
CLOVIS UNIFIED SCHOOL DISTRICT

INSTRUCTION

Alternative/Specialized Programs

IDENTIFICATION AND EVALUATION OF STUDENTS FOR SPECIAL EDUCATION UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT (IDEA)

A. Referrals for Special Education Services

A student shall be referred for special education instruction and services only after the resources of the regular education program have been considered and used where appropriate. (Education Code 56303)

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, when appropriate, the results of intervention. (5 CCR 3021)

Upon receipt of a referral of any student for special education and related services, the District either: (1) shall develop an evaluation plan within 15 days of receipt (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), or (2) send prior written notice to the parent/guardian of the District's decision to decline to evaluate the student. If the referral is made within 10 days or less prior to the end of the student's regular school year or term and the District elects to evaluate the student, the evaluation plan shall be developed within 10 days after the beginning of the next regular school year or term. (Education Code 56043, 56321)

Before the initial provision of special education and related services to a student with a disability, the District shall conduct a full and individual initial evaluation of the student. (Education Code 56320; 34 CFR 300.301)

1. Evaluation Plan. The evaluation plan shall meet all of the following requirements: (Education Code 56321)
 - a. Be in a language easily understood by the general public.
 - b. Be provided in the native language of the parent/guardian or other mode of communication used by the parent/guardian unless it is clearly not feasible to do so.
 - c. Explain the types of evaluation to be conducted.
 - d. State that no individualized education program (IEP) will result from the evaluation without parent/guardian consent.

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2. Prior Written Notice. Before conducting an initial evaluation, the District shall provide the parent/guardian with prior written notice. In addition, as part of the evaluation plan, the parent/guardian shall receive written notice that includes all of the following information: (Education Code 56329; 34 CFR 300.304)
 - a. 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. At this meeting, the team shall determine whether or not the student is a student with a disability(ies), as defined in Education Code section 56026, and shall discuss the evaluation, the educational recommendations, and the reasons for the recommendations.
 - b. 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) or in mathematics, limited English proficiency, limited school experience, poor school attendance, environmental, cultural or economic disadvantage, temporary physical disability, or social maladjustment. (Education Code 56026, 56329; 5 CCR 3030; 34 CFR 300.309)
 - c. A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent/guardian.
 - d. If the parent/guardian disagrees with an evaluation conducted 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 the procedures set forth in 34 CFR 300.502, which include the District's right, upon receipt of a request for an IEE, to elect either to fund the IEE or to request a due process hearing to show that its evaluation is appropriate. (Education Code 56500-56508) If the District requests a due process hearing and the final decision resulting from the due process hearing is that the District's evaluation is appropriate, the parent/guardian maintains the right to obtain an IEE, but not at public expense. (Please see the IEE section later in this administrative regulation for more information.)
 - e. If the parent/guardian obtains an IEE at private expense, the results of the IEE shall be considered by the District with respect to the provision of a free appropriate public education (FAPE) to the student, and may be presented as evidence at a due process hearing regarding the student.
 - f. If the 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 his/her parent/guardian, the student in that proposed placement.

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Upon receiving the proposed evaluation plan, the parent/guardian shall have at least 15 days to decide whether or not to consent to the initial evaluation. The District shall not interpret parent/guardian consent for initial evaluation as consent for initial placement or initial provision of special education services. (Education Code 56321; 34 CFR 300.300)

1. Informed Consent. Informed parental consent means that the parent/guardian: (Education Code 56021.1; 34 CFR 300.9)
 - a. Has been fully informed, in his/her native language or other mode of communication, of all information relevant to the activity for which consent is sought.
 - b. Understands and agrees, in writing, to the carrying out of the activity for which his/her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom.
 - c. Understands that the granting of consent is voluntary on his/her part and may be revoked at any time.
 - d. Understands that if he/she revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).
2. Reasonable Efforts. The District shall make reasonable efforts to obtain the informed consent of the parent/guardian for an initial evaluation or reevaluation of a student. The District shall maintain a record of its attempts to obtain consent, including: (Education Code 56321, 56341.5; 34 CFR 300.300, 300.322)
 - a. Detailed records of telephone calls made or attempted and the results of those calls.
 - b. Copies of correspondence sent to the parent/guardian and any responses received.
 - c. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits.
3. Lack of Consent. If a parent/guardian refuses to consent to the initial evaluation or fails to respond to a request to provide consent, the District may, but is not required to, pursue an evaluation by utilizing the procedural safeguards, including mediation and due process procedures. (Education Code 56321; 34 CFR 300.300, 300.506-300.516)

