
OSPI Special Education Technical Assistance Paper No. 5 (TAP 5) REVISED

The Individuals with Disabilities Education Act (IDEA): Evaluation Procedures Under Part B

Note: All TAPS are posted on OSPI's Web site at <https://www.k12.wa.us/student-success/special-education/special-education-resource-library>

Purpose

The purpose of this technical assistance paper (TAP) is to provide a general review of special education evaluation requirements. The regulations addressing evaluation procedures, including consent requirements and timelines, are contained in WAC 392-172A-03000 – 03080. This TAP also reviews the general requirements for responding to independent educational evaluations (IEE) addressed at WAC 392-172A-05005. Washington's state regulations are based on the federal regulations contained in 34 CFR Part 300. Both the federal and state regulations are in place to implement the Individuals with Disabilities Education Act of 2004 (IDEA), Part B. When the term "evaluation" is used, it includes both initial evaluations and reevaluations.

This TAP is organized as follows:

- I. Overview
- II. Child Find and Referral Procedures
- III. Initial Evaluations
- IV. Additional Requirements for Evaluating Students with Specific Learning Disabilities
- V. Reevaluations
- VI. Independent Educational Evaluations
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I. Overview

School districts evaluate students to determine initial and continued eligibility for special education services, the need for special education and related services,

and to determine other information for an individualized education program (IEP) team to use to develop appropriate IEPs for eligible students. Therefore, the information used to complete an evaluation or reevaluation report needs to be comprehensive and identify all of the student's needs, regardless of the student's eligibility category.

II. Child Find and Referral Procedures

School districts must have child find procedures to locate, identify, and evaluate students between the ages of 3 to 21 who are suspected of having a disability and may be eligible for special education and related services. The child find responsibility includes an obligation to locate students who are residents of the district; enrolled in the district; home schooled; and, located in other settings such as preschools and day care settings. The child find responsibility also includes students who may not be residents of the district but are enrolled in private non-profit elementary or secondary schools (K-12) that are located in the district. Child find procedures can include providing information on district websites, in parent-student handbooks, at private schools located in the district, and through other community providers. The procedures must also address how district staff members identify students in the school setting who might be in need of an evaluation even when a parent has not made a written referral, and how districts respond when parents orally request an evaluation. When a private school is located within a district's boundaries, the district must also consult with the private school regarding its child find procedures. The district must meet the same referral and evaluation timelines required to evaluate any student, even when the student

attends a private school.

Parents, school district staff, other agency staff, or other persons with knowledge about the child may make a referral requesting that a student be evaluated to determine eligibility for special education. A referral for an evaluation must be in writing. If the person making the request is unable to write, district staff should assist the person in making the referral. When a district receives a written request for an evaluation, the district must notify the parent that the student has been referred and provide the parent with a copy of their procedural safeguards. The district will then make a decision, with the parent's input, about whether or not to evaluate the student. The process for reviewing a referral includes reviewing existing data about the student. Existing data includes, but is not limited to, information provided by the parent, medical information, and information about the student's performance at school or in other settings (such as preschool, private school, home and other settings). Based on this information, the district must make a decision within 25 school days¹ as to whether or not it will evaluate the student. Parents must be invited to meetings that are scheduled to discuss the referral.

If a school district decides the information in the referral does not support the need for an evaluation, it must notify the parent through prior written notice of its decision not to evaluate. The prior written notice must include the reasons why the district does not believe the student needs to be evaluated.

III. Initial Evaluations

After gathering existing data through the referral process, the district's evaluation group then decides what additional assessment

¹ While these timelines are in place for students, sometimes evaluations may need to be completed sooner than the identified referral and evaluation timelines. When a student is transitioning from Part C to Part B, and will be evaluated for eligibility, districts must complete an evaluation and make an eligibility determination so that an initial IEP is in place by the child's third birthday. If a district needs to complete an evaluation due to a request after a disciplinary action, that evaluation must be expedited.

data they may need to determine whether a student is eligible for special education and what special education and related services the student needs. The assessments should provide functional, developmental, and academic information about the student. The persons who conduct the assessments must be trained and qualified to administer them. If the district needs assessments from outside sources in order to conduct a comprehensive evaluation, such as medical or neurological information, it must ensure the outside assessments are conducted by qualified providers, through contract or other means. The district selects the members of its evaluation group.

