

# SPECIAL EDUCATION IN NORTH DAKOTA

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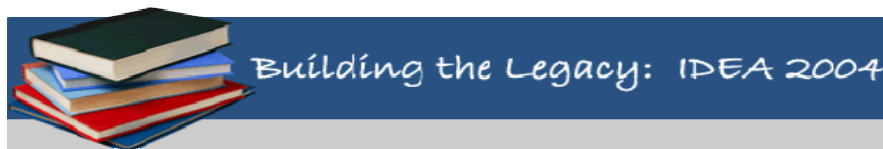
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## ***Guidelines: Evaluation Process***



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*United States Department of Education, Office of Special Education Programs (OSEP)*

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## Introduction

The Department of Public Instruction, Office of Special Education, has prepared these guidelines to assist educators in the task of locating, identifying, and evaluating children and youth with unique educational needs. The *Guidelines: Evaluation Process*, provides information regarding required practices and recommended procedures for North Dakota schools in the areas of:

- Public awareness
- Child find
- Screening
- Response to Intervention
- Referral
- The complete evaluation process

### Benefits of a Comprehensive Evaluation Process

- Allows input from a variety of sources.
- Focuses assessment on educationally relevant questions.
- Considers the student's environments, influences, and experiences.
- Considers and accommodates cultural, environmental, economic, social-emotional, motor and sensory issues.
- Assures that appropriate procedures are used to answer the questions.
- Assures complete information and accurate identification.

The terms evaluation and assessment are used in federal regulations and in the literature. Federal regulations define evaluation as procedures used to determine whether a child has a disability and needs special education and related services. The terms initial evaluation and reevaluation are used consistently in the federal regulation headings to describe the overall decision making in regard to eligibility for special education. Hereafter, in the document, reference to evaluation and to reevaluation implies the complete evaluation process.

The evaluation process is an active, on-going process that utilizes relevant information from a full range of sources (home, school, and community). The evaluation process supports the instructional process, providing information that improves student outcomes. The evaluation process recognizes individual experiences and differences. This process must be nondiscriminatory and nonbiased. The findings of the evaluation process will:

- determine if the student has a disability;
- provide vital information relating to the academic, developmental and functional needs of the child; and
- guide decision making in determining the appropriate individualized educational programming for each child with a disability to enable the child to be involved and progress in the general education curriculum.

The basis for location, identification, and evaluation of students with disabilities is the Individuals with Disabilities Education Improvement Act (IDEA 2004) which mandates that school districts locate and evaluate children and youth suspected of having a disability. Each school district is required to have an ongoing method to locate, identify, and evaluate children suspected of having a disability. This ongoing system should include collaboration with agencies that locate and serve children and youth with disabilities. The interaction between school districts and local agencies assists the school and community in anticipating long-range needs to better serve all children and youth with disabilities.

This document includes the IDEA 2004 revisions pertaining to identification and evaluation. With regard to evaluation, the IDEA 2004 emphasizes using information from general education interventions, researched-based assessments, existing data, information concerning behavior, and information on how the child can be involved in the general curriculum. There is a continued emphasis on the importance of input from the child's parents during: the initial evaluation process; in determining eligibility for special education services and placement decisions; and during the reevaluation process. The reauthorization is viewed as an opportunity to review, strengthen, and improve the IDEA to better educate children with disabilities and enable them to achieve quality education.

### ***Location and Identification Public Awareness and Child Find***

School districts must conduct activities for creating public awareness of special education services, advising the public of the rights of children and parents, and alerting community residents to the need for identifying and serving children who are in need of special education and related services. This includes: identification and location of children attending private schools; children who are wards of the state; highly mobile children such as migrant and homeless children; and children who are suspected of having a disability even though they are progressing from grade to grade.

Methods used by school districts to conduct the awareness activities include but are not limited to the following:

- utilization of various local media resources including television, radio, and newspaper for public service announcements and print advertisements, as well as guest appearances on local radio and television programs;
- development of communication links with various agencies that provide services to children eligible for special education within the community, including dissemination of information on child find activities to agencies and programs such as Head Start and other early childhood and child care programs, health services, hospitals, clinics, pediatricians, pediatric nurses, and social service professionals involved in child and family services;
- direct contact activities with members of the community, including those who may not easily understand English or who may live in rural or isolated geographic areas. Examples of such activities are presentations at community meetings, business group meetings, church sponsored meetings, and meetings of public employees and officials; and
- notices posted on school district websites and bulletin boards in public places such as supermarkets, laundromats, gas stations, senior citizens centers, human service centers, and county social services offices.

## Sec. 300.111

**Child find**(a) *General.*

(1) The State must have in effect policies and procedures to ensure that—

- (i) 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; and
- (ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.

