SPECIAL EDUCATION:
REFERRAL & ASSESSMENT

SAN FRANCISCO EDUCATION LAW CLINIC
WORKSHOP NO. 1, DECEMBER 2, 2013

Organized by the Lawyers' Committee for Civil Rights of the San Francisco Bay Area, in partnership with Coleman Advocates for Children & Youth; Mo' MAGIC, the San Francisco Human Rights Commission, and the San Francisco Public Defender's Office

LAWYERS' COMMITTEE FOR CIVIL RIGHTS OF THE SAN FRANCISCO BAY AREA

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WHAT IS THE EDUCATION LAW CLINIC?

- PROVIDES SUPPORT TO COMMUNITY ORGANIZATIONS TO ENHANCE THEIR CAPACITY TO IDENTIFY AND ADDRESS EDUCATION-RELATED LEGAL ISSUES

- PROVIDES FREE EDUCATION-RELATED LEGAL SERVICES FOR FAMILIES

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WORKSHOP No. 1 [Dec. 2, 2013]

- REFERRAL AND ASSESSMENT FOR SPECIAL EDUCATION

WORKSHOP No. 2 [Dec. 9, 2013]

- INDIVIDUALIZED EDUCATION PROGRAMS (IEPs)
- SCHOOL DISCIPLINE FOR STUDENTS IN SPECIAL EDUCATION

WORKSHOP No. 3 [Dec. 16, 2013]

- SCHOOL DISCIPLINE

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SCENARIO: Jackie gets a call from the school every day because her son is out of control. The school usually asks her to pick him up and take him home.

QUESTIONS:

1. Is this something you see happening with the families you work with?
2. What problems do you see here?
3. How have you tried to address this? Has this been effective?

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WHAT IS SPECIAL EDUCATION AND WHY DOES IT MATTER?

PROCESS OF REFERRAL, IDENTIFICATION, AND ASSESSMENT

GETTING OUT OF SPECIAL EDUCATION

SMALL GROUP DISCUSSION

ADDITIONAL RESOURCES

Q&A

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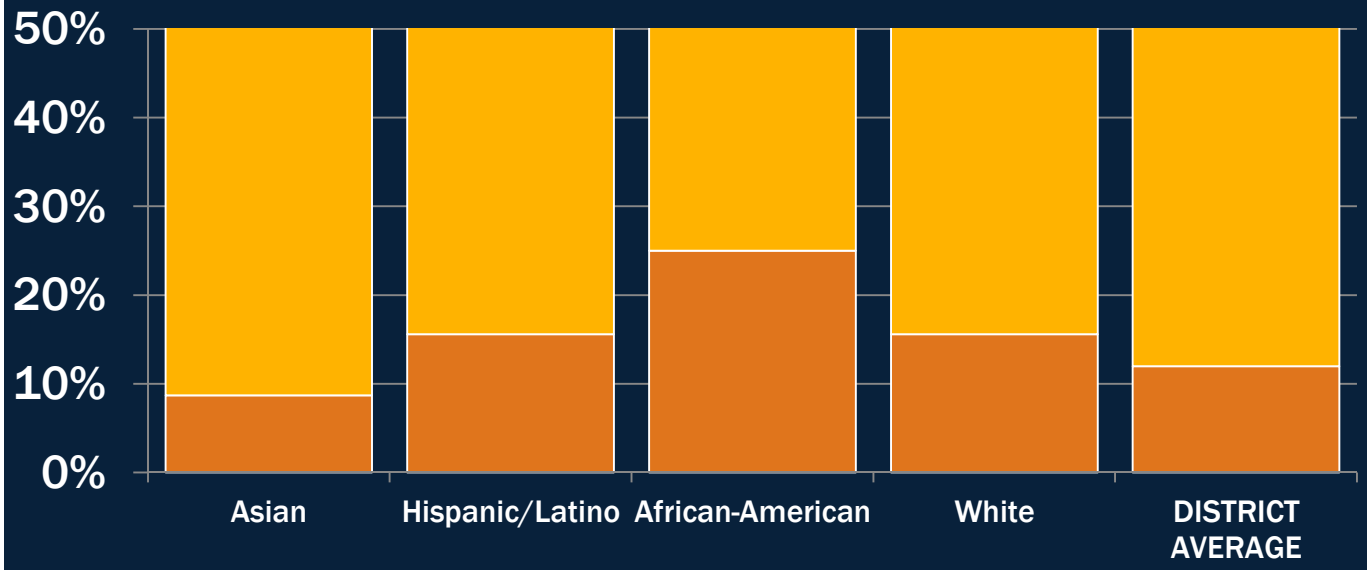
WHAT IS SPECIAL EDUCATION AND WHY DOES IT MATTER?