For a student who is a ward of the state and not residing with his/her parent/guardian, the District may conduct an initial evaluation without obtaining informed consent if any of the following situations exists: (Education Code 56321.1; 34 CFR 300.300)

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- a. Despite reasonable efforts to do so, the District cannot discover the whereabouts of the parent/guardian of the student.
- b. The rights of the parent/guardian of the student have been terminated in accordance with California law.
- c. The rights of the parent/guardian to make educational decisions have been subrogated by a judge in accordance with California law, and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student.

The District need not obtain parent/guardian consent before reviewing existing data as part of an evaluation or administering a test or other evaluation that is administered to all students, unless consent is required from the parents/guardians of all students. (Education Code 56321; 34 CFR 300.300)

C. Conduct of the Evaluation

1. **Timeline**. The District shall complete the determination as to whether the student is a student with a disability, conduct the initial evaluation to determine his/her educational needs, and develop an IEP within 60 days (not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five schooldays) of receiving informed parent/guardian consent for the evaluation. (Education Code 56043, 56344; 34 CFR 300.300, 300.301)
2. **Evaluation Requirements**. The evaluation shall be conducted by qualified personnel, as determined by the District, who are competent to perform the assessment. (Education Code 56320, 56322)

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for the purpose of determining eligibility for special education and related services. (34 CFR 300.302) In conducting the evaluation, the District shall use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student. The District also shall use any information provided by the parent/guardian that may assist the District in making the determination as to whether the student is a student with a disability and, if so, the necessary components of his/her IEP when the IEP is developed, including information related to enabling the student to be involved in and to progress in the general education curriculum. (34 CFR 300.304)

The District's evaluation shall not use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability and for determining the appropriate educational program for the student. The assessment shall use technically sound

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instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors. (34 CFR 300.304)

The District shall also ensure that assessments and other evaluation materials provide relevant information that assists in determining the student's educational needs and are compliant with the requirements of Education Code section 56320. (Education Code 56320; 34 CFR 300.304)

Students shall be 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. When appropriate, a developmental history shall be obtained. The District shall ensure that the evaluation is 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 student has been classified. (Education Code 56320; 34 CFR 300.304)

As part of the initial evaluation (if appropriate) and any reevaluation, the IEP team and other qualified professionals shall, if appropriate, review existing evaluation data on the student, including evaluations and information provided by the parents/guardians, current classroom-based local or state assessments and classroom-based observations, and observations by teachers and related services providers. On the basis of that review and input from the student's parent/guardian, the team shall identify what additional data, if any, are needed to determine: (Education Code 56381; 34 CFR 300.305)

- a. Whether the student is a student with a disability, or in the case of a reevaluation, whether the student continues to have a disability, and the educational needs of the student
- b. The present levels of academic achievement and related developmental needs of the student
- c. Whether the student needs, or continues to need, special education and related services
- d. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in his/her IEP and to participate, as appropriate, in the general education curriculum

Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year shall be coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible to ensure prompt completion of full evaluations. (34 CFR 300.304)