Before conducting an initial evaluation, the district must receive the parent's informed consent. To ensure the parent has enough information to provide informed consent, the district must provide the parent with prior written notice addressing:

- the decision to conduct an initial evaluation;
- the areas of assessment the district proposes to conduct; and,
- any other information required in the prior written notice (found in WAC 392-172A-05010).

The district must document reasonable efforts used to obtain consent if a parent fails to respond. If a parent does not provide consent for the initial evaluation and the student is enrolled in the public school, the district **may**:

- ask the parent to participate in mediation in order to explain the purpose of the evaluation and obtain the parent's consent through agreement; or,
- request a due process hearing and ask an administrative law judge (ALJ) to issue a decision overriding the parent's refusal to provide consent.

A district is not required to use these procedures to obtain consent for an evaluation. If the district

does not receive consent and does not pursue mediation or due process, it is not in violation of its child find obligations or evaluation procedures. The district should document the parent's refusal and provide notice to the parent that the student will not be evaluated to determine eligibility and without the evaluation, the district cannot provide the student with special education and related services. If a student is enrolled in private school or is home schooled, a district may not use mediation or due process procedures to obtain consent or override a parent's refusal to consent.

After obtaining a parent's informed written consent, the district may proceed with conducting the evaluation. The evaluation must be comprehensive and must address all areas of a suspected disability, including those areas which may or may not be directly related to the suspected eligibility category. Assessment instruments must be administered following test instructions and protocols, in the student's native language or other mode of communication unless it is clearly not feasible to do so. The test administrators also need to take into account any sensory, manual, or language impairments that might affect test results. The evaluation process must be completed within 35 school days after the district receives the parent's informed consent, or after a refusal to consent is overridden through a due process hearing.

The evaluation group must complete an evaluation report using the results of the assessments, information gathered through the review of existing data, and information provided by a parent, addressing:

- whether the student has a disability as defined in the regulations;
- a discussion of the assessments and review of data that supports the conclusion regarding eligibility;
- how the disability(ies) affects the student's involvement and progress in the general education curriculum or preschool

activities;

- recommendations regarding the student's need for special education and related services; and,
- any other information that may be needed by an IEP team to develop an IEP.

The purpose of the evaluation report is to provide enough information for an IEP team to develop a student's IEP. Keep in mind however, that it is through the IEP process that the team makes decisions about what services a student needs, how services will be delivered, the amount of services, the location of services, and other supports that might be needed for the student.

The evaluation group and the parent meet to discuss the results of the evaluation report and make a determination about the student's eligibility. Each member of the evaluation group signs and dates the evaluation report certifying that the evaluation report represents their conclusions. If it does not, that individual member must provide a statement addressing their disagreement. Individuals contributing to the report must also document the results of their individual assessment or observations. Parents must be provided a copy of the evaluation report.

If the student is not eligible for special education, the evaluation group should address whether the student may require a 504 plan to address his or her disability and access to general education services. If there is a separate district person designated as a 504 coordinator, this information should be provided to that person. If the student is eligible for special education and related services, the group may ask for the parent's consent for special education services at the same time it makes the eligibility determination, although many districts wait to obtain the parent's consent at the initial IEP meeting.² If a student is eligible for services, an IEP meeting must be held within

² Remember, parents consent for the initial provision of services, not to the IEP.

30 days of the eligibility determination. If the parent refuses to provide consent for the initial provision of services, a district is not required to hold an IEP meeting to develop an IEP.

IV. Additional Requirements for Evaluating Students with Specific Learning Disabilities.

When an evaluation group is considering whether a student has a specific learning disability, the evaluation group must also include a general education teacher of the student as well as the parent. As part of the evaluation, the student must be observed in one of his or her general education classes or if not in the school setting, in an environment appropriate for that student. Additional procedures for evaluating a student with a suspected learning disability are contained in the regulations at WAC 392-172A-03045 – 03080. Information addressing these requirements is also available in the manuals: “Identification of a Student with a Specific Learning Disability” and “Using Response to Intervention for Washington’s Students.”

