

Identification and Evaluation of Individuals for Special Education

The Solano County Office of Education (SCOE) recognizes the need to actively seek out and evaluate county residents from birth through age 21 who have disabilities in order to provide them with appropriate educational opportunities in accordance with state and federal law.

The County Superintendent or designee shall develop processes to determine when an individual is eligible for special education services and shall establish systematic procedures for special education program identification, screening, referral, assessment, planning, implementation, review, and triennial assessment. (Education Code [E.C.] § 56301)

The Superintendent or designee shall establish a method whereby parents/guardians, teachers, appropriate professionals, and others may refer an individual for assessment for special education services. Identification procedures shall be coordinated with school site procedures for referral of students with needs that cannot be met with modifications to the regular instructional program. (E.C. § 56302)

The Superintendent or designee shall notify parents/guardians in writing of their rights related to identification, referral, assessment, instructional planning, implementation, and review, including SCOE's procedures for initiating a referral for assessment to identify individuals who need special education services. (E.C. § 56301)

Referrals for Special Education Services

A student shall be referred for special educational instruction and services only after the resources of the general education program have been considered and used where appropriate. (E.C. § 56303)

However, SCOE shall ensure that evaluations of children suspected of having a disability are not delayed or denied because of the implementation of response to intervention strategies.

A parent/guardian or SCOE may initiate a request for an initial evaluation to determine if the student is a student with a disability. (34 CFR 300.301)

When a verbal referral is made, staff shall offer assistance to the individual to make the request in writing and shall assist the individual if the individual requests such assistance. (5 CCR 3021)

All referrals from school staff for special education and related services shall include a brief reason for the referral and description of the regular program resources that were considered and/or modified for use with the student and their effect. (5 CCR 3021)

Initial Evaluation for Special Education Services

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

Within 15 days of the referral of any student for special education and related services, SCOE shall develop a proposed evaluation plan, unless the parent/guardian agrees in writing to an extension. This 15-day period does not include days between the student's regular school session or term, or days of school vacation in excess of five school days from the date of receipt of the referral. If the referral is made within 10 days or less prior to the end of the student's regular school year, the proposed evaluation plan shall be developed within 10 days after the beginning of the next regular school year, or the student's regular school term. (E.C. §§ 56043, 56321)

The proposed evaluation plan shall meet all of the following requirements: (E.C. § 56321)

1. Be in a language easily understood by the general public

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2. Be provided in the native language of the parent/guardian or other mode of communication used by the parent/guardian unless it is clearly not feasible
3. Explain the types of evaluation to be conducted
4. State that no individualized education program (IEP) will result from the evaluation without parent/guardian consent
5. A copy of the notice of a parent's/guardian's rights and procedural safeguards shall be attached to the evaluation plan. (E.C. § 56321)

The proposed written evaluation plan shall include a description of recent assessments conducted, including available independent assessments and assessment information requested by the parent/guardian to be considered, as well as information indicating the student's primary language and the student's primary language proficiency as determined by Education Code section 52164.1. (5 CCR 3022)

Prior to conducting an initial evaluation, SCOE shall provide the parent/guardian with prior written notice in accordance with 34 CFR 300.503. In addition, as part of the evaluation plan, the parent/guardian shall receive written notice that includes all of the following information: (34 CFR 300.304, 300.504; E.C. § 56329)

1. Upon completion of the administration of tests and other evaluation materials, an IEP team meeting that includes the parent/guardian or their representative shall be scheduled pursuant to Education Code section 56341. At this meeting, the team shall determine whether or not the student is a student with disabilities as defined in Education Code section 56026 and shall discuss the evaluation, the educational recommendations, and the reasons for the recommendations.
2. When making a determination of eligibility for special education, the student shall not be determined to be a student with a disability if the determinant factor is lack of appropriate instruction in reading 20 USC 6368, lack of instruction in mathematics, or limited English proficiency, if the student does not otherwise meet the eligibility criteria under 34 CFR 300.8.
3. A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent/guardian.
4. If a parent/guardian disagrees with an evaluation obtained by SCOE, the parent/guardian has the right to obtain, at public expense, an independent educational evaluation of the student from qualified specialists, in accordance with 34 CFR 300.502. The parent/guardian is entitled to only one such evaluation at public expense each time SCOE conducts an assessment with which the parent/guardian disagrees.

