

SECTION 1

Special Education Referrals, Eligibility Determination and Continuum of Program Options

CHILD FIND

Each District, Local Education Agency (LEA/District of Residence), Special Education Local Plan Area (SELPA), or County Office shall actively and systematically seek out all individuals with exceptional needs, ages 0 through 21 years, including children not enrolled in public school programs, children who are homeless, or wards of the State, who reside in the district or are under the jurisdiction of a special education local plan area or a county office regardless of their disabilities who are in need of special education and related services. For students from birth to 3 years of age, Districts only have child find responsibilities for children with low incidence disabilities (deafness, blindness, or orthopedic impairments).

Each District, Special Education Local Plan Area, or County Office shall provide for the identification and assessment of an individual's exceptional needs and the planning of an instructional program to meet the assessed needs. Identification procedures shall include systematic methods of utilizing referrals of students 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 students with needs that cannot be met with modification of the general instructional program.

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

Potential sources for referral include the following:

- **Parents** have the right to request in writing that their child be assessed to determine eligibility for special education services.
- Through the **student study/success team** process, a student may be referred for assessment to determine eligibility for special education services.
- **Private school personnel** may make a referral in writing to have a student assessed to determine eligibility for special education services.

The process for a parent referral is as follows:

The parent requests, in writing, that her/his child be assessed to determine eligibility for special education services. Within 15 days of the referral, the parent shall be given, in writing, a proposed assessment plan. A copy of the notice of parent rights shall be attached to the assessment plan. A written explanation of all the procedural safeguards shall be included. No assessment shall be conducted unless the written consent of the parent is obtained. The parent shall have at least 15 days from the receipt of the proposed assessment plan to arrive at a decision. Assessment may begin immediately upon receipt of the consent. At this point the 60 day timeline for assessment begins.

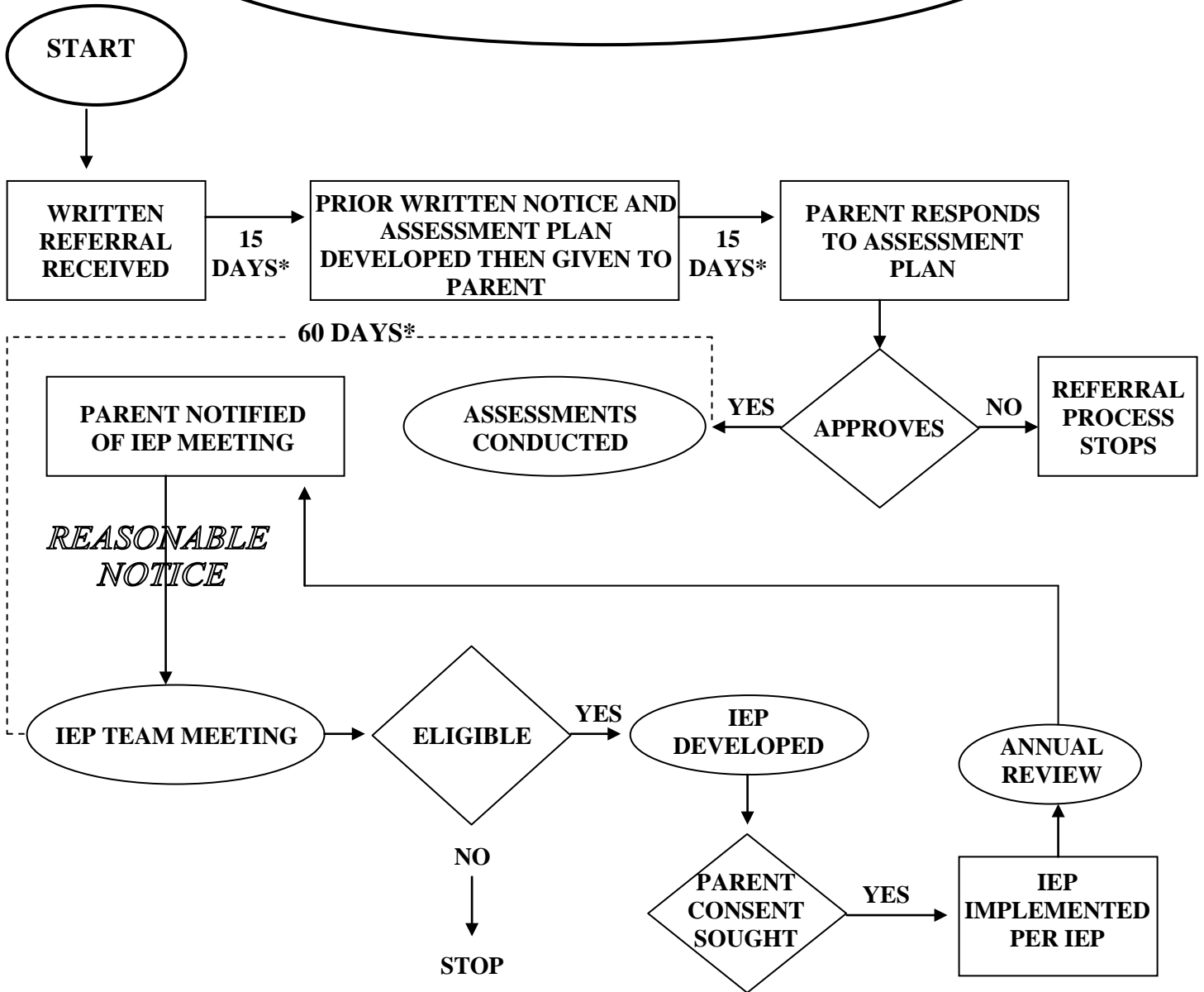
The process for the student study/success team referral is as follows:

A student study/success team may refer a student for assessment to determine eligibility for special education services. Prior to referral, the student study/success team will generally consider and/or review the interventions, adaptations, and modifications that have been (or may be) made in the general education environment in order to meet the educational needs of the student. The student study/success team is established by the LEA (district of residence) and is a function of the general education program/process.

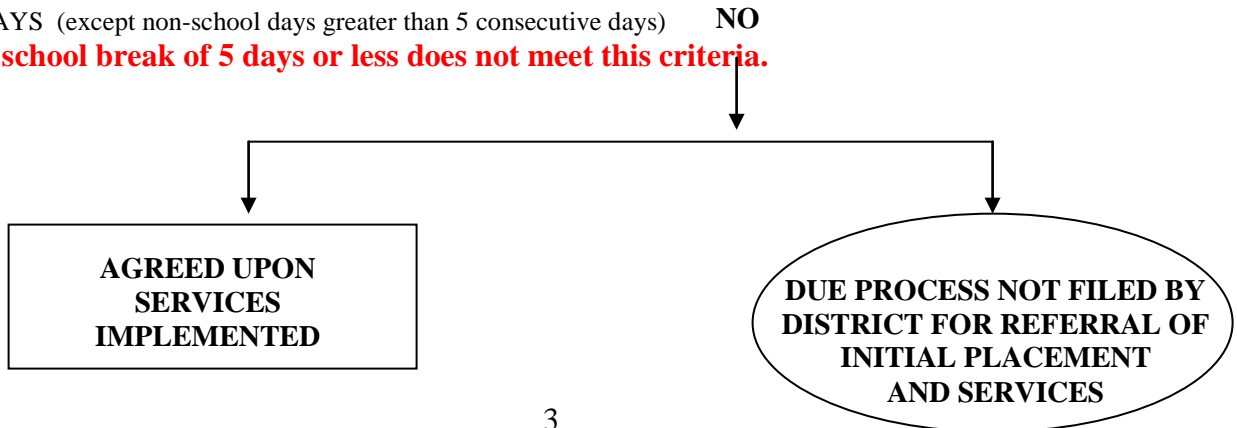
The process for a referral made by a private school is as follows:

The staff or the parent of a student attending a private school may make a referral, in writing, to the student's LEA (district of residence) for assessment to determine eligibility for special education services. All special education timelines for offering an assessment plan and holding an IEP must be followed by the district in which the student suspected of having a disability lives.

