

**Riverside County Special Education Local Plan Area (SELPA)**  
**Best Practices for Special Education Evaluations**

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**Table of Contents**

<b>Introduction</b>	<b>2</b>
Other Assessment Resources	4
Key Terms	4
<b>Initiation of the Special Education Assessment Process</b>	<b>5</b>
Child Find Requirements	5
Seek Clarity on Reason for Evaluation	6
Referral Requirements	7
Initial Assessment	7
“Initial” Evaluation for Out-of-State Transfer Student	8
Reevaluation	9
Planning the Assessment	12
<b>Follow Legal Procedures</b>	<b>14</b>
Assessment Timelines	14
Notice of Procedural Safeguards and Parents’ Rights	15
Prior Written Notice	15
Assessment Procedures	16
<b>Selection of Assessment Tools</b>	<b>19</b>
Assessment Instruments	19
Use of Protocols	20
Reliability and Validity	20
<b>Assessment Strategies</b>	<b>21</b>
Review of Existing Evaluation Data (REED) Model	21
Review, Interview, Observe and Test (RIOT) Model	21
<b>Other Factors to Consider</b>	<b>24</b>
Assessing Students Subject to <i>Larry P. v. Riles</i>	24
Attention Deficit Hyperactivity Disorder (ADHD)	25
Early Start through Preschool Assessments	26
English Learner Status	26
Influence of Cultural and Linguistic Factors	27
Impact of Environmental or Economic Disadvantage	28
Using an Interpreter	28
<b>Eligibility Criteria</b>	<b>30</b>
1. Autism	30

2. Deaf-Blindness	30
3. Deafness	31
4. Emotional Disturbance	31
5. Hearing Impairment	31
6. Intellectual Disability	31
7. Multiple Disabilities	31
8. Orthopedic Impairment	31
9. Other Health Impairment	31
10. Specific Learning Disability	33
11. Language or Speech Disorder	34
12. Traumatic Brain Injury	35
13. Visual Impairment	36
<b>How to Analyze Information for Meaningful Results</b>	<b>36</b>
<b>Comprehensive Evaluation Report</b>	<b>39</b>
Traditional Practice	40
A Consumer-Responsive Approach: The RIOT Model	46
The Chapman “Consumer Friendly” Model	48
Presenting the Report	49
Translating Written Reports	49
<b>Criteria for Exiting Special Education Services</b>	<b>50</b>
Preschool as a Special Population	50
Dismissing/Exiting a Student Who No Longer Meets Eligibility Criteria	50
When Parent Revokes Consent	50
Exiting Students Who Meet High School Graduation Requirements	51
Exiting a Student from Special Education at the Age of Twenty-Two	52
<b>References</b>	<b>53</b>

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## Introduction

This document serves as a resource to multi-disciplinary assessment team personnel by providing information on best practices for special education evaluations. It is based on the idea that evaluation results are the “building blocks” of the Individualized Education Program (IEP). The task force members that worked on these *Best Practices in Evaluation* sought to have a consistent format of key components with room for individualization that (1) is legally defensible, (2) would serve us well in the state’s compliance monitoring processes, (3) is user friendly, (4) aligns with recommendations from professional organizations as to best practices, and (5) describes how to analyze and present information for meaningful results. Finally, the committee chose not to replicate previously developed special education referral procedures, various assessment guidelines, and notification forms to fulfill the requirements outlined in federal and state mandates.

“An assessment” under California law is equivalent to “an evaluation” under federal law (*EC* § 56303) so the terms are often used interchangeably. However, sometimes assessment and evaluation are differentiated based on the following definitions: *Assessment* is data collection from multiple sources; *Evaluation* integrates all data to produce a student profile to inform decisions about identification, eligibility, services, and instruction. There is also some confusion about the role of the multi-disciplinary assessment team compared with the responsibility of the IEP team.

- The multi-disciplinary assessment team members conduct the evaluation, analyze the data, write a report of findings, and determine if a student has a disability.
- The IEP team reviews the assessment results, determines eligibility for special education, develops the content of the IEP, and makes program placement [service] decisions. Per *EC* § 56341(b), the IEP team making the determination about a student’s eligibility for special education services must include the following:
  - (1) One or both of the pupil's parents, a representative selected by a parent, or both.
  - (2) Not less than one regular education teacher of the pupil, if the pupil is, or may be, participating in the regular education environment.
  - (3) Not less than one special education teacher of the pupil, or if appropriate, not less than one special education provider of the pupil.
  - (4) A representative of the LEA who meets all of the following:
    - (A) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of individuals with exceptional needs;
    - (B) is knowledgeable about the general education curriculum; and
    - (C) is knowledgeable about the availability of resources of the local educational agency.
  - (5) An individual who can interpret the instructional implications of the assessment results.
  - (6) At the discretion of the parent, guardian, or the LEA, other individuals who have knowledge or special expertise regarding the pupil, including related services personnel, as appropriate.
  - (7) Whenever appropriate, the individual with exceptional needs.

While the term “parent” is used throughout this document, it is understood to be applicable to other definitions of parent as well (e.g., guardian, surrogate, adult student). The confidentiality of personally identifiable information about individuals with exceptional needs is protected (*EC* § 56515). Therefore, all referral, assessment plan, prior written notice, IEP, and other documents containing personally identifiable information shall be considered confidential and maintained per confidential mandatory interim record requirements.

Professional judgment should be used for every decision in the evaluation and eligibility determination process, from the formation of the eligibility determination team through the formal eligibility determination decision, including selection of assessment materials, identification of evaluators, interpretation of test results, etc. Professional judgment provides the foundation for the entire eligibility determination process and enhances the precision, accuracy, and integrity of the professionals’ decisions in the case (Schalock & Luckasson, 2005).

## Other Assessment Resources

As a state, California is unique in the nation with the creation of special education local plan areas (SELPAs) as the organizational structure utilized as the link between the California Department of Education (CDE) Special Education Division and local educational agencies (LEAs). The Riverside County SELPA provides a variety of assessment guidelines at [www.rcselpa.org](http://www.rcselpa.org). The following documents provide detailed information on questions to ask, strategies to employ, tools to use, how to analyze evaluation results, and/or how to make program service decisions.

- *A Coordinated System of Referrals*
- *Assessing African-American Students*
- *Assistive Technology Guidelines and Resources*
- *Determination of Need for Triennial Review Evaluation*
- *Determining Need for Extended School Year Services*
- *Educationally Necessary Occupational and/or Physical Therapy*
- *English Learners and English Learners with Disabilities*
- *Independent Educational Evaluation Guidelines*
- *Mental Health Services in Schools*
- *Positive Behavior Interventions and Supports: A Tiered Approach*
  - *Includes requirements for Functional Behavioral Assessment (FBA)*
- *Private School Procedures and Supporting Documents*
- *Program Guidelines for Speech Language Pathologists*
- *Related Service Independence Assistance (RSIA) Support*
- *Students with Disabilities Preschool through Kindergarten*
- *Students with Emotional Disturbance*

## Key Terms

*Access* means a personal inspection and review of a record or an accurate copy of a record, or receipt of an accurate copy of a record, an oral description or communication of a record or an accurate copy of a record, and a request to release a copy of any record (EC § 49061(e)). A LEA may permit access to pupil records to any person for whom a parent of the pupil has executed written consent specifying the records to be released and identifying the party or class of parties to whom the records may be released. The recipient must be notified that the transmission of the information to others without the written consent of the parent is prohibited. The consent notice shall be permanently kept with the record file (EC § 49075(a)).

*Confidentiality* means the restriction of access to verbal and written communications, including clinical, medical and educational records to appropriate parties. (EC § 49076)

*Individuals with exceptional needs* (a.k.a. students with disabilities) means those persons who meet all of the following criteria (EC § 56026):

- (a) Identified by an IEP team as a child with a disability (as defined in 20 USC § 1401(3)(A)).
- (b) Their impairment, as described by requirement above, requires instruction and services which cannot be provided with modification of the regular school program in order to

ensure that the individual is provided a free appropriate public education (pursuant to 20 USC § 1401(9)).

- (c) Come within one of the following age categories: (1) Younger than three years of age and identified by the LEA as requiring intensive special education and services; (2) Between the ages of three to five years, inclusive, and identified by the LEA; (3) Between the ages of five and 18 years, inclusive; or (4) Between the ages of 19 and 21 years, inclusive; enrolled in or eligible for a special education program prior to his or her 19th birthday; and has not yet completed his or her prescribed course of study or who has not met proficiency standards or has not graduated from high school with a regular high school diploma.

*Pupil record* means any item of information directly related to an identifiable pupil, other than directory information, which is maintained by a LEA or required to be maintained by an employee in the performance of his or her duties whether recorded by handwriting, print, tapes, film, microfilm or other means. "Pupil record" does not include informal notes related to a pupil compiled by a school officer or employee, which remain in the sole possession of the maker and are not accessible or revealed to any other person. (EC § 49061(b))

*Reliability* means that the scores on the tool will be stable regardless of when the tool is administered, where it is administered, and who is administering it. Reliability answers the question: Is the tool producing consistent information across different circumstances? Reliability provides assurance that comparable information will be obtained from the tool across different situations. Not only should a measurement tool capture what it is supposed to be capturing, it also should do so consistently over time and across assessors.

*Validity* means that the scores on the tool accurately capture what the test is meant to capture in terms of content. Validity answers the question: Is the tool assessing what it is supposed to assess?

## **Initiation of the Special Education Assessment Process**

Although similar, there are distinct differences between the special education assessment process for initial referrals and reevaluations as described below.

### **Child Find Requirements**

Each SELPA is required to establish written policies and procedures pursuant to EC § 56205 for use by its constituent local agencies for a continuous child find system that addresses the relationships among identification, screening, referral, assessment, planning, implementation, review, and the triennial assessment. The policies and procedures must include written notification to all parents of their rights under child find, and the procedure for initiating a referral for assessment to identify individuals with exceptional needs (EC § 56301(d)(1)). These requirements are met within the framework of the Riverside County SELPA *Coordinated System of Referrals* while providing flexibility for local level implementation.

*Referral for assessment* means any written request for assessment to identify an individual with exceptional needs made by any of the following: (a) A parent or guardian of the individual. (b) A teacher or other service provider of the individual. (c) A foster parent of the individual, consistent with the limitations contained in federal law (EC § 56029).

Note: If a child is a ward of the state and not residing with his or her parent, the local educational agency shall make reasonable efforts to obtain consent from the parent of the child for the initial evaluation to determine whether the child is a child with a disability (EC § 56346).

In addition to SELPA-level requirements, each LEA must provide for the identification and assessment of the exceptional needs of an individual, and the planning of an instructional program to meet the assessed needs. Identification procedures shall include systematic methods of utilizing referrals of pupils from teachers, parents, agencies, appropriate professional persons, and from other members of the public. Identification procedures shall be coordinated with school site procedures for referral of pupils with needs that cannot be met with modification of the regular instructional program (EC § 56302).

### **Seek Clarity on Reason for Evaluation**

It is important to clearly understand the referral concern before an Assessment Plan and Prior Written Notice (AP/PWN) is created. The purpose of the AP/PWN is to outline for the parent the decision to refer their child to the multi-disciplinary evaluation team and the reasons for the referral. If the referral question is ambiguous and broad, judging the degree to which all concerns have been addressed becomes more difficult. If the referral question is clear, then it will be fairly straightforward to judge whether a report is truly “comprehensive.” Reviewing existing data combined with interviewing teachers and parents helps to identify the primary problem and lead to intervention ideas. For example, discussion with teachers or parents may suggest that the academic problem is accompanied by a concern about a student’s emotional status or behaviors that appears related to the academic area of concern. Information gathered as part of developing the referral question should be addressed in the evaluation report under back ground information even though the data was collected before the Assessment Plan was signed.

A referral for evaluation is called “identification” in the Individuals with Disabilities Education Act (IDEA). Identification occurs when a decision is made to refer an infant, preschool or school-aged student for evaluation who is not currently identified as a child with a disability under IDEA but is suspected of having a disability. Identifying the concerns or reasons behind an initial referral for an individualized evaluation to identify a disability is critical. The following process can help the assessment team members to refine or expand the original referral for assessment questions, underscore or rule out the need for certain assessment activities, and help determine what instruments and procedures are needed:

1. The first task is to determine what questions are sought to be answered by the evaluation. Best practice indicates a team approach, including the student’s teacher, parent, and assessors, is the best means of getting agreement on the referral questions. If there is no evidence of a suspected disability, the LEA can initiate a Prior Written Notice to deny request for evaluation. It must be prepared with evidence to defend the action.
2. The second is to determine what information is needed to be collected to answer the questions;
3. The third is to examine what portions of the needed information are already available; and
4. Finally, determine what needs to be included in the proposed assessment plan and prior written notice.

The first step in the process is to use a combination of review of records and interviewing of key individuals to produce a clear and concise referral question. The question needs to be more specific than “the purpose of this assessment is to determine if the student is eligible for special education services.” If the referral question is ambiguous and broad, then judging the degree to which all aspects of the concern have been addressed becomes significantly more difficult. Clarify in this area also helps determine which professionals will need to be involved in the evaluation process. An example of a more specific referral question is: “the purpose of this assessment is to determine areas of strengths and weaknesses related to literacy and to determine whether the student responds adequately to an evidence based literacy intervention.

This information will be used to determine if the student is best taught by general or special education or a combination of the program and personnel.”