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

5. SCOE may initiate a due process hearing pursuant to Education Code section 56500-56508 to show that its evaluation is appropriate. If the final decision resulting from the due process hearing is that the evaluation is appropriate, the parent/guardian maintains the right for an independent educational evaluation, but not at public expense.

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

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evaluation, or if its evaluation procedures make it permissible to have in-class observation of a student, an equivalent opportunity shall apply to an independent educational evaluation of the student in the student's current educational placement and setting, if any, proposed by SCOE, regardless of whether the independent educational evaluation is initiated before or after the filing of a due process hearing.

6. If a parent/guardian proposes a publicly financed placement of the student in a nonpublic school, SCOE shall have an opportunity to observe the proposed placement and, if the student has already been unilaterally placed in the nonpublic school by the parent/guardian, the student in the proposed placement. Any such observation shall only be of the student who is the subject of the observation and may not include the observation or evaluation of any other student in the proposed placement unless that other student's parent/guardian consents to the observation or evaluation. The results of any observation or evaluation of another student in violation of Education Code section 56329(d) shall be inadmissible in any due process or judicial proceeding regarding FAPE of that other student.

Parent/Guardian Consent for Evaluations

Upon receiving the proposed evaluation plan, the parent/guardian shall have at least 15 days to decide whether or not to consent to the initial evaluation. SCOE shall not interpret parent/guardian consent for initial evaluation as consent for initial placement or initial provision of special education services. (34 CFR 300.300, 34 CFR 300.301; E.C. §§ 56320, 56321)

Informed parental consent means that the parent/guardian: (E.C. § 56021.1, 34 CFR 300.9)

1. Has been fully informed of all information relevant to the activity for which consent is sought, in their native language or other mode of communication
2. Understands and agrees, in writing, to the carrying out of the activity for which consent is sought and the consent describes that activity and lists the records (if any) that will be released and to whom
3. Understands that the granting of consent is voluntary and may be revoked at any time
4. Understands that if they revoke consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked)

SCOE shall make reasonable efforts to obtain the informed consent of the parent/guardian for an initial evaluation or reevaluation of a student. SCOE shall maintain a record of its attempts to obtain consent, including: (34 CFR 300.300, 300.322)

1. Detailed records of telephone calls made or attempted and the results of those calls
2. Copies of correspondence sent to the parent/guardian and any responses received
3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits

If a parent/guardian refuses to consent to the initial evaluation or fails to respond to a request to provide consent, SCOE may, but is not required to, pursue an evaluation by utilizing the procedural safeguards, including the mediation and due process procedures pursuant to 20 USC 1415 and 34 CFR 300.506-300.516.

For a student who is a ward of the state and not residing with the student's parent/guardian, SCOE may conduct an initial evaluation without obtaining informed consent if any of the following situations exists: (34 CFR 300.300; E.C. § 56321)

1. Despite reasonable efforts to do so, SCOE cannot discover the whereabouts of the parent/guardian of the student.

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2. The rights of the parent/guardian of the student have been terminated in accordance with California law.
3. The rights of the parent/guardian to make educational decisions have been subrogated by a judge in accordance with California law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student.

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

Conduct of the Evaluation

Within 60 calendar days of receiving parental consent for the initial assessment of a student, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five schooldays, a determination whether the student is eligible for special education and the educational needs of the student shall be made, an IEP team meeting shall occur, and an IEP shall be developed, unless the parent/guardian agrees in writing to an extension, pursuant to Education Code section 56344. If the 60-day time is interrupted by a student school vacation, the 60-day time shall recommence on the date that student schooldays reconvene and a meeting to develop an IEP for the student shall be conducted within 30 days of a determination that the student needs special education and related services. (E.C. §§ 56043, 56344)

However, when a referral has been made for a student 30 days or less prior to the end of the regular school year, an IEP required as a result of an assessment of the student shall be developed within 30 days after the commencement of the subsequent regular school year. (E.C. §§ 56043, 56344; 34 CFR 300.301, 300.323)

The evaluation shall be conducted by qualified personnel who are competent to perform the assessment as determined by SCOE. (E.C. § 56322)

