



**Low Incidence Disabilities  
Ethical Issues**




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### Before the Assessment

- Obtain informed consent.
- Speak with the child.
- Discuss limits of confidentiality.
- Explain the your role and responsibilities.




### During the Assessment

- Make sure you understand the nature of the child's disability.
- Make sure you are technically competent.
- Don't hesitate to obtain consultation and/or supervision.
- Be alert for signs of bias.




### After the Assessment

- Be careful when including sensitive information in the report.
- Use language that can easily be understood by parents and other IEP team members.
- Be sensitive to the possibility of role conflict.
- Be careful when assigning diagnostic labels.
- Maintain all assessment data in a secure location.
- Assume that all assessment data may be reviewed by outside parties at some time.
- Avoid releasing raw test score data (to the extent possible).




### Steps to Follow When Responding to Parental Requests for Protocols


1. Explain to the parent the importance of test security.
2. Offer to send the protocols to an outside/independent psychologist who can review the protocols for the parent.
3. Offer to review the protocols with the parent.
4. Offer to give the parent a copy of the protocols for them to review and return to the school.
5. Give the parent a copy of the protocols for them to review and maintain in their possession.
  - If the parent request this option then they should be informed that this violation of test security may affect the tests that are administered to their child in the future.



### Low Incidence Disabilities Legal Issues




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### Definition of Low Incidence Disability


- 30 EC 56026.5 "Low incidence disability" means a severe disabling condition with an expected incidence rate of less than one percent of the total statewide enrollment in kindergarten through grade 12. For purposes of this definition, severe disabling conditions are hearing impairments, vision impairments, and severe orthopedic impairments, or any combination thereof.
- 30 EC 56000.5 (a) (2) Pupils with low-incidence disabilities require highly specialized services, equipment, and materials.



### Hearing Impaired Students 30 EC 56000.5 -

(b)The Legislature further finds and declares that:


(1)Deafness involves the most basic of human needs-- the ability to communicate with other human beings. Many hard-of-hearing and deaf children use an appropriate communication mode, sign language, which may be their primary language, while others express and receive language orally and aurally, with or without visual signs or cues. Still others, typically young hard-of-hearing and deaf children, lack any significant language skills. It is essential for the well-being and growth of hard-of-hearing and deaf children that educational programs recognize the unique nature of deafness and ensure that all hard-of-hearing and deaf children have appropriate, ongoing, and fully accessible educational opportunities.



### Hearing Impaired Students 30 EC 56000.5 -

(2)It is essential that hard-of-hearing and deaf children, like all children, have an education in which their unique communication mode is respected, utilized, and developed to an appropriate level of proficiency.


(3)It is essential that hard-of-hearing and deaf children have an education in which special education teachers, psychologists, speech therapists, assessors, administrators, and other special education personnel understand the unique nature of deafness and are specifically trained to work with hard-of-hearing and deaf pupils. It is essential that hard-of-hearing and deaf children have an education in which their special education teachers are proficient in the primary language mode of those children.



### Hearing Impaired Students 30 EC 56000.5 -

(4)It is essential that hard-of-hearing and deaf children, like all children, have an education with a sufficient number of language mode peers with whom they can communicate directly and who are of the same, or approximately the same, age and ability level.

(5) It is essential that hard-of-hearing and deaf children have an education in which their parents and, where appropriate, hard-of-hearing and deaf people are involved in determining the extent, content, and purpose of programs.




### Hearing Impaired Students 30 EC 56000.5 -

(6)Hard-of-hearing and deaf children would benefit from an education in which they are exposed to hard-of-hearing and deaf role models.

(7)It is essential that hard-of-hearing and deaf children, like all children, have programs in which they have direct and appropriate access to all components of the educational process, including, but not limited to, recess, lunch, and extracurricular social and athletic activities.


(8)It is essential that hard-of-hearing and deaf children, like all children, have programs in which their unique vocational needs are provided for, including appropriate research, curricula, programs, staff, and outreach.



### Hearing Impaired Students 30 EC 56000.5 -

(9)Each hard-of-hearing and deaf child should have a determination of the least restrictive educational environment that takes into consideration these legislative findings and declarations.


(10)Given their unique communication needs, hard-of-hearing and deaf children would benefit from the development and implementation of regional programs for children with low-incidence disabilities.



**Visually Impaired Students**  
**30 EC 56350 -**


(a) A "functionally blind pupil" means a pupil who relies basically on senses other than vision as major channels for learning.

(b) A "pupil with low vision" means a pupil who uses vision as a channel for learning, but who may also benefit from instruction in braille.