(b) *Use of term developmental delay.* The following provisions apply with respect to implementing the child find requirements of this section:

- (1) A State that adopts a definition of *developmental delay* under § 300.8(b) determines whether the term applies to children aged three through nine, or to a subset of that age range (e.g., ages three through five).
- (2) A State may not require an LEA to adopt and use the term *developmental delay* for any children within its jurisdiction.
- (3) If an LEA uses the term *developmental delay* for children described in § 300.8(b), the LEA must conform to both the State's definition of that term and to the age range that has been adopted by the State.
- (4) If a State does not adopt the term *developmental delay*, an LEA may not independently use that term as a basis for establishing a child's eligibility under this part.

(c) *Other children in child find.* Child find also must include—

- (1) Children who are suspected of being a child with a disability under § 300.8 and in need of special education, even though they are advancing from grade to grade; and
- (2) Highly mobile children, including migrant children.

(d) *Construction.* Nothing in the Act requires that children be classified by their disability so long as each child who has a disability that is listed in § 300.8 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act.

## Screening

As part of child find responsibilities school districts can conduct screening activities. Screening activities assist in identifying students who are at risk of not progressing according to expectations or who are suspected of needing additional supplemental services. As part of the district's screening process, qualified personnel may identify risk factors that impact the student's ability to learn in areas such as:

- vision
- hearing
- speech and language
- social-emotional or mental health
- preschool developmental areas, and
- secondary-level students who are at higher risk of dropping out or who have dropped out of school to verify that the reasons for dropping out are not related to a previously unidentified disability

The result of the screening process is a systematic collection of information for every student screened. The professional(s) that review the results of the screening need to determine: 1) whether the student should be screened again at a later time; 2) referred for follow-up services by the school or another agency; or 3) referred for a comprehensive evaluation.

### Screening Procedures for Behavior Concerns

When planning screening procedures for behavior concerns, the identification process must be placed within the larger context of the school operation. Sometimes, problems perceived as student problems are in fact system problems. Most student behavior concerns can be addressed through school-wide and classroom-based systems, such as school-wide Positive Behavior Supports (PBS). For those students who are unable to benefit from pre-established, well-defined rules and supports, there may be a need for additional screening and consideration of further individualization of the student's educational program.

## Screening for Instructional Purposes

In addition to screening processes to identify at-risk students, the child's classroom teacher or a specialist may complete a screening as part of the instructional process. This type of screening is considered to be a relatively simple and quick process that can be used with groups of children and is not considered to be an evaluation to determine eligibility for special education and related services.

### Sec. 300.302

#### Screening for instructional purposes is not evaluation

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

**Intervention Process**

For school-age children, follow-up services may be provided through an intervention process. This could be through the Response to Intervention process (RTI) or a building level team process such as the Building Level Support Team (BLST). Some schools refer to this as the teacher assistance team (TAT).

The BLST process is a general education activity that is used to provide support to the classroom teacher. A structured problem-solving process is used by educators and parents to develop interventions for a student who is experiencing difficulty in classroom achievement or behavior.

**Potential Follow-up Activities as a Result of Screening**

- Rescreening
- Referral to another agency
- Referral to the Building Level Support Team
- Participation in the Response to Intervention process
- Referral for diagnostic assessments
- Resource packets provided for parents

RTI is the practice of providing high-quality instruction and interventions matched to student need, monitoring progress frequently to make decisions about changes in instruction or goals and applying child response data to important educational decisions. RTI can be applied to decisions in general, remedial and special education, creating a well-integrated system of instruction/intervention guided by child outcome data. Optimal learning outcomes occur when students' skills and abilities closely match the curriculum and instructions within the classroom. Quality classroom instruction usually provides a good match for students. With RTI, struggling students can be identified early and provided appropriate instruction, thus increasing the likelihood that they can be successful.

It is strongly recommended that parents be involved from the very beginning in any intervention process. If parents are involved in the attempts to improve learning for the child, they will be more knowledgeable about issues regarding their child's education.

It is important to note that a team process such as the BLST and RTI assists in planning interventions for children ages birth to five who are experiencing developmental delays or displaying problems in other areas. Personnel in programs such as Head Start, Early Intervention Programs and other child care settings have as much need for a support system as do teachers of elementary and secondary students. Special education personnel with expertise in early childhood education for children with disabilities should be available when such expertise is needed.

For children ages birth to three, screening results may indicate to the team a need for the services provided through the ND Department of Human Services, Developmental Disabilities Division and local Early Intervention Programs. Right Track is a ND Department of Human Services program for families of children ages birth to three who may be at risk for developmental delays. Right Track staff provides developmental screenings, resources relating to child development, information and referrals to local, state, and national organizations.

