from the assessment without the consent of the parent.

IMPORTANT

The parents have at least 15 calendar days from receipt of the Assessment Plan to arrive at a decision. If they give permission sooner, assessment can begin immediately.

If the parent/guardian does not consent to an initial evaluation or does not respond to a request to provide the consent, the local education agency may, but is not required to, request a due process hearing regarding the right to conduct an initial assessment.

Parental/Guardian consent is not required before reviewing existing data as part of an assessment or re-assessment, or before administering a test or other assessment that is administered to all children where no prior consent is needed.

IMPORTANT

Screening of a child to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an assessment for eligibility for special education and related services.

IN OTHER WORDS

Screening may be used to determine instructional strategies but not to determine eligibility for special education or services.

CONDUCTING THE ASSESSMENT

INITIAL ASSESSMENT

Initial assessment of any individual being considered for special education must be conducted by qualified personnel. The assessment must include all areas of suspected disability, which might include all or some of the following:

1. Health and development, vision, including low vision, and hearing
2. Motor abilities
3. Language functioning
4. General ability, e.g., self-help and general cognitive skills
5. Academic performance
6. Communicative Status
7. Orientation and mobility skills
8. Career and vocational abilities and interests
9. Social and emotional status

A developmental history shall be obtained, when appropriate.

ASSESSING STUDENTS SUBJECT TO LARRY P. v. RILES

For purposes of evaluating a student for special education eligibility, a local education agency (LEA) must ensure that the student is assessed in all areas of a suspected disability. The evaluation must also be sufficiently comprehensive to identify all of the student's needs.

The *Larry P. v. Riles* (1979, 1986, & 1992) court hearings are the basis for law that disallows the administration of standardized intelligence quotient (IQ) tests to students who are African American or black. This case determined that intelligence tests administered to students who are African American or black are culturally biased within the meaning of *EC § 56320(a)*. Parental consent or waivers will not undo that bias. When a student is identified as multi-racial, and one of those races is black, or the student looks to be black, he or she must be considered African American for testing purposes (CDE, 2014).

Given that standardized intelligence testing (which includes any measures of cognition, mental ability or aptitude) is discriminatory to students identified as African American and federal and state special education law prohibit use of discriminatory tests, standardized intelligence tests should not be given for any special education purpose to this subgroup, even if the tests considered do not appear on either list generated by the courts (CDE, 1992, 1997, 2014).

To ensure compliance with the *Larry P.* mandate, the California Department of Education (CDE) established the following compliance review procedures to evaluate how well LEAs are meeting this mandate.

1. Does the assessment plan include a description of alternative means that will be used to assess the student when standardized 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. Are materials selected and administered not racially or culturally discriminatory?
 - b. Do assessment procedures ensure that IQ tests are not administered to students who are black or African American for the purposes of identifying a disability?
 - c. Does the evaluation result in a written report which includes the findings of each assessment and contain required information?
3. To what extent is the assessment varied from standard conditions?
4. What effects do environment, cultural or economic conditions have on the student's performance?

The CDE Special Education Division determined that, according to the *Larry P. v. Riles* ruling, the special education review compliance guidelines shall:

1. Prohibit the use of standardized intelligence tests for the identification of students who are black or their placement into classes for students with intellectual disabilities;
2. Include a list of any tests prohibited until they have been validated for use in the determination of intellectual disability status or placement into a special education class for students with intellectual disabilities;
3. Prohibit any tests wherein there are noted scores that would provide a direct measure of intelligence of any child reported to be or perceived to be black; and
4. Concluded that any standardized measure of intelligence should not be used with students who are African-American or black until such time that the test is validated as statistically, racially, and culturally unbiased for administration by the State Board of Education and is approved by the court.

NO standardized measure of intelligence (cognition, mental ability or aptitude) can be used with students who are African-American or black-because, to date, none have been validated as statistically, racially, and culturally unbiased or approved by the court.

Accordingly, previously published articles and guidelines regarding assessment practices for students who are African American are, as of now, obsolete and are not to be used. There are no lists of approved tests from CDE, CASP, or any other agency or entity that may be used that measure anything pertaining to any areas of cognition. Therefore, a LEA cannot use a traditional discrepancy model to determine a specific learning disability when assessing a student who is black for that purpose because a discrepancy cannot be discerned between cognition and academic performance.

To meet these requirements, the Santa Barbara County SELPA supports the use of an alternate means of identifying a student's learning strengths and weaknesses. A comprehensive alternative assessment consists of five procedural categories used to gather information in five critical learning domains. The five procedural categories consist of a review of records, observations, interviews, informal assessment, and formal assessment with the five critical learning domains assessed are reasoning, executive functioning, visual-spatial skills, social cognition, and language. The student's profile and assessment report is then shared with the IEP team to determine eligibility for special education services.

IMPORTANT

For initial and three-year assessments, a pupil is required to have a hearing and vision screening, unless parental/guardian permission was denied. These screenings must have been completed within one calendar year of the date of the special education assessment.

Any psychological assessment must be conducted by a credentialed school psychologist who is trained and prepared to assess cultural and ethnic factors appropriate to the student. Any health assessment must be conducted by a credentialed school nurse or physician who is also trained and prepared to assess cultural and ethnic factors appropriate to the student.

Each local education agency shall ensure that assessments of children who transfer from one district to another in the same academic year are coordinated with the child's prior and subsequent schools, as necessary and as expeditiously as possible to ensure prompt completion of the full assessment. When a child enrolls in a new local education agency after the timeline to complete an assessment has begun, the parent/guardian and the local education agency may agree to extend the original timeline to complete the assessment. In such cases, the new local education agency must be making sufficient progress to ensure the assessment is completed promptly and the parent and the LEA must agree to a specific date by which the assessment will be completed.

NOTE: For the initial assessment of a student with Traumatic Brain Injury (TBI), Other Health Impairment (OHI), Orthopedic Impairment or other medically related disability who the LEA believes, through a review of medical records, that the severity of impairment will require

special supports and services (motor/speech/cognitive disabilities) to benefit from education; the LEA, in an effort to expedite special education services, may use the review of existing data as the initial assessment (34 CFR 300.305(a)).

This could apply to any student currently enrolled or who may enroll in the LEA.

When developing the assessment plan, indicate that it is based on observation and review of existing records as the method of assessment.

Certainly, once services begin, the IEP team may decide to do more in depth assessments to determine more accurate present levels, supports and services.

ASSESSMENT DURING INTERIM PLACEMENTS

When a special education student transfers into the Special Education Local Plan Area from a program located outside the Local Plan Area within the same academic year, the local program administrator shall ensure that the pupil is provided an interim placement that constitutes a free appropriate public education, including services comparable to those described in the previously approved individualized education program, in consultation with the parents, for a period not to exceed 30 days. Before the expiration of 30 calendar days, the IEP Team must meet and either adopt the previously approved IEP or develop a new IEP that meets the requirements of state and federal law. In reviewing the needs of the student, the Team may use information, records, and reports from the previous program. However, if these are not available, are incomplete, or are inadequate, assessment must be conducted in those areas which are needed to develop an IEP.

When a special education student transfers from one district to another within the SBCSELPA within the same academic year, the new district shall continue, without delay, to provide services comparable to those in the existing IEP unless the parent/guardian and LEA representatives agree to develop and implement a new IEP. In such cases, a reassessment is to be conducted within the 60-day timeline to complete the assessment process (as outlined on page 3-8 of this handbook) to determine any necessary revisions to the student's current IEP.

When a special education student transfers to a district within California from an educational agency located outside the state within the same academic year, the new LEA shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved IEP, in consultation with the parents/guardian, until the LEA conducts an assessment, if determined to be necessary, and if appropriate develops a new IEP. In such cases any reassessment is to be conducted within the 60-day timeline (as outlined on page 3-8 of this handbook).

THE REPORT OF ASSESSMENT

The individuals who conduct the assessment shall prepare a written report or reports, as appropriate, of assessment findings. The report shall include at least the following:

1. Ensure tests are administered in the pupil's primary language unless such administration was clearly not feasible.
2. Ensure tests administered are not racially, culturally, or sexually discriminatory.

3. Make a statement regarding the validity of the assessment, if an interpreter was used.
4. Note whether test results are valid.
5. Make a determination concerning the effects of environmental, cultural or economic disadvantage, when appropriate.
6. Note relevant behavior during observation of the pupil in an appropriate setting.
7. The relationship of that behavior to the pupil's academic and social functioning.
8. Document the educationally relevant health, developmental and medical findings, if any.
9. Whether the student's needs can be met in the regular classroom or whether the student may need special education and related services and the basis for making the determination.
10. The need for specialized services, materials, and equipment for students with low incidence disabilities.
11. Consideration of independent assessments if submitted.
12. Information related to enabling the child to be involved in and progress in the general education curriculum or for preschool children to participate in appropriate activities.
13. In addition, for pupils with learning disabilities, the report must include a statement of:
 - a. Whether the child has a specific learning disability.
 - b. Whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services.