**Visually Impaired Students**  
**30 EC 56350 -**

(c) A "visually impaired pupil" means a pupil who is functionally blind or a pupil with low vision. For purposes of this article, a "visually impaired pupil" does not include a pupil who is eligible for special education and related services based on a specific learning disability identified pursuant to Section 56338 (Specific Learning Disability - As used in Section 56337, "specific learning disability" includes, but is not limited to, disability within the function of vision which results in visual perceptual or visual motor dysfunction).



**Assessment Requirements**  
**30 EC 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:
  - (a) Testing and assessment materials and procedures used for the purposes of assessment and placement of individuals with exceptional needs are selected and administered so as not to be racially, culturally, or sexually discriminatory.



**Assessment Requirements**  
**30 EC 56320 -**


(b) Tests and other assessment materials meet all the following requirements:

- Are provided and **administered in the pupil's primary language or other mode of communication**, unless the assessment plan indicates reasons why this provision and administration are not clearly feasible.
- Have been **validated for the specific purpose for which they are used**.



**Assessment Requirements**  
**30 EC 56320 -**


(3) Are administered by trained personnel in conformance with the instructions provided by the producer of the tests and other assessment materials, except that individually administered tests of intellectual or emotional functioning shall be administered by a credentialed school psychologist.



**Assessment Requirements**  
**30 EC 56320 -**

(c) 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.


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



**Assessment Requirements**  
**30 EC 56320 -**


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

(f) The pupil is assessed in all areas related to the suspected disability including, **where appropriate, health and development, vision, including low vision, hearing, motor abilities, language function, general ability, academic performance, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status.** A developmental history is obtained, when appropriate. **For pupils with residual vision, low vision assessment shall be provided . . .**



**Assessment Requirements**  
**30 EC 56320 -**


(g) **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 . . .**



**Assessment Requirements**  
**30 EC 56136 -**


Guidelines for Low Incidence Disability Areas

- The superintendent shall develop guidelines for each low incidence disability area and provide technical assistance to parents, teachers, and administrators regarding the implementation of the guidelines. The guidelines shall clarify the identification, assessment, planning of, and the provision of, specialized services to pupils with low incidence disabilities. The superintendent shall consider the guidelines when monitoring programs serving pupils with low incidence disabilities . . . The adopted guidelines shall be promulgated for the purpose of establishing recommended guidelines and shall not operate to impose minimum state requirements.




**Assessment Requirements**

- Among students with low incidence conditions physicians and experts in the specific impairment (e.g., low-vision experts) who may not be members of the IEP team will have information required for eligibility decisions (e.g., the assessment report must contain documentation of a child's visual impairment).
- Thus, requests for medical records are often an important part of this type of assessment.




**School for the Blind**  
**32 EC 59101 -**

- The California School for the Blind is a part of the public school system . . . and has for its object the education of visually impaired, blind, and deaf-blind pupils who, because of their severe sensory loss and educational needs, cannot be provided an appropriate educational needs, cannot be provided an appropriate educational program and related services in the regular public schools.




**School for the Blind**  
**32 EC 59102 -**

- The Superintendent of Public Instruction, in connection with the California School for the Blind, shall do all of the following:
  - (a) Provide educational assessments and individual educational recommendations for individuals referred for those services . . .
  - (b) Maintain a comprehensive elementary and secondary educational program, including related services and nonacademic and extracurricular activities for visually impaired, blind, and deaf-blind individuals.




**School for the Blind**  
**32 EC 59102.5 -**

- The Superintendent of Public Instruction, in connection with the California School for the Blind and in cooperation with public and private agencies, may:
  - (a) Serve as a demonstration school to promote personnel development through student teaching, in-service education, internships, and professional observations for special education and related services personnel, in cooperation with institutions of higher education and local education agencies.




**School for the Blind**  
**32 EC 59102.5 -**

- (b) Serve as a resource center to develop and disseminate special curriculum, media, teaching methods and instructional materials adapted for visually impaired, blind, and deaf-blind individuals, and public information about sensory losses to community groups and other agencies.
- (c) Provide counseling and information services to parents, guardians, and families of visually impaired, blind, or deaf-blind individuals, and public information about sensory losses to community groups and other agencies.




**School for the Blind**  
**32 EC 59102.5 -**

- (d) Conduct experimental programs and projects to promote improvement in special education for visually impaired, blind, and deaf-blind individuals.
- (e) Promote community and continuing education opportunities for visually impaired, blind, and deaf-blind individuals utilizing existing community resources.




**School for the Deaf**  
**32 EC 59001 -**

- The California School for the Deaf is part of the public school system . . . and has for its object the education of the deaf who, because of their severe hearing loss and educational needs, cannot be provided an appropriate educational program and related services in the regular public schools.




