

SECTION I

SPECIAL EDUCATION REFERRAL, ASSESSMENTS & PROGRAM OPTIONS

REFERRAL FOR SPECIAL EDUCATION

“Referral for Assessment” means any written request for assessment to identify a student with a disability made by any of the following:

- A parent, guardian, or educational rights holder of the student.
- A teacher or other service provider of the student.
- A foster parent of the student, consistent with the limitations contained in federal law.

Ordinarily, the term ‘referral’ pertains to the initial referral to assess a student to determine if he/she has a disability and is in need of special education services. But, the term also pertains to any request for an assessment, even an assessment for a student who is already identified and has an IEP. The term is also used in other contexts, such as a referral to the Occupational Therapist, Psychologist, Behaviorist, etc.

It is important to clarify when and how to use the term ‘referral’ because an official referral initiates a legal timeline and a host of associated responsibilities for special education personnel.

Legal Requirements

All student with disabilities residing in the state, including students who are homeless or wards of the state and students attending private schools, who are in need of special education and related services, shall be identified, located and assessed (“Child Find Obligation”). Each SELPA shall establish written policies and procedures for initiating a referral for assessment to determine if as student is eligible and in need of special education services. Identification procedures shall include systematic methods of utilizing referrals of students from teachers, parents, agencies, appropriate professionals and from other members of the public. A student shall be referred for special education instruction and services only after the resources of the general education program have been considered and, where appropriate, utilized.

All referrals shall initiate the development of an assessment process and shall be documented. In most situations, an initial referral for special education will result in an assessment plan to assess the student for special education eligibility. When a verbal referral is made, staff shall assist the individual in making the request in writing. All referrals made by school staff shall be written and include a brief reason for the referral and documentation of the resources of the general education program that have been considered, modified, and, when appropriate, the results of the intervention.

Exception – An individual, aged 18 through 21, who, in the educational placement prior to his or her incarceration in an adult correctional facility, was not identified as student with a disability OR did not have an IEP is not entitled to a free appropriate public education (FAPE). See section “Local Procedures: Incarcerated Adults” for exceptions.

Legal References

EC 56029; EC 56040; EC 56043; EC 56301; EC 56302; EC 56303; EC 56321; EC 56326
CCR Title 5 § 3021; 3021.1; 3025 CDE Item # 1-1-4.1; 2-1-1.1

Timelines

The date that the district/local education agency (LEA) receives a referral for a special education evaluation initiates the IEP assessment timeline. The school has 15 calendar days from the date of receipt of referral to present the parent(s) with either an assessment plan or send prior written notice declining to assess. The assessment plan should be accompanied by a notice of procedural safeguards and should be in the parent's native language. Once the parent receives the assessment plan, the parent has 15 calendar days to sign the assessment plan and grant or deny consent for the assessment. Once the assessment plan has been received by the district, the IEP team has 60 calendar days to complete the assessment and hold an IEP team meeting to discuss the findings.

Local Procedures

Infants

Service for infants with low incidence disabilities is provided through an agreement with the Local Education Authority (LEA) and Humboldt County Office of Education and the Del Norte County Office of Education. Service for all other infants is provided by the Redwood Coast Regional Center. The SELPA office will have information regarding referral procedures to both of these agencies. Once the referral has been received by the district, the IEP team has 45 days to complete the assessment and hold an IEP team meeting to discuss the findings.

Preschool Students

1. Parent Referrals – Parents should contact either the district of residence (DOR) of the preschool student or the County Office of Education in order to make a referral for their student.
2. Referrals from Preschools (i.e., Head Start, State Preschool, private preschools, etc.) – Prior to referring a student for a special education evaluation, local preschools are encouraged to initiate the Student Study team process. Some districts may refer to this process with a different term, for example Student Success team or School Based Intervention team. Preschools should consult with and, when appropriate, invite the DOR special education administrator for preschool programs to attend student study team meetings prior to referral.
3. Referrals from Day Care Centers – Concerned individuals should encourage parents to initiate the referral process. Representatives from day care centers may, however, contact the DOR to make a referral.
4. Referrals from Regional Centers – Student currently eligible for services from a Regional Center will be referred by the serving Regional Center to the DOR prior to their third birthday.
5. Local Procedures: School Age Students (Ages 5 through 18)
6. Parent/Agency Referrals – Parents/agencies should contact the designated special education representative at their neighborhood school when making a referral for special education. If the person making the referral is making the referral orally, the school should explain the requirement for referrals to be made in writing and assist them in this process. Once the school receives a written request, the school must, within 15 calendar days, present an assessment plan to the parent or provides the parent with Prior Written Notice (PWN) denying the request. (See the section on prior written notice (PWN) for further information). The school is encouraged to hold a student study team meeting in the 15 calendar days following a referral to develop a comprehensive assessment plan, as necessary. If the student study team does not believe assessment is necessary at that time, the parent/guardian can revoke the request to assess in writing.
7. Referrals from School Staff – School staff should convene a student study team meeting in the event they believe the student could use additional supports in the classroom. If, following the

