

**SANTA CLARA COUNTY
NORTH WEST SPECIAL EDUCATION LOCAL PLAN AREA**

IDENTIFICATION, REFERRAL AND ASSESSMENT

1.1 PURPOSE AND SCOPE

All individuals with suspected disabilities from birth through age 21 will be identified and referred to the appropriate agency to be assessed. Each individual will receive a full and individual evaluation to identify the disability, determine eligibility and identify educational needs.

The assessment information will provide the basis for an Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) to ensure the individual receives a Free Appropriate Public Education (FAPE).

1.2 IDENTIFICATION

1.2.A Child Find

The Special Education Local Planning Area (SELPA) and individual districts will actively and systematically seek out all individuals with disabilities including children with disabilities who are homeless, children who are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disabilities and who need special education and related services, are identified, located, and evaluated.

Child Find activities may include but not be limited to:

1. A comprehensive screening program, including health, vision, hearing, speech and language.
2. Distribution of written information, including brochures and pamphlets describing the referral procedure.
3. Public awareness campaign, including public service announcements.
4. Annual notices to local newspapers.
5. Consultation with representatives of private schools, including religious schools on how to carry out activities to identify children with suspected disabilities.
6. Coordination with preschools, Head Start and other childcare facilities.
7. Communication with hospitals, pediatricians, obstetricians, and other health professionals.
8. Coordination with parent resource centers and support groups.
9. Presentations to local professional groups and organizations established to inform and/or to serve culturally diverse populations.
10. Coordination with activities of the SELPA Community Advisory Committee (CAC); and,
11. Coordination with school site procedures, including referrals from the school site student intervention teams (e.g., Student Study Teams, etc.).

(EC 56300, 56301; CFR 300.451)

1.2.B Student Study Team (SST)

The Student Study Team (SST) is a general education function. It is a process of reviewing individual student concerns and planning alternative instructional strategies to be implemented in the general education classroom.

Although specialists, such as school psychologists, speech/language specialists, and resource specialists may be involved, the SST is not a special education function and as such is not subject to the associated restrictions and timelines.

A special education referral may be appropriate after research-based intervention strategies have been implemented over time.

A student suspected of having a disability under the provisions of Section 504 of the Rehabilitation Act of 1973, will be assessed by a process defined through local board policies and procedures.

1.3 REFERRAL PROCESS

1.3.A Source of Referrals

Referrals for assessment to determine eligibility for special education and related services may come from teachers, parents, agencies, appropriate professional persons, and from other members of the public.

The referrals will be coordinated with school site procedures for referral of pupils with needs that cannot be met with modifications of the regular instructional program, including referrals from student intervention teams, such as the Student Study Team.

A child shall be referred for special education and services only after the resources of the regular education program have been considered and, where appropriate, utilized.

1.3.B Referral Procedure

1. Referrals for assessments to determine eligibility for special education and related services will be made to the school site principal or designee at the child's school of residence.
2. Referrals may be processed through the school site Student Study Team or other student intervention team to review the referral and document interventions tried prior to referral. However, an SST meeting to review the referral may not delay a timely response to the referral for assessment.
3. All requests for assessments will be submitted in writing. If a parent makes the request verbally the principal or designee will assist the individual in making the request in writing.
4. The school site administrator or designee will review the referral. If the information is incomplete the referral source will be contacted to request additional information.
5. If the information is complete, the school site administrator or designee will initiate the assessment process, including notification of parent. An assessment plan may be

developed or a Prior Written Notice letter will be prepared listing reasons that the district will not assess.

6. No assessment will be conducted without written parent consent.
7. The district office special education administrator will assist, whenever necessary to process referrals.

(EC 56302-56303; 5 CCR 3021)

1.3.C Inappropriate Referrals

If, after reviewing all relevant information, the administrator and assessment planning team consider the referral inappropriate and decline to move forward with assessment, within 15 days of receiving the referral the parents must receive a Prior Written Notice.

The Prior Written Notice must include the following:

1. Propose to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
2. Refuse to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

The content of the Prior Written Notice must include:

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

(CFR 300.503)

1.4 PARENTAL CONSENT

The LEA shall conduct a full and individual initial evaluation before the initial provision of special education and related services to a child with a disability.

1.4.A Request for Initial Evaluation

Either a parent of a child or LEA may initiate a request for an initial evaluation to determine if the child is a child with a disability.