It is also important to seek clarity on suspected area(s) of disability when initiating a reevaluation. Just because a student was previously identified under one eligibility criteria does not mean that his or her life functioning remains the same. For example, a child may initially be identified as speech and language impaired until further evaluation determines he has high functioning autism. A child identified as having a specific learning disability may develop a mental health disorder as she goes through her teen years. When a youth starts developing behavior patterns that lead to suspension, the team should consider a more comprehensive reevaluation. Getting clarity at this initial phase of the evaluation process is critical.

## **Referral Requirements**

All referrals for special education and related services shall initiate the assessment process and shall be documented. When a verbal referral is made, staff members must offer assistance to the individual in making a request in writing, and then assist the individual if the individual requests such assistance. All school staff referrals must be written and include a brief reason for the referral and documentation of the resources of the regular education program that have been considered, modified, and when appropriate, the results of intervention. This documentation shall not delay the time lines for completing the assessment plan or assessment (CCR Title 5, § 3021).

A pupil shall be referred for special educational instruction and services only after the resources of the regular education program have been considered and, where appropriate, utilized (EC § 56303).

Parental consent is not required before reviewing existing data ... or before administering a test or other assessment that is administered to all children, unless before administration of that test or assessment, consent is required of the parents of all the children. (EC § 56321(e) and 34 CFR § 300.300(3)(a))

All referrals for special education and related services must be documented and the LEA must provide parents with a written notice that the student is being referred to determine eligibility for special education (20 USC § 1415(b)(3); 34 CFR § 300.503(a)(1), § 300.300(a) and (c)).

When a LEA receives a written request for special education assessment from a parent, the LEA has 15 days to respond to the request (EC § 56043(a). Whether or not the parent is able to attend the [problem solving team] meeting, the LEA must provide a written response to their request for evaluation within 15 days (EC § 56043(a)).

The Riverside County SELPA Website ([www.rcselpa.org](http://www.rcselpa.org)) includes *A Coordinated System of Referrals*. This document includes a list of the Riverside County SELPA members and the annual Search and Serve Notice. It begins with “Child Find” for infants and toddlers, including the legal requirements, identifying reasons for concern, and referral procedures. “Child Find” for school aged individuals also includes legal requirements. The identification processes highlight the benefits of utilizing problem solving teams, multi-tiered system of supports (MTSS), and progress monitoring approaches.

## **Initial Assessment**

No initial assessment shall be conducted unless the written consent of the parent or guardian is obtained prior to the assessment. The parent or guardian 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. (EC § 56321(c)(4))

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 the consent, the LEA may, but is not required to, pursue the initial assessment utilizing the procedural safeguards procedures, including mediation and due process procedures. (34 CFR § 300.300(a); EC § 56501(a)(3) and § 56506(e)) The LEA does not violate its obligation for child find, evaluation and eligibility determination if it declines to pursue the assessment (34 CFR § 300.300(a)(3)(ii); EC § 56321(2)(3)). If the LEA prevails in a due process hearing, the assessment may be conducted without parent consent (EC 56321).

**NOTE:** When a student, who has an active assessment plan, transfers into the LEA, the assessment must be continued as soon as possible to adhere to the 60 day timeline. Contact with the previous district is crucial in this matter to have proper information on the reason for referral, background information, and for the continuance of the evaluation process.

If the child is a ward of the State and is not residing with the child's parent, the public agency is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if—

- Despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the child;
- The rights of the parents of the child have been terminated in accordance with State law; or,
- The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child (34 CFR § 300.300(a)(2)).
  - **Note:** The court may also appoint a Court Appointed Special Advocate (CASA). In the cases when the courts have not appointed an individual or CASA, the LEA will need to appoint a trained surrogate parent.

### **“Initial” Evaluation for Out-of-State Transfer Student**

Per the Office of Special Education and Rehabilitative Services (OSERS, 2010) only a few options are available when a student transfer in from out-of-state, a copy of his or her IEP cannot be provided, and the parent identifies the “comparable” services.

First, the LEA must make reasonable steps to promptly obtain the child’s records from the previous place in which the child was enrolled. If the LEA is not able to obtain the IEP from the previous public agency or from the parent, it is not required to provide special education and related services to the child. However, if the LEA has reason to believe that the child may have a disability, nothing in the law or regulations prevents the LEA from providing special education services while an evaluation is pending if both the parent and LEA agree. If a child receives special education services while the evaluation is pending, the new evaluation would still be considered an “initial” evaluation and must be completed within 60 days after receiving parental consent. If the IEP team makes an eligibility determination and concludes that the child has a disability and that he or she needs special education services, the LEA must develop and implement an IEP for the child even though he or she is already receiving special education services by the LEA.

If there is a dispute between the parent and LEA whether an evaluation is necessary or the special education services that are needed to provide a free appropriate public education (FAPE) to the child, the dispute could be resolved through mediation procedures or, as appropriate, the due process procedures. If a due process complaint is filed, the LEA would treat the child as a general education student while the due process hearing is pending.



In the second option, when a child with a disability who has an IEP in effect transfers into a new LEA from out-of-state, the new LEA, in consultation with the parent, must provide the child with FAPE – including services comparable to those described in the child’s IEP from the previous public agency. The LEA must, if deemed necessary, conduct an evaluation and develop a new IEP. If the new LEA determines that it is necessary to conduct a new evaluation, that evaluation would be considered an initial evaluation because the purpose of that evaluation is to determine whether the child qualifies as a child with a disability and to determine the educational needs of the child.

The LEA must obtain parent consent for such an evaluation. If the parent does not provide consent for an initial evaluation or fails to respond to a request to provide consent, the LEA may, but is not required to, pursue the initial evaluation employing consent override procedures provided in the law (mediation or request for due process). Because the child’s evaluation is considered an initial evaluation, the stay-put provision in the law does not apply. The LEA would treat the child as a general education student and would not be required to provide the child with comparable services if a due process complaint is initiated to resolve the dispute over whether or not the evaluation should be conducted. Also, the LEA does not violate its obligation to identify, locate, and evaluate a child suspected of having a disability and needing special education services if it declines to pursue the evaluation. Bottom line, if the parent does not provide consent and the LEA does not seek to override this, the child is treated as a general education student.

### **Reevaluation**

The reassessment of a student with a disability must be conducted if the LEA determines that the educational or related service needs, including improved academic achievement and functional performance, of the pupil warrant a reassessment, or if the pupil’s parents or teacher requests a reassessment (EC § 56381, § 56320, Title 20 USC § 1414(a), (b), and (c)). The reassessment cannot occur more frequently than once a year, unless the parent and the LEA agree otherwise, and shall occur at least once every three years, unless the parent and the LEA agree, in writing, that a reassessment is unnecessary. A student may be reassessed sooner than the three year requirement upon parent request and/or when conditions warrant. Lozano Smith (2014) recommends that teams consider the following scenarios as potential reasons for doing a reevaluation sooner:

- evidence of regression,
- student may no longer be eligible or have additional needs,
- goals are met early or not met at all,
- there is an increase or decrease in inappropriate behaviors,
- to address placement or service concerns,
- in response to a unilateral placement, and/or
- potential due process or complaint filing.

A student must be reassessed before determining that a pupil is no longer an individual with exceptional needs, before exiting a student from special education program and related services, and before determining that the student no longer needs special education supports. This holds true even when the pupil only receives a related service and/or when the student is on a ‘consult’. Reassessment is not required before the termination of a pupil’s eligibility and/or services due to graduation from secondary school with a regular diploma or “aging out” due to exceeding the age eligibility for a free appropriate public education (FAPE). For each pupil who’s eligibility terminates under one of these circumstances, the LEA must provide the pupil with a Summary of

Performance, including information about the student's academic achievement, functional performance, and recommendations on the manner in which to assist the pupil in meeting his or her postsecondary educational goals (as required in 20 USC § 1414(c)(5)(B)(ii)).

As part of a reassessment, the IEP team and other qualified professionals, as appropriate, shall do the following:

1. Review existing assessment data on the pupil, including assessments and information provided by the parents of the pupil, current classroom-based assessments and observations, and teacher and related services providers' observations (34 CFR § 300.305). The records review typically includes previous psycho-educational assessment reports, related service provider assessment reports, current and previous IEPs, progress toward goals reports, report cards, special education teacher records, general education teacher input, attendance records, discipline records, review of health and medical records, consideration of student work samples or portfolio, and communications between school and home.
2. It is important to look at all areas that may be a manifestation of a disability and/or impact a student's educational performance (i.e., attendance, attention, behavior, communication, peer interactions, medical status, social-emotional functioning). Observational data collected in the classroom, in informal settings like the playground or lunchroom, in the home or community can often provide insights about the student's areas of difficulty.
3. On the basis of the review conducted pursuant to paragraph (1), and input from the parents of the pupil, identify what additional data, if any, is needed to determine:
  - a. Whether the pupil continues to have a disability described;
  - b. The present levels of performance and educational needs of the pupil;
  - c. Whether the pupil continues to need special education and related services; and,
  - d. 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 individualized education program of the pupil and to participate, as appropriate, in the general curriculum.

The SELPA has developed the *Determination of Need for Triennial Review Evaluation* (Form 31), to assist with the triennial assessment. With these worksheets, the IEP team is able to obtain the data required by the Education Code to make the determination if further formal assessment is needed.

- It is important to communicate with all team members to determine when a review will be conducted and who will be involved.
- The records review may be done within, or outside of, an IEP team meeting.
- It may be conducted with, or without, the parent in attendance as long as the questions are explained to the parent and parent input is gathered (and documented) during the process.
- Analysis of the data collected will help the team conclude if adequate information is available based on existing files and records to determine continued eligibility and need for special education program services and/or related services.
- Additional assessment may need to be conducted to determine if:
  - the student continues to have a disability,

- the student continues to need special education and related services,
  - the student's present levels of performance need to be verified through formal assessment,
  - the student's educational needs are in question, and/or,
  - any additions or modifications to the student's IEP are needed to enable the student to meet annual goals or participate, as appropriate, in the general education curriculum.
- If ineligibility is suspected, the available data is insufficient, and/or the student is exhibiting additional areas of concern not previously identified, a more formal assessment process would be appropriate.
  - Assessors must follow the standard AP/PWN procedures.
  - The review must be completed in time for an AP/PWN to be developed and the evaluation completed in the event that the records review indicates and/or a parent requests that further assessment be conducted. It is important to allow sufficient time to complete the evaluation in light of the number and locations of observations, the student's attention span, the school's daily schedule, and the evaluators' availability of time and task management of the caseload at assigned school sites. Therefore it is recommended that this process be started at least 90 days in advance of the triennial due date.

If updated information is needed, the LEA shall administer tests and other assessment materials needed to produce the data identified by the IEP team. The team needs to follow required procedures for use of the AP/PWN when describing the areas to be tested. Team members need to conduct a comprehensive analysis of a child to determine what assessment instruments or tools are important to use based on what is known at the time of initiating an assessment plan. In addition to standardized testing, non-standardized tests, parent teacher interviews or surveys, and a student interview can provide supporting evidence to the determination of a disability.

A reassessment may not be conducted, unless the written consent of the parent is obtained prior to reassessment (except pursuant to EC § 56506(e) and 34 CFR § 300.300(c)). Informed parental consent need not be obtained for the reassessment of an individual with exceptional needs if the LEA can demonstrate that it has taken reasonable measures to obtain that consent and the parent of the child has failed to respond. To meet the reasonable measure requirements, the LEA must use the following procedures (consistent 34 CFR 300.322(d)):

- Notify parents of the meeting early enough to ensure that they will have an opportunity to attend.
- Schedule the meeting at a mutually agreed on time and place.
- Ensure the notice of meeting to the parent indicates the purpose, time, and location of the meeting and who will be in attendance.
- Verify that the notice also informs the parents of the provisions in §300.321(a)(6) and (c) relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child.
- Other requirements regarding the IEP meeting and conference notice also apply.
- Best practice is to make three attempts to obtain parent consent to the Assessment Plan. The first attempt is through whatever communication method is usually kept (keep a dated

copy). The second and third attempts are both done using certified mail with return receipt requested. Allow at least five school days between each attempt.

If the parent refuses to consent to the reassessment, the LEA may, but is not required to, pursue the reassessment by using the consent override (due process) procedures. Per OSERS (2010), the LEA does not need to use the consent override procedures if it can document:

1. detailed records of telephone calls made or attempted and the results of those calls,
2. copies of correspondence sent to the parents and any responses received, and
3. detailed records of visits made to the parent's home or place of employment and the results of those visits.
4. The LEA does not violate its obligations if it declines to pursue the reassessment (34 CFR § 300.111 and 300.301 to 300.311, inclusive).

If the IEP team and other qualified professionals, as appropriate, determine that no additional data is needed to determine whether the pupil continues to be an individual with exceptional needs, and to determine the educational needs of the pupil, the LEA shall notify the parents of the pupil of that determination and the reasons for it, and the right of the parents to request an assessment to determine whether the pupil continues to be an individual with exceptional needs, and to determine the educational needs of the pupil. The LEA is not required to conduct an assessment, unless requested by the parents of the pupil.

- It is best practice to hold a triennial review IEP meeting to document the findings and update the student's eligibility, present levels of performance, and IEP goals if necessary.
- To the extent possible, the LEA shall encourage the consolidation of reassessment meetings for the individual with exceptional needs and other IEP team members.
- When a student has more than one service provider, all providers need to be invited to the same meeting and provide their report analysis during the IEP meeting.
- This is beneficial to the team, the parent, and student concerned to enhance the team's decision process and IEP development for the best possible outcomes for the student.