- Specially designed instruction and services targeted to help a student with disabilities succeed in education
- Only students with disabilities are eligible for special education services
- Disabilities can be physical, mental, emotional, or learning. They may include:
    - Autism
    - Deafness
    - Blindness
    - ADD, ADHD
    - Learning disability
    - Speech/language impairment
    - Emotional disturbance
- Federal and state law mandate that special education must be provided at <u>no cost</u> to families

WHAT IS SPECIAL EDUCATION AND WHY DOES IT MATTER?

- 12% of students in SFUSD (compared to 11.1% of students in the state) are enrolled in special education



- High numbers of African American students are labeled with "emotional disturbance"
- High numbers of Latino students are labeled in the categories of hard of hearing, speech or language, visual impairment, and specific learning disability

WHAT IS SPECIAL EDUCATION AND WHY DOES IT MATTER?

TWO SIDES OF THE COIN:

HEADS	TAILS
Provides crucial educational support for students with special needs	Over-identification of students of color in special education, especially under the label emotional disturbance; English language learners also over-identified
Can provide certain “protections” for students in discipline	Once identified, students of color are placed in the most restrictive environments
Alarmingly high number of youth with special needs in juvenile justice system	Perceived stigma

WHAT IS SPECIAL EDUCATION AND WHY DOES IT MATTER?

TWO PROBLEMS ARISE:

Some students who do not need services are erroneously tracked into special education.

Some students who do need special education services do not receive them. This may be because the school:

- has not identified and assessed the student properly
- has not developed a plan for appropriate services
- has not properly implemented the plan