1. Such initial evaluation shall consist of procedures to determine whether a child is a child with a disability within 60 days of receiving parental consent for the evaluation and to determine the educational needs of the child.
2. Exception - The relevant timeframe shall *not* apply to an LEA if:
 - (a) a child enrolls in a school served by the LEA after the relevant timeframe has begun and prior to a determination by the child's previous LEA as to whether the child is a child with a disability but only if the subsequent LEA is making sufficient progress to ensure prompt completion of the evaluation, and the parent and the subsequent LEA agree to a specific time when the evaluation will be completed.

OR

 - (b) the parent of a child repeatedly fails or refuses to produce the child for the evaluation.

1.4.B Parental Consent for Initial Evaluation

1. The LEA proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability shall obtain informed consent from the parent of a child before conducting the evaluation. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services.
2. Consent for Services – The LEA is responsible for making a free appropriate public education available to a child with a disability and shall seek to obtain informed consent from the parent of a child before providing special education and related services to the child.
3. Absence of Consent for Initial Evaluation - If the parent of a child does not provide consent for an initial evaluation or the parent fails to respond to a request to provide the consent; the LEA may pursue the initial evaluation through due process.
4. Absence of Consent for Initial Services – If the parent of a child does not provide consent to the initial provision of services, the LEA shall **not** provide special education and related services to the child by using due process.
5. Effect on LEA Obligation- If the parent of a child refuses to consent to the receipt of special education and related services, or the parent fails to respond to a request to provide such consent:
 - (a) the LEA shall not be in violation of the requirement to make a free appropriate public education to the child for the failure to provide such child with the special education and related services for which the LEA requests such consent; and
 - (b) the LEA shall not be required to develop an IEP for the special education and related services for which the LEA requests such consent.
 - (c) If the child is a ward of the State and not residing with the child's parent, the LEA shall make reasonable efforts to obtain such consent from the parent of the child for the initial evaluation to determine whether the child is a child with a disability.

1.5 ASSESSMENT PROCESS

1.5.A Initial Assessments

A full and individual assessment shall be conducted for each child being considered for special education and related services to determine if the child meets eligibility criteria as a child with a disability and to determine the educational needs of the child.

Once a student has been referred for initial assessment to determine whether the child is an individual with exceptional needs to determine the educational needs of the child, these determinations shall be made, and an individualized education program meeting shall occur, within *60 days* of receiving parental consent for the assessment, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five (5) school days.

However, an individualized education program required as a result of an assessment of a pupil shall be developed within 30 days after the commencement of the subsequent regular school year as determined by each local educational agency's school calendar for each pupil for whom a referral has been made 30 days or less prior to the end of the regular school year. In the case of pupil school vacations, the 60-day time shall recommence on the date that pupil schooldays reconvene. A meeting to develop an initial individualized education program for the pupil shall be conducted within **30 days** of a determination that the pupil needs special education and related services pursuant to *Section 300.323(c)(1) of Title 34 of the Code of Federal Regulations*.

The **60-day time period** does *not* apply if either of the following occurs:

1. The child enrolls in a school served by the LEA after the relevant time period has commenced but prior to determination by his or her previous LEA of whether the child is an individual with exceptional needs. This exemption applies only if the subsequent LEA is making sufficient progress to ensure a prompt completion of the assessment, and the parent and subsequent LEA agree to a specific date by which the assessment shall be completed.
2. The parent of a child repeatedly fails or refuses to produce the child for assessment.

The results of the assessment will be used by the child's IEP team to develop an appropriate Individualized Education Program (IEP).

1.5.B Assessment Plan

After a review of the referral, pupil records and/or other immediately available material, the assessment team will meet to develop a proposed assessment plan.

A proposed assessment plan 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 (5) school days from the receipt of the referral, unless the parent or guardian agrees, in writing, to an extension.

In any event, the assessment plan shall be developed within 10 days after the commencement of the subsequent regular school year when the referral has been made 20 days or less prior to the end of the regular school year. In the case of pupil's school vacations, the 15-day time shall recommence on the date that the pupil's regular school days reconvene.

The ***proposed assessment plan*** given to the parents or guardians shall meet *all* the following requirements:

1. Be 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 not clearly feasible.
3. Explain the types of assessments to be conducted.
4. State that no individualized education program will result from the assessment without the consent of the parent.

