

III. Child Find Services

Child Find Services Child Find Requirements

What the Federal Regs. Say ...

General Requirement - The State must have in effect policies and procedures to ensure that all children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated. Secs. 300.111(a)(1)(i); 300.131(a).

What the Regulations Mean ...

"Child Find" means schools are responsible for locating children with disabilities in the school district. School districts have policies and procedures for how they will find children with disabilities in their districts. Child Find is often done through newspaper announcements, flyers in public places, or mailings to doctors and hospitals in the area. Most districts also have scheduled screening programs.

Schools must also evaluate those children suspected of having a disability to see if they need special education services. This includes children with disabilities attending private schools, children who are home schooled, and children not yet of mandatory school age.

What Parents Should Know ...

Schools must locate children who have disabilities and find out if they need special education. Parents can get a

copy of the school's Child Find policies by asking the principal or administrator for them. It is best to ask for it by writing a letter. The School's Child Find responsibilities exist for children from birth through age 21. (See "FAPE" in Section XII).

In
South Dakota ...

Each school district shall develop and utilize a system for the identification, location, and evaluation of children in need of special education or special evaluation and related services. The system must include all children residing within the jurisdiction of the district who are ages birth through 21 regardless of the severity of their disability, including children in all public and private agencies and institutions, private schools, including religious schools, and children receiving alternative instruction under SDCL 13-27-3 within the legal boundaries of the district. The requirements of this section apply to: (1) Wards of the state, and highly mobile children with disabilities such as migrant, and homeless children; and (2) Children who are suspected of being children with disabilities ... even though they are advancing from grade to grade. ARSD 24:05:22:01.

TIP - Child Find responsibilities include ALL children within a district, including children who are home schooled and who attend private schools within school district boundaries, regardless of the parents' actual in- or out-of-state residence.

IV. Evaluation / Reevaluation

Evaluation / Reevaluation Referral

What the Federal Regs. Say ...

Request for initial evaluation - Consistent with the consent requirements in Sec. 300.300, either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability. Sec. 300.301(b).



What the Regulations Mean ...

Any State educational agency, local school district, or any other state agency that thinks a child might have a disability can make a referral to a local school district for an initial evaluation. Parents can also make referrals if they have concerns about the development of their child.

School staff are required, because of their "Child Find" responsibilities, to make a referral when they suspect a child may have a disability. School teachers and other school professionals should receive training so that they know what to look for in terms of a child possibly having a qualifying disability under IDEA.

What Parents Should Know ...

If your child's doctor tells you that your child has developmental delays or a specific condition, parents should consider referring their child to the local school district for an evaluation to determine if the child qualifies for special education services.

Some schools have a referral form. If parents choose to write a letter to the school to ask the school to evaluate the child, they should write the date at the top of the letter and sign it. Parents should keep a copy of the signed letter. Schools will not start the evaluation process until parents provide them with signed consent.

Parents can ask the school for a copy of the procedural safeguards for the special education process, although the school must provide it when a referral occurs.



Evaluation / Reevaluation Referral (cont.)

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Referral - Referral includes any written request which brings a student to the attention of a school district administrator (building principal, superintendent, or special education director) as a student who may be in need of special education. A referral made by a parent may be submitted verbally, but it must be documented by a district administrator. Other sources of referrals include the following: (1) Referral through screening; (2) Referral by classroom teacher; (3) Referral by other district personnel; (4) Referral by other public or private agencies; and (5) Referral by private schools, including religious schools. ARSD 24:05:24:01.

Duties of a district after referral - Upon receiving a referral the school district shall conduct an informal review or may proceed with the evaluation process. An informal review includes a conference, if appropriate and necessary, either in person or by telephone, with the person making the referral and a review of the student's school record. ARSD 24:05:24:02.

Duties of a district after informal review - If, after an informal review arising from a parental referral, the district determines that no evaluation is necessary, the district shall inform the parents of its decision and the reasons for the decision. It shall also inform the parents of their due process rights. If after informal review, the district determines that further evaluation is necessary, the district shall conduct a full and individual evaluation with the consent of the parents. ARSD 24:05:24:03.

Documentation of referrals not evaluated - All referrals of students that do not result in evaluation must be documented by the district. ARSD 24:05:24:04.

TIP - Sometimes schools "drag their feet" during the referral process, losing what could be invaluable time for a child. Parents should continue to push schools for a response when necessary.



Evaluation / Reevaluation Parental Consent

What the Federal Regs. Say ...