If the parent refuses to consent to the three-year reevaluation but requests that the LEA continue to provide special education services to their child, per OSERS (2010), the LEA has the following options:

- When the LEA and parent agree that the reevaluation is unnecessary, the LEA continues to provide FAPE to the student.
- When the LEA believes that the reevaluation is necessary and the parent refuses consent, the LEA may, but is not required to, pursue the evaluation via mediation or due process proceedings.
- If the LEA chooses not to pursue the reevaluation by using the above procedures, and the LEA believes, based on a review of existing data on the student, that the child does not continue to need special education services, the LEA may determine that it will not continue the provision of special education services to the student. If choosing to do so, the LEA must provide the parent with prior written notice of its proposal to discontinue the provision of FAPE to the child, including the right of the parent to use mediation or due process procedures if the parent disagrees with the LEA's decision.

## **Planning the Assessment**

The primary purpose for testing should be to find out more about the identified concerns, not just to get a score (NASP, 2010). Effective assessment begins with clear conceptions of the goals

and objectives of learning. Essentially, the special education regulations respect the expertise of the professionals who conduct an evaluation to determine what data are relevant for eligibility determination and educational planning purposes ([www.nasponline.org](http://www.nasponline.org)). Although only one person needs to complete the AP/PWN (Form 11), it is ideally developed in a team-consultation based on current classroom performance, observations, other findings, and recommendations from the initial referral problem solving team or current IEP team members.

The assessment must be sufficiently comprehensive to identify all of the student's special education and related service needs. No single measure can be used! A variety of assessment tools and strategies must be used to gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities). The process must result in the identification of data needed to determine eligibility, present levels of performance, the child's need for special education and related services, and any modifications needed to enable the child to meet the goals and to participate in the general curriculum.

When the school site receives a written request for assessment from the parent, or a school staff member has a question regarding eligibility or services, a team meeting should be held. For an initial referral, this may be the site problem solving team (a.k.a., Student Success Team or Educational Monitoring Team). For a reevaluation, this would be the IEP team. An assessment plan must be developed before any action is taken with respect to the initial placement of an individual in special education instruction. When determined to be necessary, an assessment plan must also be developed for all formal three-year reevaluations or any time an individualized assessment is being conducted.

- If the parent of a child does not provide consent for an initial evaluation or parent fails to respond to a request to provide consent, the LEA may pursue the initial evaluation through due process. The evaluation process is not completed until the IEP team meeting is held and the appropriate IEP pages written.
- Similarly, if the parent of a child (who has been assessed, identified as having a disability, and found eligible for special education) does not provide consent to the initial provision of services, the LEA shall not provide special education and related services to the child and the child shall remain a general education student.

It is critical that the proposed assessment plan addresses evaluation in all areas of suspected disability. The parent should be included in developing the assessment plan to ensure that their areas of concerns are addressed and they have the opportunity to share any information available from other agencies or professionals, such as independent assessments. Some of the benefits of family involvement in the assessment process include utilizing their knowledge as a source of information about a child's skills, can lead to a better understanding of a child's social emotional skills, can help them learn about their child's strengths and needs, and can help their child establish trust and rapport with members of the assessment team (Yates, Ostrosky, Cheatham, Fellig, Shaffer, & Santos, 2008).

It is also important to work with the parent to determine if information from another agency or individual is available. The *Authorization for Use and/or Disclosure of Information* (Form 12) is designed for LEAs to use to obtain parental consent in giving permission to release information from a student's file or to obtain information from an outside agency. This form meets Federal and State regulations and is valid for one year from the date signed. A copy of the signed authorization needs to be maintained in the student's file. It is important to fill-in the name of the party receiving and sending the confidential information and for what purpose the information is

being requested. Please see the Riverside County SELPA IEP Manual for specific directions on how to complete the *Authorization for Use and/or Disclosure of Information* form.

## **Follow Legal Procedures**

The likelihood of meeting best practices and legal requirements increase when school personnel follow the required processes for initial referrals, review of existing data, and triennial reevaluations. It is critical that evaluation team members establish themselves as experts! It is important to understand the assessment timelines, when to give *Notice of Procedural Safeguards and Parents' Rights*, when and how to write a *Prior Written Notice (PWN)*, and the development of an *Assessment Plan/Prior Written Notice (AP/PWN)*. Compliance to these requirements can influence or even determine if a LEA decides to pursue a due process hearing and how a response to a complaint is written.

### **Assessment Timelines**

A proposed assessment plan shall be developed within 15 calendar days of referral for terms or calendar days of school vacation in excess of five schooldays, from the date of receipt of the referral, unless the parent or guardian agrees in writing to an extension. In addition, a copy of the notice of a parent's or guardian's rights shall be attached to the assessment plan. (EC § 56321(a)).

A parent or guardian shall have at least 15 calendar days from the receipt of the proposed assessment plan to arrive at a decision (EC § 56321(c)).

When a referral is received 10 days or less prior to the end of the regular school year:

- The assessment plan shall be developed within 10 days after the commencement of the subsequent regular school year or the pupil's regular school term as determined by each LEA's school calendar.
- In the case of pupil school vacations, the 15-day time shall commence on the date that the pupil's regular schooldays reconvene (EC § 56321a).

A full and individual initial evaluation must be conducted by the LEA before any action is taken with respect to the initial placement of a child with a disability. Consent for evaluation shall not be construed as consent for placement or for provision of special education and related services (34 CFR §300.301(a); EC § 56320d).

Once a child has been referred for an initial assessment to determine whether the child is an individual with exceptional needs and to determine the educational needs of the child, these determinations shall be made, and an IEP team meeting shall occur within 60 days of receiving parental consent for the assessment (EC § 56302.1(a)).

The 60-day time period does not apply if the following occurs (EC § 56302.1(b)):

- A child enrolls in a school served by the LEA after the relevant time period has commenced but prior to a determination by his or her previous LEA of whether the child is an individual with exceptional needs. The exemption of this paragraph 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.
- The parent of a child repeatedly fails or refuses to produce the child for the assessment.

Vacations or off track days longer than 5 consecutive school days are not counted as part of the 60 calendar days. The number of days prior to the off school time is added to the days starting

upon the student's return to total the 60 calendar days (EC § 56043(f)(1)). However, an IEP 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 LEA'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 IEP for the pupil shall be conducted within 30 days of a determination that the pupil needs special education and related services (EC § 56344, 34 CFR 300.323(c)(1)).

### **Notice of Procedural Safeguards and Parents' Rights**

The parents or guardians of a pupil who has been referred for initial assessment, or of a pupil identified as an individual with exceptional needs, shall be afforded an opportunity to participate in meetings with respect to the identification, assessment, and educational placement (34 CFR § 300.501; EC § 56304, § 56342.5 and § 56341.5(b) and (c))

The Notice of Procedural Safeguards and Parents' Rights shall be given to the parent/guardian only one time a school year, except: (EC § 56301(d)(2)):

- A. Upon initial referral or parent request for assessment
- B. Upon receipt of the first state complaint
- C. Upon receipt of the first due process hearing request
- D. When a decision is made to make a removal that constitutes a change of placement because of a violation of a code of pupil conduct
- E. Upon request by a parent

It is critical that someone on the team explains the contents of the *Notice of Procedural Safeguards and Parents' Rights* to the parent to ensure that s/he understands their rights and the processes involved. This notice and the other referenced forms are located on Riverside County SELPA's webpage.

### **Prior Written Notice**

Written prior notice shall be given by the LEA to the parent(s) or guardian(s) of an individual with exceptional needs, or a child upon initial referral for assessment, whenever the LEA proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. (EC § 56500.4) A compliant notice will be individualized for each student and must include the following components: (34 CFR § 300.503)

- A description of the action proposed or refused by the agency
- An explanation of why the agency proposes or refuses to take the action
- A description of any other options that the agency considered and the reasons why those options were rejected
- A description of each assessment procedure, test, record, or report the agency used as a basis for the proposed or refused action
- A description of any other factors that are relevant to the agency's proposal or refusal
- A statement that the parents/guardians of a child with a disability have protections under state and federal procedural safeguard provisions and the means by which a copy of a description of the procedural safeguards can be obtained.

The Prior Written Notice must be:

- Written in language understandable to the parent/guardian.
- Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
- If the native language or other mode of communication of the parent is not a written language, the public agency shall take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication.
- That the parent understands the content of the notice and this is documented.
- A copy of the Procedural Safeguards should be provided with the Prior Written Notice.

When a LEA receives a written request for special education assessment from a parent, the LEA has 15 days to respond to the request, whether or not the parent is able to attend a problem solving team meeting (e.g., Student Success Team, Educational Monitoring Team).

- If an assessment is indicated, the parent shall be provided a copy of the Procedural Safeguards and a proposed AP/PWN.
- If an assessment is not indicated, the parent shall be provided a copy of the Procedural Safeguards and PWN with the reason why the request for assessment is being denied.

A legal opinion pertaining to Prior Written Notice suggests a separate form be sent out after the IEP team has made a decision for the change/rejection on the following actions:

- Evaluation/Re-evaluation – intention or refusal (*EC § 56500.4*)
- Educational Placement (change of placement)
- Change of placement due to graduation
- Exiting student from special education
- When the LEA is refusing to take an action requested by parent in writing

To address this requirement, the Riverside County SELPA has added a Prior Written Notice form to the IEP Comments and Continuation Page (Form 7). A case carrier, site administrator, program specialist, or administrative designee may complete this form for typical team recommendations (i.e., change in offer of FAPE) wherein there is no dispute. Someone with authority to allocate special education funds (typically a special education administrator) generates a Prior Written Notice in response to a disputed IEP and/or a written request from parents for assessment or Independent Education Evaluation (IEE).

A member of the multidisciplinary team should explain the proposed AP and completed PWN to the parent in the parent's native language to insure that "informed" consent is obtained. For guidance on completing the AP/PWN (Form 11) and/or the PWN (Form 18), please see the Riverside County SELPA *IEP Manual*.

### **Assessment Procedures**

An assessment shall be administered by qualified personnel who are appropriately trained to administer and interpret test results. Qualified personnel should be competent in both oral and written skills in the student's primary language or mode of communication, as well as have knowledge and understanding of the student's cultural and ethnic background. If an interpreter must be used the assessment report must document this condition (Title 5, CCR § 3023).



A variety of assessment tools and strategies are used to gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities) (34 CFR § 300.304(b)(2)).

Assessors must use “technically sound instruments that may assess the relative contribution of cognitive and behavioral facts, in addition to physical or developmental factors.” (20 USC § 1414(b)(2)(C); 34 CFR § 300.304(b)(3)). Note: “technically sound instruments” generally refers to assessments that have been shown through research to be valid and reliable (71 Fed. Reg. August 14, 2006).

Testing and assessment materials and procedures must be selected and administered so as not to be racially or culturally discriminatory (34 CFR §300.304(c)(1)(i); EC § 56320(a)).

Materials and procedures used to assess a student with limited English proficiency must be selected and administered to ensure that they measure the extent to which the student has a disability and needs special education rather than measuring the student’s English proficiency (34 CFR § 300.304(c)(1)(ii) and § 300.306(b)(iii)).

Tests and other assessment materials are provided and administered in the pupil’s primary language or other mode of communication, unless the assessment plan indicates reasons why this provision and administration are not clearly feasible, have been validated for the specific purpose for which they are used, and are administered by trained personnel in conformance with the instructions provided by the producer of the tests and other assessment materials, except that individually administered tests of intellectual or emotional functioning shall be administered by a credentialed school psychologist (EC § 56320(b)).

Assessment procedures must ensure that tests and other assessment materials are used to assess specific areas of educational need and do not rely merely on procedures that provide a single IQ score (34 CFR § 300.304(c)(2); EC § 56320(c)).

Assessment tools must be “tailored to assess specific areas of educational need” and “special attention shall be given to the child’s unique educational needs” (EC § 56320(c)(g)).

Assessment procedures must ensure that materials are selected and administered that reflect the individual’s skills and aptitude levels. If a test is administered to a student with impaired sensory, manual or speaking skills, the test must accurately reflect the student’s aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student’s impaired skills (unless those skills are the factors that the test purports to measure) (34 CFR § 300.304(c)(3); EC § 56320(d)).

No single procedure is used as the sole criterion for determining whether a pupil is an individual with exceptional needs and for determining an appropriate educational program for the pupil (EC § 56320(e)).

Each student evaluated for initial and three year reviews must have a hearing and vision screening unless parental permission is denied (34 CFR § 300.304(c)(4); Title 5 CCR § 3027).

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 is obtained, when appropriate. For pupils with residual vision, a low vision assessment shall be provided (EC § 56320(f)).

The assessment of a pupil, including the assessment of a pupil with a suspected low incidence disability, shall be conducted by persons who are both knowledgeable of that disability, and

competent to perform the assessment, as determined by the local educational agency. Special attention shall be given to the child's unique educational needs, including, but not limited to, skills and the need for specialized services, materials, and equipment (EC § 56320(g)).

IQ test scores are not contained in files of African-American pupils. (Larry P. vs. Riles) Please refer to the Riverside County SELPA Guidelines for Assessing African American Students for procedures to purge IQ scores received from out-of-state LEAs or non-educational agencies.