V. Reevaluations

A reevaluation is used to confirm a student’s continued eligibility for special education and related services. A reevaluation is not required if the student’s eligibility will terminate because he or she will graduate with a regular high school diploma, or will exceed the age requirement. In these instances, districts must provide the adult student and parent with a summary of performance.

Reevaluations are needed when a student’s needs change to the extent that the current evaluation does not provide enough information for the IEP team to revise the IEP. Examples of this situation could include data suggesting the student needs additional kinds of services not addressed in the evaluation report, or the student’s needs change to the extent that some services are no longer needed. Parents or teachers may also request that a student receive

a reevaluation.

Reevaluations, like initial evaluations, provide the data necessary to develop a student’s IEP. Reevaluations also identify all of a student’s special education and related services needs whether or not commonly linked to the student’s eligibility category. To ensure the district obtains data that provides the student’s IEP team with enough information to develop or revise the IEP, it is important that the IEP team and qualified professionals review the data it has available regarding the student, to determine whether the district needs to conduct additional assessments in order to complete a reevaluation report.

Timelines for reevaluations

Reevaluations can occur:

- Not more than once a year, unless the parent and district agree that a reevaluation should occur sooner; or
- At least once every three years unless the parent and the district agree that a reevaluation is unnecessary.

A reevaluation needs to occur within 35 school days after the district receives the parent’s consent for the reevaluation, 35 school days from the date a district has documented that a parent has failed to respond to the request for consent for the reevaluation, or 35 school days from the date a district provides prior written notice to the parent informing them of the date it will begin the reevaluation process using a review of existing data. The timeline for completing the reevaluation will be less than 35 school days if the 3 year timeline ends sooner.

Review of existing data

To determine whether the student needs additional assessments to complete a reevaluation, the IEP team and other qualified professionals, if appropriate, review existing evaluation data including:

- The student’s most recent evaluation;

- information provided by the parents;
- classroom based and other state and local assessments;
- classroom based observations; and,
- observations by teachers or other service providers.

Based on the review of existing data, the IEP team and other qualified professionals determine whether additional assessments will be needed to determine the student's continued eligibility, whether the student needs additional services or modifications to meet annual goals, and to what extent the student can participate, as appropriate, in the general education curriculum. While this review can occur without a meeting, the review needs to include the data described above which requires parent input.

If the team and other qualified professionals determine that no additional assessments are needed to complete the reevaluation, the district must notify the parent using prior written notice of that determination, and inform the parent that he or she has the right to request additional assessments to determine the student's continued eligibility and special education needs. If the reevaluation will be completed by only using existing data, the district does not have to obtain written informed consent from the parent.

Use of additional assessments

If the team determines additional assessments are needed or the parent requests additional assessments, the district must make reasonable efforts to obtain written informed consent from the parent before conducting the additional assessments. If the parent fails to respond and the district can document its reasonable efforts to obtain informed consent, the district may proceed with the evaluation without informed consent. If the parent of a student enrolled in the district refuses to provide consent, the district **may**:

- ask the parent to participate in mediation to explain the purpose of the reevaluation

and obtain the parent's consent through agreement; or,

- request a due process hearing to ask an ALJ to issue a decision overriding the parent's refusal to provide consent.

A district is not required to use mediation or due process and is not in violation of evaluation procedures if a parent refuses to provide consent for the reevaluation. Districts may not use mediation or due process procedures to override a parent's refusal to provide consent if the student is home schooled or is enrolled in a private school.

VI. Independent Educational Evaluations (IEE)

An IEE is an evaluation conducted by a qualified examiner who is not employed by the school district or responsible for the education of the child. If a parent disagrees with the district's evaluation or reevaluation of their child, the parent may request that the district pay for an IEE. Parents may request one IEE at public expense each time a district conducts an evaluation with which the parent disagrees. The request for an IEE does not have to be in writing, so it is important that staff who work with the student know who to notify in the district when the parent makes such a request. When a parent requests an IEE, the district may:

1. Agree to provide the parent with an IEE at public expense; or
2. Deny the parent's request for an IEE and request a due process hearing within fifteen days to show that its evaluation is appropriate.