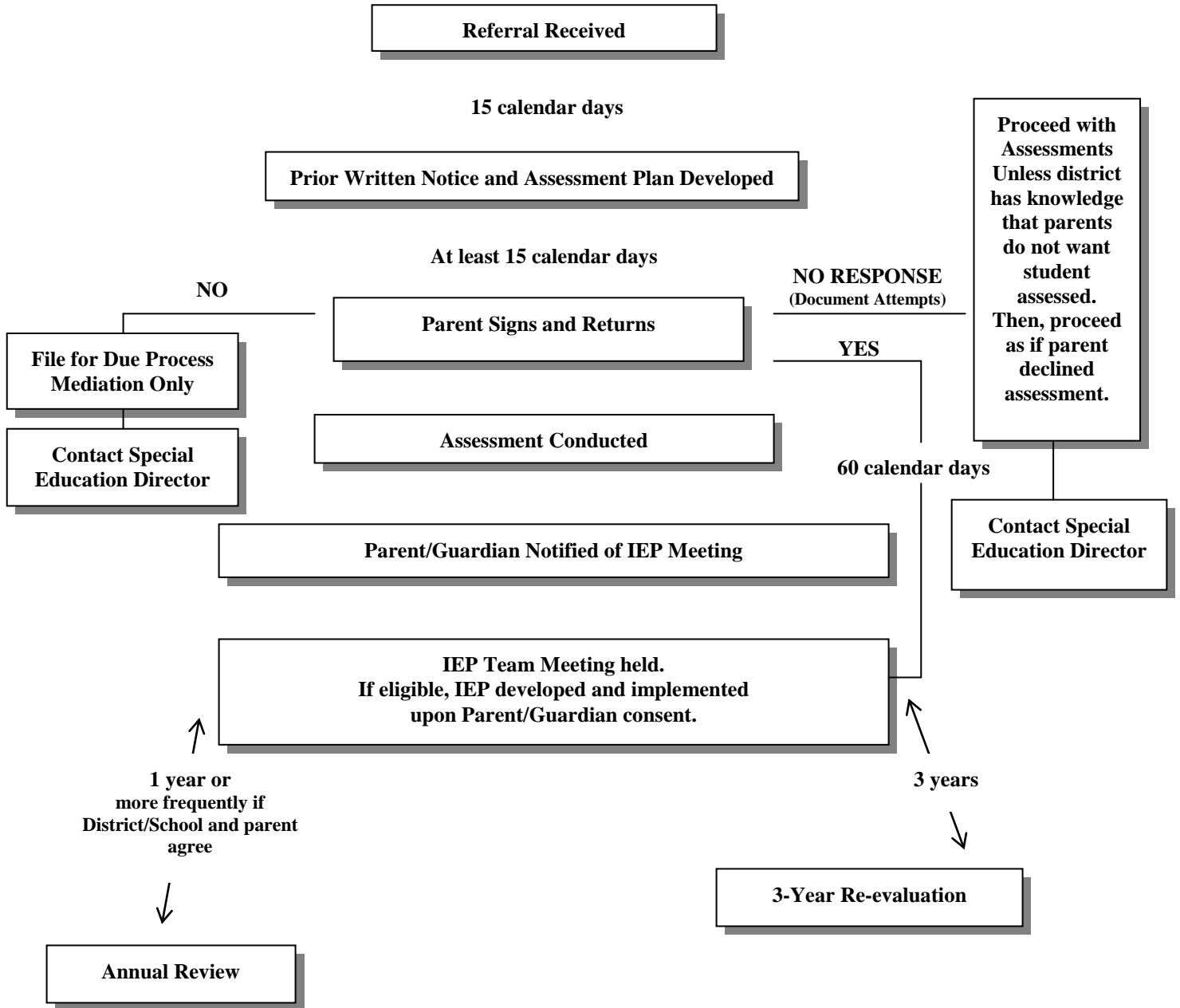
**SAN JOAQUIN
SPECIAL EDUCATION LOCAL PLAN AREA
SPECIAL EDUCATION PROCESS FLOW CHART
Flow Chart A**



* CALENDAR DAYS (except non-school days greater than 5 consecutive days) **NO**
Please note: A school break of 5 days or less does not meet this criteria.



**PROCESS FLOW CHART – ANOTHER VIEW
(TRIENNIAL)
Flow Chart B**



60 DAY ASSESSMENT TIMELINE

An Individualized Education Program (IEP) shall be developed within a total time not to exceed 60 calendar days from the date of receipt of the parents' written consent of assessment, not counting days between school sessions, terms, or days of school vacation of six or more days.

In the case of school vacations of six or more days, the 60 day timeline shall recommence on the date that student school days reconvene.

When a referral for special education is made within 30 days or less of the end of a school year, the assessment shall be completed and an IEP developed within the first 30 days of the subsequent school year.

The following 60 day timeline developed by the SJCOE psychological services staff is a tool to calculate the 60 day timeline based on the date of receipt of a signed assessment plan and should be adjusted in the case of school vacations of 6 or more days.

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Developed by San Joaquin County Office of Education - Psychological Services

August 06

Revised September 07

Revised February 2011

Revised February 2015

SIXTY-DAY CALENDAR
JUNE

SIXTY-DAY CALENDAR
JULY

Date	60-Day Date	Date	60-Day Date
June 1	July 31	July 1	August 30
June 2	August 1	July 2	August 31
June 3	August 2	July 3	September 1
June 4	August 3	July 4	September 2
June 5	August 4	July 5	September 3
June 6	August 5	July 6	September 4
June 7	August 6	July 7	September 5
June 8	August 7	July 8	September 6
June 9	August 8	July 9	September 7
June 10	August 9	July 10	September 8
June 11	August 10	July 11	September 9
June 12	August 11	July 12	September 10
June 13	August 12	July 13	September 11
June 14	August 13	July 14	September 12
June 15	August 14	July 15	September 13
June 16	August 15	July 16	September 14
June 17	August 16	July 17	September 15
June 18	August 17	July 18	September 16
June 19	August 18	July 19	September 17
June 20	August 19	July 20	September 18
June 21	August 20	July 21	September 19
June 22	August 21	July 22	September 20
June 23	August 22	July 23	September 21
June 24	August 23	July 24	September 22
June 25	August 24	July 25	September 23
June 26	August 25	July 26	September 24
June 27	August 26	July 27	September 25
June 28	August 27	July 28	September 26
June 29	August 28	July 29	September 27
June 30	August 29	July 30	September 28
		July 31	September 29

