

160-4-7-.04 EVALUATIONS AND REEVALUATIONS.

(1) INITIAL EVALUATIONS.

(a) Each LEA must conduct a full and individual initial evaluation before the initial provision of special education and related services to a child with a disability. [34 C.F.R. § 300.301(a)]

1. Each LEA shall ensure that evaluation procedures are established and implemented that meet the requirements of this Rule.

(b) Once a child is referred for an evaluation by a parent or Student Support Team (SST) to determine if the child is a child with a disability, the initial evaluation:

1. Must be completed within 60 calendar days of receiving parental consent for evaluation. [34 C.F.R. § 300.301(c)(1)(i)]

(i) Holiday periods and other circumstances when children are not in attendance for five consecutive school days shall not be counted toward the 60 calendar day timeline, including the weekend days before and after such holiday periods, if contiguous to the holidays except,

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(ii) Any summer vacation period in which the majority of an LEA's teachers are not under contract shall not be included in the 60 day timeline for evaluation. However an LEA is not prohibited from conducting evaluations over a summer vacation period,

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I. Consent received 30 days or more prior to the end of the school year must be completed within the 60 calendar day evaluation timeframe.

II. Students who turn three during the summer period or other holiday periods must have an eligibility decision and IEP (if appropriate) in place by the third birthday.

2. Must consist of procedures which determine if the child is a child with a disability and to determine the educational needs of the child. [34 C.F.R. § 300.301(c)(2)(i) – (ii)]

(c) The timeframe described above does not apply to a LEA if:

1. The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or

2. A child enrolls in a school of another LEA after the relevant timeline in this Rule has begun and prior to a determination by the child's previous LEA as to whether the child is a child with a disability; [34 C.F.R. § 300.301(d)(1) – (2)]

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3. The exception in (c)(2) above applies only if the subsequent LEA is making sufficient progress to ensure a prompt completion of the evaluation and the parent and subsequent LEA have agreed to a specific time when the evaluation will be completed. [34 C.F.R. § 300.301(e)]

4. If extenuating circumstances, e.g., illness, unusual evaluation needs, or revocation of parent's consent for evaluation affect this time line, the LEA shall document the exceptions.

(2) PARENTAL CONSENT FOR EVALUATION.

(a) The LEA proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability shall, after providing notice, obtain an informed consent from the parents of such child before the evaluation is conducted. The LEA must make reasonable efforts to obtain the informed consent from the parents. To meet the reasonable efforts requirement, the LEA must document its attempts to obtain parental consent using procedures that may include detailed records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parents and any responses received, and detailed records of visits made to the parent's home or place of employment and the results of those visits. [34 C.F.R. § 300.300(a)(1)(i); § 300.300(a)(1)(iii); § 300.300(d)(5); § 300.322(d)(1) – (3)]

(b) If the parents of a child refuses consent for the evaluation or the parents fail to respond to a request to provide consent, the LEA may, but is not required to, pursue the initial evaluation of the child by utilizing the mediation and impartial due process hearing procedures provided for in the procedural safeguards. However, if a parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or such parent fails to respond to a request to provide consent, the LEA may not use the consent override procedures, and the LEA is not required to consider the child as eligible for services. [34 C.F.R. § 300.300(a)(3)(i); § 300.300(d)(4)(i) – (ii)]

(c) For initial evaluations only, if the child is a ward of the State and is not residing with the child's parent, the LEA is not required to obtain informed consent from the parent for initial evaluation to determine whether the child is a child with a disability if -

1. Despite reasonable efforts to do so, the LEA cannot discover the whereabouts of the parent of the child;
2. The rights of the parents of the child have been terminated in accordance with State law; or
3. The rights of the parents to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child. [34 C.F.R. § 300.300(a)(2)(i) – (iii)]

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(d) Other consent requirements.

1. Parental consent is not required before -

(i) Reviewing existing data as part of an evaluation or a reevaluation; or

(ii) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children. [34 C.F.R. § 300.300(d)(1)(i) – (ii)]

(iii) The screening of a child by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation. This shall not be considered to be an evaluation for eligibility for special education and related services. [34 C.F.R. § 300.302]

(3) REEVALUATION.