(EDUCATION CODE 20 USC 14.14(b) (2) (A) (ii))

The parent, adult student, or guardian shall be given a copy of the assessment report.

THE INDEPENDENT ASSESSMENT

A parent, guardian, or adult student has the right to obtain an independent educational evaluation (IEE) if he/she disagrees with an evaluation completed by the LEA. If a parent obtains an independent assessment due to disagreement with a district assessment, the evaluation is at public expense, unless it can be shown in a due process hearing requested by the district that the district's evaluation is appropriate.

IN OTHER WORDS

If funding for an independent educational evaluation is requested, the district is not required to provide reimbursement for the evaluation if the hearing officer rules that the district's assessment was appropriate.

HOWEVER

No matter who ultimately pays for an independent assessment, the results must be considered by the IEP Team with respect to the provision of free and appropriate public education of the pupil (EC 56329).

If a parent, guardian, or adult student submits a written request for an IEE to school personnel at the school site, the request is to be forwarded immediately to the district's director/coordinator of special education.

If a parent, guardian, or adult student makes a verbal request for an IEE, school staff should offer to assist the parent, guardian, or adult student in putting the request in writing. If the parent, guardian, or adult student accepts assistance, the written request for an IEE should be immediately forwarded to the district director/coordinator of special education. If the parent, guardian, or adult student declines assistance, the parent, guardian or adult student should be reminded that a request for an IEE is to be submitted in writing to the district's director/coordinator of special education. (*Reference: Policy 6208, Independent Educational Evaluations, of Local Plan Section 5, Special Education Instruction: Assessment*)

MANDATORY REVIEW/REASSESSMENT

Annual Reviews

A review of each student's progress in a special education program must be held at least annually. The IEP Team must review the student's progress on his/her annual goals and, as appropriate, short-term objectives, appropriateness of the placement and services, and recommend revisions, if necessary.

Requested Review or Reassessment

Parents, guardians, or adult student shall be notified annually of their right to request a review of the IEP.

If the parent, guardian, or adult student is requesting additional assessments, parent, guardian, or adult student consent shall be obtained.

If the LEA is requesting additional assessments, parent or guardian, or adult student consent shall be obtained, unless the LEA can demonstrate that it has made a reasonable effort to obtain such consent and the student's parent, guardian, or adult student has failed to respond (34 CFR 300.300(c)(2)).

Three-Year Review

All special education students must be considered for a re-evaluation at least every three years. Procedures for conducting three-year re-evaluations are described below.

THREE-YEAR REEVALUATIONS

The California Education Code and the Federal Code of Regulations require that special education students receive a reassessment at least once every three years unless the parent and the local education agency agree, in writing, that a reassessment is unnecessary. Three-year re-evaluations must be completed within three calendar years of the date of the last re-evaluation. If the reassessment so indicates, a new Individualized Education Program shall be developed.

Notice of Referral for Reassessment and Proposed Action (SIRAS NC2B), is to be filled out prior to all three-year reevaluations and for other parent/guardian or teacher requested reassessments. The completed form documents the steps listed below.

1. As part of any reassessment, the IEP Team and other qualified professionals, as appropriate, shall do the following:
 - a) Review existing assessment data.
 - b) Review current classroom-based assessments and observations.
 - c) Review teacher and related services provider(s) observations.
 - d) Receive input from the student's parents or guardian.
 - e) Receive input from the student's general education teacher(s).
2. On the basis of the information obtained from the above-listed sources, the Team members shall identify what additional data, if any, are needed to determine:
 - a) Whether the student has a particular category of disability and/or continues to have a disability as described.
 - b) The present levels of performance and the educational needs of the student.
 - c) Whether the student continues to need special education and related services.
 - d) Whether any additions or modifications to the special education and related services are needed to enable the student to meet the annual goals included in the student's IEP and to participate, as appropriate, in the general curriculum.

If it is determined additional data are needed related to any of the areas listed above, then appropriate tests and other assessment materials shall be administered.

3. If it is determined that no additional data are needed to determine whether the student continues to meet the eligibility criteria as a child with a disability, and to determine the student's educational needs then the student's parent, guardian, adult student shall be notified regarding this decision and the reasons for it. The parent, guardian, adult student shall also be notified of the right to request an assessment to confirm that the student continues to have a disability and to determine the student's educational needs. If it is determined that no additional data are needed to determine whether the student continues to meet the eligibility criteria as a child with a disability, the local education agency is not required to reassess the student unless requested by the student's parents, guardian, or adult student.

IMPORTANT

<p>The IEP Team, must involve the parent, guardian, or adult student regarding decisions relating to the need to administer tests as part of the re-evaluation process.</p>

It is highly recommended that Assessment Teams administer new standardized assessments prior to recommending a student's dismissal from special education. In all cases, standardized assessment information utilized to recommend a student's dismissal from special education needs to have been obtained within the preceding six months if a determination is made that no further assessments are necessary.

4. All students who receive a three-year re-evaluation, including those for whom no additional standardized assessments are conducted, shall have had a hearing and vision screening, unless parental/guardian/adult student permission was denied.
5. Parental/guardian/Adult Student consent is not required for a review of existing data; however, parental guardian consent is required before additional assessments are conducted unless the local education agency is the prevailing party in a due process hearing regarding the right to conduct such a reassessment.

Note: Informed parent/guardian/adult student consent is not required for a reassessment if the LEA can demonstrate that it has made a reasonable effort to obtain such consent and the student's parent guardian has failed to respond (34 CFR 300.300(c)(2)).

6. It is recommended that the review of existing assessment and observation information concerning the student and the determination of what additional assessments, if any, are necessary to complete the reassessment process take place as part of the last regularly scheduled annual review IEP meeting held prior to the date the three year re-evaluation must be completed.
7. If the timing of a three-year reassessment requires the completion of this form at some time other than the annual review meeting held the year prior to the three-year reevaluation, an additional IEP meeting is not required in order to review the information necessary to complete the *Notice of Referral for Reassessment and Proposed Action (SIRAS NC2B)*. However, if a meeting is not held for this purpose, all Team members, including the parent/guardian, must sign the Reassessment form indicating that they have reviewed the necessary data (current assessment information on file and teacher and related service provider observations) as part of the process to determine the areas where new assessment information needs to be obtained. If no meeting is held to complete the *Notice of Referral for Reassessment and Proposed Action (SIRAS NC2B)*, assessment personnel will be responsible to assure that the parent/ guardian has had an opportunity to review the current assessment data and staff observations.

A reassessment shall be conducted if the LEA determines that the educational or related services needs, including improved academic achievement and functional performance of the pupil, warrant a reassessment, or if the parent/guardian or the student's teacher requests a reassessment. A reassessment shall occur not more frequently than once a year, unless the parent/guardian and the local education agency agree otherwise. Prior to development of the assessment plan, the parent/guardian and members of the IEP Team must review current information available regarding the student and complete the *Notice of Referral for Reassessment and Proposed Action (SIRAS NC2B)*,

NOTE

When a student is reassessed as part of a three-year reevaluations or other requested reassessment, the results of the evaluation must be documented in a written report even in instances where the IEP Team determines that no additional testing of the student is necessary. In cases where no additional testing has been conducted, the three-year reassessment report should make reference to the assessment information contained in previous psychoeducational and other evaluations and include a description of the student's current school functioning and recommendations for consideration by the IEP Team for future program planning.

HOW TO PURGE INFORMATION FROM A PUPIL RECORD

In Judge Peckham's 1986 *Larry P.* decision regarding prohibition of IQ testing of African-American students, he also declared IQ scores from any other source cannot become part of the pupil's school record. The CDE issued a directive (Campbell, 1987) on how to dispose of *Larry P.* records generated prior to September, 1986. It reads as follows:

Before a black special education student is re-evaluated for special education or transfers to a new district all prior records of IQ scores, or references to information from IQ tests, should be permanently sealed. The records are to be opened only for litigation purposes, official state or federal audits, or upon parent request. The parent shall be given copies of the sealed records upon request. The sealed records shall be maintained for a period of five years.