If the follow-up services and interventions tried by the parent and school or agency personnel do not assist the student in addressing the difficulty experienced, the process of collecting additional information should be initiated, in a timely manner, through a referral for a comprehensive evaluation.

## **Referral for Evaluation**

School districts and other agencies involved in providing services to children with disabilities are responsible for having a written referral process in place. The procedures for parental and agency referral must be part of the school's written referral process. This process must include the written policies, procedures, and forms required to ensure a comprehensive referral process.

The school district is responsible for informing parents of the referral for a comprehensive evaluation. The school must provide written notice, which includes a complete listing of procedural safeguards. Explanation of the purposes and nature of the proposed evaluation should occur in a dialogue with parents. This critical step is part of the ongoing communication that must take place with parents.

The following items are areas that impact the student's learning and should be addressed as part of the written referral:

- reason for referral, including specific questions raised by personnel who are requesting the referral;
- observations of behavior and/or learning patterns that interfere with the student's ability to succeed in the classroom or natural setting;
- basic biographical data for identification purposes and additional personal data with educational implications significant to the analysis of the student's performance and/or behavior; and
- a brief summary of interventions to accompany the written referral, including a delineation of attempts to address the difficulty experienced within the general educational setting and the results of such attempts. When a child is referred without appropriate intervention information (i.e., a preschool child or a parent referral) the evaluation planning process should address modifications and adaptations to the various natural and learning environments.

### **Parental consent must be obtained before:**

- selective screening;
- conducting an initial evaluation or reevaluation; and
- initially providing special education and related services.

The parent of a child or the school district may initiate the initial evaluation procedures. Persons such as employees of the school district or other public agencies may identify children who might need to be referred for an evaluation. However, it is the parent of a child and the public agency that have the responsibility to initiate the evaluation procedures. District policy and procedures must identify the individual(s) who will serve as the school district representative to initiate the evaluation procedures.

The public agency proposing to conduct an initial evaluation must make reasonable efforts to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability. This includes the parent of a child who is a ward of the State. These efforts must be documented using procedures such as: a detailed record of telephone calls made or attempted and the results of the calls; copies of correspondence sent to parents such as prior written notice forms and any responses received from the parents.

An exception to the parental consent requirements for initial evaluations is for a child who is a ward of the State who is not residing with the child's parent. The exception applies if:

- the public agency has made reasonable efforts to obtain the parent's consent, but is unable to discover the whereabouts of the parent,
- the rights of the parent of the child have been terminated under State law, or
- the rights of the parent to make educational decisions have been subrogated by a judge under State law and consent for the initial evaluation has been given by an individual appointed by the judge to represent the child.

Parents must understand the purpose of the referral for an evaluation and that their consent is voluntary. If the parents of a child with a disability, enrolled or seeking to be enrolled in a public school, refuse consent for evaluation or fails to respond to the request to provide consent, the school may pursue consent for evaluation by using mediation or due process procedures.

The initial evaluation process must be completed within 60 calendar days after the parent of the child provides written consent for the evaluation. Exceptions to the 60 calendar day timeline are if:

- The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or
- A child transfers to a school in a different public agency before an evaluation has been completed, if the new school is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and new public agency agree to a specific time when the evaluation will be completed.

The meaning of "repeatedly fails" or "refuses to produce" will vary depending on the specific circumstances in each case. For example, a situation in which a child is absent from appointments because the child is ill would be treated differently than if a parent repeatedly failed to keep scheduled appointments for their child. Similarly, if a parent failed to keep scheduled appointments when a public agency repeatedly scheduled the evaluation to accommodate the parent's schedule is different than situations in which a public agency makes no attempt to accommodate a parent's schedule. School districts must establish policies and procedures relating to this process.

Beginning October 1, 2009, two additional exceptions to the 60-day timeline will be allowed:

- *Adverse Weather Conditions.* An extension is necessary because of extreme weather that prevented or interfered with the evaluation and the extreme weather is documented; and
- *Limited Access to Qualified Evaluators:* Either party establishes to the NDDPI's satisfaction that access to a qualified evaluator is so limited that the evaluation cannot occur in the initial 60 days.

The district will be required to have a variety of documents supporting their decision to delay. For example, the district would be required to submit documentation detailing the attempts at making an out-of-state appointment, indicating the date of the first attempt, and documents indicating the waiting period for an appointment at the outside agency. If weather conditions caused the delay, documentation from the ND State Department of Transportation could be submitted as proof.