The LEA proposing to conduct an initial assessment to determine if the child qualifies as an individual with exceptional needs shall obtain informed consent from the parent of the child before conducting the assessment. If the parent of the child does not provide consent for an initial assessment, or the parent fails to respond to a request to provide consent, the LEA may pursue the initial assessment through due process.

The LEA shall not be required to obtain informed consent from the parent of a child for an initial assessment to determine whether the child is an individual with exceptional needs under any of the following circumstances:

1. Despite reasonable efforts to do so, the LEA cannot discover the whereabouts of the parent of the child.
2. The rights of the parent have been terminated in accordance with state law.
3. The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for initial assessment has been given by an individual appointed by the judge to represent the child.

Parental consent is not required before ***reviewing existing data*** as part of an assessment or reassessment, or before administering a test or other assessment that is administered to all children unless before administration or reassessment, or before administration of that test or assessment, consent is required of the parents of all children.

The ***screening*** of a pupil by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an assessment for eligibility for special education and related services.

As part of the assessment plan the parents will be provided with a written notice that upon completion of the administration of tests and other assessment material, an Individualized Education Program (IEP) team meeting, including the parent and his or her representatives, will be scheduled. The IEP Team will discuss the assessment, review any additional information, discuss the educational recommendations, and the reasons for these recommendations. Parents will receive a copy of the assessment report and the documentation of determination of eligibility.

Included with the assessment plan will be a copy of Parents' Rights and Procedural Safeguards. The parents will be informed that they have a right to obtain, at public expense, an independent educational assessment of the pupil from qualified specialists, if the parent disagrees with an assessment obtained by the district.

No assessment will be conducted unless the written consent of the parent is obtained prior to the assessment. The parent shall have at least 15 days from the receipt of the proposed assessment plan to arrive at a decision. Assessment may begin immediately upon receipt of the consent. The assessments will be completed, and an IEP meeting scheduled within 60 calendar days from the date of the receipt of the parent's consent for assessment.

Parent consent for assessment shall not be construed as consent for placement or for receipt of special education and related services.

Personal contact with the parents to explain the process and forms is strongly recommended.

If a parent refuses to sign permission for an assessment, the school district may file for mediation/due process hearing. If the district prevails in a due process hearing, the assessment can be conducted without parent consent.

(EC 56321, 5 CCR 3022)

1.5.C Assessment Requirements

Tests and other assessment materials must meet *all* the following requirements:

1. 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 is not feasible to provide or administer.
2. Are used for purposes for which the assessments or measures are valid and reliable.
3. 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.
4. Tests and other assessment materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.
5. Tests are selected and administered to best ensure that when a test is 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 that the test purports to measure.
6. No single measure or assessment is used as a sole criterion for determining whether a pupil is an individual with exceptional needs or determining an appropriate educational program for the pupil.
7. The pupil is assessed in all areas of the suspected disability including, if appropriate, health and development, vision, including low vision, hear, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, social and emotional status. A developmental history shall be obtained when appropriate. For pupils with residual vision, a low vision assessment shall be provided.

8. 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.

As part of an initial evaluation the IEP team will review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and observations by teachers and related services providers.

(EC 56320, 56324)

1.5.D Assessment of African American Children under Larry P Decision

The Larry P v. Riles (1979) court case is the basis for law that disallows the administration of standardized intelligence quotient (IQ) tests to African American students. To ensure compliance with the Larry P, mandate, the CDE has established compliance review procedures to evaluate how well school districts are meeting this mandate with their African American students. The following areas are monitored to ensure compliance with this mandate:

1. Does the plan include a description of alternative means that will be used to assess language impairment or specific learning disabilities when standard 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 that are not racially or culturally discriminatory?
 - b. Do assessment procedures ensure that IQ tests are not administered to African American students?
 - c. Do assessments 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 environmental, cultural, or economic conditions have on the child's performance?

1.5.E Assessment Report

1. The personnel who assess the pupil shall prepare a written report, or reports, as appropriate, of the results of each assessment. The report shall include, but not be limited to, all the following:
 - a. Whether the child may need special education and related services.
 - b. The basis for making the determination.
 - c. The relevant behavior noted during the observation of the child in an appropriate setting.
 - d. The relationship of that behavior to the child's academic and social functioning.
 - e. The educationally relevant health and development, and medical findings, if any.

