



Special Education Online Assessment Guidance

BACKGROUND

This document provides continued guidance on determining whether a special education assessment may be administered through videoconferencing and recommendations for conducting special education assessments safely.¹ Ultimately, each decision will need to be made on a case-by-case basis, consistent with each student’s Individualized Education Program (IEP) to ensure protection of the federally- guaranteed right to a Free and Appropriate Public Education (FAPE).

The federal Individuals with Disabilities Education Act (IDEA) states that assessments and other evaluation materials used to assess a child must be reliable and valid, administered by trained and knowledgeable personnel, and administered in accordance with any instructions, including standardization protocols, provided by the producer of the assessment to remain valid and reliable. 34 C.F.R. §300.304(c)(1); see also Cal. Ed. Code §§ 56320, 56322.

For other special education related questions, see the [IPD/C4OB Updated Joint Q & A](#).

Initial Eligibility Determination and Assessments: Brief Background

Once a local educational agency (LEA) has received a referral for Special Education services, it has 15 calendar days to provide the parent/guardian with a proposed assessment plan, unless the parent/guardian agrees in writing to an extension.² Cal. Ed. Code § 56321(a). The proposed assessment plan must be accompanied by a Notice of Procedural Safeguards. Cal. Ed. Code §§ 56321, 56329. (Note: the term “parent” throughout this document includes guardians.)

An LEA must assess the pupil, hold an IEP meeting (if the pupil is determined to be a child with exceptional needs³) and develop an IEP plan within 60 calendar days from receipt of the parent consent to an assessment. Cal. Ed. Code § 56302.1. The time between assessment and the IEP meeting must not exceed 30 days. Cal. Ed. Code § 56043(f)(2).

Triennials (Reevaluations): Brief Background

A reassessment may not be conducted unless the written consent of the parent is obtained prior to reassessment, except where the LEA can demonstrate that it has taken reasonable measures to obtain that consent and the parent of the child has failed to respond.⁴ Cal. Ed.

¹ Please note, this guidance does not constitute legal advice on which you should rely. Any questions or concerns about Special Education should be addressed with your CTA Primary Contact Staff person.

² Calendar days does not include days between a pupil's regular school sessions or terms or calendar days of school vacation in excess of five schooldays. There are exceptions to this rule when a referral is made near to the end of the academic year which may apply. Please contact your CTA Primary Contact Staff if you have questions or concerns regarding timeframe for development of a proposed assessment plan.

³ A “child with exceptional needs” is a term defined in Cal. Ed. Code § 56026.

⁴ If a parent/guardian refuses to provide consent for an assessment or fails to respond to a request to provide the consent, the school district may pursue the assessment by utilizing due process procedures set forth in the Education Code at Cal. Ed. Code § 56500 *et seq.*

Code § 56381(f)(1); see also 34 C.F.R § 300.300(c)(1)(i). Reevaluation of each child with exceptional needs must be conducted at least every three years, unless the parents and the public agency agree, in writing, that a reevaluation is unnecessary. Cal. Ed. Code § 56381(a)(2), see also 34 C.F.R. § 300.303(b)(2).

When appropriate, a reevaluation may be conducted without a meeting through a review of existing evaluation data, and this review may occur without obtaining parental consent, unless it is determined that additional assessments are needed. Cal Ed. Code § 56381(d); see also 34 C.F.R. § 300.305(a). If an LEA determines that a review of existing data without a meeting is sufficient, it must notify the parents of that determination, of the reasons for that determination, and notify parents of their right to request an additional assessment. Cal. Ed. Code § 56381(d); see also 34 C.F.R. § 300.305(d). If the parent requests an additional assessment, an assessment must occur. Cal. Ed. Code § 56381(d); see also 34 C.F.R. § 300.305(d). One way to determine if a review of existing data is sufficient (or whether a new assessment is appropriate) is to use a checklist similar to the [Riverside County SELPA Review of Existing Data Checklist](#).

Factors for Considering In-Person vs. Online Administration of a Special Education Assessment

If a determination is made that a student needs in-person services or supports to maintain mental/physical health for the purpose of supporting the student in accessing distance learning options, a district may provide that service, even under Governor Newsom’s stay at home order. Similarly, if a determination is made that a valid assessment cannot be achieved using an online format, then the assessment will need to be done in person to protect the student’s right to a FAPE under state and federal law.

It is imperative that all considerations for assessment plans be clearly communicated with parents and all members of a student’s IEP team to determine whether a valid assessment can be conducted using an online format.

If a parent has consented to an assessment but does not consent to an assessment using an online format, the LEA should endeavor to discover the source of the parent’s objection to see if the concerns can be appropriately addressed. In the absence of written parental consent to the online format, best practices demand that the assessment be done in person.⁵

The following factors should be considered in combination as to the ability of the LEA to achieve a valid and reliable assessment in order to protect a child’s right to a FAPE as required by federal and state law. Note that it might be optimal to divide up portions of an assessment and conduct portions of the assessment virtually and portions of it in-person which would be decided on a case-by-case basis.

⁵ If the LEA refuses to conduct an in-person assessment, the parent could potentially obtain a private assessment at public expense and the LEA would have to defend the validity of its assessment via due process procedures set forth at Cal. Ed. Code §§ 56500 *et seq.* See Cal. Ed. Code § 56329.

Factors That Would Preclude an Online Assessment

- The nature of the disability requires an in-person assessment.
- Lack of parent consent to an assessment being administered online/virtually.
- The testing of gross motor skills necessitates an in-person assessment.
- The assessment cannot be administered online in a way that maintains the validity.
- The IEP team recommends that an in-person assessment is best.
- Lack of a parent/guardian to redirect the student (in cases where needed).
- Lack of student device or reliable internet access.
- Lack of a quiet, distraction-free space for the test administrator or student.
- The test administrator does not have the proper equipment, training, and/or internet access.
- There has been a previous attempt to conduct an online assessment that resulted in unreliable and/or invalid results.