SIXTY-DAY CALENDAR
AUGUST

SIXTY-DAY CALENDAR
SEPTEMBER

Date	60-Day Date	Date	60-Day Date
August 1	September 30	September 1	October 31
August 2	October 1	September 2	November 1
August 3	October 2	September 3	November 2
August 4	October 3	September 4	November 3
August 5	October 4	September 5	November 4
August 6	October 5	September 6	November 5
August 7	October 6	September 7	November 6
August 8	October 7	September 8	November 7
August 9	October 8	September 9	November 8
August 10	October 9	September 10	November 9
August 11	October 10	September 11	November 10
August 12	October 11	September 12	November 11
August 13	October 12	September 13	November 12
August 14	October 13	September 14	November 13
August 15	October 14	September 15	November 14
August 16	October 15	September 16	November 15
August 17	October 16	September 17	November 16
August 18	October 17	September 18	November 17
August 19	October 18	September 19	November 18
August 20	October 19	September 20	November 19
August 21	October 20	September 21	November 20
August 22	October 21	September 22	November 21
August 23	October 22	September 23	November 22
August 24	October 23	September 24	November 23
August 25	October 24	September 25	November 24
August 26	October 25	September 26	November 25
August 27	October 26	September 27	November 26
August 28	October 27	September 28	November 27
August 29	October 28	September 29	November 28
August 30	October 29	September 30	November 29
August 31	October 30		

SIXTY-DAY CALENDAR
OCTOBER

SIXTY-DAY CALENDAR
NOVEMBER

Date	60-Day Date	Date	60-Day Date
October 1	November 30	November 1	December 31
October 2	December 1	November 2	January 1
October 3	December 2	November 3	January 2
October 4	December 3	November 4	January 3
October 5	December 4	November 5	January 4
October 6	December 5	November 6	January 5
October 7	December 6	November 7	January 6
October 8	December 7	November 8	January 7
October 9	December 8	November 9	January 8
October 10	December 9	November 10	January 9
October 11	December 10	November 11	January 10
October 12	December 11	November 12	January 11
October 13	December 12	November 13	January 12
October 14	December 13	November 14	January 13
October 15	December 14	November 15	January 14
October 16	December 15	November 16	January 15
October 17	December 16	November 17	January 16
October 18	December 17	November 18	January 17
October 19	December 18	November 19	January 18
October 20	December 19	November 20	January 19
October 21	December 20	November 21	January 20
October 22	December 21	November 22	January 21
October 23	December 22	November 23	January 22
October 24	December 23	November 24	January 23
October 25	December 24	November 25	January 24
October 26	December 25	November 26	January 25
October 27	December 26	November 27	January 26
October 28	December 27	November 28	January 27
October 29	December 28	November 29	January 28
October 30	December 29	November 30	January 29
October 31	December 30		

SIXTY-DAY CALENDAR
DECEMBER

SIXTY-DAY CALENDAR
JANUARY

Date	60-Day Date	Date	60-Day Date
December 1	January 30	January 1	March 2
December 2	January 31	January 2	March 3
December 3	February 1	January 3	March 4
December 4	February 2	January 4	March 5
December 5	February 3	January 5	March 6
December 6	February 4	January 6	March 7
December 7	February 5	January 7	March 8
December 8	February 6	January 8	March 9
December 9	February 7	January 9	March 10
December 10	February 8	January 10	March 11
December 11	February 9	January 11	March 12
December 12	February 10	January 12	March 13
December 13	February 11	January 13	March 14
December 14	February 12	January 14	March 15
December 15	February 13	January 15	March 16
December 16	February 14	January 16	March 17
December 17	February 15	January 17	March 18
December 18	February 16	January 18	March 19
December 19	February 17	January 19	March 20
December 20	February 18	January 20	March 21
December 21	February 19	January 21	March 22
December 22	February 20	January 22	March 23
December 23	February 21	January 23	March 24
December 24	February 22	January 24	March 25
December 25	February 23	January 25	March 26
December 26	February 24	January 26	March 27
December 27	February 25	January 27	March 28
December 28	February 26	January 28	March 29
December 29	February 27	January 29	March 30
December 30	February 28	January 30	March 31
December 31	March 1	January 31	April 1

**SIXTY-DAY CALENDAR
FEBRUARY**

**SIXTY-DAY CALENDAR
MARCH**

Date	60-Day Date	Date	60-Day Date
February 1	April 2	March 1	April 30
February 2	April 3	March 2	May 1
February 3	April 4	March 3	May 2
February 4	April 5	March 4	May 3
February 5	April 6	March 5	May 4
February 6	April 7	March 6	May 5
February 7	April 8	March 7	May 6
February 8	April 9	March 8	May 7
February 9	April 10	March 9	May 8
February 10	April 11	March 10	May 9
February 11	April 12	March 11	May 10
February 12	April 13	March 12	May 11
February 13	April 14	March 13	May 12
February 14	April 15	March 14	May 13
February 15	April 16	March 15	May 14
February 16	April 17	March 16	May 15
February 17	April 18	March 17	May 16
February 18	April 19	March 18	May 17
February 19	April 20	March 19	May 18
February 20	April 21	March 20	May 19
February 21	April 22	March 21	May 20
February 22	April 23	March 22	May 21
February 23	April 24	March 23	May 22
February 24	April 25	March 24	May 23
February 25	April 26	March 25	May 24
February 26	April 27	March 26	May 25
February 27	April 28	March 27	May 26
February 28*	April 29	March 28	May 27
		March 29	May 28
		March 30	May 29
		March 31	May 30

* Please Note: During leap year, add 1 day to 60 Day Date column to any timeline that includes Feb 29

SIXTY-DAY CALENDAR
APRIL

SIXTY-DAY CALENDAR
MAY

Date	60-Day Date	Date	60-Day Date
April 1	May 31	May 1	June 30
April 2	June 1	May 2	July 1
April 3	June 2	May 3	July 2
April 4	June 3	May 4	July 3
April 5	June 4	May 5	July 4
April 6	June 5	May 6	July 5
April 7	June 6	May 7	July 6
April 8	June 7	May 8	July 7
April 9	June 8	May 9	July 8
April 10	June 9	May 10	July 9
April 11	June 10	May 11	July 10
April 12	June 11	May 12	July 11
April 13	June 12	May 13	July 12
April 14	June 13	May 14	July 13
April 15	June 14	May 15	July 14
April 16	June 15	May 16	July 15
April 17	June 16	May 17	July 16
April 18	June 17	May 18	July 17
April 19	June 18	May 19	July 18
April 20	June 19	May 20	July 19
April 21	June 20	May 21	July 20
April 22	June 21	May 22	July 21
April 23	June 22	May 23	July 22
April 24	June 23	May 24	July 23
April 25	June 24	May 25	July 24
April 26	June 25	May 26	July 25
April 27	June 26	May 27	July 26
April 28	June 27	May 28	July 27
April 29	June 28	May 29	July 28
April 30	June 29	May 30	July 29
		May 31	July 30
		May 1	June 30