Parental consent for initial evaluation - The public agency proposing to conduct an **initial evaluation** to determine if a child qualifies as a child with a disability ... must, after providing notice..., obtain informed consent ... from the parent of the child before conducting the evaluation. Parental consent for initial evaluation must not be construed as consent for initial provision of special education and related services. Sec. 300.300(a)(1).

Refusal - If the parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation..., or the parent fails to respond to a request to provide consent, the public agency may, but is not required to, pursue the initial evaluation of the child by utilizing the procedural safeguards ... [*i.e.*, mediation, due process hearing], if appropriate, except to the extent inconsistent with State law relating to parental consent. Sec. 300.300(a)(3)(i).

Parental consent for reevaluations - Each public agency must obtain informed parental consent ... prior to conducting any **reevaluation** of a child with a disability. If the parent refuses to consent to the reevaluation, the public agency may, but is not required to, pursue the reevaluation by using the consent override procedures.... Sec. 300.300(c)(1).

The informed parental consent ... need not be obtained if the public agency can dem-

onstrate that it made reasonable efforts to obtain such consent; and the child's parent has failed to respond. Sec. 300.300(c)(2).

A public agency may not use a parent's refusal to consent to one service or activity under paragraphs (a) or (d)(2) of this section to deny the parent or child any other service, benefit, or activity of the public agency, except as provided in this part. Sec. 300.300(d)(3).

To meet the reasonable efforts requirement ... the public agency must document its attempts to obtain parental consent using the procedures in Sec. 300.322(d). Sec. 300.300(d)(5).

What the Regulations Mean ...

The school cannot evaluate a child until it has the parent's written permission (consent). This permission is for initial evaluation/reevaluation only, not for receiving special education services. The school selects the specific test instruments and the staff who will give them.

The school must tell the parent in writing (provide written notice) about all evaluations. If new testing is needed, the school must also tell the parents who will do the testing (if known), their title and qualifications, and what kind of testing they will do. Parents must be a part of the team deciding which evaluations the child requires.

If the parent refuses to give consent for the evaluation or reevaluation, the school has two options: (a) Do nothing and the process stops; or (b) File for a due process hearing to attempt to get a hearing officer to order an evaluation. When parents refuse to allow their child to be evaluated, the

Evaluation / Reevaluation Parental Consent (cont.)

school has to decide how important it is to test the child. The main issue is for the child to receive a Free Appropriate Public Education (FAPE).

The school must be able to show the ways that it tried to get the consent from any parent who does not respond to the school's request for consent to an initial or reevaluation. (See "Parent Participation" in Section VI). With a reevaluation only, the school can go ahead with the testing if a parent does not respond to the request for consent.

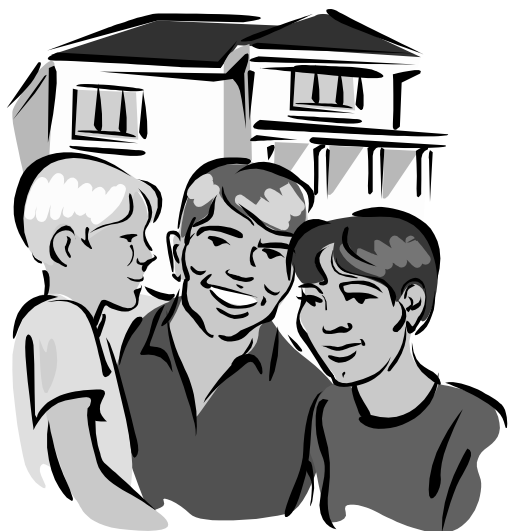
What Parents Should Know ...

Parents must give written consent before a school can conduct evaluations. **The timeline for conducting evaluations does not begin until the school receives written consent, so**

it is important for parents to provide written consent to the school as soon as possible. Parents can ask the school to explain the purpose of the evaluations and answer any other questions before giving permission.

Parents have the right to refuse consent for initial evaluations and reevaluations. If parents refuse to consent to evaluations and the school still feels the child should be evaluated, the school may file for a due process hearing to attempt to get a hearing officer to require that the child be evaluated.

When a school seeks parental consent for reevaluation, and the parent does not want to consent, the parent must let the school know. If the parent simply does not respond to the school's requests for a reevaluation, the school can evaluate the child without the parents' permission.