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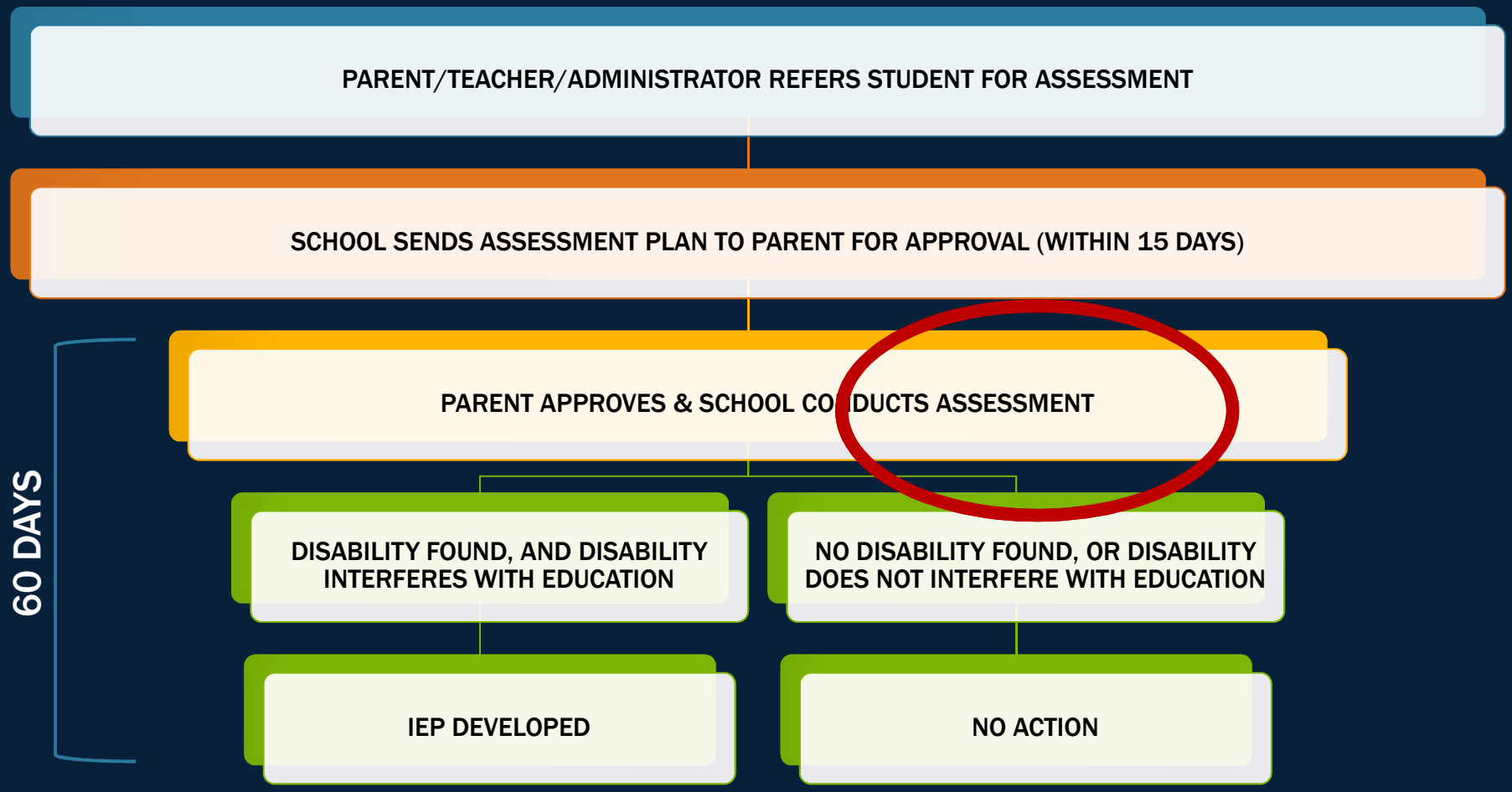
PROCESS OF REFERRAL, IDENTIFICATION, AND ASSESSMENT

- SCHOOL DISTRICTS HAVE A LEGAL OBLIGATION TO LOCATE, IDENTIFY, AND PROVIDE SERVICES TO ALL STUDENTS WITH DISABILITIES, CALLED “CHILD FIND.”

- PARENTS MAY ALSO REQUEST AN ASSESSMENT.

PROCESS OF REFERRAL, IDENTIFICATION, AND ASSESSMENT



PROCESS OF REFERRAL, IDENTIFICATION, AND ASSESSMENT

ASSESSMENT

- What: Series of tests or tools used to determine if the child has a disability and if that disability limits his or her ability to learn
- Why: The child must be assessed and found to have a disability before he or she can receive services
- When: Anytime until the child reaches age 18
- Who: Parent/guardian, teacher, or school staff can request an assessment

PROCESS OF REFERRAL, IDENTIFICATION, AND ASSESSMENT

What rights do students and parents have throughout this process?

RIGHT TO PARTICIPATE

* Right to refer their child for special education services
* Right to receive, review, and request changes to the assessment plan
* Right to be involved in the development of the IEP (district must ensure that parents understand the proceedings of IEP meeting, including arranging for an interpreter for parents with deafness or those whose native language is not English)
* Right to be informed of all program options and alternatives, public & nonpublic

RIGHT TO RECEIVE PRIOR WRITTEN NOTICE IN NATIVE LANGUAGE

* Right to receive notice when district initiates or refuses their request to initiate a change in child's identification, assessment, or educational placement

PROCESS OF REFERRAL, IDENTIFICATION, AND ASSESSMENT

What rights do students and parents have throughout this process?