REFERRAL FOR ASSESSMENT

The identification of students with exceptional needs shall be coordinated with school site procedures for identifying those students whose needs have been found to be beyond the resources of general education interventions. The Assessment Plan shall address **all areas of suspected need**. Within 15 calendar days of any school staff receiving a written request for a special education assessment, an assessment plan shall be developed and presented to the parent. When a district declines to assess, a district shall develop a prior written notice to explain their refusal to assess and simultaneously provide parents with procedural safeguards. Note: If parent makes an oral request school staff must assist in developing written request. The parent/guardian has at least 15 days to provide consent for the proposed assessment. No assessment shall be conducted without parental consent. If consent for assessment is refused, in the case of an initial referral, the district need not pursue consent through due process. If the student is already identified as having a disability, the district must pursue consent through mediation or due process.(Please note: Flow Chart A/B)

A case manager should be appointed by the District or school site at this time. The case manager is generally responsible for the following:

- Being the primary contact with the parent and other agencies.
- Reviewing the proposed assessment plan with the parent and explaining parent rights and special education timelines and procedures.
- Ensuring that all required notices are provided to parents and that required parent signatures are obtained.
- Coordinating observations and assessments.
- Ensuring all IEP timelines are met.
- Scheduling the IEP team meeting and inviting all team members.
- Ensuring that all IEP data is entered into SEIS and that all required forms are prepared for the IEP team meeting.
- Maintaining the IEP file according to District guidelines.

PARENTAL CONSENT

The District shall not be required to obtain informed consent from the parent of a child for an initial assessment to determine eligibility for special education and related services under the following circumstances:

- Despite reasonable efforts to do so, the District cannot discover the whereabouts of the parent of the child.
- The rights of the parent of the child have been terminated in accordance with state law.
- 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 assessment has been given by an individual appointed by the judge to represent the child.

Following are the federal and state definitions of “parent”. Anyone who meets one of the definitions included in either list may serve as a parent in relation to consent.

- (a) Parent means—
- (1) A biological or adoptive parent of a child;
 - (2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;

- (3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
- (4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
- (5) A surrogate parent who has been appointed in accordance with Section 300.519 or section 639(a)(5) of the Act.(b)(1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.(2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of this section. (Authority: 20 U.S.C. 1401(23)) **Title 34 Code of Federal Regulations Section 300.30**

(b) "Parent" means any of the following:

- (1) A biological or adoptive parent of a child.
 - (2) A foster parent if the authority of the biological or adoptive parents to make educational decisions on the child's behalf specifically has been limited by court order in accordance with Section 300.30(b)(1) or (2) of Title 34 of the *Code of Federal Regulations*.
 - (3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child, including a responsible adult appointed for the child in accordance with Sections 361 and 726 of the *Welfare and Institutions Code*.
 - (4) An individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the child lives, or an individual who is legally responsible for the child's welfare.
 - (5) A surrogate parent who has been appointed pursuant to Section 7579.5 or 7579.6 of the *Government Code*, and in accordance with Section 300.519 of Title 34 of the *Code of Federal Regulations* and Section 1439(a)(5) of Title 20 of the *United States Code*.
 - (b)(1) Except as provided in paragraph (2), the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under subdivision (a) to act as a parent, shall be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.
 - (2) If a judicial decree or order identifies a specific person or persons under paragraphs (1) to (4), inclusive, of subdivision (a) to act as the "parent" of a child or to make educational decisions on behalf of a child, then that person or persons shall be determined to be the "parent" for purposes of this part, Article 1 (commencing with Section 48200) of Chapter 2 of Part 27 of Division 4 of Title 2, and Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the *Government Code*, and Sections 361 and 726 of the *Welfare and Institutions Code*.
 - (c) "Parent" does not include the state or any political subdivision of government.
 - (d) "Parent" does not include a nonpublic, nonsectarian school or agency under contract with a local educational agency for the provision of special education or designated instruction and services for a child.
- Parent - California Education Code Section 56028**

Consent for initial assessment may not be construed as consent for initial placement or initial provision of special education and related services.

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

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 assessment for eligibility for special education and related services. A screening includes basic tests administered to or procedures used for all children in a school, grade or class. Massed screenings used in connection with child find activities are not considered evaluations and thus do not require prior parental notice and consent requirements that apply to initial evaluations.

If a parent refused to respond or consent to a District's request to conduct an initial assessment for special education eligibility, the District may request due process to override the lack of consent.

If a parent refused to consent to the initiation of initial special education services, the District shall not request due process to override the lack of consent.

If a parent refuses all services after having consented to them in the past, the LEA shall not file a request for due process. If the parent consents to special education and related services, but not all components of the IEP, those components to which the parent consents shall be provided. If the components of the IEP to which the parent has not consented are necessary to provide a FAPE, the district shall initiate due process and the decision shall be binding.

As of January 1, 2011, school districts will no longer be able to file a request for due process if a parent has revoked consent for special education services. In addition, after the initial provision of special education services, if a parent provides written revocation of his/her consent for his/her child to receive all special education services, the school district may not continue to provide the services and may not file a request for due process to override the lack of consent. In that situation, the school district will be required to provide prior written notice and then cease the provision of special education and related services. Following the written revocation of consent, the school district will not be required to convene an IEP meeting or develop an IEP for the student. Finally, if a parent submits a written revocation of consent for special education services, the school district is not required to amend the student's education records to remove reference to the child's previous receipt of special education services. Please note: After revoking consent, if parent requests reinstatement of special education services, the request will be treated as an initial referral to special education.

ASSESSMENT

Once consent for assessment has been given by the parent, the case manager shall distribute a copy of the Assessment Plan to all staff conducting the assessment. All assessments must be completed and an IEP meeting scheduled within 60 calendar days, which may exclude those days in which the student's educational program has not been in session for six or more days (e.g., winter break, spring break, off-track time, and

summer vacation). If parental consent is not given in the case of an initial referral, the referral form and other related documentation should be placed in the student's permanent file.

All assessments shall be administered by trained and properly credentialed, qualified staff who are competent in both the oral or sign language skills and written skills of the individual's primary language or mode of communication and have a knowledge and understanding of the cultural and ethnic background of the child. If it is clearly not feasible to do so, an interpreter must be used, and the assessment report shall document this condition and its possible effect on test validity. Qualified means a person who has met federal and state certification, licensing, registration, or other comparable requirements that apply to the area in which he/she provides special education or related services. All entities and individuals, including non-public schools and non-public agencies, providing related services shall meet the qualifications found in 34 C.F.R. sections 300.156(b) and 3001(r) and the applicable portions of 3051 et seq. The assessment shall be:

- Administered in the student's primary language or other mode of communication unless it is clearly not feasible to do so;
- Selected and administered so as not to be racially, culturally or gender biased;
- Validated for the specific purpose for which it is intended;
- Tailored to assess specific areas and provide information to determine the student's educational needs;
- Inclusive of an observation by at least one member of the team.

These qualifications for assessors apply equally to initial and triennial assessments.

No single procedure shall be used as the sole criterion for determining eligibility for special education. The student shall be assessed in all areas related to the suspected disability. No service will be included on the IEP unless an appropriate assessment has been conducted by personnel credentialed in the designated area of need, i.e. LSH, APE, Vocational, etc.; and the student meets local and state eligibility criteria requirements.

Parents as well as school personnel may request additional assessment information in other areas related to the suspected disability. Their request shall include the reason for additional assessment. Parents and other sources should be contacted to determine if there have been any previous assessments that should be reviewed. Copies of any needed reports should also be requested.

