

# ***Mt. Diablo USD***

## ***Administrative Regulation***

### ***Identification and Evaluation of Individuals For Special Education***

*AR 6164.4*

#### ***Instruction***

#### **Referrals for Special Education Services**

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

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

~~Within 15 days of a referral for assessment, the student's parent/guardian shall receive a notice of parental rights and a written proposed assessment plan explaining the types of assessments to be conducted and stating that no individualized education program (IEP) will result from the assessment without parental consent. The 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 unless, the parent/guardian agrees in writing to an extension. (Education Code 56321)~~

~~Upon receiving the proposed assessment plan, the parent/guardian shall have at least 15 days to decide whether or not to consent to the assessment. The assessment may begin as soon as informed parental consent is given. (Education Code 56321; 34 CFR 300.505)~~

~~Informed parental consent means that the parent/guardian: (34 CFR 300.500)~~

- ~~1. Has been fully informed of all information relevant to the activity for which consent is sought, in his/her native language or other mode of communication~~
- ~~2. Understands that the granting of consent is voluntary on the part of the parent/guardian and may be revoked at any time~~

~~(cf. 6159—Individualized Education Program)~~

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

~~Personnel assessing the student shall prepare a written report of assessment results which specifies: (Education Code 56327)~~

- ~~1. Whether the student may need special education and related services~~

2. ~~The basis for making this determination~~
3. ~~Relevant behavior noted while observing the student in an appropriate setting~~
4. ~~The relationship of the student's behavior to his/her academic and social functioning~~
5. ~~Educationally relevant health, development and medical findings, if any~~
6. ~~For students with learning disabilities, whether the discrepancy between achievement and ability cannot be corrected without special education and related services~~
7. ~~Where appropriate, a determination concerning the effects of environmental, cultural or economic disadvantage~~
8. ~~The need for specialized services, materials and equipment for students with low incidence disabilities, consistent with California Department of Education guidelines~~

~~The parent/guardian shall receive written notice that: (Education Code 56329; 34 CFR 300.502))~~

1. ~~Upon completion of the administration of tests and other assessment materials, an IEP team meeting that includes the parent/guardian or his/her representative shall be scheduled pursuant to Education Code 56341. At this meeting, the team shall determine whether or not the student is a student with disabilities as defined in Education Code 56026 and shall discuss the assessment, the educational recommendations and the reasons for these recommendations. A copy of the assessment report shall be given to the parent/guardian.~~
2. ~~If the parent/guardian disagrees with an assessment obtained by the district, a parent/guardian has the right to obtain, at public expense, an independent educational assessment of the student from qualified specialists, as defined by district regulations.~~

~~However, the district shall, without unnecessary delay, either initiate a state due process hearing to show that its assessment is appropriate or pay for an independent educational evaluation. If this hearing results in a decision that the district's assessment is appropriate, the parent/guardian still has the right to obtain an independent education assessment, but not at public expense. The results of an assessment obtained at private expense must be considered by the district and may be presented as evidence at a due process hearing.~~

~~Students with disabilities shall be reassessed at least every three years, or more frequently if conditions warrant a reassessment or if requested by the parent/guardian or teacher. (Education Code 56381)~~

~~Before entering kindergarten or first grade, children with disabilities who are in a preschool program shall be reassessed 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. (Education Code 56445)~~

School staff will identify, locate and assess all children, aged birth-21, in need of special education and related services residing in its jurisdiction. District and school staff actively engage in child find activities.