TIP - The timeline for conducting evaluations does not begin until parents provide written consent. In the case of **reevaluations only**, if parents fail to respond to the school's request for permission to reevaluate, the school may go ahead with the testing without first obtaining parental consent. For further information on parental consent, see Sections V and XIII.

**Evaluation / Reevaluation
Initial Evaluation**

What the Federal Regs. Say ...

Each public agency must conduct a full and individual initial evaluation, in accordance with Secs. 300.305 and 300.306, before the initial provision of special education and related services to a child with a disability under this part. Sec. 300.301(a).

Procedures for initial evaluation - The initial evaluation must be conducted within 60 days of receiving parental consent for the evaluation; or if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and must consist of procedures to determine if the child is a child with a disability...; and to determine the educational needs of the child. Sec. 300.301(c).

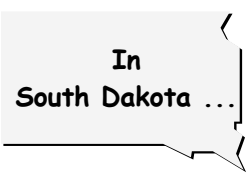
Exception - The timeframe ... does not apply to a public agency if the parent of a child repeatedly fails or refuses to produce the child for the evaluation; or a child enrolls in a school of another public agency after the relevant timeframe ... has begun, and prior to a determination by the child's previous public agency as to whether the child is a child with a disability. The exception ... applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed. Sec. 300.301(d).

What the Regulations Mean ...

The term, "multidisciplinary evaluation," has been replaced in IDEA 2004 by "full and individual evaluation." Children suspected of having a qualifying disability under IDEA must be thoroughly evaluated before the child can be found eligible for special education services and thus before special education services may be provided.

What Parents Should Know ...

Parents are part of the team that will decide what evaluations need to be completed.



Pre-placement evaluation. Before any action is taken concerning the initial placement of a child with disabilities in a special education program, a full and individual initial evaluation of the child's educational needs must be conducted ... Initial evaluations must be completed **within 25 school days** after receipt by the district of signed parent consent to evaluate unless other timelines are agreed to by the school administration and the parents.

Written evaluation reports, determination of eligibility, and conducting an IEP team meeting must be completed within 30 days from the end of the 25 school day evaluation timeline. If another timeline for completing the evaluation process is agreed to by the parent and school administration, the written evaluation reports, determination of eligibility, and conducting an IEP team meeting must be completed within 30 days from the end of the agreed upon evaluation timeline. ARSD 24:05:25:03.

Evaluation / Reevaluation More Than One Evaluation Procedure

What the Federal Regs. Say ...

In conducting the evaluation, the public agency must not use any single measure or assessment 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. Sec. 300.304(b)(2).

The public agency must ensure 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. Sec. 300.304(c)(4).

What the Regulations Mean ...

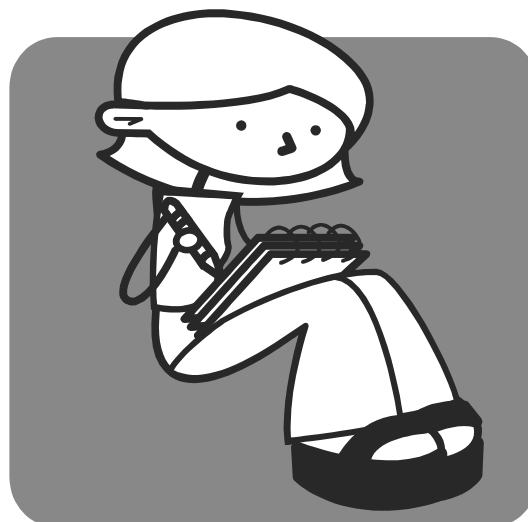
Schools must use more than one test or evaluation procedure to decide if a child qualifies for special education and to decide the child's program.

IEP Team members, or other qualified professionals, do the testing, watch the child's behaviors, and ask people outside of school about the child's strengths and needs. The team uses all of this information to help decide if the child qualifies for special education. The child must be tested or evaluated in all areas of a suspected disability. The evaluation must be broad enough to find all of the child's special education needs.

What Parents Should Know ...

The IEP Team must look at many things before determining a child has a disability. Parents should tell the IEP Team about their child at home, with family, and in the community. Parents may also give the IEP Team information from the child's doctors, therapists, or others.

Schools are responsible for providing or otherwise paying for all evaluations required for a particular child, in areas such as intelligence, achievement, behavioral/emotional, physical therapy, occupational therapy, speech therapy, vision, hearing, transition, etc. Schools are also responsible for paying for all medical evaluations required for determining a child's medically-related disability that results in the child's need for special education and related services. For example, if the school determines a child needs a medical evaluation for purposes of diagnosing ADHD, the school is responsible for paying for that medical evaluation.