It is recommended that IEP team members share their results with other team members prior to the IEP meeting. Staffing prior to the IEP meeting allows team members to:

Share thoughts and compare program responsibilities.

- Review eligibility criteria.
- Conserve time in the actual IEP meeting.
- Facilitate more appropriate placement.
- Formulate tentative goals and benchmarks.. (Note: This information-sharing session is not intended to replace the IEP Team meeting. Draft goals and benchmarks are to be developed for discussion purposes only.)

Any assessment conducted must be shared with the parent(s) in an IEP meeting. However, it is good practice also to share with parent(s) the assessment results and thoughts relative to possible student needs prior to the scheduled IEP meeting. Copies of all assessment reports must be provided to parents at the IEP meeting or prior to the meeting, if requested by the parents and available.

For information related to independent educational evaluations please refer to attached Policy and Administrative Regulations on Independent Educational Evaluations in the Procedural Manual Administrator Edition.

WRITTEN ASSESSMENT REPORT

Those persons assessing a student shall maintain a complete and specific record of diagnostic procedures and assessments employed, the instruments utilized, the conclusions reached and the proposed education or treatment alternatives indicated by the assessment results. Assessment team members shall prepare written reports that address areas included in the assessment plan. Contracting agencies are required to follow written assessment report requirements including the exclusionary statement regarding eligibility.

The results of each assessment shall include the identification of the primary disability and the disabling condition, if any, including the appropriate eligibility criteria. The report shall include, but not be limited to, the following:

1. Results of any relevant, previous assessments.
2. Relevant behavior noted during testing sessions and any observation in the classroom or other setting.
3. The relationship of that behavior to the student's academic and social functioning.
4. The educationally relevant health, development and medical findings, if any.
5. Specific test scores for all assessments administered. An error analysis and integration of assessment data depicting strengths and weaknesses as related to ability/performance levels within the areas of academic achievement, language development, cognitive development, self-help, visual/auditory functioning, and sensory motor skills.
6. Determination of the effects of environmental, cultural and economic disadvantages upon overall performance level. This shall include, as appropriate, a review of the student's school and/or developmental history, as well as his/her English language proficiency.
7. For students with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services.
8. A summary of the findings and characteristics which identify the student as an individual with a disability and which document the need for special education and/or related services.
9. Relevant information from the parent.
10. Information related to enabling access to and progress in the general curriculum.

In the evaluation of assessment findings, it is important to bear in mind what the education code requires for program eligibility if the determinant factor is a lack of instruction in reading or math, limited English proficiency, or other environmental, cultural, or socio-economic disadvantage factors.

Copies of all documents used in making determination with regard to eligibility or needs should be maintained for future reference.

For triennial reviews to determine continuing eligibility, in the event it is determined that a file review will suffice for the triennial evaluation, a summary of pertinent information and the determination of continuing eligibility shall be developed and presented to the IEP team. For additional information on completing assessment reports, see SJ County SELPA Psych-Educational Report Template, November 2014.

ALTERNATIVE ASSESSMENT

Alternative assessment methodologies are mandated in the assessment of African-American students and are useful in the assessment of other students in which traditional assessment techniques may not provide reliable data. Per the Larry P. vs. Riles court decision of 1979 and the Larry P. Task Force Report of 1989, no tests shall be administered to African-American students for the explicit purpose of deriving an I.Q. score for special education placement.

PRIMARY LANGUAGE ASSESSMENT

Materials and procedures used to assess a child with limited English proficiency shall 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 language skills.

Evaluations are to be administered in a language and form most likely to yield accurate information on what the student knows and can do academically, developmentally and functionally unless not feasible. Bilingual interpreters may be used to assist school personnel in administering assessments.

ASSESSMENT PROCEDURES WHICH MAY LEAD TO SPECIAL EDUCATION ELIGIBILITY DETERMINATION

Disclaimer: The following questions and answers are designed to assist special education personnel in navigating through the laws and regulations set forth by the federal and state government as it pertains to assessment and eligibility. This is not meant to be construed as the sole reference or measure for identification of student into special education programs.

1. Why should I be concerned about test normative samples? E.C.56320 (a)

Testing and assessment materials and procedures used for the purposes of assessment and placement of individuals with exceptional needs are selected and administered so as not to be racially, culturally, or sexually discriminatory.

2. How shall I select testing and assessment materials for students with limited language ability? E.C.56320(a)(b)(1)

Testing and assessment materials should be provided and administered in the student's native language or other mode of communication, unless the assessment plan indicates reasons when this provision and administration are not clearly feasible.

3. Are they validated for a specific purpose? E.C.56320(b)(2)

Tests and assessment materials must be validated for the specific purpose for which they are used.

4. Who administers the assessments? E.C.56320(b)(3)

Trained personnel, in conformance with the instructions provided by the producer of tests and other assessment materials, except that a credentialed school psychologist should administer tests of intellectual or emotional functioning.

5. Are specific areas of need being assessed? E.C.56320 (c)

Tests and other assessment materials include those tailored to assess specific areas of educational need.

6. Are the test results accurate? E.C.56320(d)

Tests are selected and administered to best ensure that when a test administered to a pupil with impaired sensory, manual, or speaking skills produces test results that accurately reflect the pupil's aptitude, achievement level, or any other factors the test purports to measure and not the pupil's impaired sensory, manual, or speaking skills unless those skills are the factors the test purports to measure.

7. Are their multiple procedures being used? E.C.56320(e)

No single procedure is used as the sole criterion for determining an appropriate educational program for an individual with exceptional needs.

8. Is the student being assessed in all areas of suspected disabilities? E.C.56320(f)

The pupil is assessed in all areas related to the suspected disability including, where appropriate, health and development, vision, including low vision, hearing, motor abilities, language function, general ability, academic performance, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status.

9. Are the persons conducting the assessment knowledgeable of the disability? E.C.56320(g)

Persons knowledgeable of that disability shall conduct the assessment of a pupil, including the assessment of a pupil with a suspected low incidence disability.

ELIGIBILITY CRITERIA

To qualify for special education and related services under the state and federal criteria, a student must be between the ages of 3 and 22 and must satisfy both parts of a two-part test. First, the student must meet the definition of one or more of the categories of disabilities specified under the IDEA. Second, the student must be in need of special education and related services as a result of his disability or disabilities. When it enacted IDEA 2004, Congress created a special rule for eligibility determination not found in the previous version of the statute or in its implementing regulations. The regulations stated that a child shall not be determined to be a child with a disability if the "determinant factor" is a "lack of appropriate instruction in reading, including in the essential components of reading instruction as defined in the No Child Left Behind Act. NCLB defines the term "essential components of reading instruction" to mean:

- Explicit and systematic instruction in phonemic awareness
- Phonics
- Vocabulary development
- Reading fluency, including oral reading skills
- Reading comprehension strategies

Additionally, state and federal law excludes from eligibility for determinant factors of limited English proficiency and lack of instruction in math. The specific disabling conditions identified in the IDEA are 1) autism; 2) deaf-blindness; 3) deafness; 4) emotional disturbance; 5) hearing impairments; 6) intellectual disability; 7) multiple disabilities; 8) orthopedic impairments; 9) other health impairment; 10) specific learning disability; 11) speech or language impairments; 12) traumatic brain injury; and 13) visual impairment including blindness.