When a parent requests an IEE, the district must provide the parent with information about where IEEs may be obtained and the qualifications of independent evaluators. Districts may not impose conditions on IEEs that are inconsistent with the criteria for conducting its own evaluations, including the use of providers outside the district. Districts also cannot impose conditions or timelines that would prevent a

parent's right to an independent evaluation. A district's procedures must address criteria for the location and qualifications of independent evaluation providers. Parents are not limited to the evaluators identified by the district. If the district does not believe the evaluator selected by the parent is qualified to administer the independent evaluation and the parent still wants to use the evaluator, or if the parent has requested reimbursement for an independent evaluation the parent has already obtained, the district must request a due process hearing to address whether the IEE meets agency criteria.

If the district agrees to provide an IEE at public expense, or an ALJ orders a district to pay for an IEE, the district must act without unnecessary delay in providing the IEE. If the ALJ does not require the district to pay for an IEE, a parent may still obtain the IEE at private expense.

Districts must consider the results of any outside evaluation that meets district criteria, even when the parents pay privately for the IEE. This does not mean the district must adopt all the recommendations contained in the IEE. However, it must address any decisions made regarding the recommendations from the evaluation in a prior written notice. Parents may also present the results of an IEE as evidence in a due process hearing.

VII. Conclusion

Evaluations and reevaluations are critical elements in the instructional process. A comprehensive and well-developed evaluation is the foundation of the IEP. A comprehensive and well-developed IEP is the backbone of the provision of services to an eligible student. If an evaluation group properly ensures that the student's evaluation is initially comprehensive, the need for more frequent reevaluations and IEP meetings may be avoided. It is important to note that when making decisions about what information is needed to complete an evaluation, districts and parents should consider all information available about the

student; consider what additional information is needed; and make sure that persons with knowledge about the student are contributing to the instructional decisions based on the assessments. While districts assign a lead person to coordinate an evaluation, decisions about the need for assessment data, and whether to reassess should never be made unilaterally.

Note: This TAP provides general guidance about evaluation requirements under IDEA. This TAP does not address every rule regarding referrals, evaluations and consent. The intent is to supplement and not replace careful study of the regulations.

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To request this material in alternative format, or if you have questions about this TAP or other special education services, please contact:

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(360) 586-0247 (fax) or
email: speced@k12.wa.us

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Equity and Civil Rights
P.O. Box 47200
Olympia, WA 98504-7200
(360) 725-6162

Appendix A: Frequently Asked Questions (FAQs)

1. When does a school district conduct a reevaluation?

A school district conducts a reevaluation when the student's educational or related service needs, including improved academic and functional performance, warrant a reevaluation, or if the student's teacher or parent requests a reevaluation. Evaluations are also used to determine whether the student continues to meet eligibility and whether additions or modifications are needed to enable the student to meet annual goals and participate, as appropriate, in the general education curriculum. Reevaluations must occur at least once every three years, unless the parent and the school district agree that a reevaluation is unnecessary.

Examples of when a district should conduct a reevaluation include: 1) a student is not progressing and minor adjustments to the program have not resolved the student's lack of progress; 2) teachers or parents believe the student needs additional services, or no longer needs services in a particular area; and 3) districts or parents believe the student no longer qualifies for special education and related services.

2. Is a reevaluation required before a change in placement?

Yes. However, determining whether a proposed change in services is a change in placement is made on a case-by-case basis. The Office for Civil Rights (OCR) states that a "substantial or material" alteration to a student's educational program, such as a significant change to the amount or type of services provided constitutes a change in placement. As noted in question one, the following are examples of when to consider whether the student needs a reevaluation: (1) substantially increasing or decreasing the amount or type of services provided to the student because the student's needs have changed; or (2) considering whether the student's needs are not being served in the current setting, and the information contained in the current evaluation does not provide the team with enough information to address the student's changed needs. A proposal to change only the location of services, without materially changing the actual services or a student's access to typically developing peers, is not considered a change in placement.