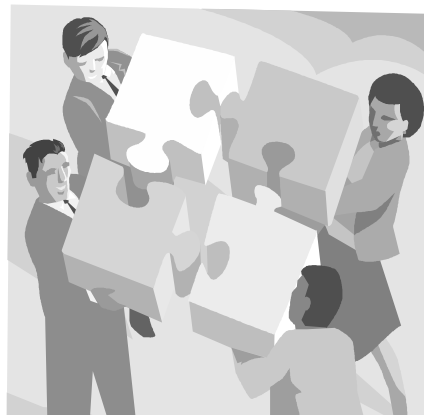
**Evaluation / Reevaluation
Information From More Than
One Source**

The IEP Team will gather information to understand the whole child. School staff must use tests that give accurate information.

What the Federal Regs. Say ...

The public agency must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining whether the child is a child with a disability ... and the content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities). Sec. 300.304(b)(1).

The public agency must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. Sec. 300.304(b)(3).



What Parents Should Know ...

Parents may be asked to write down information about their child for, or meet with, the evaluators. Sometimes, such as when emotional/behavioral evaluations are conducted, parents will take an active role by filling out questionnaires on their child.

Parents must understand that a diagnosis from the child's doctor alone does not make the child eligible for special education services. (See Section V on Eligibility).

Parents may ask to see information about the tests their child will take. Parents should ask the school staff to explain the tests. Parents can look at their child's answer sheet, but evaluators are not allowed to show parents the test kit itself.

What the Regulations Mean ...

The IEP Team will get information about the child from many sources. The information can come from parents, tests, observations, the child's doctors or therapists. The information will be used to decide if the child qualifies for special education. The information will also help the team write the IEP so that the child can participate in the general education curriculum to the greatest extent possible.

**Evaluation / Reevaluation
Non-Discriminatory Testing /
Relevant Assessment**

What the Federal Regs. Say ...

Each local education agency shall ensure: that assessments and other evaluation materials used to assess a child are selected and administered so as not to be discriminatory on a racial or cultural basis; 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; are used for purposes for which the assessments or measures are valid and reliable; are administered by trained and knowledgeable personnel; and are administered in accordance with any instructions provided by the producer of the assessments. Sec. 300.304(c)(1).

Each public agency must ensure: Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient [IQ score]; assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that

the test purports to measure). Sec. 300.304(c)(3).

Each public agency must ensure in evaluating each child with a disability..., the evaluation is 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. Sec. 300.304(c)(6).

Each public agency must ensure that assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided. Sec. 300.304(c)(7).

Each public agency must ensure that assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with Sec. 300.301(d)(2) and (e), to ensure prompt completion of full evaluations. Sec. 300.304(c)(5).

What the Regulations Mean ...

The tests used must not discriminate because of a child's race or culture. As much as possible, the tests must be given in the language the child normally uses. For example, the school may use qualified interpreters



**Evaluation / Reevaluation
Non-Discriminatory Testing /
Relevant Assessment (cont.)**

when children do not speak English or use sign language. Children may also use communication boards or other communication tools.

The school selects the appropriate tests to measure the child's needs. The professionals giving the tests must be properly trained and follow the test's directions.

Tests must be selected that can accurately measure what the test intends to measure, taking into consideration any impaired sensory, manual, or speaking skills. For example, one obviously would not give a child who is blind or visually impaired a test in written form (unless the purpose of the test is to determine visual ability).

Schools must evaluate children so that all special education and related services needs are determined. For example, if the child is on an IEP for a specific learning disability, but also has emotional or physical impairments, the school must evaluate all areas of concern, not just the child's specific learning disability. The evaluation results must provide information to help determine the child's educational needs.

that be a language other than English, or another mode of communication.

Parents may ask why the school used one test instrument instead of another one. Parents may ask the school to use a particular test, but the school makes the final decision on which test instrument it will use.

Parents are often asked to provide information about their child to help the evaluators determine the child's educational needs.

A child's scores on evaluations can vary from day-to-day due to a number of factors. Some such factors could include:

- The child's mood or cooperation with attempting to answer questions to the best of his/her ability;
- Effects of medication;
- Illness or recent illness;
- How the child and evaluator got along; and
- Time of day.

If parents disagree with the results of evaluations, they have the right to an "Independent Educational Evaluation." (See Section XIII).