The decision as to whether or not a student requires special education and related services shall be made by the IEP team which shall include those persons conducting the assessments. The IEP team shall take into account all the relevant material which is available on the student. No single score shall be used as the sole criterion for the decision of the IEP team as to the student's eligibility for special education.

Each of the eligibility categories listed below begin with the California Code of Regulations pertaining to that category. Explanations in italics are added for your information.

Autism/Characteristics Often Associated with Autism

(1) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects 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 paragraph (c)(4) of this section.

(B) A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in paragraph (b)(1) of this section are satisfied. C.F.R 300/A/300.8
CCR3030(b)(1)AB

Deaf-Blindness/Concomitant Hearing and Visual Impairment

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.
CCR 3030(b)2

A state licensed ophthalmologist and a state licensed audiologist must verify the presence of both deficits, and the combination of the visual and hearing impairments cause severe communication, developmental, and educational problems that cannot be accommodated in general education, but require special education programs solely for deaf or blind children.

A student shall be assessed by a multi-disciplinary team. Relevant information includes all of the following:

- *Current audiological measures of auditory functioning document a severe hearing loss, with and without amplification, as determined by a qualified audiologist.*
- *Assessment of receptive and expressive communication skills and current education performance reveal significant dysfunction directly related to the physical impairment.*
- *A written report of an eye examination by either a physician or an ophthalmologist that states that the student's acuity is 20/200 or less in the better eye after the best correction (legally blind).*

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. CCR 3030(b)(3)

For education purposes, a student is considered to be deaf when all of the following apply:

- 1. The student has a written diagnosis/report of hearing impairment from a licensed or credentialed audiologist with a specialization in clinical or rehabilitation services in audiology. This diagnosis/report should specify the range, nature and degree of hearing impairment. This report must be current and provide measures of audiological functioning both with and without amplifications. Such hearing impairment may be permanent or fluctuating, be present at birth or develop later in life, but results in a functionally severe loss. That is, it severely impairs the child's processing of linguistic information through auditory channels and adversely affects educational performance.*
- 2. An assessment of the student's current level of receptive and expressive language skills has been made, which indicates severe problems in speech reception and discrimination due to the hearing loss, even with appropriate amplification.*
- 3. The IEP Team has studied the assessments specified above plus any other relevant assessments and information and determined that the diagnosed hearing impairment results in the student functioning as a severely hearing impaired individual, i.e., all of the following apply:*
 - The student is severely impaired in processing linguistic information through auditory channels even with amplification, resulting in severe impairment of receptive and expressive oral language.*
 - This severe impairment adversely affects educational performance.*
 - Based on an educational assessment, the IEP team determines that such impairment adversely affects the student's educational performance.*
 - The student's educational needs are such that the student requires special education and/or related services that cannot be provided with modification of the general school program.*

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 under paragraph (b)(4) of this section. CCR 3030(b)(4) A-F)

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.

Intellectual Disability

Intellectual disability means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance. CCR 3030(b)(6)

1. *General intellectual functioning is defined as the results obtained by assessment with one or more of the individually administered general intelligence tests developed for the purpose of assessing various aspects of intellectual functioning.*
2. *Adaptive Behavior is defined as the effectiveness or degree with which individuals meet the standards of personal independence and social responsibility expected for their age and culture group.*

The student demonstrates moderate to profound delays in mental development, difficulty in concept formation and sensory motor integration, and delayed social and adaptive behaviors.

The student demonstrates severe disorders of communication and behavior in which the disability manifests early in the developmental period and is characterized by pervasive impairment of cognitive/perceptual functioning, limited ability to understand or communicate, and difficulty in concept formation. (Higher abilities in specific areas may accompany overall depressed intellectual development.)

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. CCR 3030(b)(7), C.F.R 300/A/300.8(c)(7)

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). CCR 3030(b)(8), C.F.R 300/A/300.8 (c)(9)

The student has a written diagnosis from a licensed physician or surgeon that he or she has a severe orthopedic impairment which results in a serious impairment of locomotive and/or other motor functions, and

Based on educational assessment, the IEP Team determines that such impairment adversely affects the student's educational performance.

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. CCR 3030(b)(9), C.F.R 300/A/300.8(c)(9)

Speech or Language Disorder

A student shall be assessed as having a language or speech disorder which makes him/her eligible for special education and related services when he/she demonstrates difficulty understanding or using spoken language to such an extent that it adversely affects his/her educational performance and cannot be corrected without special education and related services. In order to be eligible for special education and related services, difficulty in understanding or using spoken language shall be assessed by a language, speech, and hearing specialist who determines that such difficulty results from any of the following disorders:
California Ed. Code 56333

(A) Articulation Disorder

1. The student 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 student'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. The student does not meet criteria for an articulation disorder if the sole assessed disability is an abnormal swallowing pattern.

The student does not meet criteria for an articulation disorder when the student exhibits:

- *atypical speech resulting from a lack of familiarity with the English language.*
- *dialectical patterns resulting from the use of non-standard English.*

(B) Abnormal Voice

A student has an abnormal voice that is characterized by persistent, defective voice quality, pitch, or loudness.

Due to frequent medical pathologies associated with deviant vocal production, vocal assessments shall, when appropriate, include a medical laryngeal examination with a statement that vocal therapy is not contraindicated.

(C) Fluency Disorders

A student has a fluency disorder when the flow of verbal expression, including rate and rhythm, adversely affects communication between the student and the listener.

(D) Language Disorder

A student has an expressive or receptive language disorder when he or she meets one of the following criteria:

1. The student 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 following areas of language development: morphology, syntax, semantics, or pragmatics. When standardized tests are considered to be invalid for a specific student, the expected language performance level shall be determined by alternative means as specified on the assessment plan, or

2. The student 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 one or more standardized tests in one of the areas listed in subdivision (A) above 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 student 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 student, expected language performance level shall be determined by alternative means as specified in the assessment plan.

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, 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 student, 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 student, the discrepancy shall be measured by alternative means as specified on the assessment plan.

3. When standardized tests do not reveal a severe discrepancy as defined in subdivisions 1. or 2. above, 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 student's present teacher;
- (iv) Evidence of the student's performance in the regular and/or special education classroom obtained from observations, work samples, and group test scores;
- (v) Consideration of the student's age, particularly for young children; and
- (vi) Any additional relevant information.

4. The discrepancy shall not be primarily the result of limited school experience or poor school attendance.

*A student whose educational performance is adversely affected by a suspected or diagnosed **attention deficit disorder or attention deficit hyperactivity disorder** and who demonstrates a need for special education and related services by meeting the eligibility criteria of "other health impairments," "serious emotional disturbance," or "specific learning disabilities," is entitled to special education and related services.*

(C) Whether or not a pupil exhibits a severe discrepancy as described in subdivision (b)(10)(B) above, a pupil may be determined to have a specific learning disability if:

1. First the IEP team must conclude that the student does not achieve adequately for the pupil's age, or meet state-approved grade-level standards, in one or more of the following areas, when provided with appropriate learning experiences and instruction:

- (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 in subdivision (b)(10)(C)(1) of this section 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, consistent with 34 C.F.R. sections 300.304 and 300.305; and

3. The findings under subdivisions (b)(10)(C)(1) and (2) of this section 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.