### **Initial Evaluation for Special Education Services**

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

If an assessment for the development or revision of the individualized education program is to be conducted, the parent or guardian of the pupil shall be given, in writing, a proposed assessment plan within 15 days of the referral for assessment not counting days between the pupil's regular school sessions or terms or days of school vacation in excess of five schooldays from the date of receipt of the referral, unless the parent or guardian agrees, in writing, to an extension. However, in any event, the assessment plan shall be developed within 10 days after the commencement of the subsequent regular school year or the pupil's regular school term as determined by each district's school calendar for each pupil for whom a referral has been made 10 days or less prior to the end of the regular school year. In the case of pupil school vacations, the 15-day time shall recommence on the date that the pupil's regular schooldays reconvene. (Education Code 56043, 56321)

A copy of the notice of a parent's or guardian's rights shall be attached to the assessment plan. A written explanation of all the procedural safeguards under the federal Individuals with Disabilities Education Act, shall be included in the notice of a parent's or guardian's rights, including information on the procedures for requesting an informal meeting, prehearing mediation conference, mediation conference, or due process hearing; the timelines for completing each process; whether the process is optional; and the type of representative who may be invited to participate. (Education Code 56500)

The proposed evaluation plan shall meet all of the following requirements: (Education Code 56321(b))

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

*(cf. 6159 - Individualized Education Program)*

### **Prior Written Notice**

Prior to conducting an initial evaluation, the district 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; Education Code 56329)

1. Upon completion of the administration of tests and other evaluation materials, an IEP team meeting that includes the parent/guardian or his/her representative shall be scheduled pursuant to Education Code 56341. At this meeting, the team shall determine whether or not the student is a student with disabilities, as defined in Education Code 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 district shall not determine that a student is disabled if the primary factor for such determination is lack of appropriate instruction in reading, including the essential components of reading instruction as defined in 20 USC 6368 of the No Child Left Behind Act, lack of appropriate instruction in mathematics, or limited English proficiency.
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 the district, 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. A parent/guardian is entitled to only one such evaluation at public expense each time the district conducts an assessment with which the parent/guardian disagrees.

If the district 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 the district's proposed placement and setting, if any, regardless of whether the independent educational evaluation is initiated before or after the filing of a due process hearing proceeding.

5. The district may initiate a due process hearing pursuant to Education Code 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 the district with respect to the provision of a free appropriate public education (FAPE) to the student, and may be presented as evidence at a due process hearing regarding the student. If the district 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 an independent

educational evaluation of the student in the student's current educational placement and setting, if any, proposed by the district, 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, the district shall have an opportunity to observe the proposed placement and the student in the proposed placement, if the student has already been unilaterally placed in the nonpublic school by the parent/guardian. Any such observation shall only be of the student who is the subject of the observation and shall 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 56329(d) shall be inadmissible in any due process or judicial proceeding regarding FAPE of that other student.

*(cf. 5145.6 - Parental Notifications)*

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

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

### **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. The district 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; Education Code 56320, 56321)

Informed parental consent means that the parent/guardian: (34 CFR 300.9)

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

The district shall make reasonable efforts to obtain the informed consent of the parent/guardian for an initial evaluation or reevaluation of a student. The district shall maintain a record of its attempts to obtain consent, including: (34 CFR 300.300, 300.322; Education Code 56321, 56341.5)

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, the district 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. The district does not violate its obligation if it declines to pursue the evaluation or reevaluation. (34 CFR 300.300; Education Code 56321)

### **Foster Youth- Informed Consent May Not be Necessary**

For a student who is a ward of the state and not residing with his/her parent/guardian, the district may conduct an initial evaluation without obtaining informed consent from the parent if any of the following situations exists: (20 USC 1414; 34 CFR 300.300; Education Code 56321.1)

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

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

### **Consent is Not Required**

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

The screening of a pupil 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 (Section 1414 of Title 20 (1)(E) CFR)

### **Conduct of the Evaluation**

Once a child has been referred for an initial assessment to determine whether the child is an individual with exceptional needs as defined in Section 56026 and to determine the educational needs of the child, these determinations shall be made, and an individualized education program

meeting shall occur, within 60 days of receiving parental consent for the assessment Education Code 56302.1).