What Parents Should Know ...

Testing must be fair to children of all cultures and languages. Parents should tell the school how their child communicates best. Parents should make sure the school uses their child's communication methods for the testing, whether



**Evaluation / Reevaluation
Review of Existing Evaluation
Data / Additional Data**

What the Federal Regs. Say ...

Review of Existing Evaluation Data - As part of an initial evaluation (if appropriate) and as part of any reevaluation under Part B of the Act, the IEP Team and other qualified professionals, as appropriate, must review existing evaluation data on the child, including evaluations and information provided by the parents of the child; current classroom-based, local, or State assessments and classroom-based observations; and observations by teachers and related services providers.

On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine 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; the present levels of academic achievement and related developmental needs of the child; 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 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 education curriculum. Sec. 300.305(a).

Conduct of Review - The group ... may conduct its review without a meeting. Sec. 300.305(b).

Source of Data - The public agency must administer such assessments and other evaluation measures as may be needed to produce the data... Sec. 300.305(c).

Requirements if Additional Data are Not Needed - 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 public agency shall notify the child's parents of that determination and the reasons for the determination; and the right of the parents to request an assessment to determine whether the child continues to be a child with a disability, and to determine the child's educational needs. The public agency is not required to conduct the assessment ... unless requested to do so by the child's parents. Sec. 300.305(d).

What the Regulations Mean ...

In determining which evaluations are needed to decide if a child qualifies or still qualifies for special education services, the IEP Team, which includes the parents and people appointed by the LEA, must examine all the current information available on the child from various sources, including information from the child's parents.

The IEP Team will look at all of the child's previous evaluations and records, including medical, attendance, behavioral, State and district-wide testing information, etc. The IEP Team will look at anything that has been tried to enhance the child's education and

**Evaluation / Reevaluation
Review of Existing Evaluation
Data / Additional Data
(cont.)**

look to see if those special things that were tried helped or hindered the child's education in any way. The IEP Team will be looking at how the child learns and participates in regular education classes and other activities in the school.

Based on this review, the IEP Team, which includes the parents, decides whether more testing is needed, and if so, what kind of testing. The school must tell the parents, in writing, about this decision. If the IEP Team decides no additional testing is needed in some or all areas, the school must also explain why it decided not to do the testing in the notice to the parents. However, parents retain the right to require the additional testing for a reevaluation, if they think it is needed.

The IEP Team answers the questions: Does the child have a disability or continue to be a child with a disability? What are the child's educational needs? Does the child need special education and related services?

The IEP Team looks at how well the child is performing at the present time and determines what special education and related services the child may need to have provided. The IEP Team decides the extent and how the child will participate in the general curriculum.

information from other sources, such as doctors, therapists, etc. They should provide it to the IEP Team before the IEP Team meeting. This will help the IEP Team decide what evaluations are needed and help the school in doing the evaluation. Parents can give the names of other people who have knowledge of the child. These other people may also be part of the IEP Team.

Parents are active participants in the process of determining the areas in which the child requires evaluations. As part of the IEP Team, parents help decide what other information is needed to answer the following questions: (a) Does the child have a disability or continue to be a child with a disability? (b) What are the educational needs of the child? (c) How is the child doing right now? and (d) What special education and related services does the child need?

Parents should ask the school personnel how they used or disregarded the information provided by them.

Sometimes the IEP Team will feel more testing is not needed and must tell the parents why. However, in this situation, the parents still have a right to have further testing done by the school in the areas the team felt testing was not needed. Parents should make their request in writing.

What Parents Should Know ...

Parents should write down their ideas about what their child needs and gather



Evaluation / Reevaluation When Reevaluations May Occur

What the Federal Regs. Say ...

A public agency must ensure that a reevaluation of each child with a disability is conducted ... if the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or if the child's parent or teacher requests a reevaluation. A reevaluation ... may not occur more than once a year, unless the parent and public agency agree otherwise; and must occur at least every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary. Sec. 300.303.

What the Regulations Mean ...

The school must reevaluate the child at least every three years or more frequently if warranted (but not more often than once a year unless the parent and school agree). A reevaluation prior to 3 years should be strongly considered when a child's disability has clearly worsened or where significant progress has been made. A parent or teacher may ask for a reevaluation at any time. When a reevaluation is considered, the IEP Team reviews existing information and decides whether new tests are needed.

What Parents Should Know ...