Prior to sealing the records of these students, the parents shall be notified that the records will be sealed because of a court decision, which prohibits the use of intelligence tests for black students for any purpose related to special education. Additionally, prior to sealing the records, a qualified professional should identify appropriate data to be copied and purged of all IQ scores or references to information from IQ tests. The remaining data should then be transferred to the student's current record. In no case shall the IQ test information be made available to the IEP team for any purpose.

As California school districts are the only agencies prohibited from using IQ tests with African-American students, it is often the case that African-American pupil records received from out-of-state and/or another agency contain cognitive, mental ability or aptitude test information. Therefore, the following steps are recommended when it becomes necessary to purge information from a pupil record.

1. A qualified professional should review the case file to determine if prohibited information is contained therein.
2. Remove any prohibited protocols and all assessment reports which contain cognitive, mental ability or aptitude information.
3. Duplicate the original report. *See Step 8 for sealing of original report.*
4. "Purge all IQ scores or references to information from IQ tests" This has been interpreted as a means of "redacting" by use a black tip marker or "white-out" to remove the following information on the *duplicated* copy.
 - a. Any reference to a test instrument which yields a cognitive, mental ability or aptitude score or standard score that is an indication of cognitive functioning.
 - b. Any test data summary scores from the test instruments(s).

- c. Commentary in the report, which discusses the pupil's performance on the test instrument(s).
5. Make a copy of the purged report. File this copy in the pupil record.
6. Destroy the copy with the black tip marker or "white-out."
7. Notify the parent/guardian that the pupil's records are being sealed.
8. Seal the *original* report, any relevant protocols, and a copy of the letter sent to the parent/guardian in a manila envelope. Indicate the Pupil's name and destruction date of five years hence on the outside of the envelope. Also attach a label indicating the envelope is only to be opened for purpose of litigation, official state or federal audits, or upon parent request.
9. Add the pupil's name to a district level master list of pupils whose files have been purged and reports sealed due to the *Larry P.* ruling.

A sample letter to send to parents/guardians regarding this process is enclosed herein.

Adapted from the Riverside County SELPA *Guidelines for Assessing Students who are African-American* for special education are available at www.rcselpa.org

(District Letterhead)

Sample Larry P. Letter to Parent/Guardian

Date: _____

Name: _____

Address: _____

RE: _____(pupils name)_____

DOB: _____

Dear Parent/Guardian:

This letter is to inform you that the _____ District has sealed and purged the assessment report for the above named child due to a ruling by Judge Robert F. Peckham of the United States District Court; San Francisco, in 1986 that school districts may not use Intelligence Quotient (IQ) tests in the assessment of African-American pupils who have been referred for special education. This has been upheld by the U.S. Court of Appeals for the Ninth District and is enforced by the California State Department of Education.

California school districts are required to remove from the pupil record any IQ scores, or references to information from tests that provide a cognitive, mental ability or aptitude score or standard score, for African-American students who were tested prior to this ruling or by another state/agency. The district is also required to notify the parent/guardian of such pupils who previously received IQ testing, that we are now permanently sealing these records. The sealed record may only be opened for purposes of litigation, official state or federal audits, or upon parent/guardian request. A copy of the revised report is enclosed for your information. It will or has replaced the previous report in your child's file.

If you have any questions or concerns, please call me at (____) _____.

Sincerely,

(Special Education Administrator)

CALIFORNIA STATE ELIGIBILITY CRITERIA

California Code of Regulations - Title 5

Section 3030. ELIGIBILITY CRITERIA

- (a) A child shall qualify as an individual with exceptional needs, pursuant to Education Code section 56026, if the results of the assessment as required by Education Code section 56320 demonstrate that the degree of the child's impairment as described in subdivisions (b)(1) through (b)(13) requires special education in one or more of the program options authorized by Education Code section 56361. The decision as to whether or not the assessment results demonstrate that the degree of the child's impairment requires special education shall be made by the IEP team, including personnel in accordance with Education Code section 56341(b). The IEP team shall take into account all the relevant material which is available on the child. No single score or product of scores shall be used as the sole criterion for the decision of the IEP team as to the child's eligibility for special education.
- (b) The disability terms used in defining an individual with exceptional needs are as follows:
 - (1) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, and adversely affecting a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.
 - (A) Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in subdivision (b)(4) of this section.
 - (B) A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in subdivision (b)(1) of this section are satisfied.
 - (2) Deaf-blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.
 - (3) Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a child's educational performance.

- (4) Emotional disturbance means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:
- (A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.
 - (B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
 - (C) Inappropriate types of behavior or feelings under normal circumstances.
 - (D) A general pervasive mood of unhappiness or depression.
 - (E) A tendency to develop physical symptoms or fears associated with personal or school problems.
 - (F) Emotional disturbance includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance under subdivision (b)(4) of this section.
- (5) Hearing impairment means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section.
- (6) Intellectual disability means significantly sub average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance.
- (7) Multiple disabilities means concomitant impairments, such as intellectual disability-blindness or intellectual disability-orthopedic impairment, the combination of which causes such severe educational needs that cannot be accommodated in special education programs solely for one of the impairments. "Multiple disabilities" does not include deaf-blindness.
- (8) Orthopedic impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).
- (9) Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment that:
- (A) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes,

epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and

(B) Adversely affects a child's educational performance.

(10) Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may have manifested itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The basic psychological processes include attention, visual processing, auditory processing, phonological processing, sensory-motor skills, and cognitive abilities including association, conceptualization and expression.

(A) Specific learning disabilities do not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(B) In determining whether a pupil has a specific learning disability, the public agency may consider whether a pupil has a severe discrepancy between intellectual ability and achievement in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning. The decision as to whether or not a severe discrepancy exists shall take into account all relevant material which is available on the pupil. No single score or product of scores, test or procedure shall be used as the sole criterion for the decisions of the IEP team as to the pupil's eligibility for special education. In determining the existence of a severe discrepancy, the IEP team shall use the following procedures:

1. When standardized tests are considered to be valid for a specific pupil, a severe discrepancy is demonstrated by: first, converting into common standard scores, using a mean of 100 and standard deviation of 15, the achievement test score and the intellectual ability test score to be compared; second, computing the difference between these common standard scores; and third, comparing this computed difference to the standard criterion which is the product of 1.5 multiplied by the standard deviation of the distribution of computed differences of students taking these achievement and ability tests. A computed difference which equals or exceeds this standard criterion, adjusted by one standard error of measurement, the adjustment not to exceed 4 common standard score points, indicates a severe discrepancy when such discrepancy is corroborated by other assessment data which may include other tests, scales, instruments, observations and work samples, as appropriate.

2. When standardized tests are considered to be invalid for a specific pupil, the discrepancy shall be measured by alternative means as specified on the assessment plan.
3. If the standardized tests do not reveal a severe discrepancy as defined in subdivisions 1. or 2. above, the IEP team may find that a severe discrepancy does exist, provided that the team documents in a written report that the severe discrepancy between ability and achievement exists as a result of a disorder in one or more of the basic psychological processes. The report shall include a statement of the area, the degree, and the basis and method used in determining the discrepancy. The report shall contain information considered by the team which shall include, but not be limited to:
 - (i) Data obtained from standardized assessment instruments;
 - (ii) Information provided by the parent/ guardian;
 - (iii) Information provided by the pupil's present teacher;
 - (iv) Evidence of the pupil's performance in the regular and/or special education classroom obtained from observations, work samples, and group test scores;
 - (v) Consideration of the pupil's age, particularly for young children;and
 - (vi) Any additional relevant information.
4. A severe discrepancy shall not be primarily the result of limited school experience or poor school attendance.

(C) Whether or not a pupil exhibits a severe discrepancy as described in subdivision (b)(10)(B) above, a pupil may be determined to have a specific learning disability if:

1. The pupil does not achieve adequately for the pupil's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the pupil's age or State-approved grade-level standards:
 - (i) Oral expression.
 - (ii) Listening comprehension.
 - (iii) Written expression.
 - (iv) Basic reading skill.
 - (v) Reading fluency skills.
 - (vi) Reading comprehension.
 - (vii) Mathematics calculation.
 - (viii) Mathematics problem solving, and
2.
 - (i) The pupil does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in subdivision (b)(10)(C)(1) of this section when

using a process based on the pupil's response to scientific, research-based intervention; or

- (ii) The pupil exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with 34 C.F.R. sections 300.304 and 300.305; and
3. The findings under subdivisions (b)(10)(C)(1) and (2) of this section are not primarily the result of:
- (i) A visual, hearing, or motor disability;
 - (ii) Intellectual disability;
 - (iii) Emotional disturbance;
 - (iv) Cultural factors;
 - (v) Environmental or economic disadvantage; or
 - (vi) Limited English proficiency.
4. To ensure that underachievement in a pupil suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group making the decision must consider:
- (i) Data that demonstrate that prior to, or as a part of, the referral process, the pupil was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
 - (ii) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the pupil's parents.
5. In determining whether a pupil has a specific learning disability, the public agency must ensure that the pupil is observed in the pupil's learning environment in accordance with 34 C.F.R. section 300.310. In the case of a child of less than school age or out of school, a qualified professional must observe the child in an environment appropriate for a child of that age. The eligibility determination must be documented in accordance with 34 C.F.R. section 300.311.
- (11) A pupil has a language or speech disorder as defined in Education Code section 56333, and it is determined that the pupil's disorder meets one or more of the following criteria:
- (A) Articulation disorder.
 - 1. The pupil displays reduced intelligibility or an inability to use the speech mechanism which significantly interferes with

communication and attracts adverse attention. Significant interference in communication occurs when the pupil's production of single or multiple speech sounds on a developmental scale of articulation competency is below that expected for his or her chronological age or developmental level, and which adversely affects educational performance.