The 60-day time period does not apply to a local educational agency if either of the following occurs:

1. A child enrolls in a school served by the local educational agency after the relevant time period has commenced but prior to a determination by his or her previous local educational agency of whether the child is an individual with exceptional needs. The exemption of this paragraph applies only if the subsequent local educational agency is making sufficient progress to ensure a prompt completion of the assessment, and the parent and subsequent local educational agency agree to a specific date by which the assessment shall be completed.
2. The parent of a child repeatedly fails or refuses to produce the child for the assessment. (34 CFR 300.300, 34 CFR 300.301; Education Code 56302.1)

56320. Before any action is taken with respect to the initial placement of an individual with exceptional needs in special education instruction, an individual assessment of the pupil's educational needs shall be conducted, by qualified persons, in accordance with requirements including, but not limited to, all the following:

1. 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. The materials and procedures shall be provided in the pupil's native language or mode of communication, unless it is clearly not feasible to do so.
2. Tests and other assessment materials meet all the following requirements:
  - a. Are provided and administered in the language and form most likely to yield accurate information on what the pupil knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer
  - b. Are used for purposes for which the assessments or measures are valid and reliable.
3. Are administered by trained and knowledgeable personnel using technically sound instruments that include health and development information for students with diagnosed health conditions. 34 CFR 300.304(c)(4) and (b)(3)
4. Assessments are administered by qualified personnel 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 pupil. If it clearly is not feasible to do so, an interpreter must be used,

and the assessment report shall document this condition and note that the validity 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 handicapping condition.

5. Tests are administered in accordance with any instructions provided by the producer of the assessments, except that individually administered tests of intellectual or emotional functioning shall be administered by a credentialed school psychologist.
6. Tests and other assessment materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.
7. 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
8. No single measure or assessment is used as the sole criterion for determining whether a pupil is an individual with exceptional needs or determining an appropriate educational program for the pupil.
9. The pupil is 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. A developmental history shall be obtained, when appropriate. For pupils with residual vision, a low vision assessment shall be provided. (Education Code 56136. 300.532(h) (i) (j) CFR.
10. The assessment of a pupil, including the assessment of a pupil with a suspected low incidence disability, shall be conducted by persons knowledgeable of that disability. Special attention shall be given to the unique educational needs, including, but not limited to, skills and the need for specialized services, materials, and equipment consistent with district guidelines.
11. As part of an initial assessment, if appropriate, and as part of any reassessment, the group that includes members of the individualized education program team, and other qualified professionals, shall if appropriate, review existing evaluation data on the student, including evaluations and information provided by the parents/guardians; local or state assessments; current classroom-based observations; and observations by teachers and related services providers.
12. 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; Education Code 56381)

- a. Whether the student is a student with a disability, or in the case of a reevaluation, whether the student continues to have a disability, and the educational needs of the student
- b. The present levels of academic achievement, educational needs, and related developmental needs of the student
- c. Whether the student needs, or continues to need, special education and related services
- d. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in his/her IEP and to participate, as appropriate, in the general education curriculum.
- e. The group may conduct its review without a meeting.

13. Each local educational agency shall ensure that assessments of individuals with exceptional needs who transfer from one district to another district in the same academic year are coordinated with the individual's prior and subsequent schools, as necessary and as expeditiously as possible to ensure prompt completion of full assessment.

### **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 student is a student with a disability and, if so, his/her educational needs. In interpreting the data, the group shall draw information from a variety of sources, including aptitude and achievement tests, parent/guardian input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior. The group shall ensure that the information obtained from these sources is documented and carefully considered. (34 CFR 300.306)

The personnel who evaluate the student shall prepare a written report of the results of each evaluation. The report shall include, but not be limited to, the following: (Education Code 56327) 34 CFR 300.306(a)(2), 30 EC 56327 5 CCR 3023.