When a child reaches the age of 18, all rights under Part B of the IDEA will transfer to him or her. The only exception will be if the child is determined to be incompetent under State Law (34 CFR § 300.520; EC § 56041.5).

A compliant [AP/PWN] notice will be individualized for each student and must include the following components: (34 CFR § 300.503(2))

- A description of the action proposed or refused by the agency
- An explanation of why the agency proposes or refuses to take the action
- A description of any other options that the agency considered and the reasons why those options were rejected
- A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action
- Sources for parents to contact to obtain assistance in understanding the provisions of this part
- A description of any other factors that are relevant to the agency's proposal or refusal
- A statement that the parents/guardians of a child with a disability have protections under state and federal procedural safeguard provisions and the means by which a copy of a description of the procedural safeguards can be obtained.

The proposed assessment plan given to the parents or guardian shall also meet all the following requirements: (EC § 56321b)

- Be in language easily understood by the general public.
- Be provided in the primary language of the parent, guardian, or other mode of communication used by the parent or guardian, unless to do so is clearly not feasible.
- Explain the types of assessments to be conducted.
- State that no individualized education program will result from the assessment without the consent of the parent.

The assessment must be sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in which the child is classified (34 CFR §300.304(c)(6)).

The assessment plan process must include current classroom based assessments, observations, description of any recent assessments conducted, and a review of existing evaluation information provided by the parents, including any available independent assessments, and any information the parent requests to be considered (34 CFR § 300.305(a)(1); EC § 56321(e) and § 56381(c); CCR § 3022).

The assessment plan process must result in the identification of data needed to determine eligibility, present levels of performance, the child's need for special education and related

services, and any modifications needed to enable the child to meet the goals and to participate in the general curriculum (34 CFR § 300.305(a)(2); EC § 56381(b)(2).

## **Selection of Assessment Tools**

Knowing that the results of the evaluation must be sufficiently comprehensive to identify all of the student's special education and related service needs, the assessment team must give serious consideration to the selection of assessment instruments, handling of protocols, reliability and validity, and assessment strategies. The determination of what tests are required is made based on information known at the time (See *Vasherese v. Laguna Salada Union 20 School District* (N.D. Cal 2001)).

### **Assessment Instruments**

Assessment tools must be tailored to assess specific areas of educational need and special attention must be given to each child's unique educational needs. It must be sufficiently comprehensive to identify all of the student's special education needs. Before assessing, verify with the parent if there are any pending or recent private assessment wherein one of the tools being considered may have recently been administered that may influence the selection of specific instruments. The assessors are responsible for selecting the assessment instruments and strategies.

- An August 2013 case stresses that the district (not the parent) selects testing instruments and the parent has to allow the district to assess using the instrument they selected.
  - The best practice tip from this case is to be sure that assessors can articulate why the test is appropriate and/or necessary (Lozano Smith, 2014).
  - It is important to probe why a parent wants a particular test, determine if it is appropriate or not, include or give a PWN declining a specific test and why (Lozano Smith, 2014)
- A September 2013 case indicates that when a parent imposes unreasonable conditions on the assessment process (i.e., demanding to be present during the assessment process), they are effectively withholding consent to the assessment by infringing on the district's ability to assess.
  - Lozano Smith (2014) put forth the importance of document correspondence with the parent, drafting a PWN relating to the proposed initiation of an assessment, and considering filing for due process.

Lozano Smith (2014) also advises that it is important to avoid the following common errors:

- Using outdated assessment instruments;
- Using standardized cognitive assessments for African American (a.k.a. black) students;
- Using the same instrument less than a year after previous administration;
- Using a screening instrument instead of a full-scale standardized assessment;
- Using an instrument outside of age norms.

If these situations cannot be avoided, explain why the assessment instrument was used and note that the validity of the results are potentially unreliable.

## Use of Protocols

One never knows when a parent will request that the LEA produce copies of test protocols utilized in connection with assessment and special education so it is important to always utilize the test instruments, scoring system, and recording of responses accurately and appropriately. The OAH Case No. 2008050589 reported by Lozano Smith (2014) highlights the importance of properly using protocols:

“Defects in assessment (i.e., failure to establish baseline and ceiling scores, giving full credit for writing samples with grammatical errors, averaging responses, and/or using a “short form” version of a test for known area of difficulty) can jeopardize reliability of results and provide “no basis to determine a qualifying disability or educational needs”.

Per the Office of Special Education Programs (OSEP) *Letter to MacDonald* (1993), LEAs are required to provide, upon request, an explanation or interpretation of any answer sheet or other educational records related to the tests a student has completed. In *Newport Mesa USD v. State of California Department of Education et al* (2005), the United States District Court ruled that a school giving parents of a special education student copies of their child’s test protocols when requested under California *EC § 56504* is a fair use under *17 U.S.C. § 107*. In order to minimize the risk of improper use, the court recommended that the district choose to use appropriate safeguards such as requiring a review by parents of the original test protocols before obtaining a copy, requiring a written request for a copy and a nondisclosure or confidentiality agreement, or other reasonable measures.

An agreement with an authorized signature can be used to have the parent acknowledge and agree that the existence of and the contents of the test protocols produced by the LEA are confidential and shall not be revealed, disclosed, identified, or otherwise provided by the parent to any third party other than the parent’s attorney or advocate without prior written consent of the LEA as permitted by law. The parent’s refusal to sign such an agreement does not in any way limit their right to inspect a pupil’s educational records, including test protocols, as permitted by law.

## Reliability and Validity

Assessors are required to use “technically sound instruments”, which generally refers to assessments that have been shown through research to be valid and reliable (Lozano Smith, 2014). The reliability and validity of an instrument is dependent upon the population to whom it is given and the language in which it is administered. A tool may be reliable and valid for one group of students but not for others (i.e., reliability established based on English learners but not for dual language learners). How an instrument is utilized can also influence its reliability and validity. For example, if an individual does not closely follow the training procedures outlined by the developer or if the assessor alters the approach to implementing the assessment, one cannot be confident that the information provided is valid or reliable. Also, do not rely on compu-score as it can give scoring errors (Lozano-Smith, 2014).

When selecting assessment instruments, the professional should make every attempt to utilize those that have the highest reliability and validity that meets the evaluation needs. Information on the reliability and validity of a tool is critical to determining that tool is appropriate for use with a particular student. If an instrument does not produce reliable or valid information, one cannot trust that information to provide a good sense of how a child is developing.

## Assessment Strategies

Assessment professionals have the discretion to select particular testing or evaluation instruments and strategies known to be nondiscriminatory and nonbiased. This may include processing, developmental, academic, adaptive, social-emotional, dynamic, ecological assessments and utilizing a conceptual approach to data analysis. In every evaluation, the assessment team members must use professional judgment in selecting the battery of instruments and strategies to be utilized with an individual child.

“A comprehensive evaluation provides an IEP team with information regarding both environmental (instruction/intervention) and within learner attributes (e.g., response and cognitive processing). This approach provides the information essential to (a) make a determination that a student has a disability, (b) document the need for special education services, and (c) provide information important to instruction and intervention design” (CASP, 2011).

OAH Case No. 2012050676 shared by Lozano Smith (2014) demonstrates how important it is to not narrowly focus an assessment but to consider additional assessment tools when needed to determine if a disability exists.

- Follow up on leads and mysteries.
- If something in the assessment raises the possibility of another area of disability, assess in that area.
- When one test score indicates a possible deficit area (i.e., reading fluency), it is important to consider administering other academic assessments to cross validate original findings.

Typically the evaluation includes a variety of approaches as described below.

### Review of Existing Evaluation Data (REED) Model

The recommended first step in both the initial and reevaluation processes is to review existing evaluation data (REED). While the REED process is not required for an initial evaluation, it is best practice to collect and review all existing information on a student before beginning an initial evaluation. The REED process may include information provided by the parents of the student (i.e., evaluation by an outside agency or private practitioner), current classroom-based assessments and performance in the general curriculum (i.e., report cards), formal state or district-wide assessment data, observations, and previous interventions. The information collected through the REED process will assist the team in determining what additional evaluation data is needed to determine if the student has a particular category of disability, the present levels of academic achievement and functional performance, and the educational needs of the child.

### Review, Interview, Observe and Test (RIOT) Model

Employing the RIOT (review, interview, observe and test) model ensures that “all areas related to the suspected disability” are addressed instead of solely focusing on the learner through testing.

- Review: The first step in conducting an assessment should be to review prior records or any other type of permanent product that might be relevant.
- Interview: Anyone with knowledge of the student and his skills should be interviewed. This might include teachers, administrators, parents, or the student herself. Multiple perspectives and input are crucial to decision making.
- Observe: It is important to actually see what is occurring in a classroom or other setting. Whether to use structured or informal approaches should depend on what type of information is sought.

- **Test:** This is what most people think of when they hear “assessment”. Almost always it is important to administer tests to a student because it is the best way to get certain types of information.

**Interviews.** In regards to identification of a disability, structured or unstructured interviews are important in obtaining information about the student’s medical and developmental history, social-emotional functioning, educational progress or history, and community involvement. The family is a critical component in identifying home environmental factors that may be impacting the child’s behavior. Although not standardized, a formal interview format may provide relevant information. Lichtenstein (2014) views rating scales as written versions of standardized interview questions and notes they can be included as background information or under test results. A developmental history is considered an essential component in an initial evaluation since it can influence the determination of whether or not the child has a disability.

**Observations.** Systematic observations in the child’s environment yields data critical to any evaluation procedure as it increases the chance of making correct assumptions. It is important that observations be conducted to gather *demonstration of behaviors*, which is different from *information about* the behavior. During this process, best practices emphasize the need to write observations as descriptive statements rather than subjective or inferential statements and to save the interpretations about the meaning of the behaviors for the data analysis process. The chart below shows these distinctions.

Behavioral Descriptive Statements	Behavioral Inferential Statements
The child was observed tapping his pencil and staring out the window	The child was day dreaming
The youth kicked his desk	The youth was frustrated
He refused a teacher directive to return to seat	He was oppositional
During the observation, [the child] passed a spelling test with 19/20 words correct	The child does not appear to have any difficulties with spelling

Written consent by parent is required prior to observing an individual student if the data collected is due to suspicion of disability or disability-related need. If the observation is conducted solely to provide feedback to the teacher regarding service delivery, then written consent will not be needed. Observations can provide insights to what might impact a student’s performance. These other sources are sometimes called *domains* and are represented by the acronym ICEL—Instruction, Curriculum, Environment, Learner.

- **Instruction:** This is what we usually think of as teaching. How content is presented to students can vary in many different ways: type of materials, grouping, opportunities to respond, etc.
- **Curriculum:** This is the content that is actually taught. Scope and sequence would be included here as well as pacing within and between topics.
- **Environment:** This means the classroom environment—things such as physical arrangement of the room, where the student sits and next to whom, lighting, noise, etc.
- **Learner:** Obviously the student himself. It is important to put the student and his performance in the broader context of the instruction, curriculum, and environment before we determine why a student is performing as he is or how to address difficulties.

The assessment process must include observations of the child in various settings that may include; in the classroom(s), at play during recess, in the lunch room, transitioning from one activity or class to another, while interacting with peers and adults at an assembly, or any other activity or class the in which the student may be involved.

- If the student is suspected of having a specific learning disability, it is mandated that at least one team member shall observe the pupil's academic performance and behavior in the areas of difficulty in the pupil's learning environment, including the regular classroom setting.
- For students who are being assessed and suspected of having emotional disturbance, it is also necessary to observe the student throughout their school environment because the emotional disturbance should manifest itself across domains and over a long period of time.

When a child who is less than school age or out of school is referred for an evaluation, an IEP team member must observe the child in an environment appropriate to a child of that age. An assessment is weakened by failure to observe and consult with staff such that a witness statement may be entitled to little weight (OAH Case No. 2012040379). A reevaluation can be deemed inadequate if the assessor does not observe the student in his classes while school is in session (OAH Case No. 2012120545). Best practice pointers provided by Lozano Smith (2014) are:

- If a student is privately placed, observe in that setting
- If parent reports child behaves or performs differently at home versus school, observe student at home interacting with parents and siblings
  - Identify if the student is working independently or his/her parent or tutor is completing the assigned work
- Observe the child on the move, such as presenting in a large group, interacting in a small group, walking between buildings or classes, interacting with peers and adults.

**Projective Techniques.** Projective tests require specialized training, adherence to administration criteria, and analytical interpretation of results. School psychologists may or may not feel they have the knowledge and skills to do this type of assessment based on their preparation training program. It may be necessary to include persons with mental health training as a member of the assessment team when social-emotional factors are the primary concern.

Difficulty with one or more social, emotional or behavioral aspects of learning can appear in a wide range of disability conditions. When assessing the social/emotional factors of a student, remember to evaluate whether or not the student may benefit from educationally related mental health services (ERHMS). Related services such as group counseling and guidance, individual counseling, psychological services, parent education and training, positive behavioral interventions and supports, and social work services can be offered regardless of disability category if a need is identified.

**Adaptive and Behavior Rating Scales.** Rating scales can be used to identify development and/or characteristics of emotional difficulties. Rating scales may be completed by anyone who knows the child. They can help to identify the extent of behaviors (intensity, frequency), and to reflect the observations of those who regularly engage with the individual (e.g., teacher, parent). Some rating scales provide for self-reporting measures. Rating scales are not exact and should be used in conjunction with other methods of collecting data.