**Highly Mobile Children**

Congress recognized the unique problems homeless children face and included several new provisions in the Act to ensure that homeless children and youth with disabilities have access to the same services and supports as all other children with disabilities. The Department recognizes that the high mobility rates of some homeless children with disabilities (as well as other children, including some children who are in the custody of a State child welfare agency) pose unique challenges when a child is referred for an evaluation, but moves to another district or State before an evaluation can be initiated or completed. In such cases, the Department believes it is important that the evaluations be completed as expeditiously as possible, taking into consideration the date on which the child was first referred for evaluation in any LEA. However, the high mobility rate of these children and their potential range of evaluation needs means that any specific expedited timeframe could be both too long to ensure that all children are evaluated before they move, and too short to be reasonable in all circumstances. *8/14/06 Federal Register, Vol. 71 No. 156, page 46637*

If the school personnel do not suspect that the child has a disability, they may refuse to evaluate the child. The school must inform the parents in writing of its reasons for refusal. However, if the parents suspect the child has a disability that requires special education, they may pursue an evaluation using mediation or due process hearing procedures.

**Sec. 300.300****Parental consent***(a) Parental Consent for Initial Evaluation*

- (1)
  - (i) The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under § 300.8 must, after providing notice consistent with §§ 300.503 and 300.504, obtain informed consent, consistent with § 300.9, from the parent of the child before conducting the evaluation.
  - (ii) Parental consent for initial evaluation must not be construed as consent for initial provision of special education and related services.
  - (iii) The public agency must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.
- (2) For initial evaluations only, if the child is a ward of the State and is not residing with the child's parent, the public agency is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if--
  - (i) Despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the child;
  - (ii) The rights of the parents of the child have been terminated in accordance with State law; or
  - (iii) The rights of the parent 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.
- (3)
  - (i) 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 under paragraph (a)(1) of this section, 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 in subpart E of this part (including the mediation procedures under § 300.506 or the due process procedures under § 300.507 through § 300.516), if appropriate, except to the extent inconsistent with State law relating to such parental consent.
  - (ii) The public agency does not violate its obligation under § 300.111 and § 300.301 through § 300.311 if it declines to pursue the evaluation.

**Sec. 300.301****Initial Evaluation**

- (a) *General.* Each public agency must conduct a full and individual initial evaluation, in accordance with §300.305 and 300.306, before the initial provision of special education and related services to a child with a disability under this part.
- (b) *Request for initial evaluation.*  
Consistent with the consent requirements in § 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.
- (c) *Procedures for initial evaluation.* The initial evaluation—
  - (1)
    - (i) Must be conducted within 60 days of receiving parental consent for the evaluation; or
    - (ii) If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and
  - (2) Must consist of procedures—
    - (i) To determine if the child is a child with a disability under § 300.8; and
    - (ii) To determine the educational needs of the child.
- (d) *Exception.* The timeframe described in paragraph (c)(1) of this section does not apply to a public agency 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 public agency after the relevant timeframe in paragraph (c)(1) of this section 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 under § 300.8.
- (e) The exception in paragraph (d)(2) of this section 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.

## Evaluation Planning Process

Each component of the evaluation planning process serves a function to ensure that a comprehensive and appropriate evaluation is completed for each child. The evaluation planning process components include:

- identification of a multidisciplinary team;
- completion of Student Demographics;
- development of a Student Profile;
- formulation of assessment questions on the Assessment Plan;
- completion of the individualized assessments; and
- preparation of an Integrated Written Assessment Report.

### Multidisciplinary Team

Refer to the **Guidelines: Identification and Evaluation of Students with Specific Learning Disabilities** (June 2007) for additional evaluation procedures.

Once a referral for a comprehensive evaluation is made, a multidisciplinary team (MDT) must be identified. The members of the MDT may represent the same roles as the members as the IEP team. Input must be obtained by multidisciplinary team members who, because of their expertise or special knowledge of the student, can observe, gather data, and assess any aspect of the student's functioning that may be affected by the suspected disability.

The multidisciplinary team has the responsibility to:

- develop a Student Profile;
- develop an Assessment Plan with modifications, as needed;
- carry out the Assessment Plan;
- analyze the findings throughout the process; and
- prepare an Integrated Written Assessment Report to summarize pertinent observational data and other relevant assessment results that will determine if the student has a disability that adversely affects education.

#### *§ 300.301 Initial evaluations.*

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

#### *§300.305 Additional Requirements for evaluations and reevaluations.*

(a) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, if appropriate, must –  
1) Review existing evaluation data on the child...

The number of persons involved in the evaluation process will vary from one student to another. The following list includes examples of persons who may be considered as members of the multidisciplinary team, based on what is known or suspected in terms of the student's needs.