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. For a child with a diagnosed health condition, solicit health information from the child's primary physician as a part of the assessment plan, including whether the child's condition affects strength, vitality, or alertness and the health care services required. These also include health information and incorporate current treatment plans from the child's treating physician for health care services during school hours.
6. For students with Other Health Impairment, whether the student has limited strength, vitality or alertness, due to chronic or acute health problems, which adversely affects a student's educational performance. Additionally note any particular factors considered.
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. See additional information on identification of Specific Learning Disabilities below:
8. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate
9. The manner in which the student's disability affects his/her involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students). For a preschool child, as appropriate, the manner in which the disability affects his/her participation in appropriate activities. And how to meet the student's needs that result from his/her disability in order to enable the student to be involved in and progress in the general education curriculum, and for a preschool child, as appropriate, how to meet the child's needs that result from his/her disability to enable the child to participate in appropriate activities.
10. The need for specialized services, materials, and equipment for students with low incidence disabilities, consistent with Education Code 56136

When making a determination of eligibility for special education and related services, the district 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 of the No Child Left Behind Act, lack of instruction in mathematics, limited English proficiency, or that the student does not otherwise meet the eligibility criteria. (34 CFR 300.306; Education Code 56329)

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 or terms or days of school vacation in excess of five school days, from the date of the receipt of the parent/guardian's consent for evaluation, unless the parent/guardian agrees, in writing, to an extension. (34 CFR 300.306; Education Code 56043)

### **Specific Learning Disabilities requirements:**

A pupil has a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an impaired ability to listen, think, speak, read, write, spell, or do mathematical calculations, and has a severe discrepancy between intellectual ability and achievement in one or more of the academic areas specified in Section 56337(a) of the Education Code. The term "specific learning disability" includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. That term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

For the purpose of Section 3030(j):

1. Basic psychological processes include attention, visual processing, auditory processing, sensory-motor skills, cognitive abilities including association, conceptualization and expression.
2. Intellectual ability includes both acquired learning and learning potential and shall be determined by a systematic assessment of intellectual functioning.
3. The level of achievement includes the pupil's level of competence in materials and subject matter explicitly taught in school and shall be measured by standardized achievement tests.
4. The decision as to whether or not a severe discrepancy exists shall be made by the individualized education program team, including assessment personnel in accordance with Section 56341(d), which takes 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 individualized education program team as to the pupil's eligibility for special education. In determining the existence of a severe discrepancy, the individualized education program team shall use the following procedures:
  - a. When standardized tests are considered to be valid for a specific pupil, 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 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.

- b. When standardized tests are considered to be invalid for a specific pupil, the discrepancy shall be measured by alternative means as specified on the assessment plan.
  - c. If the standardized tests do not reveal a severe discrepancy as defined in subparagraphs (a) or (b) above, the individualized education program 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 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:
    1. Data obtained from standardized assessment instruments;
    2. Information provided by the parent;
    3. Information provided by the pupil's present teacher;
    4. Evidence of the pupil's performance in the regular and/or special education classroom obtained from observations, work samples, and group test scores;
    5. Consideration of the pupil's age, particularly for young children; and
    6. Any additional relevant information.
5. The discrepancy shall not be primarily the result of limited school experience or poor school attendance.
  6. Each team member will certify in writing whether the report reflects his or her conclusion. If it does not, the team member must submit a separate statement presenting his or her conclusions.

[Authority cited: Statutes of 1981, Chapter 1094, Section 25(a); and Section 56100(a), (g), (i), Education Code] [Reference: 20 U.S.C. 1401(a)(15) and 1412(5); 34 CFR 300.5(b)(7) and (9), 300.532(a) (2), (d) and (e), 300.533, 300.540, 300.541-43; and Sections 56026, 56320, 56333, and 56337, Education Code]

### **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 the district uses for a district-initiated evaluation. An independent educational evaluation is an evaluation conducted by a qualified examiner who is not employed by the district. Public expense means the district 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; Education Code 56329)

The parent/guardian is entitled to only one independent educational evaluation at public expense each time the district conducts an evaluation with which the parent/guardian disagrees. (34 CFR 300.502; Education Code 56329)