**Standardized Assessments.** There are a variety of inventories that have been standardized to assess for academic, adaptive, cognitive, processing, and social-emotional functioning. It is important to review the norms to determine if a particular test is appropriate for a particular child. The Diagnostic Center (2012) contends that school psychologists have come to rely on formal standardized, norm referenced test batteries “because they are relatively quick and easy to administer, score, and interpret, and, despite their limitations, results sometimes provide useful information for helping students.” Although a variety of sources are utilized to gather information, formal testing appears to be the predominant method of generating and reporting on data for tradition-styled reports

## Other Factors to Consider

Other factors to consider include: assessing students subject to the *Larry P. v. Riles* court cases for special education; students with attention deficit disorder; early start through preschool assessments; English learner status; influence of cultural and linguistic factors; impact of environmental or economic disadvantage; and use of an interpreter.

### Assessing Students Subject to *Larry P. v. Riles*

The Riverside County SELPA *Guidelines for Assessing Students who are African-American* for special education are available at [www.rcselpa.org](http://www.rcselpa.org) under the Policies/Procedures tab in the Core Assessment folder. Of relevance here are the sections on questions to ask about a new assessment tool and acceptable assessment strategies and tools.

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 Riverside County SELPA developed the "Alternate Means" Assessment Guidelines, which are now available on our website: [www.rcselpa.org](http://www.rcselpa.org) under the Policies/Procedures tab in the Core Assessment folder. These guidelines follow the MATRIX System model created by the Diagnostic Center North as an alternate means of identifying a student's learning strengths and weaknesses. The system utilizes five procedural categories (review of records, observations, interviews, informal assessment, and formal assessment) to gather information in five critical learning domains (reasoning, executive functioning, visual-spatial skills, social cognition, and language). Quick Guides and data collection templates are included to help assessors analyze the data. The student's profile and assessment report is then shared with the IEP team to determine eligibility for special education services.

### **Attention Deficit Hyperactivity Disorder (ADHD)**

One area that deserves explanation here is Attention Deficit Hyperactivity Disorder (ADHD) as it is not a specific Title 5 § 3030(b) eligibility criteria. A student with ADHD may qualify for a Section 504 Accommodation Plan if needed to access the general education curriculum. If a student has been diagnosed by a medical doctor as having ADHD, an individualized assessment has been conducted, and an IEP team has determined that the student requires special education, the team may identify the student as eligible under Other Health Impaired. If a student has not been diagnosed by a medical doctor but the assessment team determined that a disability exists, data should be analyzed in relation to the eligibility criteria of Emotional Disturbance, Other Health

Impairment, and Specific Learning Disability. If the IEP determines the student requires special education services to receive a FAPE, the team must select an appropriate eligibility criteria.

### **Early Start through Preschool Assessments**

Early Start typically refers to infants and toddlers from birth to age three while preschool refers to children from three through five years of age. Per the American Academy of Pediatrics (2001), children aged birth to five experience physical, cognitive, linguistic, and socio-emotional growth and development at a rapid pace. While all children may not reach developmental milestones at the same time, one should be concerned when developmental does not occur within an expected age range. By catching developmental issues early, children can be provided with treatment or intervention more effectively, and additional developmental delays or deficits may be prevented.

Screening provides a quick snapshot of a child's health and developmental status. As such, it may identify potential difficulties that might necessitate further evaluation. However, screening would only be a first step. Because screenings are designed to be brief, they do not capture the full range of potential developmental issues, focus more on identifying deficits than the higher range of performance, only indicate the possible presence of a developmental delay or difference, cannot definitively identify or describe the nature or extent of a disability, and must be followed by a more comprehensive and formal evaluation process to confirm (or not).

For more information about typical developmental milestones and early start assessment procedures, see Riverside County SELPA *Policies and Procedures for Students with Disabilities Birth through Three* at [www.rcselpa.org](http://www.rcselpa.org) Policies and Procedures tab Early Start folder. There is a similar document targeting best practices for preschoolers on the website as well.

### **English Learner Status**

Research demonstrates that English learners (ELs) with the least amount of language support are most likely to be referred for special education and ELs receiving all of their instruction in English were almost three times as likely to be in special education as those receiving some native language support (Artiles & Ortiz, 2002, as cited by Butterfield, 2014). In addition, ELs who receive more primary language instruction over time leads to higher academic instruction in English (Goldenberg, 2008, cited by Butterfield, 2014). Therefore, having a comprehensive understanding of the type of instruction an EL student has received is critical.

The Riverside County SELPA document entitled *Meeting the Needs of English Learners with Disabilities Resource Book* is full of valuable information and is available on the Riverside County SELPA Website [www.rcselpa.org](http://www.rcselpa.org) under the Policies/Procedures Tab in the Instructional Planning folder. Students should not be identified as eligible for special education when the cause for their academic difficulties is Limited English Proficiency (LEP). Federal laws indicate that a determination of primary home language must be made for all students. If the primary home language is other than English, the student's proficiency in English (listening, speaking, reading, and writing) must be assessed by school personnel.

Students who are in the process of learning English may often display academic behaviors and skill sets that are misinterpreted as a disability. Assessors need to understand typical and developmental features of a student's primary language, be able to identify the common English errors that are produced by speakers of that language, understand that errors are difference (not disorders), and be able to determine if the student is exhibiting a disorder that would impact his or her performance in any language spoken.

Failure to account for language development can lead to over-representation in referrals, discriminatory outcomes in assessments, and disproportionate placement in special education programs. Before referring for an individualized assessment, an analysis of the student's

background (i.e., educational history), progress in English Language Development (ELD) instruction compared with similar peers, and response to interventions should be conducted. When an English learner is referred for evaluation, all the standard and unique to English learner legal requirements apply.

Professionals assessing an English learner need to utilize formal and informal assessment strategies. It is considered best practice to assess the student in his or her native language as it provides comparative data about how the student performs in this native language versus English. It may not be feasible to assess in the student's primary language when assessment tools are not available in the native language or student has a severe disability and lacks the communication or other skills needed to be able to be assessed accurately. Best practice is to interview the parent about the child's primary language patterns of development and learning of new information via an interpreter or native speaker.

Utilizing an assessor fluent in both languages provides a more comprehensive view of what the student knows and is able to do. Knowledge of the student's proficiency at both the Basic Interpersonal Communication Skills (BICS) and Cognitive Academic Language Proficiency (CALP) level, both academically and cognitively, can be used to guide the assessment team regarding types of assessment to be performed. If the preliminary bilingual assessment data indicate the student has little or no skills in the primary language, the assessment members may opt to do the remainder of the assessment in English. (References on these best practices are cited in the Riverside County SELPA English Learner document).

For more specific information, consider *Assessing Culturally and Linguistically Diverse Students: A Practical Guide* by Rhodes, Ochoa, and Ortiz (2005), which provides research-based, step-by-step procedures for conducting effective interviews with students, parents, and teachers; making the best use of interpreters; addressing special issues in the pre-referral process; and conducting accurate, unbiased assessments of academic achievement, intellectual functioning, language proficiency, and acculturation. Among the book's special features are reproducible worksheets, questionnaires, and checklists--including several in both English and Spanish--in a ready-to-use, large-size format.

### **Influence of Cultural and Linguistic Factors**

There may be special challenges when determining if a culturally and linguistically diverse (CLD) student has a disability and a student may be misdiagnosed if decisions are made based solely on the results of norm-referenced tests (Roseberry-McKibbin, 2008). This author recommends that decisions be based on dynamic, ongoing assessments of the student's language-learning rather than on static assessment procedures in which test scores are obtained during one or two testing sessions. Language processing capacity (information processing skills), language sampling, language usage, narratives/story-telling, and portfolios are preferred methodologies for CLD students.

The impact of cultural factors on students' academic performance represents a component of the acculturation process that should not be overlooked in examining the effects on a student's academic progress. For example, the educational needs of children of migratory agricultural workers present unique challenges for educators. Given the nature of their employment, migratory workers and their family members tend to settle in a community for only a short period of time. Consequently, the children frequently enroll in new schools without consistent instruction, skill monitoring, and, in many cases, without documentation of their educational history. Since the majority of children of migratory workers are of Hispanic descent, such frequent mobility also contributes to limited English language acquisition and development.

Evidence from the North Central Regional Educational Laboratory (2000) indicates that some English-speaking students may exhibit low proficiency in Standard American English (SAE), which can also negatively impact academic achievement. Children who acquire SAE early in childhood are more likely to succeed academically than children who develop cultural dialects as a primary mode of communication and who show lower literacy rates. Effective literacy instruction for them needs to build upon the linguistic backgrounds and cultural experiences that the students bring to the classroom.

Thus, multi-disciplinary evaluation teams examining culture and language as exclusionary factors should carefully review (a) the student's prior educational history, (b) progress in the ELD curriculum, (c) SAE difficulties, and (d) acculturation factors affecting the student as part of the process to determine the primary reason for the students' academic difficulties. This analysis should provide the basis for any individual assessment that may be conducted. The following four sources of information may be used to help address socio-cultural factors:

1. Norm-referenced assessments in English and the student's primary language (if primary language assessments are available)
2. Criterion-referenced tests
3. Systematic observation in educational environments
4. Structured interviews (with student, parent, teachers, etc.)

### **Impact of Environmental or Economic Disadvantage**

The evaluation team must also assess whether environment or economic factors may be the primary source of a child's academic problems. Children from families of low socioeconomic status are at higher risk of developing environmental conditions that may limit educational performance. For example, Corcoran and Nichols-Casebolt (2004) report that racial and ethnic minorities are more likely to live in poverty, have higher mortgages, live in multi-family units, and have higher unemployment rates. Disadvantages often evidenced in children living in poverty include higher incidences of illness, chronic absenteeism, language delays, academic skill deficits, increased stressors, and migrant-related adjustment problems.

Indicators of socioeconomic status may be found by reviewing the student's or school's receipt of federally subsidized meal program. Interviews with the family and the gathering of developmental histories are useful tools that provide additional information about factors that may negatively impact student achievement, including a student's health history, patterns of school attendance, availability of early intervention, etc. It should be documented in the assessment report whether any of these factors negatively impact a student's academic skills as they may serve to rule out a disability.

### **Using an Interpreter**

*Translation* refers to written texts and *interpretation* refers to oral speech. There are four interpreting modes and expectations for performance need to be clarified prior to using an interpreter.

- *Consecutive* interpreting is characterized by rendering spoken messages back and forth after each person has spoken; one person speaks at a time; works well for dialogues or for question and answer sessions; this mode requires note-taking skills and good memory;
- *Simultaneous* interpreting is characterized by rendering a message from a source language into a target language almost simultaneously and slightly behind the speaker; neither the speaker nor interpreter stop talking; this mode requires an excellent command of both languages and highly practiced pacing and memory skills;
- *Sight translation* involves the verbal translation of written text on sight;

- *Paraphrasing* is characterized by simplifying and summarizing what is said; it should not be used as it allows unintended biases, omissions, and inaccuracies to affect the final product and meaning.

An interpreter serves as a conduit and plays a critical role in the accurate and complete conveyance of information. Interpreting requires not only knowledge and skills in both languages and their respective cultures, but also the abilities to listen and provide spontaneous responses to information being exchanged, and to do so at an unpredictable rate of speed and register. The following are indicators of quality for interpreters identified by the CDE (2006):

- possesses extensive vocabulary in both languages,
- interprets messages completely and accurately,
- allows parties to speak for themselves,
- refrains from interjecting personal opinions,
- does not engage in side conversations, and,
- is courteous and professional.

If using an interpreter in the special education assessment process, it is recommended that the following steps be taken:

1. Know what tests are being administered.
2. Be prepared for the session to account for extra time needed with an interpreter.
3. Know the skill level of the interpreter.
4. Ensure the interpreter speaks the same dialect of the student.
5. Administer only the tests which the interpreter has been trained to assist in administering.

Prior to administering assessments with an interpreter, the following briefing procedures are recommended (assessor and interpreter review together):

1. Go over the general purpose of the assessment session with interpreter.
2. Describe to the interpreter the assessment instruments that will be administered.
3. Provide the interpreter information about the student.
4. Review English test behavior with the interpreter, if applicable.
5. Remind the interpreter to make written notes of all behaviors observed during the assessment.
6. Allow time for the interpreter to organize materials, re-read the test procedures, and ask for clarification if needed.
7. Remind interpreter that they will need to follow the exact protocol of the test (ex: can they repeat question, cue, etc.).

After an assessment in which an interpreter assisted, the following debriefing procedures are recommended:

1. Ask interpreter to go over each of the test responses without making clinical judgment.
2. Go over any difficulties relative to the testing process.
3. Go over any difficulties relative to the interpretation process.

4. Go over any other items relevant to assessment process.

When conferencing with parents with the use of an interpreter, the following best practices are recommended:

1. Observe body language when meeting with an interpreter and parent.
2. Rely on interpreter to assist you in understanding culturally appropriate behavior.
3. If the interpreter is used with the parent, avoid portraying the interpreter as the parent's representative or advocate – stay professional.
4. Seating arrangements are critical. Give the name and position of each person present. The interpreter should not in any way block the parent from the school personnel. Parents must be able to see both interpreter and assessor.
5. The interpreter should only translate not editorialize or give opinion.
6. The educator needs to speak to the parent, not to the interpreter.