In addition, evaluations and reevaluations shall be administered by qualified personnel who are competent in the oral or sign language skills and written skills of the student's primary language or mode of communication and have a knowledge and understanding of the cultural and ethnic background of the student. If it is clearly not feasible to do so, an interpreter shall be used, and the assessment report shall document this condition and note that the validity of the assessment may have been affected. The normal process of second-language acquisition, as well as manifestations of dialect and sociolinguistic variance shall not be diagnosed as a disabling condition. (5 CCR 3023)

The evaluation shall be conducted by qualified personnel who are competent to perform the assessment as determined by SCOE or the Special Education Local Plan Area (SELPA). (E.C. §§ 56320, 56322)

In addition, evaluations and reevaluations shall be administered by qualified personnel who are competent in the oral or sign language skills and written skills of the student's primary language or mode of communication and have a knowledge and understanding of the cultural and ethnic background of the student. If it is clearly not feasible to do so, an interpreter shall be used, and the assessment report shall document this condition and note that the validity of the assessment may have been affected. The normal process of second-language acquisition, as well as manifestations of dialect and sociolinguistic variance shall not be diagnosed as a disabling condition. (5 CCR 3023)

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. (E.C. § 56321; 20 USC 1414; 34 CFR 300.302)

In conducting the evaluation, SCOE shall use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student. SCOE shall also use any information provided by the parent/guardian that may assist in making the determination as to

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whether the student is a student with a disability and, if so, the necessary components of their IEP when the IEP is developed, including information related to enabling the student to be involved in and to progress in the general education curriculum. (34 CFR 300.304)

SCOE's evaluation shall not use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability and for determining the appropriate educational program for the student. The assessment shall use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors. (E.C. § 56320; 34 CFR 300.304)

SCOE shall also ensure that assessments and other evaluation materials provide relevant information that directly assists persons in determining the student's educational needs and are: (34 CFR 300.304; E.C. § 56320)

1. Selected and administered so as not to be discriminatory on a racial, cultural, or sexual basis
2. Provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer
3. Used for the purposes for which the assessments or measures are valid and reliable
4. Administered by trained and knowledgeable personnel except that individually administered tests of intellectual or emotional functioning shall be administered by a credentialed school psychologist
5. Administered in accordance with any instructions provided by the producer of the assessments
6. Tailored to assess specific areas of educational need and not merely designed to provide a single general intelligence quotient
7. If administered to a student with impaired sensory, manual, or speaking skills, selected and administered to best ensure that the results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

Students shall be assessed in all areas related to the suspected disability, including, if appropriate, health and development, vision (including low vision), hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. When appropriate, a developmental history shall be obtained. For students with residual vision, a low vision assessment shall be provided in accordance with guidelines established pursuant to Education Code section 56136. SCOE shall ensure that the evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in which the student has been classified. (E.C. § 56320; 34 CFR 300.304)

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

1. Whether the student is a student with a disability, or in the case of a reevaluation, whether the student continues to have a disability, and the educational needs of the student
2. The present levels of academic achievement and related developmental needs of the student

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3. Whether the student needs, or continues to need, special education and related services
4. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in their IEP and to participate, as appropriate, in the general education curriculum

If a student has transferred from another district in the same school year or leaves this county, SCOE shall coordinate with the student's prior or subsequent district as necessary and as expeditiously as possible to ensure prompt completion of full evaluations. (34 CFR 300.304)

Evaluation Report

The personnel who evaluate the student shall prepare a written report of the results of each evaluation. (E.C. § 56327)

1. Whether the student may need special education and related services
2. The basis for making the determination
3. The relevant behavior noted during the observation of the student in an appropriate setting
4. The relationship of that behavior to the student's academic and social functioning
5. The educationally relevant health, developmental, and medical findings, if any
6. 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
7. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate
8. The need for specialized services, materials, and equipment for students with low incidence disabilities, consistent with Education Code section 56136

Eligibility Determination

Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent/guardian shall determine whether the child is a student with a disability as defined in 5 CCR 3030 and 34 CFR 300.8 and, if so, the student's educational needs. In interpreting the data, the group shall draw information from a variety of sources, including aptitude and achievement tests, parent/guardian input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior. The group shall ensure that the information obtained from these sources is documented and carefully considered. (34 CFR 300.306)

