



**Lowell Joint
School District**

A Tradition of Excellence Since 1906

"Home of Scholars and Champions"



AR 6164.4

Identification and Evaluation of Individuals for Special Education

Referrals for Special Education Services

A student shall be referred for special educational instruction and services only after the resources of the regular education program have been considered and used where appropriate.

All referrals from school staff for special education and related services shall include a brief reason for the referral and description of the regular program resources that were considered and/or modified for use with the student, and their effect.

Upon receipt of a referral of any student for special education and related services, a proposed evaluation plan shall be developed within 15 days, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days, unless the parent/guardian agrees in writing to an extension. If the referral is made within 10 days or less prior to the end of the student's regular school year or term, the proposed evaluation plan shall be developed within 10 days after the beginning of the next regular school year or term.

The proposed assessment plan shall meet all of the following requirements:

1. Be in a language easily understood by the general public
2. Be provided in the primary language of the parent/guardian or other mode of communication used by the parent/guardian unless it is clearly not feasible
3. Explain the types of assessment to be conducted
4. State that no individualized education program (IEP) will result from the assessment without parent/guardian consent

Before conducting an initial assessment, the district shall provide the parent/ guardian with prior written notice in accordance with 34 CFR 300.503. In addition, as part of the evaluation plan, the parent/guardian shall receive written notice that includes all of the following information:

1. Upon completion of the administration of tests and other evaluation materials, an IEP team meeting that includes the parent/guardian or his/her representative shall be scheduled pursuant to Education Code 56341.

Identification and Evaluation of Individuals for Special Education (continued)

2. When making a determination of eligibility for special education, the district shall not determine that the student is disabled if the primary factor for such determination is lack of appropriate instruction in reading, including the essential components of reading instruction as defined in 20 USC 6368, lack of appropriate instruction in mathematics, or limited English proficiency.
3. A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent/guardian.
4. If the parent/guardian disagrees with an assessment obtained by the district, he/she has the right to obtain, at public expense, an independent educational evaluation (IEE) of the student from qualified specialists, in accordance with 34 CFR 300.502. The parent/guardian is entitled to only one such assessment at public expense each time the district conducts an assessment with which the parent/guardian disagrees.

If the district observed the student in conducting its assessment, or if its assessment procedures make it permissible to have an in-class observation of the student, an equivalent opportunity shall apply to the independent educational assessment. This equivalent opportunity shall apply to the student's current placement and setting as well as observation of the district's proposed placement and setting regardless of whether the independent educational assessment is initiated before or after the filing of a due process hearing proceeding.

If the parent/guardian obtains an independent educational assessment at private expense, the results of the assessment shall be considered by the district with respect to the provision of free, appropriate public education (FAPE) to the student, and may be presented as evidence at a due process hearing regarding the student.

5. The district may initiate a due process hearing pursuant to Education Code 56500- 56508 to show that its assessment is appropriate. If the final decision resulting from the due process hearing is that the assessment is appropriate, the parent/guardian maintains the right for an independent educational assessment, but not at public expense.
6. If a parent/guardian proposes a publicly financed placement of the student in a nonpublic school, the district shall have an opportunity to observe the proposed placement and, if the student has already been unilaterally placed in the nonpublic school by the parent/guardian, the student in the proposed placement. Any such observation shall only be of the student who is the subject of the observation and may not include the observation or assessment of any other student in the proposed placement unless that student's parent/guardian consents to the observation or assessment. The results of any observation or assessment of another student in violation of Education Code 56329(d) shall be inadmissible in any due process or judicial proceeding regarding the free appropriate public education of that other student.

Identification and Evaluation of Individuals for Special Education (continued)

Parent/Guardian Consent for Evaluation

Upon receiving the proposed assessment plan, the parent/guardian shall have at least 15 days to decide whether or not to consent to the assessment. The assessment may begin as soon as informed parental consent is received by the district. The district shall not interpret parent/guardian consent for initial assessment as consent for initial placement or initial provision of special education services.

Informed parental consent means that the parent/guardian: (34 CFR 300.50)

Regulation Approved: March 23, 1987

Regulation Revised: September 26, 2005; February 27, 2006; June 8, 2020