2. A pupil does not meet the criteria for an articulation disorder if the sole assessed disability is an abnormal swallowing pattern.

(B) **Abnormal Voice.** A pupil has an abnormal voice which is characterized by persistent, defective voice quality, pitch, or loudness.

(C) **Fluency Disorders.** A pupil has a fluency disorder when the flow of verbal expression including rate and rhythm adversely affects communication between the pupil and listener.

(D) **Language Disorder.** The pupil has an expressive or receptive language disorder when he or she meets one of the following criteria:

1. The pupil scores at least 1.5 standard deviations below the mean, or below the 7th percentile, for his or her chronological age or developmental level on two or more standardized tests in one or more of the following areas of language development: morphology, syntax, semantics, or pragmatics. When standardized tests are considered to be invalid for the specific pupil, the expected language performance level shall be determined by alternative means as specified on the assessment plan, or

2. The pupil scores at least 1.5 standard deviations below the mean or the score is below the 7th percentile for his or her chronological age or developmental level on one or more standardized tests in one of the areas listed in subdivision (A) and displays inappropriate or inadequate usage of expressive, or receptive language as measured by a representative spontaneous or elicited language sample of a minimum of 50 utterances. The language sample must be recorded or transcribed and analyzed, and the results included in the assessment report. If the pupil is unable to produce this sample, the language, speech, and hearing specialist shall document why a fifty utterance sample was not obtainable and the contexts in which attempts were made to elicit the sample. When standardized tests are considered to be invalid for the specific pupil, the expected language performance level shall be determined by alternative means as specified in the assessment plan.

(12) **Traumatic brain injury** means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and

motor abilities; psychosocial behavior; physical functions; information processing; and speech.

- (A) Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

- (13) Visual impairment including blindness means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

Note: Authority cited: Section 56100, Education Code. Reference: Sections 56026, 56320, 56333 and 56337, Education Code; 20 U.S.C. Sections 1401(3)(A) and 1414(a) and (b); and 34 C.F.R. Sections 300.8, 300.300, 300.301, 300.304, 300.305, 300.306, 300.307, 300.308, 300.309 and 300.311.

Eligibility Requirements for Preschool Children. EC 56441.11

- (a) Notwithstanding any other provision of law or regulation, the special education eligibility criteria in subdivision (b) shall apply to preschool children, between the ages of three and five years.
- (b) A preschool child, between the ages of three and five years, qualifies as a child who needs early childhood special education services if the child meets the following criteria:
 - (1) Is identified as having one of the following disabling conditions, as defined in Section 300.7 of Title 34 of the Code of Federal Regulations, or an established medical disability, as defined in subdivision (d):
 - (A) Autism
 - (B) Deaf-blindness
 - (C) Deafness
 - (D) Hearing impairment
 - (E) Intellectual Disability
 - (F) Multiple disabilities
 - (G) Orthopedic impairment
 - (H) Other health impairment
 - (I) Emotional disturbance
 - (J) Specific learning disability
 - (K) Speech or language impairment in one or more of voice, fluency, language and articulation
 - (L) Traumatic brain injury
 - (M) Visual impairment
 - (N) Established medical disability
 - (2) Needs specially designed instruction or services as defined in Sections 56441.2 and 56441.3.
 - (3) Has needs that cannot be met with modification of a regular environment in the home or school, or both, without ongoing monitoring or support as determined by an individualized education program team pursuant to Section 56431.

- (4) Meets eligibility criteria specified in Section 3030 of Title 5 of the California Code of Regulations.
- (c) A child is not eligible for special education and services if the child does not otherwise meet the eligibility criteria and his or her educational needs are due primarily to:
 - (1) Unfamiliarity with English language
 - (2) Temporary physical disabilities
 - (3) Social maladjustment
 - (4) Environmental, cultural, or economic factors
- (d) For purposes of this section, "established medical disability" is defined as a disabling medical condition or congenital syndrome that the individualized education program team determines has a high predictability of requiring special education and services.
- (e) When standardized tests are considered invalid for children between the ages of three and five years, alternative means, for example, scales, instruments, observations, and interviews shall be used as specified in the assessment plan.

Definition of Eligible Infant or Toddler G.C. 95014

The term "eligible infant or toddler" for the purposes of this title means infants and toddlers from birth through two years of age, for whom a need for early intervention services, as specified in the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1471 et seq.) and applicable regulations, is documented by means of assessment and evaluation as required in Sections 95016 and 95018 and who meet one of the following criteria:

- (1) Infants and toddlers with a developmental delay in one or more of the following five areas: cognitive development; physical and motor development, including vision and hearing; communication development; social or emotional development; or adaptive development. Developmentally delayed infants and toddlers are those who are determined to have a significant difference between the expected level of development for their age and their current level of functioning. This determination shall be made by qualified personnel who are recognized by, or part of, a multidisciplinary team, including the parents.
- (2) Infants and toddlers with established risk conditions, who are infants and toddlers with conditions of known etiology or conditions with established harmful developmental consequences. The conditions shall be diagnosed by a qualified personnel recognized by, or part of, a multidisciplinary team, including the parents. The condition shall be certified as having a high probability of leading to developmental delay if the delay is not evident at the time of diagnosis.
- (3) Infants and toddlers who are at high risk of having substantial developmental disability due to a combination of biomedical risk factors, the presence of which is diagnosed by qualified clinicians recognized by, or part of, a multidisciplinary team, including the parents.

**ASSISTIVE TECHNOLOGY (AT)
AUGMENTATIVE AND ALTERNATIVE COMMUNICATION (AAC)
NEEDS ASSESSMENT GUIDELINES**

I. AT Regulations

As per IDEA-July 7, 2017, Sec. 300.105 Assistive technology Regulations,

(a) Each public agency must ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in §§300.5 and 300.6, respectively, are made available to a child with a disability if required as a part of the child's

- (1) Special education under §300.39;
- (2) Related services under §300.34; or
- (3) Supplementary aids and services under §§300.42 and 300.114(a)(2)(ii).

(b) On a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the child's IEP Team determines that the child needs access to those devices in order to receive FAPE.

Augmentative and Alternative Communication (AAC)

AAC is used by people who, some or all of the time, cannot rely on their speech. AAC incorporates the individual's full communication abilities and may include any existing speech or vocalizations, gestures, manual signs, and aided communication. AAC is multimodal, permitting individuals to use every mode possible to communicate. Over time, the use of AAC may change, although sometimes very slowly, and the AAC systems chosen today may not be the best systems tomorrow.

AAC users encounter difficulty communicating via speech due to congenital and/or acquired disabilities occurring across the lifespan. These conditions include but are not limited to autism, cerebral palsy, dual sensory impairments, genetic syndromes, intellectual disability, multiple disabilities, hearing impairment, disease, stroke, and head injury.

Unaided Versus Aided Communication

Typically, AAC includes unaided and aided modes of communication. Unaided modes of communication include nonspoken means of natural communication (including gestures and facial expressions) as well as manual signs and American Sign Language (ASL). These modes of communication often require adequate motor control and communication partners who can interpret the intended message. Aided modes of communication include those approaches that require some form of external support, such as a communication boards with symbols (e.g., objects, pictures, photographs, line drawings, visual-graphic symbols, printed words, traditional orthography) or computers, handheld devices, or tablet devices with symbols that generate speech through synthetically produced or recorded natural (digitized) means.

For individuals with severe disabilities, it can be helpful to encourage (and teach) both unaided and aided modes of communication. Individuals may need to be taught when it is appropriate to use different modes of communication. For example, the individual may sign when interacting with parents at home but may use a picture-based system or speech generating device (SGD) with other communication partners. Individuals with very complex needs and a limited communication repertoire can learn to use different systems in different contexts.