The IEP Team will do a reevaluation (sometimes referred to as a "3-year evaluation") to determine how a child's needs have changed. This reevaluation may show the child requires new goals, additional, different, or fewer services, or that the child no longer requires special education services.

If parents believe their child's needs have changed, they may ask for a reevaluation at any time, but if at least a year has not passed since the last evaluation, the school would have to agree to the reevaluation.

In
South Dakota ...

Reevaluations must be completed within 25 school days after receipt by the district of signed consent to reevaluate unless other time limits are agreed to by the school administration and the parents, consistent with ARSD 24:05:25:03 (written evaluation reports, determination of continuing eligibility, and conducting IEP Team meeting must be completed within 30 days of the end of the 25 school day reevaluation timeline). ARSD 24:05:25:06.

TIP - The provisions on this page in no way affect a parent's right to an independent educational evaluation (IEE), should the parent disagree with evaluations conducted by the school. (See Section XIII).

Evaluation / Reevaluation
Evaluation Before Change in Eligibility

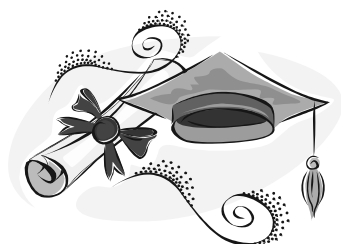
What the Federal Regs. Say ...

A public agency must evaluate a child with a disability ... before determining that the child is no longer a child with a disability. This evaluation ... is not required before the termination of a child's eligibility [under Part B of the Act] due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under State law. Sec. 300.305(e)(1), (2).

For a child whose eligibility terminates under circumstances described in paragraph (e)(2) ... a public agency 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. Sec. 300.305(e)(3).

What the Regulations Mean ...

A determination that the child is no longer eligible to receive special education or related services must be based on reevaluation, not simply observation or opinion.



What Parents Should Know ...

A determination that a child no longer requires special education services cannot be made without first conducting a reevaluation, except for when the child graduates with a regular diploma or ages-out of the system. In other words, schools cannot take the child off of an IEP without valid justification based on new evaluations.

When a student's eligibility terminates due to graduation or aging-out of services, the student will receive a "summary of the child's academic achievement and functional performance." This summary should assist those students planning on further education, as it will include recommendations on how to assist the child in meeting the child's post-secondary goals.

**Evaluation / Reevaluation
Additional Procedures for
Identifying Children With
Specific Learning Disabilities
- Definitions / Additional
Group Members**

What the Federal Regs. Say ...

A State must adopt, consistent with Sec. 300.309, criteria for determining whether a child has a specific learning disability as defined in Sec. 300.8(c) (10). In addition, the criteria adopted by the State (1) must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability...; (2) must permit the use of a process based on the child's response to scientific, research-based intervention; and (3) may permit the use of other alternative research-based procedures for determining whether a child has a specific learning disability... Sec. 300.307(a).

A public agency must use the State criteria adopted ... in determining whether a child has a specific learning disability. Sec. 300.307(b).

"Specific Learning Disability" is defined as: a disorder in one or more of the basic psychological process involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do

mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

Disorders not included - Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disabilities, of emotional disturbance, or of environmental, cultural, or economic disadvantage. Sec. 300.8(c)(10).

Additional group members - The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in Sec. 300.8, must be made by the child's parents and a team of qualified professionals, which must include - (1) The child's regular teacher; or (2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or (3) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and at least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher. Sec. 300.308.



Evaluation / Reevaluation
Additional Procedures for
Identifying Children With
Specific Learning Disabilities
- Definitions / Additional
Group Members (cont.)

What the Regulations Mean ...

Prior to the 2004 amendments to IDEA, specific learning disabilities were determined based solely on use of the "severe discrepancy between intellectual ability and achievement" model. IDEA 2004 requires States to adopt criteria that allows for additional methods for determining whether a child has a specific learning disability. School districts, in turn, must follow the criteria developed by the State.

When determining the existence of a specific learning disability, IDEA requires that certain individuals be part of the group making that determination.



What Parents Should Know ...
The definition of specific learning disability has not changed, but how one goes about determining its existence has. What may occur is that a child will be found to have a specific learning disability using one method, but not another. For example, if a school uses the "response to scientific, research-based intervention" (RTI) method, perhaps a child will not be found eligible for special education services, while had the "severe discrepancy" method been used, the child would qualify (or vice-versa). If a child is found ineligible using the district's method of choice, parents who disagree with the school's evaluation may want to get an "independent educational evaluation" at school expense completed using the other method. (See Section XIII).