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1. Determining Eligibility. Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent/guardian shall convene as an IEP team and determine whether the student is a student with a disability and, if so, his/her educational needs. In interpreting the data, the group shall draw information from a variety of sources, including aptitude and achievement tests, parent/guardian input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior. The group shall ensure that the information obtained from these sources is documented and carefully considered. (34 CFR 300.306)
2. Evaluation Report. The personnel who evaluate the student shall prepare a written report of the results of each evaluation and the written report must comply with Education section Code 56327. 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) or in mathematics, limited English proficiency, limited school experience, poor school attendance, environmental, cultural or economic disadvantage, temporary physical disability, or social maladjustment. (Education Code 56026, 56329; 5 CCR 3030; 34 CFR 300.309)
3. IEP Timelines. The following timelines shall apply:
 - a. Once a student has been referred for an initial assessment to determine whether the student is a student with a disability and to determine the educational needs of the student, these determinations shall be made, and an IEP team meeting shall occur within 60 days (not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five schooldays) of receiving parental consent for the assessment. (Education Code 56043, 56344) The 60-day time period does not apply if either of the following occurs: (Education Code 56302.1)
 - 1) A student enrolls in a school served by the District after the relevant time period has commenced but prior to a determination by his or her previous district of whether the student is a student with a disability as long as the District is making sufficient progress to ensure a prompt completion of the assessment, and the parent and District agree to a specific date by which the assessment shall be completed.
 - 2) The parent of the student repeatedly fails or refuses to produce the student for the assessment.
 - b. A meeting to develop an initial IEP shall be conducted within 30 days of a determination that the student needs special education and related services. (Education Code 56043, 56344; 34 CFR 300.323)

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- c. An IEP required as a result of an assessment of a student shall be developed within a total time not to exceed 60 calendar days (not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five schooldays) from the date of receipt of the parent's/guardian's written consent for assessment, unless the parent/guardian agrees in writing to an extension. (Education Code 56043, 56344)
- d. An IEP required as a result of an assessment of a student shall be developed within 30 days after the commencement of the subsequent regular school year as determined by the District's calendar for each student for whom a referral has been made 30 days or less prior to the end of the regular school year. In the case of student school vacations, the 60-day time shall recommence on the date that student schooldays reconvene. (Education Code 56344)

4. IEP

- a. The District shall develop an IEP pursuant to Administrative Regulation No. 6159 for a student who has been determined to be eligible for special education and related services through the evaluation process.
- b. A student who has been determined to be eligible for special education and related services who violates a code of school conduct shall be disciplined in accordance with the procedures set forth in Administrative Regulation No. 5144.

E. Independent Educational Evaluation**1. Definitions (Education Code 56329; 34 CFR 300.502)**

"Independent educational evaluation (IEE)" means an evaluation conducted by a qualified examiner who is not employed by the District.

"Public expense" means that the District either pays for the full cost of the independent educational evaluation within the established guidelines set out in District or SELPA policy or ensures that the evaluation is provided at no cost to the parent/guardian.

2. Notification to District

The parents/guardians of a student with a disability have the right to obtain an IEE at public expense under the same criteria that the District uses for a District-initiated evaluation. A parent/guardian must notify the District that they are requesting an IEE at public expense because the parent/guardian disagrees with a District evaluation.

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3. District Response to Parent/Guardian Request for an IEE
 - a. Upon receipt of a request for an IEE at public expense from a parent/guardian, the District shall, without unnecessary delay either:
 - 1) ensure that the evaluation is provided at public expense; or
 - 2) request a due process hearing for a determination as to whether the District's evaluation is appropriate. (34 CFR 300.502)
 - b. Upon receipt of the IEE request, the District will provide the parent/guardian with a Notice of Procedural Safeguards and information regarding where to obtain an IEE and the District criteria applicable to IEEs. (34 CFR 300.502)
 - c. With the agreement of the parent/guardian, the District may confer with the parent/guardian in order to agree in advance as to specific areas of suspected disability that will be addressed in an IEE to be completed by a qualified professional from another Special Education Local Plan Area (SELPA) or a diagnostic school.
 - d. If the District initiates a due process hearing and the final decision is that the District's evaluation is appropriate, the parent/guardian is not entitled to an IEE at public expense; however, the parent/guardian still has the right to obtain an IEE at private expense. (34 CFR 300.502)
 - e. The District may ask a parent/guardian why he or she disagrees with the District's evaluation, but may not require the parent/guardian to provide an explanation and may not unreasonably delay either providing the IEE at public expense or filing a request for due process to request a hearing to defend the District's evaluation. (34 CFR 300.502)
4. District Criteria
 - a. If an IEE is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria the District uses when it initiates an evaluation to the extent those criteria are consistent with the parent's right to an IEE. Those criteria include, but are not limited to, the following: (34 CFR 300.502)
 - 1) The IEE must be completed by a qualified professional:
 - a) Psychological assessments must be completed by Licensed Educational Psychologists or Clinical Psychologists.
 - b) Speech/language assessments must be completed by Licensed Speech Pathologists.