IEP teams are required to consider the need for AT or AAC for all students as part of the IEP process. IEP teams are required to consider the need for AT or AAC by determining how and if it can help the student attain their goals and objectives. It is the IEP team's responsibility to determine where a student's deficits are and to write goals to address those deficits. The next step is for the IEP team to consider the need for accommodations, such as AT or AAC, that will best assist the student in meeting those goals.

II. AT Needs Assessment

At an IEP meeting IDEA regulations require that the IEP determine if the student would benefit from the use of AT or AAC, to assist them in meeting their IEP goals. For instance, if the student has a writing goal that requires them to write a three-paragraph report, but the student has very poor fine motor skills, fatigues quickly, and is a very poor speller, the IEP team needs to consider how AT might assist the student in meeting that goal. In addition, if a student has difficulty with communication, the IEP team may consider how AAC might assist the student in meeting a communication goal. If the IEP Team determines AT or AAC would provide the student with additional access to academics and communication, the IEP Team would complete the SBCSELPA Guide for Consideration of Assistive Technology form.

Through discussion of Assistive Technology, the IEP Team will determine if an assessment for Assistive Technology is necessary. At this time, the IEP team would start the referral process for assessment.

III. AT/ AAC Assessment Process

The SBCSELPA Assistive Technology for Access to Curriculum Assessment Referral Form is completed by an IEP Team member and sent to the SBCSELPA AT/AAC Specialist. In addition, the LEA sends an Assessment Plan to the parent, guardian, or adult student seeking consent for AT/ AAC assessment. The LEA communicates the date of consent to assessment with the SBCSELPA AT/AAC Specialist as well as the date for the meeting to review the assessment results. A copy of the consented Assessment Plan, the SBCSELPA Guide for Consideration of Assistive Technology form, and the SBCSELPA Assistive Technology for Access to Curriculum Assessment Referral form are sent to the SBCSELPA AT/AAC Specialist.

The SBCSELPA AT/AAC Specialist reviews the information in the guide, referral, the current IEP and Multidisciplinary Report, and the student cum file to determine if the student has been previously assessed for Assistive Technology. The SBCSELPA AT/AAC Specialist will contact the LEA to schedule a date, time, and place for assessment.

The following are considered during the assessment:

1. The Eligibility for Special Education
 - a. Low incidence disability

2. Present Levels
 - a. Academic Performance
 - b. Communication skills
 - c. Fine and Gross motor abilities
 - d. Cognitive level
 - e. Attitude and motivation of the student

3. Current Accommodations in the IEP
 - a. need for low tech vs. high tech AT or AAC
 - b. time or workload accommodations
 - c. staff support

4. Academic tasks needed to be accomplished in school
 - a. writing tasks including taking notes and homework
 - b. reading tasks including reading at home
 - c. other subjects: Math, History, Science

The following AT resources by Dr. Sherry Purcell and Debbie Grant may be useful in assisting special education staff members in determining AT needs for individual students:

- 1) Assistive Technology Solutions grades K-3
- 2) Using Assistive Technology to Meet Literacy Standards for Grades 4-6
- 3) Using Assistive Technology to Meet Literacy Standards for Grades 7-12

These books contain all of the California curriculum standards for Reading, Writing, Written and Oral English-Language Conventions, and Listening and Speaking, as well as an extensive appendix on all of the assistive technology, ranging from no/low tech to high tech, with descriptions, pricing and vendor information.

Other helpful resources are the Wisconsin Assistive Technology Initiative (WATI) Continuum of AT Considerations, AT Solutions books, WATI Continuum of AT Considerations, and the AT Consideration Wheel.

LEAs could provide Special Education staff with the Assistive Technology Assessment: Developing a Written Productivity Profile by Denise C. DeCoste, published by Don Johnston, Inc. \$99. The website is www.donjohnston.com. This assessment allows the teacher to compare the student's handwriting ability to his/her keyboarding ability. If the evaluation indicates that a computer for word processing is warranted, then this would be an appropriate AT accommodation recommendation by the IEP team.

IV. Evaluation and Recommendation Process

The SBCSELPA AT/AAC Specialist will also evaluate the ability and interest in methods and materials for AT or AAC, documenting the student responses to the possible Assistive Technology. The SBCSELPA AT/AAC Specialist will attend an IEP to review the assessment results and report possible recommendations for Assistive Technology will be discussed from the assessment results in the IEP meeting. An IEP goal, the Special Factors page of the IEP, and additional accommodations will be written into the IEP indicating the need for Assistive Technology. Follow-up procedures for the implementation of the trials with recommended technology will be provided by the SBCSELPA AT/AAC Specialist.

Once the IEP team designates the use of AT in the IEP, it is the responsibility of the district to provide the necessary AT materials required for the student. The SBCSELPA AT/AAC Specialist will work with LEA to locate and loan technology to the student for the trial. The LEA and the SBCSELPA AT/AAC Specialist document the student's performance with the technology to determine effectiveness of the trialed devices or software. Once determined the device or software is deemed necessary for the student's learning, the LEA will purchase the device through Low Incidence funding.

V. Parent/Guardian Request for AT or AAC Assessment

As with other areas of assessment, parents or guardians have the right to request an AT or AAC assessment. District Special Education staff need to be prepared to address a parent or guardian's request for AT. In order to determine what it is the parent or guardian is seeking, they need to discuss the student's goals and objectives and how AT relates to those goals, etc. They also need to ask the parent or guardian which IEP goal it is that the parent feels the student cannot accomplish without the use of AT. During this discussion in the IEP, the SBCSELPA Guide for Consideration of Assistive Technology is completed. If the IEP team believes an assessment is needed for Assistive Technology, the SBCSELPA Assistive Technology for Access to Curriculum Assessment Referral form and an Assessment Plan is created and presented to the parent or guardian.

VI. SBCSELPA AT/AAC Specialist Additional Services

The SBCSELPA AT/AAC Specialist provides the following additional services when indicated or requested:

1. Staff, student, parent/ guardian training
2. Guidance for data collection and analyzing data
3. Additional research to support recommendations
4. Recommendations for alternatives if trial was not successful
5. Vendor information for purchasing or other training
6. On-going support and consultation for implementation of technology
7. Professional development to SBCSELPA countywide staff on Assistive Technology devices and software.

VII. Summary of Considerations

The use of Assistive Technology devices and or software with an individual student is a process of trial and error. Conducting an assistive technology assessment (formal or informal) is a starting point. Using Assistive Technology devices and or software can be a successful accommodation with a student if supported by the teacher, the parent or guardian, and the student's willingness to use the AT, whether it is no tech, low tech, or high tech. Make sure the student is willing to use the AT before it is purchased.

All special educators should be aware of and have access to the basic research-based AT materials available in the field such as: Inspiration, Draft: Builder, Co: Writer, Write :Outloud, Read: Outloud, Simon Spells It Out, pencil grips, raised line paper, slant boards, graphic organizers, color coded organizational tips, NCR notebooks, hand-held spell checkers, Start-to-Finish series, etc.

Decision Making About AAC Systems and Interventions

The currently accepted evidence by American Speech-Language- Hearing Association suggests there are no specific prerequisites (e.g., age, cognitive, linguistic, motor) for getting started with AAC. A number of AAC options are available to begin the intervention process. Ideally, the decision to introduce AAC should be made in consultation with the IEP team. However, no individual should go without communication, and all individuals should have access to AAC systems that promote effective communication.

AAC should also be considered for individuals who have some speech or speech that is unintelligible to unfamiliar listeners. These individuals may use AAC to augment their

communication. Other individuals may use speech in low-demand contexts but choose to use AAC to augment their communication in high-demand contexts. The presence of speech should not preclude the consideration of AAC as a support.

Decisions When Choosing Aided AAC

Choosing an aided AAC system requires careful consideration of an individual's current skills, strengths, and needs, but it is important not to restrict the individual's potential. Assessment strategies can lead to an understanding of:

- Options for different symbols, systems, and access modes
- The contexts where the individual must communicate
- The skills and supports available to partners
- The profile of the individual including: vision, hearing, sensory-motor, motivation, cognitive, linguistic, literacy skills, and current modes of communication

4-27-2020

Occupational Therapy Services Multi-Tiered System of Supports (MTSS) and Assessment Referral Guidelines

It is the goal of the SBCSELPA for these OT guidelines to facilitate LEAs and Occupational Therapists in providing appropriate education/school-based OT “related services” by using a Multi-Tiered System of Supports approach to guide the decision-making process to support students in accessing and benefitting from special education services.