In
South Dakota ...

South Dakota's administrative rules regarding the evaluation and determination of the existence of a specific learning disability are contained at ARSD 24:05:24.01:18 and 24:05:24.01:19; and 24:05:25:07 through 24:05:25:13.01. (See page 30 for South Dakota's rules, where they differ from the federal regulations).

Evaluation / Reevaluation

Additional Procedures for Identifying Children With Specific Learning Disabilities

- Determining the Existence of a Specific Learning Disability

What the Federal Regs. Say ...

Criteria for determining the existence of a specific learning disability - The group ... may determine that a child has a specific learning disability ... if (1) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards:

- (i) Oral expression,
- (ii) Listening comprehension,
- (iii) Written expression,
- (iv) Basic reading skill,
- (v) Reading fluency skills,
- (vi) Reading comprehension,
- (vii) Mathematics calculation,
- (viii) Mathematics problem solving.

(2) The child does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the [above] areas when using a process based on the child's response to scientific, research-based intervention; or the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the

group to be relevant to the identification of a specific learning disability, using appropriate assessments...; and (3) the group determines that its findings ... are not primarily the result of:

- (1) A visual, hearing, or motor disability;
- (2) Intellectual disability;
- (3) Emotional disturbance;
- (4) Cultural factors;
- (5) Environmental or economic disadvantage; or
- (6) Limited English proficiency.

Sec. 300.309(a).

To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation ... (1) data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and (2) data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents. Sec. 300.309(b).

The public agency must promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the timeframes described in Secs. 300.301 and 300.303, unless extended by mutual written agreement of the child's parents and a group of qualified professionals ... (1) if, prior to a referral, a child has not made adequate progress after an appropriate period of time

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when provided instruction, as described in paragraphs (b)(1) and (b)(2) of this section; and (2) whenever a child is referred for an evaluation. Sec. 300.309(c).



What the Regulations Mean ...

The existence of a "specific learning disability" used to be made solely by comparing scores on achievement tests in the eight areas listed with full-scale scores on intelligence or "IQ" tests (unless there was a wide variance between verbal and performance scores, in which case the higher score was used). If the achievement score was significantly lower than the intelligence score (a severe discrepancy) in one or more areas, the team would determine whether, as a result, the child requires special education services.

Now, another method, called the child's "response to scientific, research-based intervention" (RTI), may also be used.

The IEP Team must determine that its findings of underachievement are not primarily

the result of other disabilities, or cultural, environmental, or economic factors, or limited English ability. If they are, or if the child's underachievement is due to previous failure to appropriately teach the child in reading or math, the child will not be found to have a specific learning disability.

The school must **promptly** request parental consent to evaluate if the child is referred for evaluation, or following a determination that appropriate instruction had been provided and data-based documentation showed lack of achievement. The timelines for evaluating a child for a specific learning disability are the same as with other disabilities. Therefore, if parents request that their child be evaluated, the school cannot use RTI as a basis for extending the evaluation timeline or for denying evaluations.

What Parents Should Know ...

While the "severe discrepancy" method of determining the existence of a specific learning disability was fairly straight-forward and relatively easy for parents to understand, the "response to scientific, research-based intervention" (RTI) method may seem very vague and confusing. IDEA appears to state that schools can use either method with any given child. Parents should ask questions when the RTI method is used if they do not understand what the IEP Team members have told them in regard to what was considered, how it was applied, and how the conclusion was reached regarding their child's eligibility determination. Parents may also ask the school personnel what training they have received in using RTI.

**Evaluation / Reevaluation
Additional Procedures for
Evaluating Children With
Specific Learning Disabilities
- Observation / Specific
Documentation for the
Eligibility Determination**

What the Federal Regs. Say ...

Observation - The public agency must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty. Sec. 300.310(a).

The group..., in determining whether a child has a specific learning disability, must decide to — (1) use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation; or (2) have at least one member of the group ... conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent ... is obtained. Sec. 300.310(b).

In the case of a child of less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age. Sec. 300.310(c).