3. Are new tests always required when a reevaluation is conducted?

No. The first step of the reevaluation process is to review existing data about the student. Existing data include, but are not limited to: information provided by the parents; current classroom assessments; previous evaluation results; state and district assessments; and observations made by teachers and service providers. This review is used to determine whether or not additional information, including new testing, is needed to complete the reevaluation. The review process is completed by IEP team members and other qualified professionals.

If no new testing is needed, the district must notify the parents using prior written notice, stating the district can complete the reevaluation without conducting new tests. If the district believes no new testing is needed, it must notify the parents that they have the right to request new assessments/testing as part of the reevaluation. The school district is not required to conduct new assessments unless requested to do so by the student's parents. The school district is also not required to obtain parental consent when using existing data to complete a reevaluation.

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The reevaluation report is completed using the data gathered through the review, and includes updated present levels and other information needed to assist the IEP team in developing the student's IEP.

4. Is a school district required to obtain parental consent before completing new assessments as part of the reevaluation process?

A district is not required to obtain consent for a reevaluation if the parent fails to respond to the district's request. The district needs to provide the parent with prior written notice addressing the areas of needed assessments, and request a parent's consent to conduct the reevaluation. However, if a parent fails to respond to the district's request and the district takes reasonable measures to obtain consent, the district may proceed with the reevaluation without obtaining parental consent. Reasonable measures 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 parents' home or place of employment and the results of those visits.

5. What should a district do if a parent refuses to provide consent for an initial evaluation or reevaluation?

If the student is enrolled in public school, the district may ask the parents to participate in mediation to obtain their agreement to provide consent to the initial evaluation or reevaluation, or may request a due process hearing to ask an administrative law judge to override the parents' refusal to provide consent. The district is not required to request mediation or a due process hearing.

If the parents refuse to provide consent and the district does not ask them to participate in mediation or request a due process hearing, the school district does not violate its child find obligations, or evaluation and reevaluation procedures. This means that, for an initial evaluation, the process stops and the district will not proceed with an eligibility determination. For a reevaluation, this means that the district has not violated procedures relating to timelines for a reevaluation.

Districts may not use mediation or due process procedures to obtain consent when parents have enrolled their student in private school, or are providing homeschool services to their children.

6. May a district insist that a student be diagnosed by a doctor as part of an evaluation or reevaluation?

Depending on a student's suspected areas of disability, the district may need to obtain a medical diagnosis or other medical information from an outside provider. It may not require the parent to obtain the information before proceeding with the evaluation. A district may also need medical information to rule out other health impairments when determining whether a student is eligible for services as a student with a specific learning disability. If medical or other information is needed to complete the evaluation, the district must pay for the outside evaluation as part of its evaluation process. When the information needed is part of the district's evaluation, the district selects the outside evaluator.

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7. What should a service provider do if they suspect a student no longer needs services, or needs more services than the student is currently receiving?

If a provider believes the services being delivered to a student are no longer appropriate, the provider may not independently remove or alter those services. The IEP team should meet to determine whether it needs to revise the IEP. If the changes materially alter the student's educational program, the IEP team, with other appropriate qualified professionals should review existing data and determine whether additional data is needed to complete a reevaluation, or whether there is enough information from the prior evaluation report and data collected as part of the IEP to revise the IEP.

8. May a district ever supplement an existing evaluation report without conducting a reevaluation?

Supplementing an existing evaluation report should be the exception rather than a common district practice. Districts should not need to supplement an existing evaluation report, if the initial evaluation or reevaluation was comprehensive to begin with. When more information is needed, the district should be reevaluating the student. However, there might be times when despite the district's effort to conduct a comprehensive evaluation, new information is obtained after the evaluation is completed. In these situations, it might be appropriate to supplement the existing evaluation or reevaluation. If this approach is used, the district should verify with all members of the IEP team, and any others who would or should be involved in a reevaluation, that this is the only suspected area of service affected by the student's current needs. Districts also always need to consider any information in an IEE that is obtained that may contain additional information to be considered in revising or amending an IEP.