I. The Individuals with Disabilities Education Act (IDEA) OT Regulations

The Individuals with Disabilities Education Act (IDEA) 2004 defines OT services as a “related service” which is defined as **“developmental, corrective, or other supportive services as may be required to assist a child with a disability to benefit from special education”** and/or as a “supplementary aid and service” which is defined as **“aids, services, and other supports that are provided in regular education classes or other education related settings to enable children with disabilities to be educated with non-disabled children to the maximum extent appropriate.”**

Under IDEA regulations, Title 34, Code of Federal Regulations, Section 300.34.(c)(6) defines “occupational therapy” as **“services provided by a qualified occupational therapist; and includes (a) improving, developing, or restoring functions impaired or lost through illness, injury, or depravations; (b) improving ability to perform tasks for independent functioning if functions are impaired or lost; and (c) preventing, through early intervention, initial further impairment or loss of function.”**

II. Roles and Functions of School Based Occupational Therapists

In school-based practice, OTs support a child’s ability to gain access to and make progress in their school curriculum. OTs are allied health professionals whose purpose in a public-school setting is to support a child’s engagement and participation in daily occupations, which include activities of daily living, education, prevocational work, play, rest, leisure and social participation. OTs have a unique role in the educational setting in working both on remediation (e.g., improving sensory and motor foundations of learning and behavior) and compensations (e.g., modifying the environment, tools, or task) to help a child succeed at school. (Guidelines for Occupational Therapy and Physical Therapy in California Public Schools, 2nd ed. CA Department of Education, 2012).

School-based Occupational Therapists provide support and function within the following processes:

1. Pre-referral services and MTSS as part of general education process
2. 504 referral and services as part of general education*
3. Special education referral and request for assessment
4. Special education assessment
5. IFSP infant/toddler and PK program planning
6. IEP planning
7. Transition planning and services
8. Intervention planning and implementation of IEP services

9. Documentation/Reporting
10. Liaison/Communication with outside agencies and entities
11. Staff Development/Training
12. OT program management
13. Supervision of therapy staff
14. Education/system development and facilities

(Guidelines for Occupational Therapy and Physical Therapy in California Public Schools, 2nd ed. CA Department of Education, 2012).

***consult contact site 504 coordinator or principal.**

III. Types of Occupational Therapy Referrals

1. **Teacher/IEP Team Generated:** The teacher or specialist providing instruction has made modifications and provided interventions to address the student's motor and/or sensory and/or other classroom-based needs (generally, for a recommended period of 4-8 weeks) by following the SBCSELPA OT Pre-Referral Process Flow Chart and SBCSELPA Occupational Therapy Assessment Pre-Referral Form and determined that minimal progress was made by the student and therefore, the teacher, specialist, or OT recommends to IEP team an occupational therapy assessment.

All school staff referrals shall be in writing using the SBCSELPA OT Assessment Pre-Referral Form and include a brief explanation for the referral and document the OT recommended multi-tiered supports, strategies, interventions, modifications or resources in the general or special education settings that have been considered, trialed, or used, and provide data on results of the efficacy of the interventions and the student's progress.

If data indicates student is making progress, an OT assessment referral may not be appropriate. If data indicates that student is not making sufficient progress with additional supports an OT Assessment referral may be appropriate.

2. **Student Transfer:** A student transfers into a school district from another SELPA with a current IEP which includes school-based OT as a related service. An OT assessment may be a part of the 30-day interim placement review process. (The OT is notified ASAP of the OT services in the IEP by LEA.)
3. **Parent/Guardian Request:** A parent/guardian requests an OT assessment. A parent/guardian request does not automatically result in a formal OT assessment. The LEA must first document the parent's referral before determining how to proceed. When a verbal referral is made, staff of the school district, SELPA, or county office shall offer assistance to the individual in making a request in writing and shall assist the individual if the individual requests such assistance (5 CCR §3021(a)).

If LEA determines that the OT referral is not appropriate, it may deny the assessment request. Within 15 days of the request, a prior written notice must be sent by the LEA to parent detailing why an assessment is being denied.

In order for the LEA and IEP team, including parents/guardians to determine if a school-based OT Assessment referral or request is appropriate the following shall occur:

1. Within 15 days the LEA (case manager or administration) should contact the parent/guardian and provide them with a hard copy of the SBCSELPA OT Flow Chart, the SBCSELPA OT Assessment Pre-Referral Form, discuss with them the request for assessment, and describe the OT MTSS and pre-referral guidelines for OT assessment requests. The IEP team makes decisions on need for assessment for related services such as OT based on all available assessments and data and it is an IEP team-based decision, including parent/guardian and OT, to discern if OT assessment is appropriate at that time.
2. After meeting and/or discussing with parent/guardian about the request for OT assessment, the following can occur:
 - a. IEP team, including parent agrees to OT MTSS interventions and to follow OT pre-referral process. Within 15 days of request LEA responds to parent/guardian with a Prior Written Notice the steps that will be taken during the 60-day OT MTSS timeline and no AP for OT assessment will be generated at that time. At the end of the 60-day OT MTSS timeline, further recommendations will be determined by the IEP team, including parent/guardian.
 - b. Parent does not agree with the OT MTSS interventions and pre-referral process. It is still an IEP team decision, including parent, whether an OT assessment is warranted at that time. Within 15 days of request, LEA responds to parent/guardian with a Prior Written Notice to either follow the 60-day OT MTSS and pre-referral process or to generate AP for OT Assessment. At the end of the 60-day OT MTSS timeline or 60-day OT assessment timeline, further recommendations will be determined by the IEP, including parent.
 - c. The LEA should inform the parent/guardian that the OT MTSS and pre-referral process may or may not result in a formal OT assessment once completed.
 - d. The LEA also must provide parents with a copy of their rights and procedural safeguards. (See CFR 300.301 and 300.303; 34 CFR 300.301(b) and (34 CFR 300.503(b); EC 56301(d)(2)(A) and EC 56043(a)).
4. **Included as part of Assessment Plan:** An OT assessment is included as a part of an initial assessment plan. Each public agency must ensure that the child is assessed in all areas related to the suspected disability, including, if appropriate ...motor abilities... (34 CFR 300.304©).

5. **Infant Services (Part C) Transitioning to Preschool (PK) Program:** Infant Preschool Transitions should follow the guidelines as listed in 1-4 above.

The Infant Program's (Part C provider) Individualized Family Service Plan (IFSP) Transition team reports development levels and student progress on IFSP goals based on current data and assessment reports.

If student is receiving OT services on an IFSP the IFSP OT should make the recommendation to the PK assessment team as to if student continues to require OT services and for OT to be included on the PK Assessment Plan or that student has made sufficient progress with IFSP OT services and student would benefit instead from entering and transitioning into PK program without related OT services.