## **Eligibility Criteria**

A child shall qualify as an individual with exceptional needs... if the results of the assessment... demonstrate that the degree of the child's impairment requires special education in one or more of the program options authorized by EC § 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... The IEP team shall take into account all the relevant material that 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 (CCR Title 5 § 3030(a)). The disability terms used in defining an individual with exceptional needs under Title 5 §3030(b) include: (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 Impairment, (10) Specific Learning Disability, (11) Language or Speech Disorder, (12) Traumatic Brain Injury, and (13) Visual Impairment.

***The California Code of Regulations Title 5 § 3030 were revised in 2014 as noted below***

### **1. Autism**

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 according to CFR 300.8(c)(1)(ii).
- (B) A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria of this section are satisfied.

### **2. Deaf-Blindness**

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**

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**

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.

### **5. Hearing Impairment**

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**

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**

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 they cannot be accommodated in special education programs solely for one of the impairments. "Multiple disabilities" does not include deaf-blindness.

### **8. Orthopedic Impairment**

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**

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.

Other examples of Other Health Impairments may include Attention deficit/hyperactivity disorder, nephritis, Tic disorders including Tourette syndrome, Fetal Alcohol Spectrum Disorder, seizure disorders, HIV, chronic lung disease, and genetic impairment. There are students with medical problems in every disability category - not all health conditions fall within OHI. OHI is not a default category and must be addressed like other impairment categories.

1. Limited strength, vitality or alertness: only one of the three must apply in any individual case. There is no official definition of these terms, either at the federal or state level. However, by looking online, in the dictionary, and in a thesaurus, the following definitions may be helpful. Keep in mind there may be too much vitality or alertness, especially when the student has ADHD.
  - a. Strength: bodily or muscular power; vigor; durability related to decreased capacity to perform school activities; tires easily, chronic absenteeism related to the health problem. For instance, can the student sit or stand as required by school activities? Is the student able to hold a pencil or use other classroom tools? Does the student fall asleep or require frequent rest breaks due to the health problem?
  - b. Vitality: physical and mental strength; capacity for endurance; energy; animation; activity. There is certainly overlap in the meanings of these three terms. A student might have the strength to sit up or hold a pen, for example, but might not have the energy to complete the task at hand.
  - c. Alertness: attentiveness; awareness; keen; observant; watchful; on guard; ready. Is the student aware of his/her surroundings and the activities going on? Does he/she have the mental acuity to participate in the lesson or activity?
2. Chronic or acute health problem: note there is no specified length of time for the health problem to be present or to continue. Students with chronic health problems may need intermittent services, especially if their illness is cyclical or may recur necessitating additional treatment. It is not important to determine whether the health problem is chronic or acute. These terms are included to indicate the problem may be either, and it is not a distinction on which to spend discussion time in terms of eligibility. If it can be determined whether the problem is chronic or acute, it may be helpful in programming decisions.
  - a. Chronic: long term and either not curable **or** there are residual features resulting in limitations of daily living functions requiring special assistance or adaptations **or** the disease or disorder that develops slowly and persists for a long period of time, often the remainder of the life span; may include degenerative or deteriorating conditions.
  - b. Acute: begins abruptly and with marked intensity, then subsides **or** has a rapid onset, severe symptoms, and a short course; *sequelae* may be short-term or persistent.
3. Adversely affecting a child's educational performance: it is important to structure the IEP team discussion and discuss how the child's education is affected. This information will be critical if the student is found to be a child with a disability, and an IEP is going to be developed. Describe how the health problem is manifested at school, including implications for programming.



## 10. Specific Learning Disability

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, sensory-motor skills, phonological processes, 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, 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; (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, 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 skills; (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 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; and
3. The findings 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 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.

## **11. Language or Speech Disorder**

A pupil has a language or speech disorder and it is determined that the pupil's disorder meets one or more of the following criteria:

(A) Speech Sound 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) Voice Disorder. A pupil has a voice disorder which is characterized by persistent, deficits in voice quality, pitch, intensity or resonance.

(C) Fluency Disorders. A pupil has a fluency disorder characterized by persistent deficits in the flow of verbal expression to such a degree that these difficulties adversely affect 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 subsection (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 fifty 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

(E) Hearing Impairment or deafness that contributes to or results in a language or speech disorder and significantly affects educational performance.

## **12. Traumatic Brain Injury**

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

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.

The team members usually reach consensus on eligibility but, when one or more members disagree, he or she should sign the IEP as being in attendance and attach a letter of dissent explaining why they disagree.

### How to Analyze Information for Meaningful Results

What should always be at the forefront in each assessment is using best practices and professional standards that will guide the assessor to provide the best report for the benefit of the student. Gardner (2010) reminds assessors that the primary purposes for testing should be to find out more about the problem, not just to get a score, and to find out more about the factors that will facilitate performance. Sometimes the way in which a child achieves the score is more significant than the score itself. It is important that the assessment team members use their professional expertise to interpret the array of evaluation data and determine eligibility on an individual basis. Even though professional judgment is inherent in all aspects of the evaluation process, there are times that an individual child's characteristics and circumstances will make this even more important during the stage of analysis.

"The job of an assessment team is to put all the pieces of the puzzle together. Ask yourself if data from different sources overlap and use this information to form conclusions. If there is a discrepancy in the data sources, ask yourself what factors influence such discrepancy (Diagnostic Center, 2012).

The *Draft Sample of Domains in a Comprehensive Psycho-educational Evaluation* (source unknown) provides many of the recommendations included below.

Vision and hearing results must be included in every evaluation report. Current for an initial assessment means within the 60 day timeline, or if there are results within 6 months prior to testing. For reassessments; vision/hearing screening results must be within one year of the reevaluation due date. In both cases, best practice is to obtain recent vision and hearing screening results in case something new has developed. A developmental history for initial assessments is a best practice must-have. All areas with possible health or medical implications should be explored as they may influence educational performance.

Cognitive status must include a summary of findings that describe the student's overall abilities, strengths, relative weaknesses, memory and problem solving abilities. Report on processing strengths and weaknesses identified within these measures and determine if it is a true processing deficit by using specific area assessment results (e.g., attention, auditory processing, and/or visual processing assessment tool).

Do not make inferences about a student's motivations. To get evidence of this, use a standardized instrument (i.e., School Motivation and Learning Strategies Inventory or resiliency scales), incorporate into student interviews, include teacher and parent information gathered, and/or review observational notes (e.g., raising hand or head down on desk). Look for and analyze the presence or absence of motivation across subject areas, in different classroom, and in different educational activities.

When analyzing academic achievement data, cross reference report card information, district adopted assessments, statewide assessment measures, and standardized assessment results. If student is presently receiving academic support, reference history of services (including time, frequency and duration), progress toward goals over time, and current goal attainment. Consider

the type of skills needed for success in each academic area (i.e., phonemic awareness, attention to detail, prerequisite knowledge). Compare how the student processes information (i.e., auditory, visual, motor) as a strength or weakness influencing performance.

In the language or communication area, consider if there is a discrepancy between home and school language. Information about receptive and expressive language abilities can be analyzed based on individual testing and/or observational comments from assessor, parent or teacher. Look at the quality and quantity of spontaneous language, evidence of grammatical errors, use of language among peers, etc.

When appropriate, motor skills information must include, but may not be limited to, handedness, fine motor skills and gross motor skills. For fine motor, look at the ease or difficulty with which the student uses writing tools (i.e., pen, pencil, fat crayon) and facility with using a keyboard. Look at occupational therapist report, standardized testing results, and observational data, if available. For gross motor, one can use statements provided by others, report card grades in PE, Adaptive PE evaluation and/or physical therapists reports. If a related service focusing on motor skills is being provided, reference brief history of service (including time and frequency/duration), current goal, and progress over time.

At least one broad band standardized rating scale (e.g., Achenbach, BASC, or Connors) is recommended to assess a student's social-emotional status. A narrow band assessment tool (i.e., related to anxiety, depression) can be administered and analyzed if needed. Such rating scales can be completed by the teacher, parent, and/or student. Information that can be obtained from school records, observations, and/or interviews may include social skills with peers and adults, classroom and playground behavior, feelings about self, internalizing and externalizing behaviors, evidence of anxiety, attention and concentration abilities, and work habit skills. Look for social-emotional strengths and weaknesses and describe the relationship of this functioning to educational progress.

**NOTE:** The Code of Federal Regulations (CFR 300.8(c)(1)(ii)) considers autism and emotional disturbance to be mutually exclusive of each other. Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance. If the child is assessed as having autism, then a dual disability of emotional disturbance is not to be found. Conversely, if the child is found to be emotionally disturbed, the child cannot also be found to have autism.

Behavioral observations from a variety of settings should be analyzed for an overall view. For example, testing observations about the student's attitude, cooperation and ability to maintain attention and follow directions can be cross referenced with classroom data about attention, concentration, participation, ability to follow directions and transition from task to task, etc. Look for differences in behavior during different classes or content areas (i.e., math versus language arts, English composition versus social studies, period or time of day, teacher). Based on age of student, informal setting data may come from playground, lunch area, hallways or passing breaks. Look at information about peer interactions, ability to follow rules in games and on the campus, behavior in loosely or non-structured setting versus controlled classroom environment. When the student is willing to share, consider how his or her behaviors relate to feelings about self, personal interests, perceptions of peer and family relationships, etc. Combining such observational data with review of existing records can help set the stage for conducting a functional behavioral analysis (FBA) if needed. (See [www.rcselpa.org](http://www.rcselpa.org) Policies and Procedures tab Behavior folder.)

For adaptive functioning, consider describing the degree of the student's ability to function independently (at school, in the home, and in the community), degree to which challenges in adaptive functioning are related to other areas of disability (e.g., cognition, health, autism), age appropriateness of social relationships, self-help and self-care, and areas in which the student

requires support. When available, describe the results from a standardized measure of adaptive behavior in relation to school or grade level activities.

There are factors that the evaluation team and IEP team will need to consider to determine if they preclude the student from being identified with a disability. The multidisciplinary evaluation team must consider current legal requirements that describe exclusionary factors and how they are manifested. Some of the factors that apply to students who may be considered for having a disability include:

- a. A lack of appropriate instruction in reading (including phonemic awareness, phonics, vocabulary, fluency, and text comprehension)
- b. A lack of appropriate instruction in mathematics (including mathematical calculations, mathematical reasoning, and math fluency)
- c. The student's current level of English proficiency as it affects academic performance
- d. Environmental factors of mobility, foster placement, abuse and neglect
- e. Cultural differences pertaining to educational exposure, expectation or accessibility
- f. Economic disadvantage as it affects access to educational opportunities and medical services

To make a determination that any of these factors are not the primary reason for the student's achievement difficulties, evaluation teams need to document in the evaluation report evidence that each of these factors has been considered and ruled out as a primary determining factor. This information may be recorded under report sections discussing family history, educational history, attendance history, and native language. If necessary, more data should be gathered to eliminate specified exclusionary factors from consideration.

There are also specific considerations to be made about an English learner (EL) being evaluated as a child with a disability. When interpreting the levels of achievement on the English tests, one must factor in such things as the grade/age the student was first exposed to English, the amount, consistency and type of schooling, and EL services the student has received. Similarly, when assessing academic skills in the primary language, one needs to consider the amount and quality of primary language academic instruction an English learner has received. Best practices include cross-validation of information between norm-referenced tests, criterion based assessments, interviews and observational based measures (Butterfield, 2014).

In concluding the analysis, conceptualize the problem(s) presented, the criteria of the disability area(s) investigated, and services which were investigated, whether the student appears to qualify for special education or not. Write about every concern area related to the suspected disability noted in the reason for referral, all disabilities investigated, and every service investigated. Use language of the law when describing potential eligibility information, including the areas in which the student does and does not present as a student with a disability.

Without adequate explanations, arguably parents are prevented from meaningful participation (Lozano Smith, 2014). Do not just list test scores in a report. Explain what scores mean, use examples, integrate information from test scores, observations, record review, and team member interviews. To avoid potential bias, interpret test scores objectively – do not “spin” them to support a particular narrative. Use words from manuals when needed. Do not rely on computer based scoring. It is also important to translate and synthesize scores and findings into understandable areas of need for IEP goal development (e.g., organization versus executive functioning, staying on task versus inappropriate or willful behavior).

## Comprehensive Evaluation Report

The personnel who assess the pupil are required to prepare a written report, or reports, as appropriate, of the results of each assessment. Per EC § 56327, the report must include, but is not be limited to, all of the following:

1. If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions.
2. Whether the child may need special education and related services.
3. The basis for making the determination.
4. The relevant behavior noted during the observation of the child in an appropriate setting.
5. The relationship of that behavior to the child's academic and social functioning.
6. The educationally relevant health, development and medical findings, if any.
7. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate.
8. The need for specialized services, materials, and equipment for pupils with a low incidence disability.
9. In addition, parent input must be included in the report (per 34 CFR §300.305(a), 5 CCR §3022, EC §56321(a), EC §56381(a)(1)).