(a) Each LEA must ensure that a reevaluation of each child with a disability is conducted at least once every 3 years, unless the parent and the LEA agree that a reevaluation is unnecessary:

1. If the LEA determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrants a reevaluation; or

2. If the child's parent or teacher requests a reevaluation. [34 C.F.R. § 300.303(a)(1) – (2); § 300.303(b)(2)]

(b) Limitation. A reevaluation may not occur more than once a year, unless the parent and the LEA agree otherwise; and must occur at least once every 3 years, unless the parent and the LEA agree that a re-evaluation is unnecessary. [34 C.F.R. § 300.303(b)]

(c) Each LEA shall obtain informed parental consent prior to conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if the LEA can demonstrate that it has taken reasonable measures to obtain such consent and the child's parents failed to respond. [34 C.F.R. § 300.300 (c)(1) – (2)]

(4) EVALUATION PROCEDURES.

(a) Notice. The LEA shall provide notice to the parents of a child suspected with a disability, in accordance with all notice requirements as described in Rule 160-4-7-.09 Procedural Safeguards/Parent Rights. [34 C.F.R. § 300.304(a)]

(b) Conduct of evaluation. In conducting an evaluation, the LEA must -

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1. Use a variety of evaluation tools and strategies to gather relevant academic, functional and developmental information about the child, including information provided by the parents that may assist in determining:

(i) Whether the child is a child with a disability; and

(ii) The content of the child's individualized education program including information related to enabling the child to be involved in and progress in the general curriculum (or for a preschool child to participate in appropriate activities);

2. Not use any single procedure as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child;

3. Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. [34 C.F.R. § 300.304(b)(1) – (3)]

(c) Other evaluation procedures. Each LEA shall ensure that:

1. Assessments and other evaluation materials used to assess a child under this section:

(i) Are selected and administered so as not to be discriminatory on a racial or cultural basis;

(ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;

(iii) Are used for the purposes for which the evaluations or measures are valid and reliable;

(iv) Are administered by trained and knowledgeable personnel; and

(v) Are administered in accordance with any instructions provided by the producer of the assessments. [34 C.F.R. § 300.304(c)(1)(i) – (v)]

2. The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. [34 C.F.R. § 300.304(c)(4)]

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3. Evaluation tools and strategies are used which provide relevant information that directly assists persons in determining the educational needs of the child. [34 C.F.R. § 300.304(c)(7)]

4. Assessments and other evaluation 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. [34 C.F.R. § 300.304(c)(2)]

5. Assessment selection and administration is such that, when administered to a child with impaired sensory, manual or speaking skills, the results accurately reflect the child's aptitude or achievement level, or whatever other factors the assessment purports to measure, rather than reflecting the child's impaired sensory, manual or speaking skills, except where those skills are the factors which the assessment purports to measure. [34 C.F.R. § 300.304(c)(3)]

6. If an evaluation is not conducted under standard conditions, a description of the extent to which it varied from standard conditions, i.e., the qualifications of the person administering the test or the method of test administration must be included in the evaluation report.

7. In evaluating each child with a disability under this rule, the evaluation shall be sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified. [34 C.F.R. § 300.304(c)(6)]

8. Evaluations of children with disabilities who transfer from one LEA to another LEA in the same school year are coordinated with those children's prior and subsequent schools, as necessary and expeditiously as possible, to ensure prompt completion of full evaluations. [34 C.F.R. § 300.304(c)(5)]

9. The evaluation of children referred because of learning and/or behavior problems is the responsibility of a multidisciplinary evaluation team. For children who require a psychological and clinical evaluation, it must be conducted by a qualified psychological examiner:

(i) Qualified Psychological Examiner Requirements.

(ii) Initial evaluation results used for consideration of eligibility for special education, if not provided by a school psychologist with a valid S-5 (or higher) certificate in school psychology, shall be from one of the following:

(I) A psychologist licensed by the Georgia Board of Examiners of Psychologists and having training and experience in school psychology or child clinical psychology.