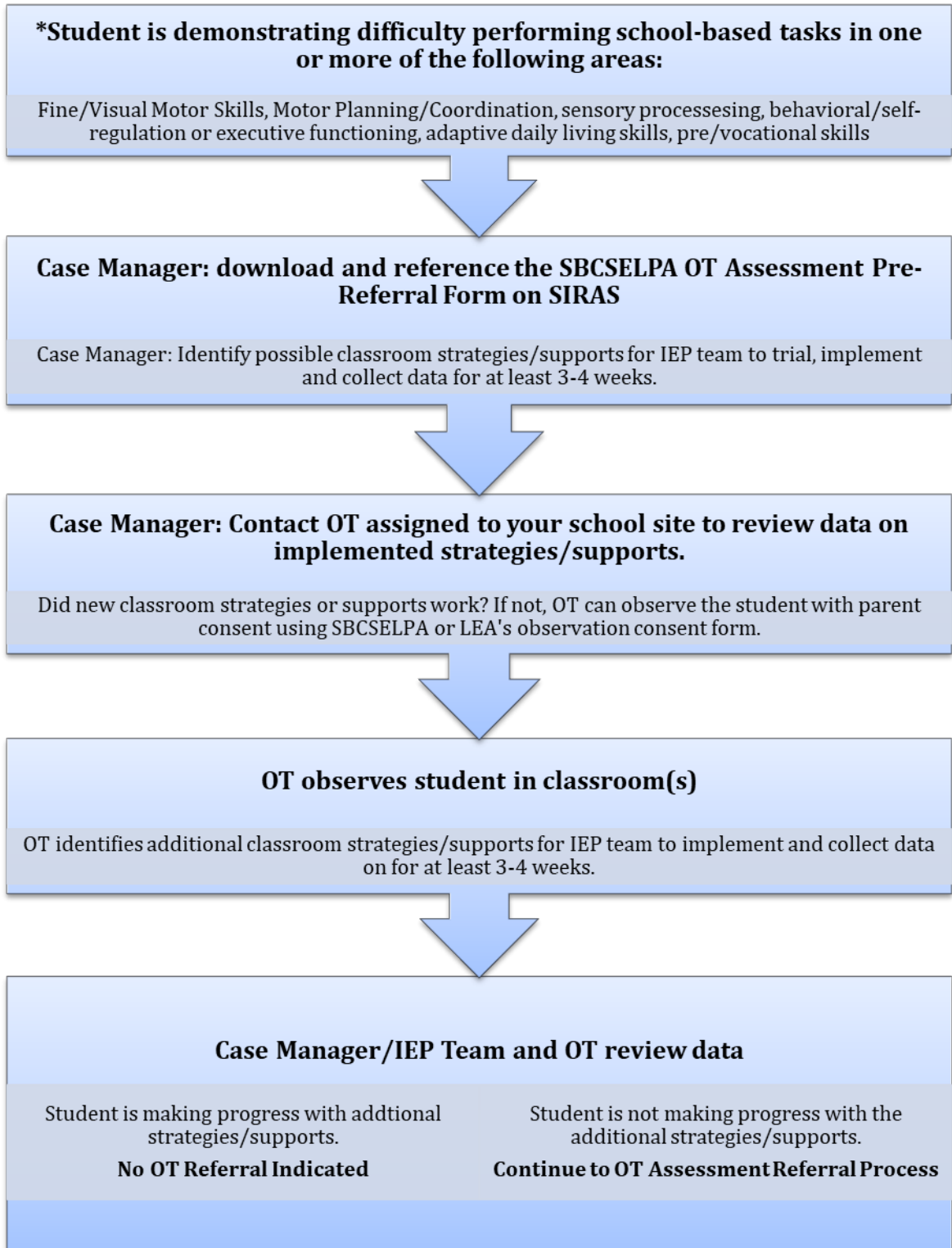
The PK IEP team will follow the SBCSELPA OT Flow Chart and utilize the SBCSELPA OT Assessment Pre-Referral Form once student enters a PK program if areas of concern were to arise after student is given adequate time to transition based on their individual needs.

The IEP team makes decisions on eligibility based on all available assessments and data:

- a. The IEP Team may determine that OT services are required to assist the child with disabilities to benefit from special education. (34 CFR 300.34(a)). The IEP team may then develop developmentally appropriate goals and offer appropriate OT services.
- b. IEP team may determine that at this time OT services are not required to assist the student with a disability to benefit from special education (34 CFR 300.34)

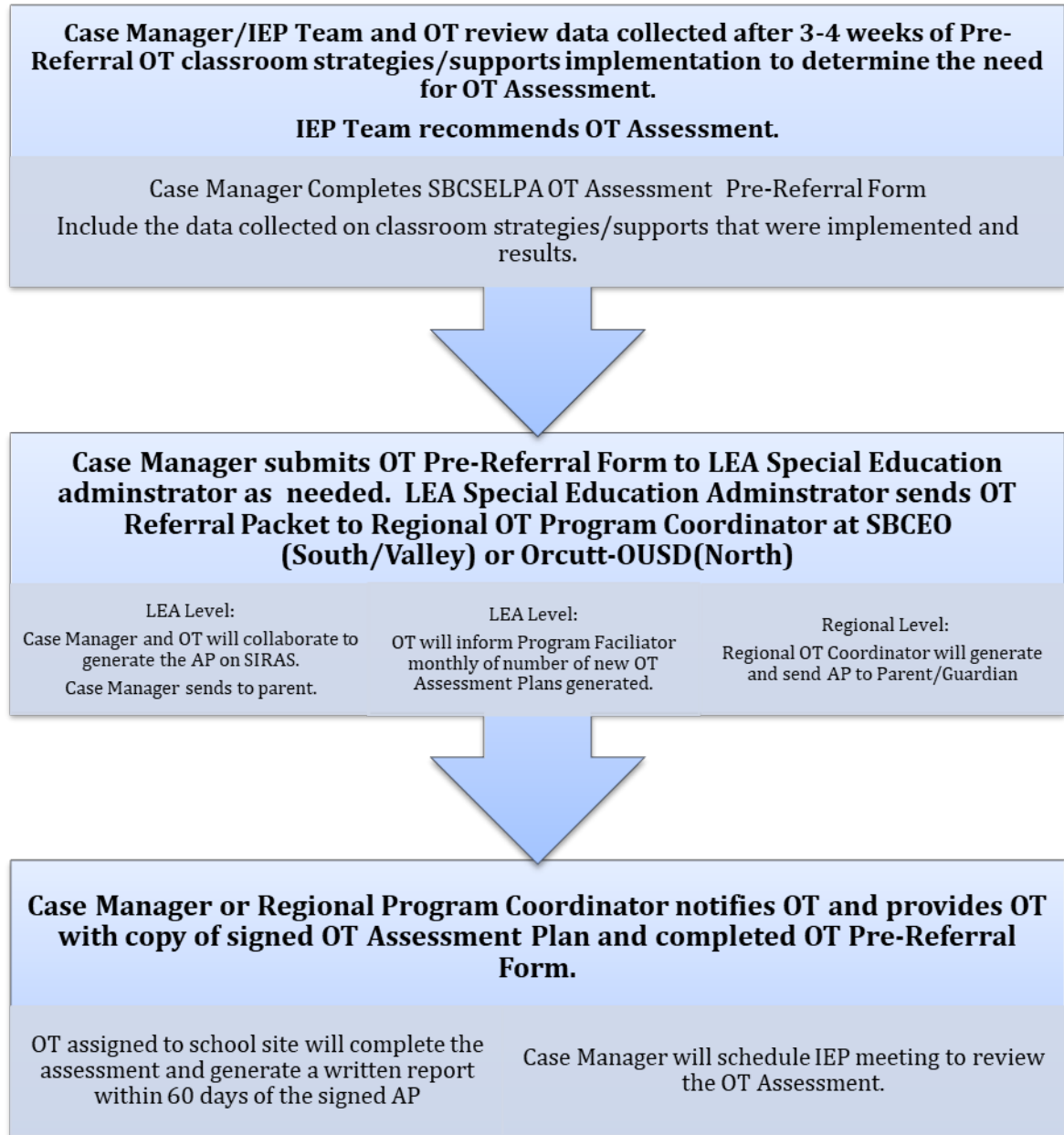
When a referral is made a proposed assessment plan, or Prior Written Notice describing OT MTSS and pre-referral process for OT assessment shall be developed within 15 calendar days of referral for assessment, not counting calendar days between the pupil's regular school sessions or terms or calendar days of school vacation in excess of five school days, from the date of receipt of the referral, unless the parent or guardian agrees in writing to an extension, pursuant to subdivision (a) of Section 56321.

IV. OT Assessment Pre-Referral Process Flow Chart



***For Parent/Guardian request for OT assessment, please refer to the OT Services MTSS and Assessment Referral Guidelines in the Santa Barbara County SELPA's Procedural Handbook, Section 2. All requests for OT Assessments are recommended to follow the MTSS 60-day pre-referral process for the OT to determine the necessity for assessment.**

V. Occupational Therapy (OT) Assessment Referral Process



VI. OT Assessment Referral Procedures and Documents

A. LEA Level:

For a New Referral the Following Procedures and Documents Shall Be Used:

1. The referring LEA Special Education Case Manager or designee shall complete the SBCSELPA OT Assessment Pre-Referral Form (SELPA56) (Available in SIRAS Added Forms SELPA Documents)
2. Case manager reviews Pre-Referral Form with LEA OT assigned to school site and collaborates to generate the AP for OT Assessment. Case manager sends copy of signed AP when it is returned by parent/guardian and 60-day timeline begins.

3. Case Manager and OT will inform Special Education Administration of new OT Referrals for caseload/workload census.
4. OT completes file review to determine if the child has a California Children Services (CCS) diagnosis and, if so, then file a CCS referral.
5. If student has a CCS diagnosis and is currently receiving CCS MTU services have parent sign LEA's Parent Consent to Release of Information form to contact the local CCS MTU to request copy of the student's most recent assessment report and any medical information or contraindications for school-based services.
6. Some examples of CCS eligible diagnoses include, but are not limited to:

Cerebral Palsy	Chronic Musculo-skeletal Disease, Deformity or Injury
Neuromuscular Disease	Osteogenesis Imperfecta
Muscular Dystrophy	Amputation
Spina Bifida	Contractures resulting from burns
Traumatic Brain Injury	Polio

7. If the student has a disabling condition that may qualify for CCS services, use the forms for referral contained in the CCS/SELPA Interagency Agreement available through your district special education office or at www.sbcselfa.org under publications.