While these criteria must be met, there is also other information that should be included to be considered best practice. A comprehensive report provides the documentation that all legal and professional aspects of an assessment have been completed. It should be viewed as a resource for teachers and other staff members as intervention options are considered. The National Association of School Psychologists (NASP, 2010) *Principles for Professional Ethics and Guidelines for the Provision of School Psychological Services* emphasize the following:

- Present findings in language clearly understood by the recipients
- Reports should emphasize interpretation and recommendations
- Reports should support the recipients in their work or interactions with the child
- Reports focused on test scores or global statements of functioning are rarely useful

Carriere and Hass (2013) state that "A useful report is understandable to the consumer, it clearly answers the referral questions, and it provides clear and feasible individualized recommendations". One basic premise to this way of writing is that writing a legal statement in your report does not make it true. They promote making each report understandable by:

1. Simplifying the terminology and jargon. If a shorter word, or a more common word, will get the point across, use it. Explain acronyms and educational terms. If it's possible to cut a word out, then cut it out.
2. Lowering the readability level. Most newspapers are written at a 5<sup>th</sup> or 6<sup>th</sup> grade level. A written report should be nearer to that level; not reflective of a graduate school paper. Never use the passive voice when the active voice can be used.
3. Making the logic of the assessment and report transparent. A+B does =C. For example, don't try to make a leap all the way to a disability of emotional disturbance when the assessment results and observations only indicate mild behavioral problems that may be handled through the use of an intervention plan or a goal, or both.

There are many models of assessment and evaluation that can be utilized when assessing a student; too many to list or provide a summary for each. One model is not necessarily better than another when correctly followed. The choice of which model to use should be based on the referral question(s), the suspected disability, and the particular needs and abilities of the student. That being said, there are a set of general principles promulgated in the test standards that apply to all types of individualized assessments and evaluation that should be followed for every case. In addition, most author(s) who write about psycho-educational evaluation practices suggest it is critical to use a conceptual model to help organize and present results. Three models are presented here.

## **Traditional Practice**

This section provides general traditional practices related to what is considered appropriate and necessary to include in a comprehensive evaluation report. There may be some situations where additional information is needed, and other times when the information listed here may not be required:

### Introduction

#### Identifying information

- Student's name, date of birth, age, school and grade
- Report date; if the report is subsequently revised, add date of revision
- Each evaluator's name, position and credentials
- Parent/guardian name/s

#### Reason for the referral

- Identify the source of the referral
- State the specific concerns of the referral source, including
  - purpose of evaluation – describe the concerns, behaviors, or symptoms that led to the referral
  - identify what domains are to be assessed
  - what disabilities are suspected
  - and specific referral question(s) to be answered

### Background Information

Since *parent input is required to be included* in every report, consider citing parent as source for the following types of information:

- Strengths and weaknesses observed in academic, adaptive and social situations
- Developmental history (a standardized questionnaire about stages of child development)
- Medical history including health, vision and audiology screenings; current diagnoses, relevant medications; hospitalizations; and conditions or factors that may affect academic functioning (i.e. traumatic brain injury, fetal alcohol or drug exposure, chronic health problems, seizure history, childhood illnesses, therapies and treatments or lack thereof)
- Family history (e.g., information that reveals foster or group home residency, family members with whom student currently lives, household changes in family members living



in the home, home language, family history of developmental or learning difficulties, family goals for student's performance, parents' occupation and highest educational level)

- Non academically-related interventions (i.e. homework support, extra tutoring, standard routines at home, medical intervention, use of token rewards and reinforcements [or punishments], accommodations and modifications to the student's day)
- Social and family dynamics, including any socio-cultural factors
- New information regarding learning, developmental, and medical problems

For initial referrals, effects on student's achievement using modifications attempted in the regular setting and school-based interventions (e.g., RtI<sup>2</sup> or MTSS data)

- School history – schools attended, school changes, type of school settings, attendance, discipline, reported difficulties
- Involvement of other agencies (i.e., California Children's Services, Department of Mental Health, Child Protective Services, Regional Center, Probation Department, Juvenile Court System, Department of Rehabilitation, Social Security Department, etc.)
- Health and medical information – *vision and hearing screening data is required!*
- Review of school records – including report cards, grades, behavior reports, and state assessments – include dates of reports and data
- For English learners, include –
  - ELPAC performance level data for listening, speaking, reading, writing, and overall (including dates of testing)
  - English Language Development (ELD) instruction over time
  - Instructional program (e.g., structured English immersion, dual language)
- Discuss history of class and/or school level interventions, the student's response to each intervention, and progress data of the student over time (i.e., charts, data points, trend lines, running records, pre-tests vs. post-tests).
  - Include information about the length of time in which the intervention was implemented, the degree of match between the student's skill or deficit and the intervention(s) provided, and decision about the impact of the intervention
  - Include both interventions that were and were not successful
- Documentation of academic achievement data and curriculum-based assessments linked to reason of referral (i.e. teacher tests, daily assignments, benchmark tests)
- If reading is a concern, include a statement addressing essential components of reading instruction (phonemic awareness, phonics, vocabulary, fluency, and text comprehension)

For reevaluations, include needed background information identified above plus:

- Previous eligibility determination (including disability)
- Special education program related services, behavior plan, other supplementary aids and services (include descriptors about instructional setting, length of time in program per day),
- Review of previous psycho-educational assessments, service provider reports, behavior assessments, and medical assessments

- If appropriate, include outside agency reports (e.g., Regional Center, Department of Mental Health, physician or psychiatrist)
- If appropriate, include the salient parts of an independent educational evaluation (IEE), with dates and citations included

## Qualifiers

### Sources of Data

- List the full name of each test instrument used, the version, its acronym, if it was administered completely or only selected subtests
- Specify the purposes of specific assessment tools, that tools used have validity evidence for the purpose indicated, and that the tools selected address the referral question
- List the date of administration for each protocol, interview and observation
- Indicate the name(s) and title/position of the multidisciplinary team members who assisted in compiling evaluation data
- Document consideration of independent assessments, if appropriate

### Statement(s) regarding the reliability and/or validity of assessments

- Report if test results are considered valid, especially when out-of-age norms or non-standardized procedures are used
- Include statements regarding validity of the assessments, adherence to, or exceptions to, best assessment practices regarding special populations (i.e. preschoolers, English learners, Larry P, low socioeconomic status)
- Describe any cautions or limitations that may affect interpretation of the finding, including normative sample, sensory impairment, impact of impulse response style, and attentional difficulty

<i>NOTE: Canned statements that are used for <u>all</u> students do not satisfy legal requirements!</i>
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## Assessment Data

### Documentation of observations

- Functioning in the natural setting for a child under five years old
- Describe the classroom setting, number of students/teachers, types of support available, class activity occurring during the observation
- Behavioral functioning in the area(s) of referral concern in multiple settings (i.e. classroom, structured and non-structured social settings, community)
- Behaviors observed during the assessment process may include
  - response style, cooperation, flexibility, perseverance, communication skills, regulatory behaviors, compensatory behaviors, response to success and failure
- When readily observed (not inferred), include descriptions of the student's work ethic, attention, motivation, task success, general behavior, social overtures, self-advocacy, and level of support required

The following information can be provided as a test data table at the end or described within the report as each test is presented

- Include a meaning of score terms used (i.e. standard score, percentile rank, relative performance index)
- Include type of norms used (age or grade)
- Use a verbal description of score range found in the test manual
- Be consistent in use of score ranges throughout the report or explain why different ranges and descriptions apply
- Document that the assessment was administered in student's primary language (EC § 56320) or with support of an interpreter, if appropriate
- Note the examiner's level of language proficiency in language of student and the effect on test results and overall assessment (5 CCR 3023; EC § 56341 & 56327)

#### Cognitive and Processing Assessment

- At minimum, broadly assess all areas of psychological processing
- Clearly specify the purposes of specific assessment tools
- Identify and interpret all individual and cluster scores (i.e. overall, scales, subtests)
- Report confidence intervals for all scores

#### Academic Performance

- Report on assessment in all academic areas known to be of deficit based on suspected disability and/or processing disorder(s) including
  - oral expression, listening comprehension, written expression, spelling, basic reading skills, reading fluency skills, reading comprehension mathematical calculation, and mathematical reasoning
- Include results of more than one assessment tool in area(s) being considered as disability

#### Social-Emotional and Behavioral Status

- Report on the social-emotional behaviors a student exhibits
  - as seen through observations and/or reported in survey or questionnaire
- Give examples of behaviors that directly affect performance in the classroom/school

#### Speech Language and Communication

- Data can be reported based on observations, language sample, rating scales, standardized measures
- Speech/language evaluation results can be incorporated into one multi-disciplinary report along with other information collected

#### Other Areas

- Motor skills (fine and/or gross) can be reported on via observations and/or formalized assessment battery results
- If adaptive behavior assessed, report specific scores for each area of development
- If child has a low incidence disability, include required information
- Career/vocational (as appropriate)

## Analysis of Data = Evaluation

- Be sure that assessment results help clarify the referral concerns, address all areas of suspected disability, and answer the referral question(s)
- Analyze, interpret, and integrate data from all sources
  - Report/discuss discrepancies between assessment approaches used
  - Report/discuss similarities in findings across assessment approaches
- Include examples of errors without using specific examples in a test
- Include student comments and behaviors regarding performance on a task
- Unless clinically diagnosed, refer to behaviors manifested as “behaviors associated with [specific] disorder;” and not as a DSM-V diagnosis
- Provide the analysis of the test results in clear terms
- Explain processing disorders; what they are and how deficits can cause difficulties
- Include the child’s performance in school and the classroom
- Identify normative and relative deficits and strengths
  - link findings to reason for referral for compensatory skills
  - identify factors related to internal child functioning
- Analyze the effects of the environmental, cultural, or economic disadvantage status of the child in relation to the test results
- Link analysis of child factors to classroom strengths and weaknesses (i.e., instructional environment, staff to student ratio, teaching strategies used, time/task management, etc.)

## Summary Conclusions and Recommendations

### Summary Conclusions

Be careful about making inappropriate conclusions that are not supported by information already presented in the report. Also, be mindful about making suggestions that are insensitive or uncomfortable for the family.

- Briefly restate the referral question
- Summarize briefly test results that answer the referral questions
- Report normative strengths and weaknesses
- Report the relationship between academic weakness and cognitive profile
- Report functional limitations on learning or school functioning due to these patterns
- Determine if a student is a student with a disability (address all areas investigated)
  - Assessment is informative!                      IEP team is determinative!
  - A statement to indicate whether student needs special education services and the bases for that determination (*EC § 56317(b)*)
  - Defer to the IEP team to determine eligibility for special education services based on the following three criteria:

1. student has a disability,
  2. student's needs cannot be met, even with modifications to the general education program, and,
  3. student requires special education in order to receive FAPE.
- If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration, use of the interpreter), including the affects to validity (*EC § 56320(b)*)
  - For a student still designated as an English learner, it is recommended that the following be included in an assessment report
    - Consideration of the second language acquisition process and its relationship to the possible disability conditions.
    - Incorporating information from home setting.
    - Results of current language proficiency testing.
    - If and how standardized tests and techniques were altered.
    - A statement of student limitations if non-verbal measures were used.
    - Test scores and interpretation of the scores - what do they mean and how do the test scores/results relate to the student's performance in school and in life.

#### Recommendations

Recommendations and opinions are an appropriate part of a report so long as they reflect the training and expertise of those who author the report. Be careful about suggestions that are impractical, expensive, overwhelming in number, broad or vague or generic (canned), or require large time commitments. Recommendations:

- Should be tied to what the student's needs based on the analysis of findings
- Provide a recommendation for the IEP team to determine eligibility for special education
- Indicate if any further assessment is needed
- Need to reflect an understanding of the classroom environment and the curriculum
- Need to be student specific and clearly explained
- Can include recommendations for goals, special factors, supplementary aids, and services
  - For an English learner, recommend linguistically appropriate goals
  - Can be specific to deficit area (e.g., reading disorder, attention disorder, social skills deficit)
  - Include recommended interventions based on the student's strengths and weaknesses (e.g., describe an intervention that is a good instructional match in the academic area of concern)
  - Include strategies, accommodations and/or modifications the child may need to access, be involved in, and progress within the general education curriculum (or alternate functional skills curriculum)

- Can address the level of supervision or assistance that may be required (e.g., ability to function in a large classroom, need for small group instruction)
- Specific resources may be identified if they are needed to ensure the interventions will be successful (e.g., teacher or parent training, mentor)
- For a student with a low incidence disability, the report must include recommendations regarding the need for specialized services, materials, and equipment.
- Do not recommend non-school-based medical or psychological treatments and services not required to assist the student in benefiting from special education as the LEA may be responsible for providing it.

The “traditional” approach provides a general “best practices” related to what is considered to be appropriate and necessary to include in a comprehensive evaluation. There may be some situations where additional information is needed and other times that not all the information listed here is required.

### **A Consumer-Responsive Approach: The RIOT Model**

Lichtenstein (2014), who writes professional practice articles, promotes a consumer-responsive approach to writing psycho-educational reports. These practices are based on the core assumptions that the “most important purposes of an evaluation, are:

- To provide an accurate and in-depth description of a child’s functioning, capabilities, needs, and situational challenges;
- To provide diagnostic conclusions that focus intervention efforts and determine the range of available options (e.g., special education eligibility); and, most important,
- To provide insights and recommendations that improve the functioning and well-being of a child.”

The understanding and appropriate use of assessment findings is of paramount importance to “consumers” of the report – parents, teachers, other service providers, and school administrators. Lichtenstein states that failure to write in a manner that is responsive to primary consumers is not only counterproductive but at odds with *NASP’s Principles for Professional Ethics* “Standard II.3.8: School psychologists adequately interpret findings and present results in clear, understandable terms so that the recipient can make informed decisions”.