meeting, the school staff wishes to complete a referral for special education, he/she should do so in writing using the appropriate form. When special education staff request further assessment of an identified student with a disability, they should convene an IEP meeting to discuss recommended assessment/s.

Adult Students (Ages 19 – 21)

Unless the student was enrolled in or eligible for a special education program prior to his/her nineteenth birthday, the district is not obligated to accept referrals for these students. The SELPA recommends that districts do not accept these referrals because the law does not consider the “students with a disability” and funding is not provided for those students.

Incarcerated Adults

The laws state that individuals between the ages of 18-21 who are incarcerated in an adult correctional facility are not entitled to a free appropriate public education (FAPE) if, in their educational placement prior to incarceration, they were determined not eligible for special education and did not have an IEP under Part B of the Individuals with Disabilities Education Act (IDEA). (EC § 56040(b), 20 U.S.C. § 1412(a) (1) (B) (ii), 34 C.F.R. § 300.102(a) (2).)

The federal regulations (34 CFR section 300.102(a) (2) (ii)) identify two exceptions to the above:

- a. Individuals who had been identified as eligible for special education and had received services in accordance with an IEP, but who left school prior to their incarceration; or*
- b. Individuals who did not have an IEP in their last educational setting, but who had been identified as eligible for special education.*

The district in which the incarcerated student’s parents reside is responsible for providing free appropriate public education (FAPE) to incarcerated students with disabilities in a county jail who do not fall into the above exception. (Los Angeles Unified School District v. Garcia, 58 Cal.4th 175 (Cal.2013)). This obligation would extend to a child-find obligation for students under the age of 18 who are incarcerated in an adult facility.

Local Forms

For initial referrals for preschool, school aged and adult students (aged 18 only), use the SELPA form titled Referral for Special Education Assessment. Parent referrals may either be in letter format or on the SELPA referral form. Referrals for infants should be completed on Humboldt County Office of Education and/or the Del Norte County Office of Education or Redwood Coast Regional Center forms, whichever is appropriate. It is not necessary for staff to use the referral form when requesting an assessment for an identified student with a disability who is currently receiving services through an IEP.

When refusing to do an initial evaluation, use the SELPA form prior written notice (PWN). Districts should use caution in refusing to do an initial evaluation, as such refusal is permissible under federal law, but has been determined to be impermissible under state law by the Office of Administrative Hearings, Special Education Division (“OAH”).

FAQ's

Do I have to accept a referral?

No, if you determine that the referral is inappropriate for any reason you may deny the request but you must provide the parent with PWN and comply with the 15 calendar day timeline. In most instances it is not prudent to deny referrals for an initial evaluation unless you have solid documentation that the student is making satisfactory or better progress in general education, as the OAH has interpreted state law as requiring that districts assess students in response to all initial referrals for special education.

Why does the referral have to be in writing?

There are two reasons. First, the district has to document receipt of the referral in order to initiate the special education timelines. Second, the district has to provide evidence that the resources of the general education program have been considered and when appropriate utilized.

What should I do if the parent comes to the school and wants help making a referral?

If the parent wants to make the referral, explain that it has to be in writing and help them complete the SELPA referral form. If the school has not conducted a student study team meeting for the student, explain the process to the parent and ask if they are willing to attend a Student Study Team (SST) prior to making the referral, or in the 15 calendar days prior to the date the assessment plan is due.

If a parent makes a referral, should they be encouraged to conduct a Student Study Team?

It is not required by law, but highly recommended practice prior to developing an assessment plan for a student. The SST meeting must be held within 15 calendar days so that any resulting assessment plan is provided to the parents within 15 calendar days of the request for assessment.

REMINDERS

- Referrals are for evaluations.
- Referrals must be in writing.
- Assessment plans must be developed within 15 calendar days of receipt of referral.
- Anyone, including an agency, can make a referral.