

## California Ed Codes (and US Codes) Specific to Assessment of English Learners for Special Education Eligibility

Topic	What the law says:	California Ed Code
<p><b><u>Assessment must be conducted by persons qualified to conduct assessment and tests need to be carefully selected to avoid discrimination.</u></b></p>	<p>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 of the following:</p> <p>(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.</p>	<p>56320(a)</p>
<p><b>Testing process must be conducted in the student's native language.</b></p> <p>However, the second part suggests flexibility, which implies a recognition that students can be at varying levels of language proficiency, such that using a "qualified person" (as mentioned above) would be able to ascertain the best manner in which to yield accurate information.</p>	<p>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.</p> <p>(b) Tests and other assessment materials meet all of the following requirements:</p> <p>(1) 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</p>	<p>Section 1412(a)(6)(B) of Title 20 of the United States Code</p> <p>56320(b)(1)</p> <p>Section 1414(b)(3)(A)(ii) of Title 20 of the United States Code.</p>

<p><b>School psychologist must be able to assess cultural and ethnic factors as they relate to learning and development</b></p>	<p>(a) Any psychological assessment of pupils shall be made in accordance with Section 56320 and shall be conducted by a credentialed school psychologist who is trained and prepared to assess cultural and ethnic factors appropriate to the pupil being assessed.</p>	<p>56324(a)</p>
<p><b>Written report must state the impact that culture may have had on student performance during testing and/or learning.</b></p>	<p>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: (g) A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate.</p>	<p>56327(g)</p>
<p><b>Simply being an English Learner cannot be a reason for finding a student eligible for special education.</b></p>	<p>(2) In making a determination of eligibility under paragraph (1), a pupil shall not be determined to be an individual with exceptional needs if the determinant factor for the determination is one of the following in subparagraphs (A) to (C), inclusive, plus subparagraph (D): (C) Limited-English proficiency.</p>	<p>56329(2)(C)  Section 1414(b)(5) of Title 20 of the United States Code Section 300.306(b) of Title 34 of the Code of Federal Regulations</p>