When making a determination of eligibility for special education and related services, SCOE shall not determine that a student is disabled if the primary factor for such determination is a lack of appropriate instruction in reading, including the essential components of reading instruction pursuant to 20 USC 6368, lack of instruction in mathematics, limited English proficiency, or that the student does not otherwise meet the eligibility criteria. (34 CFR 300.306; E.C. § 56329)

The normal process of second-language acquisition, as well as manifestations of dialect and sociolinguistic variance, shall not be diagnosed as a disabling condition. (5 CCR 3023)

If a determination is made that a student has a disability and needs special education and related services, an IEP shall be developed within a total time not to exceed 60 days, not counting days between the student's regular school sessions, terms, or days of school vacation in excess of five school days, from the date of the receipt of the parent's/guardian's consent for evaluation, unless the parent/guardian agrees, in writing, to an extension. (34 CFR 300.306; E.C. § 56043)

Independent Educational Evaluation

The parents/guardians of a student with a disability have the right to obtain an independent educational evaluation at public expense under the same criteria that SCOE uses for its SCOE- initiated evaluation. An independent educational evaluation is an evaluation conducted by a qualified examiner who is not employed by SCOE. Public expense means SCOE either pays for the full cost of the independent educational evaluation or ensures that the evaluation is otherwise provided at no cost to the parent/guardian. (34 CFR 300.502)

The parent/guardian is entitled to only one independent educational evaluation at public expense each time SCOE conducts an evaluation with which the parent/guardian disagrees.

If a parent/guardian has requested an independent educational evaluation, SCOE may ask for a reason that parent/guardian objects to SCOE's evaluation. However, the parent/guardian is not required to provide the reason to SCOE.

Upon receiving the request for an independent educational evaluation, SCOE shall, without unnecessary delay, either: (34 CFR 300.502)

1. File a due process complaint to request a hearing to show that its evaluation is appropriate
2. Ensure that an independent evaluation is provided at public expense, unless SCOE can later demonstrate at a hearing that the evaluation obtained by the parent/guardian did not satisfy SCOE's criteria

If a due process hearing decision determines that SCOE's evaluation is appropriate, then the parent/guardian may obtain an independent evaluation but not at public expense. (E.C. § 56329; 34 CFR 300.502)

The results of an independent evaluation obtained by the parent/guardian, whether at public or private expense, shall be considered by SCOE if it meets SCOE criteria in any decision made with respect to FAPE and may be presented as evidence at a hearing on a due process complaint. (E.C. § 56329; 34 CFR 300.502)

Coordinating Transitions

SCOE shall designate an individual as the main point of contact for coordinating and completing, with other agencies and persons, the transition of a child and family from infant/toddler programs to preschool (Part C to Part B of the federal Individuals with Disabilities Education Act), including establishing practices to educate and support families during the transition. (Government Code 95008)

Reevaluation

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

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

Before entering kindergarten or first grade, children with disabilities who are in a preschool program shall be reevaluated to determine if they still need special education and services. IEP teams shall identify a means of monitoring the continued success of children who are determined to be eligible for less intensive special education programs. (E.C. § 56445)

Legal Reference:

EDUCATION CODE

- 44265.5 Professional preparation for teachers of impaired students
- 56000-56885 Special education programs, especially:
 - 56195.8 Adoption of policies
- 56300-56304 Identification of individuals with disabilities
- 56320-56331 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 3 to 5 years old
- 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
- 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

Policy Cross-Reference:

- 0430 Comprehensive Local Plan for Special Education
- 1312.3 Uniform Complaint Procedures
- 3541.2 Transportation for Students with Disabilities
- 4112.23 Special Education Staff
- 5144.2 Suspension and Expulsion/Due Process: Students with Disabilities
- 5145.6 Parental Notifications
- 6159 Individualized Education Program
 - 6159.1 Procedural Safeguards and Complaints for Special Education
 - 6159.2 Nonpublic, Nonsectarian School and Agency Services for Special Education
 - 6159.3 Appointment of Surrogate Parent for Special Education Students
- 6162.51 Standardized Testing and Reporting Program
- 6162.52 High School Exit Examination
- 6164.41 Children with Disabilities Enrolled by Their Parents in Private School
- 6164.6 Identification and Education Under Section 504