Specific Documentation for the Eligibility Determination - For a child suspected of having a specific learning disability, the documentation of the deter-

mination of eligibility, as required in Sec. 300.306(a)(2), must include a statement of:

(1) Whether the child has a specific learning disability;

(2) The basis for making the determination, including an assurance that the determination has been made in accordance with Sec. 300.306(c)(1);

(3) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;

(4) The educationally relevant medical findings, if any;

(5) Whether the child does not achieve adequately for the child's age or to meet State-approved grade-level standards consistent with Sec. 300.309(a)(1); and the child does not make sufficient progress to meet age or State-approved grade-level standards consistent with Sec. 300.309(a)(2)(i); or the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards or intellectual development consistent with Sec. 300.309(a)(2)(ii);

(6) The determination of the group concerning the effects of a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and

(7) If the child has participated in a process that assesses the child's response to scientific, research-based intervention, the instructional strategies used and the student-centered data col-

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(cont.)**

lected; and the documentation that the child's parents were notified about the State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided; strategies for increasing the child's rate of learning; and the parents' right to request an evaluation. Sec. 300.311(a).

Each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions. Sec. 300.311(b).

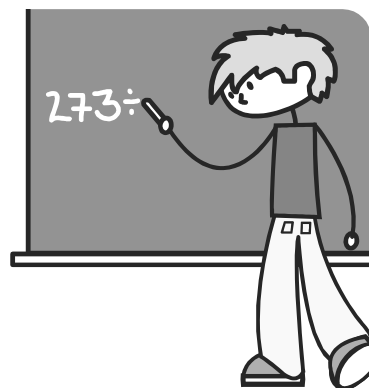
What the Regulations Mean ...

Part of the process for determining whether a child has a specific learning disability is classroom observation. The IEP Team will determine whether to use previous observations, if any, or conduct a new observation as part of the evaluation process.

When a child is determined to have a specific learning disability, the IEP Team must document its decision, including the basis for that determination, any behaviors observed, any educationally-relevant medical

findings, the method used to determine the existence of the specific learning disability and the determination the group made, the determination of the group regarding the effects of any other disability or other factors, and if the school used the response to scientific, research-based intervention (RTI), the data collected and the documentation provided to the parents.

Each team member needs to certify in writing whether they agree with the report's determination, and if not, must submit a separate statement of their conclusions.



What Parents Should Know ...

The determination of a child's eligibility to receive services as a student with a "specific learning disability" must be made by team consensus after having been provided and discussing the evaluation and observation information. If any team member disagrees with the conclusions of the majority of the team, they must submit a statement documenting their own conclusions. This process is used only with specific learning disabilities. Parents may challenge the team's decision through the due process procedures. (See Section XIII).

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- In South Dakota ...**

In
South Dakota ...

South Dakota's administrative rules contain differences from the federal regulations that parents, educators, and other professionals should be aware of, in *bold italics* below:

South Dakota uses the term, "*cognitive disability*," in place of the term, "Intellectual disability," which is used in the federal regulations. In the area of specific learning disabilities, this difference in terms is found at ARSD 24:05:24.01:18 (Specific Learning Disability Defined); 24:05:24.01:19(3) (Criteria for Specific Learning Disability); and 24:05:25:12(6) (Written Documentation of Eligibility for Specific Learning Disabilities).

Observation for specific learning disabilities

- The *school district shall* ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.

The group..., in determining whether a child has a specific learning disability, must decide to — (1) use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation, *as in a response to intervention model*, or (2) have at least one member of the group conduct an observation of the child's academic performance in the regular classroom after

the child has been referred for an evaluation and parental consent ... is obtained, *as in a discrepancy model*. ARSD 24:05:25:11.

Written Documentation of eligibility for specific learning disabilities - For a child suspected of having a specific learning disability, the documentation of eligibility shall contain a statement of ... :

(8) If using the discrepancy model, the group finds that the child has a severe discrepancy of 1.5 standard deviations between achievement and intellectual ability in one or more of the eligibility areas, the group shall consider regression to the mean in determining the discrepancy; and

(9) If using the response to intervention model for eligibility determination, the group shall demonstrate that the child's performance is below the mean relative to age or state approved grade level standards. ARSD 24:05:25:12.

Response to intervention model - School districts that elect to use a response to intervention model as part of the evaluation process for specific learning disabilities shall submit to the state for approval a formal proposal that at a minimum addresses the provisions in 24:05:25:12. ARSD 24:05:25:13.01.

What Parents Should Know ...

When the discrepancy model is used, South Dakota requires use of a statistical "regression formula" chart to determine whether the required standard deviation exists. Unless there is a difference of more than one standard deviation between Verbal and Performance IQ scores, in which case the higher of the two scores is used, the Full-scale IQ score is used for the comparison.