

CSBA Update 09/21 Board Policy

Instruction

BP 6164.4

IDENTIFICATION AND EVALUATION OF INDIVIDUALS FOR SPECIAL EDUCATION

Note: **If the Special Education Local Plan Area (SELPA) in which the district participates maintains a policy on this topic, then the following policy and administrative regulation may be deleted and/or modified for consistency with the SELPA's procedures. Districts that delete and/or modify this policy should consult legal counsel as appropriate.**

Education Code 56300 and 34 CFR 300.111 require each district, SELPA, or county office of education to actively seek out all residents from birth to age 21 (~~not "through" age 21~~) who have disabilities as defined by Education Code 56026. The district, SELPA, or county office is also required to include a "child find" process to identify children with disabilities placed by their parents/guardians in private schools; see BP/AR 6164.41 - Children with Disabilities Enrolled by Their Parents in Private Schools.

Pursuant to Education Code 56320.1, ~~Identification~~-identification, evaluation, assessment, and instructional planning procedures for children younger than age 3 must conform with Education Code 56425-56432 and the California Early Intervention Services Act (Government Code 95000-95029). **Pursuant to Government Code 95014, ~~The the~~ California Department of Education and local education agencies are responsible for providing early intervention services to infants and toddlers who have visual, hearing, or severe orthopedic impairments; the Department of Developmental Services and its regional centers must provide services to all other eligible children in this age group. ~~The law~~ Government Code 95014** also requires regional centers and local education agencies to coordinate family service plans for infants and toddlers and their families. Education Code 56441.11 sets forth eligibility criteria for preschool children ages 3-5.

The Governing Board recognizes the need to actively seek out and evaluate district residents from birth to age 21 who have disabilities in order to provide them with appropriate educational opportunities in accordance with state and federal law.

(cf. 0430 - Comprehensive Local Plan for Special Education)

(cf. 6164.41 - Children with Disabilities Enrolled by Their Parents in Private School)

(cf. 6164.6 - Identification and Education Under Section 504)

Note: Education Code 56301 **mandates** that districts, SELPAs, or county offices have policies and procedures for a continuous "child find" system which addresses the relationships among identification, screening, referral, evaluation, planning, implementation, review, and triennial assessment.

The U.S. Department of Education's Office of Special Education Programs (OSEP) has emphasized that districts are required to fully implement the Individuals with Disabilities Education Act (IDEA) during the COVID-19 pandemic, including the requirement to meet child find obligations. In the Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, OSEP encourages districts to reexamine the efficacy of existing child find practices in light of the educational disruptions caused by the COVID-19 pandemic.

Pursuant to Education Code 56302.5, the term "assessment" as used in state law has the same meaning as "evaluation" provided in 20 USC 1414, the federal **IDEA** ~~Individuals with Disabilities Education Act (IDEA)~~ and

accompanying federal regulations. The following policy and administrative regulation use the terms interchangeably.

The Superintendent or designee shall establish a comprehensive **child find** system that includes procedures for the identification, screening, referral, ~~and regular assessment~~, and triennial assessment of individuals eligible for special education, as well as procedures for the planning, implementation, and review of the special education and related services provided to such individuals. (Education Code 56301)

The district's identification procedures shall include **systematic** methods for utilizing referrals from parents/guardians, teachers, **agencies**, appropriate professionals, and ~~others~~ **other members of the public**, and shall be coordinated with school site procedures for referral of students whose needs cannot be met with modifications to the regular instructional program. (Education Code 56302)

Note: Education Code 56301 **mandates** policy ensuring the following notification. See the accompanying administrative regulation for specific notification requirements.

The Superintendent or designee shall notify parents/guardians, in writing, of their rights related to identification, referral, assessment, instructional planning, implementation, and review, including the right to consent to any assessment concerning their child. In addition, the Superintendent or designee shall notify parents/guardians of procedures for initiating a referral for assessment to identify individuals **for special education services** ~~who need special education services~~. (Education Code 56301)

~~(cf. 1312.3 - Uniform Complaint Procedures)~~

(cf. 3541.2 - Transportation for Students with Disabilities)

(cf. 4112.23 - Special Education Staff)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

(cf. 5145.6 - Parental Notifications)

(cf. 6159 - Individualized Education Program)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

(cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education)

(cf. 6159.3 - Appointment of Surrogate Parent for Special Education Students)

(cf. 6162.51 - State Academic Achievement Tests)

Legal Reference:

EDUCATION CODE

44265.5 Professional preparation for teachers of impaired students

56000-56885 Special education programs, especially:

56043 Timelines affecting special education programs

56195.8 Adoption of policies

56300-~~56304~~**56305** Identification of individuals with disabilities

56320-~~56331~~**56330** Assessment

56333-56338 Eligibility criteria for specific learning disabilities

56340-56347 Instructional planning and individualized education program

56381 Reassessment of students

56425-56432 Early education for individuals with disabilities

56441.11 Eligibility criteria, children ages 3-5

56445 Transition to grade school; reassessment

56500-56509 *Procedural safeguards*
GOVERNMENT CODE
95000-95029.5 *California Early Intervention Services Act*
CODE OF REGULATIONS, TITLE 5
3021-3029 *Identification, referral and assessment*
3030-3031 *Eligibility criteria*
UNITED STATES CODE, TITLE 20
1232g *Family Educational Rights and Privacy Act of 1974*
1400-1482 *Individuals with Disabilities Education Act, especially:*
1412 *State eligibility*
1415 *Procedural safeguards*
CODE OF FEDERAL REGULATIONS, TITLE 34
104.35 *Evaluation and placement*
104.36 *Procedural safeguards*
300.1-300.818 *Individuals with Disabilities Education Act, especially:*
300.301-300.306 *Evaluations and reevaluations*
300.323 *When IEPs must be in effect*
300.502 *Independent educational evaluation*
FEDERAL REGISTER
Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845
COURT DECISIONS
Timothy O. v. Paso Robles Unified School District (9th Cir. 2016) 822 F.3d 1105
M.M. v. Lafayette School District (9th Cir. 2014) 767 F.3d 842
Compton Unified School District v. Addison, (9th Cir. 2010) 598 F.3d 1181
N.B. and C.B v. Hellgate Elementary School District (9th Cir. 2008) 541 F.3d 1202
Hood v. Encinitas Union School District, (2007) 486 F.3d 1099

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS
California Practitioners' Guide for Educating English Learners with Disabilities, 2019
U.S. DEPARTMENT OF EDUCATION PUBLICATIONS
Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, August 2021
Long COVID under Section 504 and the IDEA: A Resource to Support Children, Students, Educators, Schools, Service Providers, and Families, July 2021
A Response to Intervention (RTI) Process Cannot Be Used to Delay-Deny an Evaluation for Eligibility under the Individuals with Disabilities Education Act (IDEA): Memorandum 11-07, January 2011
WEB SITES
California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>
*U.S. Department of Education, Office of Special Education Programs:
<http://www.ed.gov/about/offices/list/osers/osep>*

PERRIS UNION HIGH SCHOOL DISTRICT
Perris, California

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