NOTE: The referral to CCS cannot delay the educationally related OT referral. Medically necessary OT has no bearing on the LEA's obligation to meet the 15-day timeline to offer an assessment plan to the parent for an educationally related OT assessment.

NOTE: If student is client of CCS MTU, the permission to contact CCS MTU is optional on the part of the parent and it may not hold up the process. All timelines are still in effect. If parent denies permission for LEA to contact the CCS MTU or the Authorization to Release Information form is not returned by parent, the OT Assessment will not be affected.

8. LEA Case Manager and OT will collaborate to schedule a mutually agreed upon time with parent to schedule the IEP meeting to review OT Assessment Results within 60-day timeline. At the IEP meeting, the Occupational Therapist will: provide the team members with a written assessment report, report the assessment results and make recommendations for needed modifications or related services based on the assessment results. The IEP Team will make the final determinations based on the OT's data and recommendations of whether the student qualifies for OT related services. The IEP Team will also specify who will provide the service as well as the frequency and duration of the service which are then written into the IEP.

B. OT Regional Program Level (SBCEO, Orcutt Union School District Pupil Services)

1. The referring LEA Special Education Administrator, Case Manager or other designee shall complete the SBCSELPA OT Assessment Referral Packet (SELPA57) (Available in SIRAS Added Forms SELPA Documents)
2. The OT referral packet should only be completed for students in districts that continue to use Regional Program OTs. The packet should be reviewed and signed by the referring LEA's Special Education Administrator or designee. The packet is sent to the OT Regional Program Service Operator's Special Education Administrator as follows:

Orcutt's Director of Pupil Services: Lompoc and North LEAs
SBCEO's Occupational Therapy Coordinator: Valley and South LEAs

NOTE: If the referral packet is not complete, Regional Program Service Operator will contact the referring LEA Special Education Administrator and request they submit missing documentation within 5 business days or sooner if timeline issues are a concern.

3. Referral Packet Includes:
 - a. SELPA55: OT Referral Steps Checklist Form
 - b. SELPA56: SBCSELPA OT Assessment Pre-Referral Form
 - c. SUPP21A: Referral *for Special Education and Related Services* form:
 - The "General Education Intervention Attempts" section of on the *Receipt of Referral to Special Education (SIRAS IEP 17)* form should address the skill or skills for which the teacher has made modifications that have not been successful. These must be skills that are necessary for the student to benefit from the instructional program. For example: Student cannot hold a pencil and apply enough pressure to write a sentence.
 - If assessment is at parent request, be specific describing parent area of concern and what you have done in the classroom that addresses this concern. If teacher does not have a concern in this area state how child functions in the classroom in this parent area of concern.
 - d. SELPA3: *Parent Consent for Release of Information* form
4. Special Education Administrator or designee completes file review to determine if the child has a California Children Services (CCS) diagnosis and, if so, then file a CCS referral.
5. If student has a CCS diagnosis and is already receiving CCS MTU services have parent sign Parent Consent to Release of Information form to contact the local CCS MTU to request copy of the student's most recent assessment report and any medical information or contraindications for school based services.

6. Some examples of CCS eligible diagnoses include, but are not limited to:

Cerebral Palsy	Chronic Musculo-skeletal Disease, Deformity or Injury
Neuromuscular Disease	Osteogenesis Imperfecta
Muscular Dystrophy	Amputation
Spina Bifida	Contractures resulting from burns
Traumatic Brain Injury	Polio

7. If the student has a disabling condition that may qualify for CCS services, use the forms for referral contained in the CCS/SELPA Interagency Agreement available through your district special education office or at www.sbcsepa.org under publications.

NOTE: The referral to CCS cannot delay the educationally related OT referral. Medically necessary OT has no bearing on the LEA's obligation to meet the 15-day timeline to offer an assessment plan to the parent for an educationally-related OT assessment.

NOTE: If student is client of CCS MTU, the permission to contact CCS MTU is optional on the part of the parent and it may not hold up the process. All timelines are still in effect. If parent denies permission for LEA to contact the CCS MTU or the Parent Consent Release Information form is not returned by parent the OT Assessment will not be affected.

8. After reviewing the OT referral packet the LEA immediately sends the OT referral packet to appropriate OT Regional Program Coordinator.
9. Regional Service Operator will:
- Within 15 days of the date of referral, which is not necessarily the date on which the Occupational Therapy Assessment Referral Packet (SELPA57) is received, send the parent, the assigned OT service provider, and the Special Education Administrator of the referring LEA a letter explaining the assessment process and timeline as well as the assessment plan documents to be signed.
 - The LEA has the obligation to process paperwork and provide the referral to the Regional Service Operator in a timely fashion so the Regional Service Operator can send the assessment plan within 15 days of the date of referral. When calculating the 15-day time limit, do not count days between the student's regular school sessions or terms or days of school vacation in excess of five school days.
 - Assessment plan is to be returned to the OT Regional Program Coordinator. After signed assessment plan is received, the OT Regional Program Coordinator sends the Occupational Therapist and the referring district a letter stating the specific timeline for the assessment; keeping in mind the timeline to hold an IEP meeting within 60 days of the signed assessment plan in order to review assessment results. This letter will be sent out only after receiving the signed Assessment Plan from the parent.

10. The Referring LEA will:

- a. Schedule the IEP meeting at a mutually agreed upon time with parent and assigned OT service provider. At the IEP meeting, the Occupational Therapist will: provide the team members with a written assessment report, report the assessment results and make recommendations for needed modifications or related services based on the assessment results.
- b. The IEP Team will make the final determinations based on the OT's data and recommendations of whether the student qualifies for OT related services. The IEP Team will also specify who will provide the service as well as the frequency and duration of the service which are then written into the IEP.

VII. Students Transferring into SBCSELPA From Out of the SELPA

The following procedures shall be followed:

1. LEA Level:

- a. Within 5 school days, the LEA case manager will forward the IEP of the transfer-in student who has occupational therapy services listed on previous district IEP to the LEA's occupational therapist assigned to the school site.
- b. The IEP should also be entered into the SIRAS IEP website so that services may be initiated immediately.
- c. The OT will use the 30-day transfer-in timeline to determine the appropriateness of OT services.
- d. If the OT decides that an assessment is necessary to determine the student's needs and/or appropriateness of OT, then an assessment plan must be sent home for parent/guardian/adult student consent prior to any type of formal assessment

NOTE: The OT needs notification of meeting 10 days prior to the meeting to ensure that they will have an opportunity to attend, report the findings and give recommendations at the 30-day IEP meeting.

2. OT Regional Program Level:

- a. Within 5 school days, the LEA will forward the IEP of the transfer-in student who has occupational therapy services listed on previous district IEP to the SBCEO office for Valley and South County students and to Orcutt Pupil Services Office for Lompoc and North County students.
- b. The IEP will be forwarded to the regional program occupational therapist assigned to the school site.
- c. The IEP should also be entered into the SIRAS IEP website so that services may be initiated immediately.
- d. The OT will use the 30-day transfer-in timeline to determine the appropriateness of OT services.
- e. If the OT decides that an assessment is necessary to determine the student's needs and/or appropriateness of OT, then an assessment plan must be sent home for parent/guardian/adult student consent prior to any type of formal assessment.

DATE APPROVED 2/01/2010
DATE REVISED: 4/15/2014
DATE REVISED: 9/18/2015
DATE REVISED: 3/01/2021

WHAT FORMS SHOULD BE USED

The following forms should be used during the assessment phase, as appropriate:

NC 3:	PWN-Assessment Plan
SELPA 3:	Parent Consent for Release of Information (E & S) This form is to be used to obtain parent permission to receive information from other agencies or individuals relevant to the evaluation and educational planning.
NC 2B:	Notice of Reassessment (E & S)
SELPA 4:	Parental and Adult Student's Rights and Procedural Safeguards for Special Education (E & S)
SELPA 56:	A Tool for Teachers to Investigate a Student's Possible Motor and /or Sensory Delays (E)
IEP 17:	Receipt of Referral to Special Education (E & S)
SELPA 16:	Physician's Information for Related Services
SELPA 55:	OT Referral Steps Checklist
SELPA 8:	California Modified Assessment Survey (E & S)
SELPA 44:	Assistive Technology Consideration of Needs

NOTE

E = ENGLISH and **S = SPANISH**

Appendix A references the forms highlighted throughout this handbook. SELPA and Supplemental IEP forms can be found on our county's on-line *SIRAS Systems*, www.sirassystems.org.