Districts may allow the use of other alternative research-based procedures for determining when a student has an SLD. "Response to intervention" or RTI models vary widely, but they typically call for a system of increasing intense levels of service delivery. As the student fails to show progress at one level, he/she is moved to the next level of intensity. Ultimately, a lack of progress can lead to eligibility as having an SLD.

When an RTI model is utilized, documentation for determining eligibility of a student suspected of having an SLD must contain a statement concerning each of the following:

1. *Whether the student has an SLD,*
2. *The basis for making the eligibility determination, including an assurance that the determination was made in accordance with IDEA regulations,*
3. *The relevant behavior, if any, noted during the observation and the relationship of that behavior to the student's academic functioning,*

4. *Any educationally relevant medical findings,*
 5. *Whether the student does not achieve adequately for his/her age or does not meet state-approved grade level standards,*
 6. *Whether the student does not make sufficient progress to meet age or state-approved grade-level standards, or whether the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards or intellectual development,*
 7. *The determination of the team concerning the effects on the student's achievement level of a visual, hearing or motor disability, intellectual disability, emotional disturbance, cultural factors, environmental or economic disadvantage, or limited English proficiency,*
 8. *If the student has participated in a process that assesses his response to scientific, research-based interventions: (i) the instructional strategies used and the student-centered data collected; (ii) documentation that the parents were notified about: the policies regarding the amount and nature of performance data that would be collected and the general education services that would be provided; strategies for increasing the student's rate of learning; and the parents' right to request an evaluation.*
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 accordance with 34 C.F.R. section 300.310. 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. The eligibility determination must be documented in accordance with 34 C.F.R. section 300.311.

*A student shall **not** be eligible for special education on the basis of:*

- *Environmental or cultural factors*
- *Economic disadvantage*
- *A history of slow progress but is functioning within the instructional range of his/her class level*
- *Unfamiliarity with the English language*
- *Delays in maturation*
- *Truancy, excessive unexcused absences, a history of poor motivation or cooperation*
- *Social maladjustment (refer to SED eligibility criteria for further clarification)*

Should a district choose to use the discrepancy model to determine SLD eligibility for a student previously or currently served in an RtI program, data from the RtI program shall be considered in the final determination of eligibility.

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. CCR 3030(b) 12

For educational purposes, enrollment into a special education program will be considered when the IEP Team determines that such impairment adversely affects the student's educational performance.

The student must have a written diagnosis from a licensed physician or surgeon that he/she has a severe medical condition due to traumatic brain injury that inhibits participation in the general education program without the support of special education services.

Visual Impairments

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. CCR 3030(b)(13)

Related services as specified in the individualized education program shall be available when the instruction and services are necessary for the student to benefit educationally from his or her instructional program. The general class teacher, the special day class teacher, or the resource specialist shall provide the instruction and services if the teacher or specialist is competent to provide such instruction and services and if the provision of such instruction and services by the teacher or specialist is feasible.

If not, the appropriate related service specialist shall provide such instruction and services.

A student is Visually Impaired for education purposes, when a visual impairment, even with correction, adversely affects the student's educational performance.

Generally, individuals who are considered partially sighted or legally blind require special education interventions.

Partially Sighted:

Visual acuity ranging from 20/70 to 20/200 in the better eye, with correction.

Legally Blind:

Central visual acuity of 20/200 or less in the better eye after best correction with conventional spectacle lenses, or visual acuity better than 20/200 if there is a field defect in which the widest diameter of the visual field is no greater than 20 degrees.

Vision Services

Relevant information to assist in identifying a student's needs include:

- 1. A written report of an eye examination by a licensed ophthalmologist verifies the visual impairment, and*
- 2. An assessment by a credentialed teacher of the visually handicapped determines that such services are necessary in order for the student to benefit from the educational program, and*
- 3. The provision of service(s) is not within the expertise of the general education, special day class teacher, or resource specialist.*
- 4. An individual is ineligible for vision services if the individual demonstrates visual perceptual problems that do not relate to physiological or structural defects of the visual system.*

Vision services may include one or more of the following:

- 1. Adaptations in curriculum, media, and the environment.*
- 2. Instruction in special skills.*
- 3. Consultative services to students, parents, teachers and other school personnel.*

Orientation and Mobility Services

Relevant information to assist in identifying a student's needs include:

- 1. A written report of an eye examination by a licensed ophthalmologist verifies the visual impairment, and*
- 2. An assessment by a credentialed mobility instructor determines that such instruction is a necessary part of the student's education program, and*
- 3. The provision of service(s) is not within the expertise of the general education teacher, special day class teacher, or resource specialist.*

An individual is ineligible for orientation and mobility services if the individual demonstrates visual motor problems that do not relate to physiological or structural defects of the visual system.

CONTINUUM OF SERVICES

Once a student is eligible for special education, a continuum of program options is available.

1. General Education

Placement in the general education program shall occur when the student's educational needs can be addressed through accommodations and modifications of the general education program.

2. Related Services, formerly Designated Instruction and Services (DIS)

Related Services shall be available when the instruction and services are necessary for the student to benefit educationally from his or her instructional program. Some students may need assistance in special areas that may include, but are not limited, to the following:

- Language/speech development & remediation (LSH)
- Adapted physical education (APE)
- Physical therapy
- Parenting and occupational therapy counseling/training
- Health/Nursing Services
- Social Worker services
- Transportation
- Recreation
- Vision Services
- Psychological services other than assessment and developing IEP's
- Counseling and guidance services, including rehabilitation counseling
- Health & nursing services
- Interpreting services
- Instruction in the home or hospital
- Music Therapy
- Audiological Services
- Orientation/Mobility services
- Specially designed vocational education and career development (Voc Ed)
- Specialized driver training instruction
- Recreation services
- Specialized services for low incidence disabilities such as readers & vision/hearing services.
- Medical services for diagnostic and evaluation
- The following can be stand alone services:
 - LSH
 - Travel Training
 - APE
 - Vocational Education

3. Resource Specialist Program (RSP)/Specialized Academic Instruction

Students have special learning needs that may require special education instruction and services. The Individualized Education Plan Team has identified these needs. The students receiving instruction in these categories are **assigned to general classroom teachers for the majority of a school day**. The resource specialist plans and directs the student's instruction and assists the general education teacher.

1. Learning Center

Students receiving specialized academic instruction in a Learning Center model may be assigned to the Learning Center by the IEP team for a majority of the school day or for less, as determined by their needs.

The students' instruction will be coordinated and delivered by an appropriately credentialed employee as determined by the Local Education Agency Human Resources department.

2. Special Classes

Students may need special instruction for a **majority of the day in a self-contained special day class** on an **integrated** or **isolated** site to accommodate their special needs. Specially trained personnel staff these

classes. Placement in a special class shall only occur when the student's goals and objectives cannot be met in a less restrictive environment.

3. Nonpublic, nonsectarian school services

Students may need educational services and programs that are not offered by the public schools. These students may attend state certified non-public and non-sectarian schools on a full or part-time basis. This placement recommendation is based on the IEP Team decision that an appropriate public program is not available.

4. State Special Schools

Students may need a special school such as one of those operated by the State for severely handicapped children. These schools may be considered as a placement option when the IEP Team has determined that no appropriate placement is available within the SELPA.

