



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

APR 07 2009

Johncarlos Torres
Union Representative
Chula Vista Elementary
84 East J. Street
Chula Vista, VA 91910

Dear Mr. Torres:

This is a response to your letter submitted electronically to the Office of Special Education and Rehabilitative Services in the U.S. Department of Education, dated February 26, 2009, regarding the screening of students for instructional purposes.

In your letter, you indicate that school district attorneys representing Chula Vista Elementary School District "...feel that screening a student outside the classroom is considered a [special education] evaluation and not a screening." You ask whether "a student without an IEP, referred by the teacher and RTI team to a Speech/Language screening after district-wide academic benchmark testing (Tier II/RTI)" can be "...pull[ed]-out ...from their classroom to screen for Speech and Language skills?" You also ask "after the screening, can we provide the teacher with developmental information regarding articulation, grammar, semantics, and syntax skills in order to best determine further testing and interventions?"

The Individuals with Disabilities Education Act (IDEA or Act) specifies that 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. 20 U.S.C. §1414(a)(1)(E) and 34 CFR §300.302. An "evaluation," as used in the Act, refers to procedures used in accordance with 34 CFR §§300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. 34 CFR §300.15. Because screening is not considered an evaluation to determine eligibility for special education services, the IDEA does not require parental consent prior to a screening.

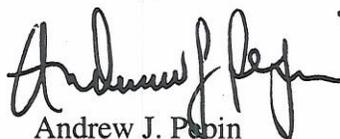
In addition, the IDEA does not address specifically whether, after a screening as described above, a school may "provide the teacher with developmental information regarding articulation, grammar, semantics, and syntax skills in order to best determine further testing and interventions." Nothing in either the IDEA or its implementing regulations requires a State or local educational agency (LEA) to, or prohibits a State or LEA from, developing and implementing policies to temporarily remove a student from his or her classroom for purposes of administering screening instruments to determine appropriate instructional strategies for the student. In addition, there is nothing in the Act

that requires a State or LEA to, or prohibits a State or LEA from, developing and implementing policies that permit screening children to determine if evaluations are necessary. However, screening may not be used to delay an evaluation for special education and related services. If a child is referred for an evaluation to determine eligibility for special education and related services, the public agency must implement the requirements in 34 CFR §§300.301 through 300.311 and adhere to the 60-day timeframe (or, if the State has an established timeframe, within that timeframe) to complete the evaluation.

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the U.S. Department of Education of the IDEA in the context of the specific facts presented.

We hope this provides the information you need. If you have any further questions, please do not hesitate to contact Laura Duos at 202-245-6772.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew J. Papin". The signature is fluid and cursive, with a large initial "A" and "P".

Andrew J. Papin
Executive Administrator
delegated the authority to
perform the functions of the
Assistant Secretary for the Office
of Special Education and
Rehabilitative Services