- f. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate.
- g. The need for specialized services, materials, and equipment for pupils with low incidence disabilities.

If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions must be included in the assessment report.

(EC 56327)

1.6 ELIGIBILITY CRITERIA

Upon completion of the administration of tests and other evaluation materials, the determination of whether the student is an individual with a disability shall be made by the IEP Team, including the parents of the child and assessment personnel. The IEP Team will take into account all the relevant material, which is available on the pupil. No single score or product of scores shall be used as sole criterion for the decision.

Three primary factors must be considered in making this determination:

- (1) Does the pupil meet the eligibility criteria as an individual with a disability?
- (2) Does the severity of the disability have an adverse effect on the pupil's educational performance?
- (3) Does the child require special education and services to achieve a free appropriate public education?

1.6.A Federal Categories of Disabilities

- 1. Autism
- 2. Deaf-Blindness
- 3. Deafness
- 4. Emotional Disturbance
- 5. Hearing Impairment
- 6. Intellectual Disability
- 7. Multiple disabilities
- 8. Orthopedic Impairment
- 9. Other Health Impaired
- 10. Specific Learning disability
- 11. Speech and Language
- 12. Traumatic Brain Injury
- 13. Visual Impairment
- 14. Established Medical Disability

Although "Developmental Delay" is not recognized by the State of California as a category of disability for individuals age 3 through 21, the term is sometimes used to describe a disability in infants, toddlers or preschool children

Students who have been diagnosed with Dyslexia or Attention Deficit Disorder (ADD) or Attention Deficit/Hyperactivity Disorder (AD/HD) may qualify for special education services if they also meet eligibility under one of the above thirteen categories, such as Specific Learning Disability, Other Health Impaired or Emotional Disturbance.

Refer to Chapter 4 in the Special Education Procedural Supplements for specific eligibility criteria and IEP implementation guidelines.

1.6.B Special Rule for Eligibility Determination

In making a determination of eligibility, a child shall not be determined to be a child with a disability if the determinant factor for such determination is:

1. lack of appropriate instruction in reading, including the essential components of reading instruction.
2. lack of instruction in math; or
3. limited English proficiency

(EC 56333-56339; 5 CCR 3030; CFR 300.7, 300.534)

1.6.C Evaluations before Change in Eligibility

1. An LEA shall evaluate a child with a disability before determining that the child is no longer a child with a disability.

2. Exception

The evaluation shall not be required before the termination of a child's eligibility due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for a free appropriate public education.

3. Summary of Performance

For a child whose eligibility terminates due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for a free appropriate public education the LEA shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

1.6.D Section 504 Guidance

1. Section 504 of the Rehabilitation Act of 1973 ("Section 504") is Congress directive to schools receiving any federal funding to eliminate discrimination based on disability from all aspects of school operation. It states, "*No otherwise qualified individual with a disability ..., shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance....*" However, as Section 504 eligibility, requirements and services often overlap with those in the IDEA, the SELPA is frequently called upon to provide information and clarification about Section 504. Some students may be eligible for protections and services under IDEA and Section 504; others are eligible under Section 504 only.
2. Because the school districts in the Santa Clara County SELPA are recipients of federal funding, they are required to provide eligible students with disabilities with

equal access (both physical and academic) to services, programs, and activities offered by its schools. Accommodations, supports and interventions for students eligible solely under s Section 504 of the Rehabilitation Act and Americans with Disabilities Act **do not** fall under the jurisdiction of the Santa Clara County SELPA or district special education. The SELPA is mandated to coordinate and facilitate services to students under the Individuals with Disabilities Education Act (IDEA) only.

3. There are two original main purposes to Section 504. The first purpose of Section 504 is to protect students from discrimination under federal law. The ADA provides the same protections. The laws assure access to educational services and the learning process that is equal to that given to students who do not have disabilities. All students who have a physical or intellectual impairment, which substantially limits one or more major life activities, have a record of such an impairment, or are regarded as having such an impairment, are protected from discrimination under Section 504 and ADA. Section 504 also requires districts to provide a free appropriate public education (“FAPE”) to those students who actually have a physical or intellectual impairment that substantially limits one or more major life activities. The provision of FAPE is accomplished through the creation and implementation of a Section 504 Plan. Only those students who satisfy all of the criteria are eligible for, and are provided, regular or special education and related aids and services under Section 504. The ADA does not require provision of FAPE through a plan.