RIGHT TO CONSENT

* Parents must provide informed, written consent:

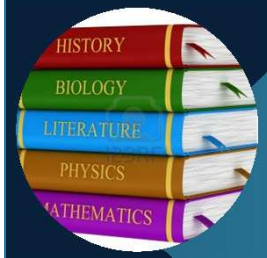
- Before child is assessed or provided with any special education services
- Before any change in special education services

RIGHT TO REFUSE TO CONSENT

* Parents may refuse to consent to an assessment or the placement of their child in special education

PROCESS OF REFERRAL, IDENTIFICATION, AND ASSESSMENT

What rights do students and parents have throughout this process?



RIGHT TO RECEIVE INDEPENDENT EDUCATIONAL EVALUATIONS

* If parents disagree with the results of the assessment conducted by the school district, they have the right to ask for and obtain an (1) independent educational evaluation (IEE) at public expense

* When a parent requests an IEE, the school district must, without unnecessary delay, either ensure that an IEE is provided or request a due process hearing if the district disagrees that an IEE is necessary

RIGHT TO ACCESS, INSPECT, REVIEW, & OBTAIN EDUCATIONAL RECORDS

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GETTING OUT OF SPECIAL EDUCATION

<u>At the assessment stage</u>:

- A parent or guardian has the right to refuse to consent to the assessment.

<u>At the IEP stage or anytime after</u>:

- A parent or guardian has the right to refuse to consent for the school district to provide special education services. The school district cannot compel the parent or guardian's consent through a due process hearing.
- A parent or guardian can revoke or withdraw consent to special education services provided in the IEP at any time.

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SMALL GROUP DISCUSSION

SCENARIO: Jordan is in 5th grade but he still has trouble reading basic things. He has a Student Support Team (SST), but it doesn't seem to be helping. His mom keeps asking the school to assess her son for special education, but they keep telling her that he doesn't need it and that an SST is enough. What can she do?

SCENARIO: Maria is in 3rd grade and is having trouble with her schoolwork. Her teacher wants her to be assessed. The school has sent the assessment plan to Maria's parents for approval, but her parents do not want her to be assessed and so they chose not to respond. Can the school still assess Maria?

SMALL GROUP DISCUSSION

SCENARIO: Jordan is in 5th grade but he still has trouble reading basic things. He has a Student Support Team (SST), but it doesn't seem to be helping. His mom keeps asking the school to assess her son for special education, but they keep telling her that he doesn't need it and that an SST is enough. What can she do?

As a parent, she has the right to request an assessment and the school must comply with the request.

SMALL GROUP DISCUSSION

SCENARIO: Maria is in 3rd grade and is having trouble with her schoolwork. Her teacher wants her to be assessed. The school has sent the assessment plan to Maria's parents for approval, but her parents do not want her to be assessed and so they chose not to respond. Can the school still assess Maria?

A school generally may not proceed with a child's first special education assessment without the written consent of a parent or guardian. However, if a parent does not provide consent or fails to respond to the request for consent, the district may pursue the initial assessment by utilizing due process procedures.

FOLLOW UP: Maria's family speaks Spanish only. Does the district have an obligation to translate the documents?

Q: What can organizations do to support parents in becoming more effective advocates for their children?

A: Encourage parents to create a folder that includes:

- Calendar to mark important dates
- Notepad
- Copies of child's IEP, recent assessments, report cards, and any other letters from school

Draw attention to common administrative pitfalls:

- Make sure the school has most current address
- Family must open and read ALL mail or notices from the school
- If child is not organized, ask the school to mail documents rather than sending it home with child

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California Dep't. of Education, Special Education Division
Telephone: 800-926-0648

IEP Clinic [English, Spanish, Cantonese] *(free)*
Thursdays, 4pm-6pm

Transition to Adult Services Clinic *(free)*
4th Thursdays, 4pm-6pm (1/23/14)

Skills for Effective Parent Advocacy *(free)*
Jan. 30, 2014, 4pm-6pm

To register call: (415) 920-5040
Sponsored by Support for Families with Children with Disabilities

Visit:
Legal Services for Children – www.lsc-sf.org
Support for Families with Children with Disabilities – www.supportforfamilies.org

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Q: Jackie gets a call from the school every day because her son is out of control. What can she do?

A: She can request that the school provide her child with a Student Support Team or request that her child be assessed for emotional disturbance.

Questions?

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