- The **parents** play an important role in the evaluation process and must be a part of their child's multidisciplinary team. It is critical to obtain input from parents so the team will fully understand the scope of the student's needs. The parents are able to contribute valuable information about their child including developmental milestones, healthcare issues, behavior in the home and other settings, homework completion, recreational interests, and vocational interests.
- The **special education teacher** of the child, or where appropriate, a special education provider, is a vital team member. The special education teacher should have experience in conducting and interpreting assessment for the suspected disability area. If more than one disability is suspected, persons knowledgeable in each disability should be included. The data gathered during the referral process will assist in determining the appropriate special education personnel.

- The **representative of the local education agency (LEA)** is a key member of the multidisciplinary team because of the administrative and instructional leadership inherent in this position. The LEA representative ensures that all necessary activities are carried out throughout the special education process. He/she must have the authority to commit and monitor the use of resources, including personnel. If needed, the LEA representative can consult with special education administrative personnel regarding procedural concerns and funding questions that may arise throughout the evaluation process. The LEA representative is knowledgeable about the general education curriculum and can provide a broader perspective regarding the child's needs within the curriculum. Finally, the LEA representative can provide information to the team on how the student functions outside the classroom, particularly when behavior is a concern.
- The **regular education teacher** is a key member of the multidisciplinary team because of his/her involvement in any intervention activities. The child's classroom teacher will provide vital information concerning the child's level of functioning within the general education curriculum and the instructional implications that result from the disability. The team depends on the classroom teacher for reporting classroom data such as the outcomes of diagnostic teaching, interactions with other students, and day-to-day performance. If the child does not have a regular education teacher, then the regular education teacher or other person qualified to teach a child of that age would be appropriate.
- An **individual who can interpret the instructional implications of evaluation results** will provide the team with valuable information linking assessment findings to the child's ability to function in the regular education environment. This professional could serve as the regular education, special education, or LEA member already part of the team.

Other persons may be asked to participate in the evaluation process depending upon the information needed about the student. Members of the school's intervention team (BLST or RTI) who have background information on the student may be part of the child's evaluation team. Similarly, agency personnel, private practitioners, and employers may be team members if they bring critical information about the child.

A multidisciplinary team ensures that observations and other sources of data are gathered from a variety of settings in which the student demonstrates varying strengths and needs. The data gathered by each of the team members will be used as the basis for the Integrated Written Assessment Report.

### ***Student Demographics***

The multidisciplinary team will complete the demographic information regarding the student who has been referred for evaluation. Identifying information establishes the student's educational background, provides child count information, and ensures accurate data management.

### ***Student Profile Evaluation***

The multidisciplinary team completing the evaluation will develop a profile of the student based on the information previously gathered from all available sources. The team must gather relevant functional, instructional, and developmental information about the child.

***Purpose for Assessment.*** The reason for the evaluation must be documented on the *Student Profile Evaluation Form*. If the student is being evaluated for the first time, check *Initial Evaluation*. If a student has been dismissed from special education services and is being evaluated for another suspected disability, this is also considered an initial evaluation. However, if a student is being evaluated within three years of the most recent comprehensive evaluation to confirm the student's disability, the second option, *Reevaluation*, should be checked. The third option, *Evaluation or Reevaluation for Individual Program Needs*, is checked when:

- assessment information is needed to verify current programming,
- new questions arise calling for additional assessment procedures,
- a change in student performance is noticed, or
- prior to a student's dismissal from special education and related services.

#### **Century Code 15.1-32-01. Definitions.**

4. a. "Student with a disability" means an individual who is at least three years of age but who has not reached the age of twenty-one before September first of the year in which the individual turns twenty-one and who requires special education and related services...

Prior to dismissal from receiving special education and related services, the school district must complete the evaluation process before determining that the child is no longer a child with a disability. This includes a child who is dismissed from a single service, but who continues to receive other special education or related services. A comprehensive evaluation is not required before the termination of a student's eligibility due to exceeding the age of eligibility for FAPE or due to graduation with a regular high school diploma. For these individuals the MDT must provide a Summary of Performance (SOP). The SOP must include information about the student's academic achievement and functional performance, as well as recommendations on how to assist the student in meeting the student's postsecondary goals. Additional information relating to the development of an SOP and the recommended state form can be found in Appendix C.

The student profile evaluation will:

- provide a comprehensive picture of the child;
- identify patterns of current student functioning; and
- indicate areas where further information is needed.

***Student Characteristics/Influence.*** The team needs to consider a variety of characteristics and influences in a student's life when organizing the information already known about the student.

These factors, which are recorded under the column *Student Characteristics/Influences*, represent broad categories rather than specific data findings. The categories may include, but are not limited to cognitive characteristics, physical characteristics, adaptive characteristics, classroom characteristics, and environmental influences.