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(II) A full-time graduate student in an approved, properly supervised school psychology or child clinical psychology training program internship/practicum, who has completed a minimum of one year of approved appropriate graduate training.

(III) A Georgia Merit System employee who has a classification rating of psychologist, senior psychologist, or psychology program specialist.

(5) ADDITIONAL REQUIREMENTS.

(a) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any re-evaluation, the parent and other qualified professionals, as appropriate, must review existing evaluation data on the child, including:

1. Evaluations and information provided by the parents of the child;
2. Current classroom-based, local, or State assessments and classroom-based observations; and
3. Observations by teachers and related services providers. [34 C.F.R. § 300.305(a)(1)(i) – (iii)]

(b) On the basis of that review and input from the child's parents, identify what additional data, if any, are needed to determine:

1. Whether the child is a child with a disability and the educational needs of the child, or in case of a reevaluation of a child, whether the child continues to have such a disability and the educational needs of the child; [34 C.F.R. § 300.305(a)(2)(i)(A) – (B)]
2. The present levels of academic achievement and related developmental needs of the child; [34 C.F.R. § 300.305(a)(2)(ii)]
3. Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and [34 C.F.R. § 300.305(a)(2)(iii)(A) – (B)]
4. Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general curriculum. [34 C.F.R. § 300.305(a)(2)(iv)]

(c) The parent and other qualified professionals may conduct its review without a meeting. [34 C.F.R. § 300.305(b)]

(d) The LEA must administer such assessments and other evaluation measures as may be needed to produce the data identified. [34 C.F.R. § 300.305(c)]

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(e) Requirements if additional data are not needed -

1. If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, the LEA:

(i) Must notify the child's parents of that determination and the reasons for it and notify the parents of the right to request an evaluation to determine whether the child continues to be a child with a disability and to determine the child's educational needs; [34 C.F.R. § 300.305(d)(1)(i) – (ii)]

(ii) Is not required to conduct such an evaluation to determine whether the child continues to be a child with a disability unless requested by the child's parents. [34 C.F.R. § 300.305(d)(2)]

(f) Evaluations before change in eligibility. The LEA must evaluate a child with a disability before determining that the child is no longer a child with a disability. [34 C.F.R. § 300.305(e)(1)]

1. The evaluation is not required before termination of a child's disability due to graduation from high school with a regular education diploma, or due to exceeding the age eligibility for FAPE. [34 C.F.R. § 300.305(e)(2)]

2. However, the LEA must provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's post-secondary goals. [34 C.F.R. § 300.305(e)(3)]

(6) DETERMINATION OF ELIGIBILITY.

(a) Upon completion of the administration of tests and other evaluation measures –

1. A group of qualified professionals and the parents of the child (Eligibility Team) determines whether the child is a child with a disability and the educational needs of the child; and

2. The LEA provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parents. [34 C.F.R. § 300.306(a)(1)-(2)]

(b) In making a determination of eligibility, a child must not be determined to be a child with a disability: if the determinant factor for that eligibility is lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of ESEA); lack of appropriate instruction in math; or limited English proficiency; and if the child does not otherwise meet the program area eligibility criteria for a child with a disability. [34 C.F.R. § 300.306(b)(1) – (2)]

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(c) Procedures for determining eligibility and educational need.

1. In interpreting evaluation data for the purpose of determining if a child is a child with a disability and the educational needs of the child, each LEA must –

(i) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child’s physical condition, social or cultural background and adaptive behavior;

(ii) Ensure that information obtained from all of these sources is documented and carefully considered. [34 C.F.R. § 300.306(c)(1)(i) – (ii)]

2. If a determination is made that

(i) A child has a disability,

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(ii) And the disability affects educational performance and

(iii) The child needs special education and related services, an eligibility document and IEP must be developed for the child. [34 C.F.R. § 300.306(c)(2)]

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(7) This rule shall become effective,

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Authority O.C.G.A. § 20-2-152; 20-2-240.

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