Lichtenstein (2014) argues that the major sources of assessment data – records, interviews, observations, and tests (RIOT) – are all significant contributors to findings and recommendations, and should have comparable standing in the structure of the test report. He provides rationale for organizing a report using the following the RIOT model:

- Identifying Information
- Reason for Referral
- Assessment Procedures (or Data Sources)
- Assessment Findings
  - Background Information
  - Interviews – can be subdivided
  - Observations
  - Test Results

- Conclusions
- Summary and Recommendations
- Data Summary Appendix

Lichtenstein advises one be inclusive about the sources of assessment data cited in the Assessment Procedures while not being overly technical about describing them. He cautions writers to not confuse assessments by other individuals with the evaluator's own. He recommends that the assessment procedures cite review of records and that the summary of such secondary sources be included in Background Information. Rating scales have typically been noted under Test Results but can arguably be described alongside interview data since "rating scales are simply written versions of standardized interview questions". This author contends that combining assessment findings under the RIOT model ensures all information is integrated into interpretation instead of the more traditional "fragmented" report of findings on a test by test basis. The RIOT model focuses on discussing the assessment findings together, with a separate Conclusions or Diagnostic Impressions section.

The Diagnostic Center (2012) also promotes formulating the report's results section following the RIOT model, especially when assessing African American students. The center points out that "the most important part of a psycho-educational report is how the assessment is synthesized to answer specific questions related to the student." It identified the following hierarch of preferred reporting methods under this model:

1. The "best" report presents results organized around assessment questions or significant findings. Summaries of significant findings are provided under assessment questions. Additional interpretations and data are written in the appendix section.
2. A "satisfactory" report groups results under abilities or functional domains.
3. Reporting results out test by test is not recommended.
4. Be sure the results and interpretation section addresses all areas of potential need related to all areas of suspected disability.
5. Include in the summary a brief restatement of the reasons for referral and summary statements for each assessment question.

The Summary of the report is all important and focuses on the child. It is designed to be a brief summary of key findings that have been discussed at greater length earlier in the report. This is not the place to introduce new information or interpretations nor to refer to tests by name or results by number. "An effective summary consists of simple, clear statements that serve the core purposes of the assessment: describing the child, identifying strengths and weaknesses, addressing referral questions and significant issues, and informing diagnosis [identification] and eligibility decisions" (Lichtenstein, 2014). What is learned about the child – the Summary – leads to what should be done – the Recommendations. The Diagnostic Center (2012) recommends this section be specific, including documentation about whether or not additional data is needed and how this will be gathered; listing accommodations and modifications to the student's program, listing interventions to address educationally relevant areas of need, and recommending general and special education services to be considered by the IEP team.

The Appendix may include assessment data and specific interpretation of data, if applicable. Per Lichtenstein (2014), a common rationale for writing a technical report that features test scores and technical analysis of them is that these scores are meaningful to "assessment-savvy professionals" and should be provided as evidence that conclusions are data-driven and to enable

independent confirmation of interpretations. Providing a data summary appendix meets this need while making the narrative text more readable and informative to typical consumers.

### **The Chapman “Consumer Friendly” Model**

The following information comes from a workshop presentation by Carriere and Hass (2013), from Chapman University, CA. This style of report writing is geared toward using language and a format that parents, teachers, and others who may not have formal training in psychometrics can more readily understand by simply reading our reports. In this model, what belongs in the report are the legal requirements and the facts of the assessment that answer the referral questions. The headings for this style of report are different from the test-based report. This is more of a circular-thinking method of assessment and report writing.

#### Legal Data

- Includes the student’s name, date of birth, age, district of residence, school of attendance.
- Include dates of testing, date of report, names of assessors, and other factual information.

#### Reason for Referral

- The referral questions need to be clearly identified so the assessment results in the written report can comprehensively answer the reason for referral questions.

#### Assessment Procedures

- Review of records, interviews, observations.
- For each one, list what was done and the date it was accomplished (e.g., Review of school records on \_\_/\_\_/\_\_. Reviewed Classroom work samples on \_\_/\_\_/\_\_. Interview with teacher on \_\_/\_\_/\_\_. Observed whole classroom during math class on \_\_/\_\_/\_\_).

#### Assessment Questions and Results

- (Referral question) How does the student’s developmental, health, and educational history affect the student’s academic achievement?
  - followed by the explanations
- What are the student’s current academic skills in the areas of reading, written language, and math?
  - followed by the explanations with subheadings for each topic assessed and reported such as language arts, math, classroom adaptive skills
- What are the student’s cognitive processing strengths and weaknesses?
  - followed by the explanations and the areas assessed
- Does the student qualify for and need special education supports and services to make progress toward grade level academic standards?
  - followed by the answers and the determination of need, specifying the disability (i.e., SLD, OHI, Autism, ED)
  - provide recommendations that are tied to identified needs

#### Standardized Assessment Results

- Provide an explanation of the scores and how they are used
- Provide an explanation of the test instrument and why it was used in this case



- Provide the analysis of the test results in clear terms

This style of report provides all the legally required information in a clear and cohesive format when written correctly. However, most practicing school psychologists, related service providers, and other assessment professionals may not be well trained in this method of professional report writing. It takes practice to refine one's skills to utilize the referral-based consultative assessment report model.

## **Presenting the Report**

Assessment results (as provided in the written report) indicate whether or not a child has a disability and if the degree of the child's impairment requires special education. During an initial or triennial IEP team meeting, the assessors summarize the findings of the multidisciplinary team evaluation by indicating whether the child may need special education and related services, the basis for making the determination, the relevant behaviors and their relationship to the student's disabilities.

The report must be provided to the parent at the IEP meeting regarding the assessment (EC § 56329(a)(3)). Best practice is to have the report complete at the time of the IEP meeting. Lozano Smith (2014) stresses the importance of proof reading every report for embarrassing or substantive typos – confusing he/she or wrong name in report – to maintain credibility of staff and report reliability. Do not give out a “DRAFT” report. Do not read the report verbatim in an IEP meeting. Summarize the highlights and use visuals when appropriate.

## **Translating Written Reports**

Individualized assessment reports must be translated into the primary language if requested by the parent/guardian. Often parents will indicate that verbal translation is sufficient. Translation requires basic terminology along with specialized vocabulary associated with the assessment to IEP processes. CDE (2006) identified the following quality indicators for translators:

- has a knowledge of formal aspects of the target language at a native level, including grammar, spelling, punctuation, capitalization, and syntax;
- has native language knowledge of the source language and the cultural aspects of both language groups;
- is trained or experienced in colloquial lexicon;
- skilled at proofreading; and
- certified if the material to be translated is a legal document.

The LEA needs only be sure that the parent "understands" the IEP meeting, which can be done through oral interpretation (See EC 56341.5 and 34 CFR 300.322(e)). In the context of an IEP, the LEA can provide an oral (line for line if need be) translation of assessment reports at an IEP, which will be sufficient to meet the translation obligation. If a complaint is filed, OAH will simply examine the situation from a parental participation standpoint - i.e., whether or not the parent understood the IEP proceedings.

Do not include the assessment report itself as a part of the IEP document. The rules are the same whether it is a LEA completed assessment or an independent educational evaluation (IEE) funded by the LEA. If the LEA attaches a report as part of the IEP document itself (i.e., making the report a numbered page of the IEP), the LEA would arguably have to translate the document based upon 5 CCR 3040(b). If an IEE report itself is discussed at the IEP (and not made a part of the IEP document itself), then an oral translation is sufficient.

## Criteria for Exiting Special Education Services

This section includes information on existing a child with a disability between preschool and kindergarten/1<sup>st</sup> grade, dismissing/exiting a student who no longer meets eligibility criteria, when a parent revokes consent, exiting students who meet high school graduation requirement, and exiting a student at the age of 22.

### Preschool as a Special Population

Preschool children identified as individuals with exceptional *needs must be reassessed prior to transitioning from a preschool program to kindergarten or first grade (EC § 56445)*. This reassessment may include standardized testing, criterion referenced testing, observation and/or review of records (34 CFR §300.305). Personnel providing special education services to the child are responsible for completing this reassessment and writing a summary report. Whenever possible, the IEP team review meeting should include a kindergarten or first grade teacher to ensure that a smooth transition occurs. The mandatory Transition Preschool to Kindergarten Form and the directions for completing the form are included in the Riverside County SELPA *IEP Manual* and the *Policies and Procedures for Students with Disabilities Pre-School through Kindergarten* available at [www.rcselpa.org](http://www.rcselpa.org).

If a child is exited, after enrolling in kindergarten or first grade, the *child's progress should be monitored to determine the need for continuing special education program services (EC § 56445(c))*.

### Dismissing/Exiting a Student Who No Longer Meets Eligibility Criteria

To be eligible as an individual with exceptional needs, the student must be identified by an IEP team as a child with a disability; the student's impairment requires instruction and services which cannot be provided with modification of the regular school program; and the student meets the necessary age requirements.

Before determining that the individual is no longer an individual with exceptional needs, a LEA shall assess the individual in accordance with EC § 56320 (initial evaluation) and § 56381 (triennial reevaluation) (also see 34 CFR §300.532, 300.533, 300.534(1)(C)). The reevaluation results should include:

- a review of existing data (i.e., previous assessment results, attendance, discipline referrals, health records, progress on goals, report cards, state and district assessment results),
- updated assessment results (i.e., vision and hearing, current academic achievement scores),
- all the components previously identified under comprehensive report requirements, and,
- documentation from the IEP team meeting wherein this determination was made.

When a child no longer meets the eligibility requirements (as described in the Eligibility Criteria section) or their needs can be met with modification of the regular school program, the student will be exited from special education.

### When Parent Revokes Consent

Parents have the right to revoke consent for the continued provision of special education and related services. Such notice must be in writing and upon revocation of consent the following shall apply to the public agency:

- Provide the parent with prior written notice (PWN) before ceasing the provision of special education and related services.

- May not provide special education and related services to the student after the provision of the PWN noted above.
- May not use mediation procedures or due process procedures in order to obtain agreement or a ruling that the services may be provided to the student.
- Will not be considered to be a violation of the requirement to make a FAPE available to the student because of the failure to provide the student with special education services.
- Is not required to convene and IEP meeting team meeting or develop an IEP for the student for further provision of special education and related services.
- If the parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the public agency is not required to amend the student's education records to remove any references to the student's receipt of special education and related services because of the revocation of consent.

### **Exiting Students Who Meet High School Graduation Requirements**

*When a child reaches the age of 18, all rights under Part B of the IDEA will transfer to him or her. The only exception will be if the child is determined to be incompetent under State Law. In such cases the parent has to take steps to seek full or partial conservatorship. Without such documentation, the student with disabilities has the authority to sign his or her own assessment plan and/or IEP.*

An individual with exceptional needs who graduates from high school with a regular high school diploma is no longer eligible for special education and related services. A "regular high school diploma" means a diploma conferred on a pupil who has completed a prescribed course of study and has met the standards of proficiency in basic skills prescribed by the governing board of the school district (EC § 56026.1).

A student with a disability can graduate from high school with a diploma or obtain a certificate of achievement and has the right to participate in graduation ceremonies. There are five big ideas:

1. High school graduation means exiting public education with a high school diploma.
2. Senate Bill 172, which was signed by Governor Brown on October 7, 2015, suspends the administration of the CAHSEE and the requirement that students completing grade 12 successfully pass the high school exit exam as a condition of receiving a diploma of graduation from high school for the 2015-16, 2016-17, and 2017-18 school years. The law also requires LEAs to grant a diploma to any student who completed grade twelve in the 2003-04 school year, or a subsequent school year, and has met all applicable graduation requirements other than passage of the CAHSEE. This law takes effect January 1, 2016.
3. Students with an IEP who have not earned their high school diploma are eligible for public school service until age 22.
4. State and Federal law requires that special education students be provided a connection to continuing training/education and employment through the Individualized Transition Plan portion of the IEP.
5. Each student with a disability is to receive a "Summary of Performance" written by their case manager upon earning the high school diploma or aging out of public education at age 22.

For more information, see the Riverside County SELPA document entitled *Guidelines for Grading Students with Disabilities* available at [www.rcselpa.org](http://www.rcselpa.org).

## **Exiting a Student from Special Education at the Age of Twenty-Two**

According to EC § 56026, the following criteria apply:

- (A) Any person who becomes 22 years of age during the months of January to June, inclusive, while participating in a program under this part may continue his or her participation in the program for the remainder of the current fiscal year, including any extended school year program for individuals with exceptional needs.
- (B) Any person turning 22 years of age in July, August, or September of that new fiscal year otherwise eligible to participate in a program shall not be allowed to begin a new fiscal year in a program. However, if a person is in a year-round school program and is completing his or her individualized education program in a term that extends into the new fiscal year, then the person may complete that term.
- (C) Any person who becomes 22 years of age during the months of October, November, or December while participating in a program shall be terminated from the program on December 31 of the current fiscal year, unless the person would otherwise complete his or her individualized education program at the end of the current fiscal year.
- (D) No school district, SELPA, or county office of education may develop an IEP that extends these eligibility dates, and in no event may a pupil be required or allowed to attend school under the provisions of this part beyond these eligibility dates solely on the basis that the individual has not met his or her goals or objectives.

*Approved: December 10, 2010; Latest Revisions: December 11, 2015, June 15, 2018, November 12, 2021*

## References

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