Factors That Weigh in Favor of Online Assessments

- Students may feel more relaxed and comfortable at home.
- School district has provided valid and reliable online assessment protocols and staff have been appropriately trained and feel confident that they can administer the assessment reliably.
- There is a guarantee that the student will not be influenced by others or by outside factors during the testing session.
- Student has been exposed to COVID-19 and cannot be tested within the timelines safely.
- Online assessments are only being used for purposes of progress monitoring or goal probing.
- There is a lack of adequate safety equipment to test students face-to-face.
- If evaluations are to be conducted remotely, they must comply with Health Insurance Portability and Accountability Act (HIPAA).⁶
- Subtests are available which can be administered online without affecting the validity of the test results or changing the assessment construct.
- There is an agreement by all parties to the proposed online assessment plan and after the online assessment has taken place, there is still agreement that the assessments gave reliable data.
- Testing sessions can be easily broken into smaller chunks without the necessity to drive back and forth to the school site.
- Oral language and listening responses may be easier to administer virtually.
- Flexibility for students.
- Perceived health risks to the student.

⁶ Under the U.S. Department of Health and Human Services [Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency](#), covered health care providers may use popular applications that allow for video chats, including Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, Zoom, or Skype, to provide telehealth without risk that OCR might seek to impose a penalty for noncompliance with the HIPAA Rules related to the good faith provision of telehealth during the COVID-19 nationwide public health emergency.

Safety Factors for Assessing Students In-Person

When the California Department of Public Health (CDPH) or California Department of Education (CDE) allow LEAs to provide in-person services, assessments, or individual/small group instruction, and there are no viable distance learning alternatives, particularly for students with disabilities whose disabilities make meeting goals and/or completing assessments otherwise extremely difficult or impossible, your chapter’s return to work Memorandum of Understanding (MOU) (assuming one has been negotiated) or full collective bargaining agreement (CBA), may cover many educators’ concerns regarding safety issues. Check those documents to determine if safeguards are in place to accommodate a possible return to some in-person interaction (such as any health and safety provisions that cover regular or other in-person work).

In all cases, whether there is existing contract language or not, your chapter may demand to bargain over the conditions and impacts of the proposed changes (almost everything planned in this situation will be subject to bargaining, as it affects safety and other working conditions). Included in this bargaining should be sufficient space for social distancing for students and classroom staff; the possible need for plexiglass partitioned areas for classroom instruction and/or delivery of Designated Instructional Services (DIS); all protective equipment (including face shields, N95 masks, etc.); plans for staggering drop off and pick up, recess, and lunch times; health review (screening and testing) for high risk students and staff, and/or periodically for everyone, to ensure safety; and any other resources and support that may be needed by special education staff, even if those provisions exceed what might apply to other classrooms. Please see the C4OB COVID-19 Resources tab at www.CTA.org/c4ob for past bargaining advisories and sample MOUs detailing the topics and standards that should be negotiated. If you have workplace safety concerns, immediately contact your CTA Primary Contact Staff person.

An assessment protocol can be useful to educators and administration to ensure consistent safe practices (see an example [here](#).) Additional considerations, practices, and equipment are listed below:

Recommended Safety Practices	Equipment
<ul style="list-style-type: none"> • Standardized procedures in place for replacing and sanitizing equipment and testing materials. • School nurses or health aides should administer a screening form prior to a student showing up for an in-person assessment session. • Do not test more than one student per day in the same room to allow for proper cleaning and sanitization. • Allow for time in between subtests for students to take a break, return later in the day, etc. • Ensure proper ventilation, such as maintaining open windows in rooms where assessments occur. 	<ul style="list-style-type: none"> • N-95 masks for student and assessor • Plexiglass shield for testing table • Face shields • Protective eye wear/goggles • Surgical hair covering • Disposable gowns • Disposable nitrile gloves in sizes S-XL • Disposable shoe covers universal fit • Disposable vinyl gloves • Hand Sanitizer, 1 gallon pump • 8 oz hand sanitizer • 6' tables • Pencils for student (they can take home or sanitized after testing) • Disinfectant and paper towels • Labeled bins with testing materials that can be stored and sanitized separately

Frequently Asked Questions (FAQs)

What suggestions do you have for preventing cheating on a testing booklet during virtual testing?

1. Have the student open the booklet on the screen in front of you from a sealed envelope.
2. Provide a stamped self-addressed envelope for the parent to mail the booklet back and have the student seal the booklet in the envelope once your testing session is done.
3. Keep the student on video the entire time so that you can observe them.

Is it acceptable to record a testing session with a student?

If you record the testing session, you must obtain prior written consent from the parent and keep the recording as part of the educational record.

What are some assessments that can be used online?

While CTA does not recommend or promote any testing protocol over any other, here are a few testing protocols that may be available to use online. This list is in no way intended to be all-inclusive:

- WIAT-3
- WIAT-4
- Woodcock Johnson IV
- TerraNova 3 Standardized Norm-Referenced Achievement Test for grades 3-8
- WISC-V remotely (Pearson 2020). According to the guidelines on that page, school psychologists are only permitted to administer the WISC-V remotely via Q-Global®, Q-Interactive, or a third-party platform developed by Presence Learning™ (Farmer, R.L. et al, Conducting Psychoeducational Assessments During the COVID-19 Crisis: The Danger of Good Intentions)