***Source of Information.*** The team should consider a variety of information sources. These may include data gathered from interventions, teacher reports, medical reports, student cumulative file, previous assessment reports, referral forms, data collected from other agencies, and information given by the student and parent(s). These sources are recorded under the *Source of Information* column.

***Findings.*** The specific information from each source is recorded in the *Findings* column. Such information reflects the student's learning characteristics and will provide direction for the assessment plan. In addition, those factors that precipitated the referral for evaluation should be noted as a significant part of the student's profile. Evidence of strengths and patterns of needs provide insight relating to the student, but may raise new questions that can be answered by gathering additional information relating to the child.

***Additional Information Needed.*** After all available information has been organized and reviewed, the team will identify areas where additional information is needed to determine:

- whether a disability exists or, in the case of a reevaluation, if a disability continues to exist;
- the current levels of academic achievement related to the developmental needs of a child;
- whether the child may need 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: (1) to meet the measurable annual goals in the child's individualized education program, and (2) to be involved in and progress in the general education curriculum, or for a preschool child, to participate in age appropriate activities.

The need for additional information is the basis for constructing the Assessment Plan. Whether additional information is needed must be determined on a case-by-case basis. Refer to the Reevaluation section for further guidance regarding *Additional Information Needed*.

In some cases, it may be decided that no additional information is needed to determine or to confirm the child has a disability. If the child's team determines that no additional information is needed, an Integrated Written Assessment Report must be completed to summarize all the information reviewed and to verify agreement that all current information has been gathered to make disability determination decisions.

### **Assessment Plan**

The development of the Student Profile leads the multidisciplinary team into the evaluation planning process by defining what additional information is needed. The Assessment Plan details how the additional information will be obtained and by whom.

**Considerations for Nonbiased Assessment.** Throughout the evaluation planning process, it is important to identify all factors that may mask ability and cause the student to appear to have a disability. The Considerations for Nonbiased Assessment section on the state-recommended form allows the team to address factors which may interfere with obtaining a true picture of the student's functioning.

School districts have an obligation to review their selection and administration of assessments for potential discrimination. Tests and other assessment materials used to evaluate a child must be selected and administered so as not to be discriminatory on a racial or cultural basis. They must be provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible.

#### **Sec. 300.305 (e)**

**Evaluations before change in eligibility.** (1) Except as provided in paragraph (e)(2) of this section, a public agency must evaluate a child with a disability in accordance with §§ 300.304 through 300.311 before determining that the child is no longer a child with a disability. (2) The evaluation described in paragraph (e)(1) of this section is not required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under State law. (3) For a child whose eligibility terminates under circumstances described in paragraph (e)(2) of this section, 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 postsecondary goals.

**Sec. 300.304 (c)(1)(i)(ii)**

- (c) *Other evaluation procedures.* Each public agency must ensure that—
- (1) Assessments and other evaluation materials used to assess a child under this part—
    - (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;

Students under extreme stress or students without benefit of the cultural or educational experiences assumed in the assessment may perform poorly in assessment situations. Those same factors may also cause students to perform poorly in classroom activities.

The team must consider how the following factors may interfere with the evaluation process:

- *Cultural.* Information about the child's culture and his/her receptive and expressive language abilities must be gathered to assist in providing nonbiased assessments.
- *Environmental.* It is important to consider all of the student's environments and make accommodations during the evaluation process so the student's true abilities are reflected.
- *Motor or Sensory.* When assessing a student, the evaluation procedures and instruments must measure the concerns expressed through the evaluation process and consider motor or sensory impairments. For example, a test of cognitive functioning administered to a child with a hearing impairment must assess cognitive functioning and not misinterpret assessment results based on a communication disability.
- *Socioeconomic Factors.* The team needs to be sensitive to social and economic factors that may limit exposure to varied environments.
- *Emotional.* Psychological conditions can interfere with the child's ability to provide valid responses to assessment tasks. Awareness of a child's emotional status will permit a true picture of that child's capacity.

**Questions to Answer through Assessment.** In the assessment planning process, the team will develop questions regarding student performance. The questions will be derived from the *Additional Information Needed* area on the Student Profile form and documented on the *Questions to Answer through Assessment* section of the Assessment Plan form.

Questions should focus on all areas related to the child's needs, methods of learning, and learning environment. In the area of specific learning disabilities, specific issues required by federal regulations must be addressed (e.g., the determination of the team concerning the effects of environmental, cultural or economic disadvantage). These issues will guide the questions to be asked.

The more specific the questions are, the greater the likelihood that the team will select assessment procedures that yield educationally relevant data. Based on the questions asked, the team will construct an Assessment Plan for gathering needed assessment information.