9. Can a parent request that an IEE take the place of a district evaluation?

Generally, no. An IEE is information that can be considered as part of a district's evaluation, or in any other meeting involving the provision of a free appropriate public education of a student. When a district determines that it needs to conduct an evaluation, it has the right to conduct the evaluation and select the members of the evaluation group, which can include the use of outside providers.

10. Is a reevaluation required before a student receiving special education graduates with a regular diploma or exceeds age eligibility?

No, a reevaluation is not required before a student graduates with a regular high school diploma or becomes ineligible due to age. Under either of these circumstances, the district must provide the parents and adult student with prior written notice and a summary of the student's academic achievement and functional performance, which include recommendations about how to assist the student in meeting the student's postsecondary goals.

11. If a student meets eligibility as a student with a specific learning disability, and the only area of discrepancy is reading, can the evaluation group recommend that the student may need services in writing or math?

Yes. A student is eligible for services under the category of specific learning disability (SLD). Evaluations need to be comprehensive enough to address all of a student's needs. The use of

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achievement and intellectual assessments are only one part of the evaluation process under the SLD category, when districts use the discrepancy model. In addition to assessments, districts must also consider observations of the student and other information gathered as part of the evaluation process, including a discussion of any patterns of strengths and weaknesses. The evaluation report should provide recommendations that address all of the student's needs.

12. If a student qualifies in the developmental delay category and meets a standard deviation in only one area, may the evaluation recommend services in other areas other than the areas meeting the standard deviation?

Yes. A student is eligible for services under the category of developmental delay (DD). Evaluations need to be comprehensive enough to address all of a student's needs, including related services, and other supports. The evaluation group should address the student's needs arising from the disability, just as it would when a student is determined eligible under any of the other eligibility categories.

13. What is the difference between determining that a reevaluation is unnecessary and determining that a reevaluation can be completed using existing data?

When the district and the parents agree that a reevaluation is unnecessary, the district does not complete a reevaluation report and the timeline for the next evaluation is extended for three years. When this agreement is reached with the parents, the district provides them with prior written notice informing them that either the district or the parents may request a reevaluation sooner than the three years, if the student's needs warrant a reevaluation. Agreements that reevaluations are unnecessary should be made by the parent and the IEP team and other qualified professionals and are not unilateral decisions, made by one district staff.

When the IEP team, and other qualified professionals determine they do not need to conduct additional assessments, they complete the reevaluation report using the existing data to update present levels of academic and functional performance and provide recommendations for the IEP team's consideration.

Appendix B: Resources

OSPI Special Education Homepage - <https://www.k12.wa.us/student-success/special-education>

For Families - <https://www.k12.wa.us/student-success/special-education/guidance-families-special-education-washington-state>

Washington Model State Forms:

<https://www.k12.wa.us/student-success/special-education/program-review/model-forms-services-students-special-education>

All TAPs - <https://www.k12.wa.us/student-success/special-education/special-education-resource-library>

Chapter 392-172A WAC - <http://apps.leg.wa.gov/wac/default.aspx?cite=392-172A>

Identification of Students with Specific Learning Disabilities - State of Washington Severe Discrepancy Tables Updated December 2014, age range on school age DAS-II corrected (page 18) (https://www.k12.wa.us/sites/default/files/public/specialed/pubdocs/sld_guide.pdf)

Specific Learning Disability (SLD) FAQ Document (https://www.k12.wa.us/sites/default/files/public/specialed/pubdocs/sld_faq.pdf)

Using Response to Intervention (RTI) for Washington's Students: (<http://www.k12.wa.us/RTI/default.aspx>)

A Guide to Assessment in Early Childhood: Infancy to Age Eight (https://www.k12.wa.us/sites/default/files/public/earlylearning/pubdocs/assessment_print.pdf)

Questions and Answers on Individualized Education Programs (IEPs), Evaluations and Reevaluations (OSEP):

https://sites.ed.gov/idea/files/policy_speced_guid_idea_iep-ga-2010.pdf