If a parent/guardian has requested an independent educational evaluation, the district may ask for a reason that he/she objects to the district's evaluation. However, the parent/guardian is not required to provide the reason to the district. (34 CFR 300.502)

Upon receiving the request for an independent educational evaluation, the district 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 the district can later demonstrate at a hearing that the evaluation obtained by the parent/guardian did not satisfy the district's criteria

If a due process hearing decision determines that the district's evaluation is appropriate, then the parent/guardian may obtain an independent evaluation but not at public expense. (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 the district if it meets district criteria in any decision made with respect to FAPE and may be presented as evidence at a hearing on a due process complaint. (34 CFR 300.502)

### **Reevaluation**

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

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

See related items above under “Conduct of the Evaluation.”

If the individualized education program team and other qualified professionals, as appropriate, determine that no additional data is needed to determine whether the pupil continues to be an individual with exceptional needs, and to determine the educational needs of the pupil, the local educational agency shall notify the parents of the pupil of that determination and the reasons for it,

and the right of the parents to request an assessment to determine whether the pupil continues to be an individual with exceptional needs, and to determine the educational needs of the pupil. The local educational agency is not required to conduct an assessment, unless requested by the parents of the pupil.

The district shall assess an individual with exceptional needs in accordance with this section and procedures specified in Article 2 (commencing with Section 56320), as provided in Section 300.306(c)(2) of Title 34 of the Code of Federal Regulations.

1. A reassessment may not be conducted, unless the written consent of the parent is obtained prior to reassessment, except, informed parental consent need not be obtained for the reassessment of an individual with exceptional needs if the local educational agency can demonstrate that it has taken reasonable measures to obtain that consent and the parent of the child has failed to respond.
2. If the parent refuses to consent to the reassessment, the district may, but is not required to, pursue the reassessment by using the consent override procedures using mediation of due process. The district does not violate its legal obligations if it declines to pursue the reassessment.
3. The individualized education program team and other qualified professionals may conduct the review without a meeting, as provided in Section 300.305(b) of Title 34 of the Code of Federal Regulations.

Before determining that the individual is no longer an individual with exceptional needs, a local educational agency shall assess the individual in accordance with the sections above.

1. The assessment described above shall not be required before the termination of a pupil's to exceeding the age eligibility for a free appropriate public education under Section 56026.
2. For a pupil whose eligibility under this part terminates under circumstances described in paragraph (1), a local educational agency shall provide the pupil with a summary of the academic achievement and functional performance of the pupil, which shall include recommendations on the manner in which to assist the pupil in meeting his or her postsecondary educational goals as required in 20 USC Section 1414(c)(5)(B)(ii)

To the extent possible, the local educational agency shall encourage the consolidation of reassessment meetings for the individual with exceptional needs and other individualized education program team meetings for the individual.

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 to ensure that gains made are not lost by a rapid removal of individualized programs and supports for these children. (Education Code 56445)

### **Parent/Guardian Revocation of Consent for Continued Provision of Services**

If at any time subsequent to the initial provision of services, the student's parent/guardian revokes consent, in writing, for the continued provision of special education services, the Superintendent or designee shall provide prior written notice within a reasonable time before ceasing to provide services to the student. The district shall not request a due process hearing or pursue mediation in order to require an agreement or ruling that services be provided to the student. (34 CFR 300.300, 300.503)

Prior to the discontinuation of services, the Superintendent or designee may offer to meet with the parents/guardians to discuss concerns for the student's education. However, this meeting shall be voluntary on the part of the parent/guardian and shall not delay the implementation of the parent/guardian's request for discontinuation of services. In addition, the Superintendent or designee shall send a letter to the parent/guardian confirming the parent/guardian's decision to discontinue all services.

Once the district has ceased providing special education services in response to the parent/guardian's revocation of consent, the student shall be classified as a regular education student.