**Assessment Procedures.** The multidisciplinary team will outline specific procedures to be followed when gathering assessment information in the *Assessment Procedures* section of the Assessment Plan. No single procedure can be used as the sole criterion in deciding whether a child has a disability. A team 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.

The information pertaining to the child can be gathered using a variety of approaches and sources. Traditional assessments are formal, standardized tools designed to assess a specific area or level of functioning. These are used to gather in-depth information related to the student's capabilities and performance.

Standardized tests must be validated for the specific purpose for which they are used and be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producers of the tests. If an assessment is not conducted under standard conditions, information about the extent to which the assessment varied from standard conditions, such as the qualification of the persons administering the test or the method of test administration, needs to be included in the assessment report. The team can then evaluate the effects of these variances on the validity and reliability of the information reported and determine whether additional assessments are needed. Examples of traditional assessment tools are:

- Woodcock-Johnson Psychoeducational Battery-Revised;
- Wechsler Intelligence Scales for Children-Revised;
- AAMR (American Association of Intellectual Disability) Adaptive Behavior Scale-School; and
- Statewide achievement tests such as the ND State Assessment and the ND Alternate Assessment

Another way to gather valuable information is through the use of assessment procedures that are not standardized. These methods provide opportunities to gather a wide range of information about the student's performance across several environments.

Examples are:

- utilizing information gathered through the Building Level Support Team or Response to Intervention process;
- observing the student in various learning environments;
- utilizing information and records in the student's cumulative folder;
- analyzing the student's work samples including classroom-based assessments;
- implementing diagnostic teaching methods or other systematic methods of instruction; and
- interviewing persons who can provide key information (e.g., student, parent, previous teachers, community/neighborhood people).

***Person(s) Responsible.*** The list of questions that have been formulated and need to be answered will determine who will assist in gathering the data, and whether additional persons need to be added to the multidisciplinary team.

#### **Other Considerations for Developing the Assessment Plan**

The content of the Assessment Plan will be determined by the data already available and the information that still needs to be gathered. When reviewing existing data on the child, the team should include:

- assessments and information provided by the parents of the child, private practitioners and agency personnel;
- current classroom-based, local and State assessments and classroom-based observations; and
- observations by teachers and related services providers.

Strategies to implement the Assessment Plan will vary according to the individual student needs. The evaluation process will determine if the student has a disability and because of the disability, needs special education and related services. However, the range of needs reported, the complexity of those needs, and the age of the student will determine the type and amount of assessment required. During the evaluation process, if the team determines that assessment in any area is incomplete, the plan should be revised.

The team's conclusions should be documented as each area is addressed. The written Assessment Plan will become a working document for each team member and will serve as a reference for accountability.

### **Assessment Considerations for Secondary-Level Students**

The IDEA 2004 requires that postsecondary goals for students 16 and older be based on age-appropriate transition assessments related to education or training, employment, and where appropriate, independent living skills. Information from age-appropriate transition assessments will assist IEP teams in making informed decisions about the needs of the student regarding the achievement and the appropriateness of their postsecondary goals.

Although the broad purpose of transition assessments will vary depending on the individual and the setting, consideration should be given to the following questions during the assessment planning process;

- What knowledge and skills does the student need to successfully enter employment, postsecondary education, adult services, independent living, or community participation?
- What knowledge and skills does the student currently demonstrate in each of these areas?
- What knowledge and skills does the student still need to acquire over the next few years?

Types of transition assessments may include: behavioral assessment information, aptitude tests, interest and work values inventories, cognitive and achievement tests, personality or preference tests, career maturity or readiness tests, work-related temperament scales, and transition planning inventories.

### **Functional Behavioral Assessment Considerations**

A Functional Behavioral Assessment is a problem-solving process. The process assists the team in discovering relationships between factors in the school environment and a student's behavior. It is not a single test, but rather a systematic way of collecting information and analyzing it. A Functional Behavior Assessment (FBA) will yield information that is useful in developing positive behavioral supports.

An FBA provides critical information for instructional programming, the teaching of alternative skills, and responses to problem behaviors including crisis management and long-term prevention. Problem behaviors often adversely affect a student's quality of life in terms of relationships, access to preferred activities, and inclusion with same-age peers who do not have disabilities. Appropriate behavioral skills are also crucial to a student's successful participation in home, workplace, and community settings.

Functional Behavior Assessments can be conducted by professionals with expertise in behavior measurement and analysis, and with backgrounds in educational strategies, methods, and curriculum. This combination of competencies is necessary to analyze the ecology of the student's classroom, the student's interactions with instructional tasks, curriculum materials, classroom variables, and peers. University programs in school psychology, social work, mental health counseling, and special education teacher education routinely include both coursework and field-based experiences in analyzing behaviors, developing interventions to resolve behavior problems, and collaborating with multidisciplinary teams.