1.7 REASSESSMENTS

A reassessment of a pupil shall occur not more frequently than once a year, unless the parent and the LEA agree otherwise in writing, and shall occur at least once every three years, unless the parent and the LEA agree in writing, that a reassessment is unnecessary.

Reassessment may also be conducted whenever conditions warrant a reassessment including the following:

- (1) If a parent or teacher requests a re-evaluation;
- (2) When a preschool child with a disability transitions to Kindergarten or first grade; or
- (3) Before determining a child is no longer eligible for special education.

1.7.A Three-Year Reassessments

The three-year reassessments will consider the following in determining the need for additional information:

1. A review of existing data including evaluations and information approved by the parents of the pupil.
2. Current classroom-based assessments and observations by teachers and related services providers.
3. Observations by teachers and related service providers.

On the basis of that review, and input from the pupil’s parents, the team will identify what additional data, if any, are needed to determine, including:

1. Whether the pupil continues to have a disability;
2. The present levels of performance and educational needs of the pupil;

3. Whether the pupil continues to need special education and related services; and,
4. Whether any additions or modifications to the special education and related services are needed to enable the pupil to meet the measurable annual goals set out in the IEP of the child and to participate as appropriate in the general curriculum.

If the team determines that additional tests or other evaluation material is needed to provide the necessary data identified above, the district will administer tests and other assessment materials as may be needed.

If the team determines no additional data is needed, the district will notify the parents of that determination and the reason for it and the right of the parents to request an assessment.

The district is not required to conduct the assessment unless requested to do so by the pupil's parents.

(EC 56380, 56381; CFR 300.533, 300.536)

1.7.B State and Federally Mandated Behavioral Assessments

Following is a description of the behavioral assessment that is required for specific students under State and/or Federal regulations. A functional behavioral assessment (FBA) is required by Federal and California law and is part of the disciplinary process.

Functional Behavioral Assessment (FBA)

A functional behavioral assessment may utilize review of records, interviews, behavior assessment scales, and may include observation of pupil behavior and/or environmental conditions.

A functional behavioral assessment *shall* be conducted when a manifestation determination review team concludes that misconduct was a manifestation of the child's disability, and a functional behavior assessment had not previously been conducted or a behavior intervention plan implemented for the child.

A functional behavioral assessment *may* be conducted under the following circumstances:

- In the case of a child whose behavior impedes the child's learning or that of others, the individualized education program (IEP) team shall consider the use of positive behavioral interventions and support, and other strategies, to address that behavior. (Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations.
- In the case where a behavioral emergency report is written on a child with a disability who does not have a behavioral intervention plan, the IEP team will determine the necessity for a functional behavioral assessment.
- In the case where a behavioral emergency report is written on a child with a disability who has a behavioral intervention plan, the IEP team will determine the necessity for a functional behavioral assessment as part of the modification of the existing behavioral intervention plan.

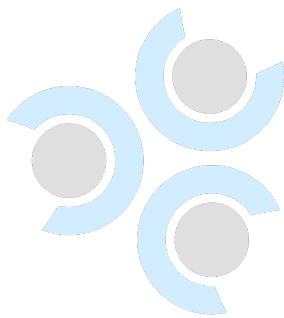
Following the functional behavioral assessment, the IEP team may develop and/or revise a behavioral intervention plan. This behavior intervention plan shall be part of the pupil's IEP and shall specify environmental instructional changes and other techniques and strategies including positive behavioral interventions, strategies and supports.

If the behavior intervention plan is not effective, the IEP team shall reconvene in order to continue to make modifications to the behavior intervention plan.

(California Education Code 56521.1)

Approved by Executive Council:

<i>SELPA I</i>	<i>2/13/06</i>	<i>10/26/23</i>
<i>SELPA II</i>	<i>2/17/06</i>	<i>10/27/23</i>
<i>SELPA III</i>	<i>2/09/06</i>	<i>10/26/23</i>
<i>SELPA IV</i>	<i>2/16/06</i>	<i>10/27/23</i>
<i>SELPA VII</i>	<i>2/16/06</i>	<i>10/25/23</i>



SELPA

Santa Clara County  Office of Education