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- c) Occupational Therapists and Physical Therapists must be graduates from an accredited school; Physical Therapists must be licensed by the Board of Medical Quality Assurance; Occupational Therapists must be currently registered with the American Occupational Therapist Association.
 - d) Other professionals must meet minimum requirements as set out in District criteria. A list of these requirements may be obtained from the District Special Education Office.
- 2) The IEE must evaluate one or more areas of suspected disability and be conducted for the purpose of determining a student's educational needs;
 - 3) The IEE assessor must provide a written report of the IEE's findings to the District.
 - 4) The cost of the evaluation must not exceed reasonable rates prevailing in the District's geographical area. See the District Special Education Office for the current list of reasonable rates;
 - 5) The independent examiner shall follow all guidelines for District evaluations, which include, but are not limited to, observing the student in an appropriate setting, classroom visitations, and interviews with parents and staff. If the District observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of the student, an equivalent opportunity shall apply to the IEE. 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, if any, regardless of whether the IEE is initiated before or after the filing of a due process hearing proceeding. (Education Code 56329)
 - 6) The independent examiner shall attend the IEP team meeting at which the IEE is presented in person, by telephone, or by virtual means. If an IEE is at public expense, the District shall pay the independent examiner to attend the IEP team meeting.
5. Parent/Guardian Initiated Evaluations

If a parent/guardian obtains an IEE at public expense or provides the District with an evaluation obtained at private expense, the results of the evaluation:

- a. must be considered by the District in any decision made with respect to the provision of FAPE to the student; however, the District is not obligated to adopt the recommendations set out in any IEE. (Education Code 56329)
- b. may be presented by any party as evidence at a hearing on a due process complaint regarding the student. (34 CFR 300.502)

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6. No Reimbursement

- a. The District is not obligated to reimburse the parent/guardian for any private evaluation that does not meet all District IEE criteria or that was completed prior to the date the District's own evaluation was completed. (34 CFR 300.502)
- b. Unless otherwise agreed to by the District, reimbursement for the costs of an IEE funded at public expense shall not be made by the District until parent/guardian or the IEE assessor has provided the District with a full and complete copy of the IEE report.
- c. A parent/guardian is entitled to only one IEE at public expense each time the District conducts an evaluation with which the parent/guardian disagrees. (Education Code 56329; 34 CFR 300.502)

F. Reevaluation

A reevaluation shall be conducted when the District determines that the educational or related service needs of the student, including improved academic achievement and functional performance, warrant a reevaluation or if the student's parent/guardian or teacher requests reevaluation. Such reevaluations shall occur every three years, unless the parent/guardian and District agree in writing that a reevaluation is unnecessary. A reevaluation may not occur more than once a year, unless the parent/guardian and the District agree otherwise. (Education Code 56043, 56381; 34 CFR 300.303)

The District shall ensure that any reevaluations of the student are conducted in accordance with the evaluation procedures pursuant to 34 CFR 300.304-300.311. (34 CFR 300.303)

Prior to transitioning a student with a disability from a preschool program to kindergarten, or first grade as the case may be, an appropriate reevaluation of the student shall be conducted to determine if the student is still in need of special education and related services. IEP teams shall identify a means of monitoring the continued success of children who are determined to be eligible for less intensive special education programs to ensure that gains made are not lost by a rapid removal of individualized programs and supports for these children. (Education Code 56445)

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