5. Instruction in settings other than classrooms where specially designed instruction occurs.

Students may need instruction in settings other than classrooms where specially designed instruction may occur. Community-based instruction, vocational training and/or work experience training would be examples.

6. Itinerant instruction

Students may need itinerant instruction in classrooms, resource rooms and settings other than classrooms where specially designed instruction may occur. Examples would include itinerant deaf/hard of hearing services in general education and/or visually handicapped services in general education or orientation and mobility trainings in the community.

7. Instruction using telecommunication, instruction in the home, in hospitals, & in other institutions as required

Students may need such instruction due to illness or judicial placement (for example) juvenile halls or youth authority settings. With constant technological advances, long-distance learning through telecommunication becomes an increasing valuable support on the educational continuum.

PROMOTION, RETENTION AND GRADING – Frequently Asked Questions

1. May students with disabilities be retained?

Yes, students with disabilities can be retained; however, careful consideration in the development and implementation of the student's individualized education program (IEP) should prevent student failure in most cases.

2. Do local governing board-adopted standards for promotion apply to students with disabilities?

Local governing board-adopted standards for promotion apply to students with disabilities; however, IEP teams should consider whether the student's disability adversely impacts the student's potential for learning

or rate of learning. If so, the IEP team should consider whether accommodations or curricular modifications can minimize this impact.

3. May students with disabilities have individualized promotion standards?

If, even with accommodations or curricular modifications, the student will be unable to meet the board-adopted promotion standards due to the nature or severity of the disability, the IEP team should document individualized promotion standards for the student that are within the context of district standards. The documentation of an individualized promotion standard should be completed before the first day of the school year, if possible. The student, parents, and general and special education teachers should be informed of potential consequences of individualized promotion standards (i.e. will the individualized promotion standard satisfy district requirements for graduation with a diploma or entrance requirements of a postsecondary institution?).

4. Are individualized promotion standards determined by the location where services are provided to students with disabilities?

No. For example, a student with significant disabilities who spends all or most of the instructional day in general education classrooms learning social or communication skills may have individualized promotion standards. Yet, a student with emotional or behavioral disabilities who spends most or part of the instructional day in a more restrictive environment may be held to the general promotion standards.

5. What if a student with a disability fails to meet board-adopted or individualized promotion standards?

If a student with a disability fails to meet board-adopted or individualized promotion standards, the IEP team should reconvene immediately to consider the following:

- Is the current IEP for the student's academic, linguistic, social, emotional, and behavioral needs appropriate?
- Is the manner of assessment appropriate, including accommodations and modifications identified in the IEP?
- Were all the services required by the student to make progress in the general education curriculum appropriately identified in the student's IEP?
- Were the linguistic needs of English learners appropriately identified?
- Did the student receive all the services identified in the IEP?
- Was the assessment conducted consistent with the IEP?
- Was the student's promotion standard appropriate and clarified in the IEP?

6. What if the IEP was written to consider the student's individualized needs, but the student still failed to meet the promotion standards?

If the questions in item #5 above were answered positively, but the student still failed to meet the promotion standards, then the student should participate in intensive supplemental instruction. The IEP team should document all the supports and related services the student will need to benefit from supplemental instruction.

If after intensive supplemental instruction, the student still does not meet the board-adopted or individualized promotion standards, an IEP meeting should be held to develop an appropriate plan for helping the student advance. The IEP team should also consider not promoting the student to the next grade level.

If the questions in item #5 were answered in the negative, the IEP team should determine why such supports were not provided, develop an alternate plan, provide intensive supplemental instruction, and consider not retaining the student because the District did not provide the supports and services necessary for the student to benefit from the educational program.

7. May students with disabilities participate in intensive supplemental instruction pursuant to Education Code 37252.2 – 37252.8 and Extended School Year (ESY) under the Individuals with Disabilities Education Act (IDEA) simultaneously?

Yes, a student may participate in the two programs simultaneously, but only if the need for supplemental instruction is documented in the student’s IEP. In order to receive both services, ESY and supplemental instruction, the IEP must reflect that the student needs to participate in an intensive supplemental instruction program as part of the ESY services necessary for the provision of a free appropriate public education (FAPE). In other words, the student is receiving supplemental instruction in order to meet the standards-based goals of the IEP, and special education and related services will be provided in order for the student to benefit from that instruction. In developing a plan for ESY, consideration by the IEP team of the least restrictive environment must take place.

8. Where can more detailed information on pupil promotion and retention and related supplemental instruction be found?

Detailed information on pupil promotion and retention and related supplemental instruction can be found on the California Department of Education Web site at <http://www.cde.ca.gov/re/lr/pr/index.asp>.

GRADES, REPORT CARDS, AND TRANSCRIPTS FOR STUDENTS WITH DISABILITIES – Frequently Asked Questions

1. Should a student’s grade reflect that accommodations have been made for that student to access the general education curriculum?

No. A student’s grade should not reflect that accommodations have been made. Accommodations provide students with disabilities an equal opportunity to participate in the general education curriculum.

An accommodation is a change in the course, standard, test preparation, location, timing, scheduling, expectation, student response, or other attributes that provides access for a student with a disability to participate in a course, standard or test, and it does not fundamentally alter or lower the standard or expectation of the course, standard or test.

2. May a student’s grade reflect that modifications have been made for that student to access the general education curriculum?

Yes. If modifications have been made to the curriculum of any course, it is important that the student’s grade reflect the student’s achievement in the modified curriculum, as long as modified grades are available to all students. However, any modifications to programming, instruction, and grading must be documented in the student’s IEP and be directly related to the student’s disability. To automatically give modified grades to all

special education students would be discriminatory and potentially violate Section 504 of the Rehabilitation Act of 1973.

A modification is a change in the course, standard, test preparation, location, timing, scheduling, expectation, student response, or other attribute that provides access for a student with a disability to participate in a course, standard or test, and it does fundamentally alter or lower the standard or expectation of the course, standard or test.

3. May some type of symbol or code be used on a student's report card to indicate that the student has had a modified curriculum in the general education classroom?

Yes. A symbol or code may be used on a student's report card to indicate that the student has had a modified curriculum in the general education classroom. However, this type of coding should **not** be used solely for students with disabilities, but must apply to **all** students.

4. May pass/fail grades be used for students with disabilities in the general education classroom?

Yes. A student with disabilities may be given a pass/fail grade as long as participation in this grading system is voluntary and is available to all students. In addition, the grading system must meet the student's special needs and must be documented in the IEP.

5. May a student's transcript indicate that the student participated in a modified curriculum?

Yes. The purpose of the transcript is to present an accurate picture of a student's coursework. If the curriculum content has been modified, the transcript may reflect that modification through some type of symbol or code that indicates that the student received modified grades or completed work at a lower grade level. The explanation of the symbol or code cannot indicate that the student has a disability or that the student is in special education.

EXIT CRITERIA

The IEP Team shall determine based on assessment the exit decision for each student based upon the following criteria:

1. The student shall be ineligible for special education services when the impairment no longer adversely affects educational performance or when the student no longer meets eligibility criteria.
2. The student's needs can be met in a less restrictive environment or in general education, not necessarily at grade level.
3. A plan to facilitate the student's transition to a less restrictive environment will be developed, including alternative placement if needed, and a plan to assist the receiving teacher.