**School for the Deaf**  
**32 EC 59042 -**

- The Superintendent of Public Instruction may authorize the California School for the Deaf to establish and maintain a testing center for deaf and hard-of-hearing minors. It shall be the purpose of this center to test hearing acuity and to give such other tests as may be necessary for advising parents and school authorities concerning an appropriate educational program for the child.




**School for the Deaf**  
**32 EC 56326 -**

- A pupil may be referred, as appropriate, for further assessment and recommendations to the California Schools for the Deaf or Blind or the Diagnostic Centers.




### Eligibility Criteria

- 5 CCR 3030 - A pupil shall qualify as an individual with exceptional needs . . . if the results of the assessment . . . demonstrate that the degree of the pupil's impairment as described in Section 3030 (a through j) requires special education . . .
- The decision as to whether or not the assessment results demonstrate that the degree of the pupil's impairment requires special education shall be made by the individualized education program team, including assessment personnel . . .




### Eligibility Criteria

- The individualized education program team shall take into account all the relevant material which is available on the pupil. No single score or product of scores shall be used as the sole criterion for the decision of the individualized education program team as to the pupil's eligibility for special education



### Eligibility Criteria 5 CCR 3030 -


- (a) A pupil has a hearing impairment, whether permanent or fluctuating, which impairs the processing of linguistic information through hearing, even with amplification, and which adversely affects educational performance. Processing linguistic information includes speech and language reception and speech and language discrimination.
- (b) A pupil has concomitant hearing and visual impairments, the combination of which causes severe communication, developmental, and educational problems.



### Eligibility Criteria 5 CCR 3030 -


- (d) A pupil has a visual impairment which, even with correction, adversely affects a pupil's educational performance.
- (e) A pupil has a severe orthopedic impairment which adversely affects the pupil's educational performance. Such orthopedic impairments include impairments caused by congenital anomaly, impairments caused by disease, and impairments from other causes.

[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]




### Assessment Reports 30 EC 56327 -

- The personnel who assess the pupil shall prepare a written report, or reports, as appropriate, of the results of each assessment. The report shall include, but not be limited to, all the following:
  - (a) **Whether the pupil may need special education and related services.**
  - (b) **The basis for making the determination.**
  - (c) The relevant behavior noted during the observation of the pupil in an appropriate setting.
  - (d) **The relationship of that behavior to the pupil's academic and social functioning.**



### Assessment Reports 30 EC 56327 -

- (e) **The educationally relevant health and development, and medical findings, if any.**
- (f) For pupils with learning disabilities whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services.
- (g) A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate.
- (h) **The need for specialized services, materials, and equipment for pupils with low incidence disabilities . . .**




## Individualized Education Program

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**C. Consideration of Special Factors**

- The IEP team considers the following: [20 USC 1414 (d)(3)(B); 34 CFR 300.346(a)(2) unless otherwise noted]
  - for a student with a low incidence disability, considers specialized services, equipment and materials consistent with state guidelines [EC 56345(b)(5); EC 56136]]
  - for a student whose behavior impedes her or his learning or that of others, provides for positive behavioral interventions, strategies and supports to address the behavior




## Individualized Education Program

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**C. Consideration of Special Factors**

- The IEP team considers the following: [20 USC 1414 (d)(3)(B); 34 CFR 300.346(a)(2) unless otherwise noted]
  - for a student with limited English proficiency, considers the language needs of the child
  - for a student who is visually impaired, determines the appropriate medium/media for the child in accordance with state guidelines [EC56352(d) and 56136]




## Individualized Education Program

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**C. Consideration of Special Factors**

- The IEP team considers the following: [20 USC 1414 (d)(3)(B); 34 CFR 300.346(a)(2) unless otherwise noted]
  - provides for instruction in Braille and the use of Braille unless the team determines, after evaluation, that Braille instruction or use is not appropriate for the child.




## Individualized Education Program

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**C. Consideration of Special Factors**

- The IEP team considers the following: [20 USC 1414 (d)(3)(B); 34 CFR 300.346(a)(2) unless otherwise noted]
  - for a child who is deaf or hard of hearing, considers the child's communication needs, opportunities for direct communication with peers and professional personnel in the child's language/communication mode that meets all the child's needs, is at his or her academic level, and meets the child's needs for direct instruction [EC 56345(e)]
  - for any child, considers whether the the child requires assistive and services.



## Next Week

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- Read Brock et al., Chapters 1-4
- Recommended Reading:
  - Rau (2003) & Strock (2004)
- Begin preparations for group project/lectures