### ***Integrated Written Assessment Report***

The team will write a report that integrates findings from all sources. The report should consider all current and relevant data that has been gathered and reviewed to make disability determination decisions. The integration of all assessment data ensures that attention has been given to observations and other information shared by each team member. In addition, it protects the student from being labeled inappropriately, which might occur if a decision were made by one person or on the basis of one procedure or situation.

The Integrated Written Assessment Report (IWAR) needs to be written in a manner that is understandable to parents and other professionals; it should not reiterate test scores that are not meaningful to parents or others. The school must provide a copy of the IWAR and the documentation of determination of eligibility to the parents.

Each of the areas listed and discussed below should be considered and documented during the team's analysis of the assessment findings:

- observational information relating to the student's current level of functioning;
- input from all team members that reflects all areas of the student's current level of functioning;
- consideration of nondiscriminatory procedures that were addressed throughout the evaluation process;
- all other current and relevant data relating to the child; and
- determination of the child's disability.

### **Observational Findings**

The written findings need to reflect the relationship of observational information to the student's current levels of functioning. If a student is less than school age, a team member should observe the student in an environment appropriate and familiar to the student. A summary report based on team analysis ensures that observations are not only recorded and shared but that attention is given to observations of the student's ability to process information, express an idea, or perform a skill. Since observational data may either support or conflict with conclusions based on other assessment procedures, the inclusion of such data is critical.

**Sec. 300.305****Additional Requirements for evaluations and reevaluations.**

- (1) Review of evaluation data on the child including-
  - (i) Evaluations and information provided by the parents of the child;
  - (ii) Current classroom-based, local, or State assessments, and classroom-based observations; and
  - (iii) Observations by teachers and related service providers; and

**Consideration of Input from all Team Members**

An Integrated Written Assessment Report enables all multidisciplinary team members, including the parents, to know whether their assessment information and observations were considered. A student's unique patterns of functioning, particularly for students where problems are complex, will emerge only after the team's joint analysis of all input. Conclusions drawn by an individual without benefit of discussion and deliberation with other team members typically fail to describe complex interactions and are less likely to reconcile inconsistencies in the data. It is important that contradictions in data be carefully considered and explained.

The team's conclusions are derived from the assessment data and recorded in the IWAR. Input from all team members and all parameters of functioning must be considered. If some interfering factors are due to disabilities in addition to the primary disability, the IWAR ensures that such secondary disabilities are identified and the complexity of the interaction of various disabilities is addressed.

Assessment findings from evaluators outside the school district should be considered in conjunction with all other findings and integrated into the written report. All information gathered during the evaluation process is important, whether conducted by school personnel or outside evaluators.

**Nondiscriminatory Procedures**

Nondiscriminatory assessment procedures that were addressed throughout the evaluation process must be included in the IWAR so this information can be considered when determining whether the child has a disability and whether the child needs special education or related services. These conclusions assure that the student is not identified as having a disability when the concerns are primarily related to cultural, environmental, sensory, motor, emotional, social and/or economic issues.

**Current and Relevant Data for Determining Educational Needs**

The IWAR should serve as a resource document for all planning teams, including the school intervention process. Recommendations regarding instructional needs and participation in the general education curriculum should be included in the report as further explanation of the student's performance within areas of strength or need. Such recommendations may be implemented by qualified personnel regardless of whether there is an identified disability.

It is important to provide immediate attention to areas in need of modification or adaptation that may not be relevant to eligibility or placement decisions.

Examples of such situations are given below.

- Medical and other health-related problems and environmental circumstances that are physically threatening or otherwise affect a student's physical well being need to be addressed. Response to such needs often requires a referral to specialists or other agencies.
- Classroom situations that impair learning or achievement require attention regardless of placement. These situations should be addressed immediately. For instance, if a hearing impairment is reported and preferential seating is necessary, a change in seating arrangement should not be delayed until the development of the individualized education program (IEP). Any immediate changes implemented at this time will benefit the child and be advantageous to the assessment and program planning process.
- The Integrated Written Assessment Report should indicate needs that are specifically setting-related. When assessment shows that setting-related factors make critical differences, the observations should be noted in the report. Examples include: physical accessibility; number of personnel with whom the student will be expected to interact; and number and age of students in classroom.

The IWAR will not establish whether special education or related services are required or who is responsible for any resulting services; it will determine whether the student has a disability and educational needs of the child. It is important to remember that when a student has been determined to have a disability, the IEP process rather than the evaluation process determines whether the student is in need of special education and related services and placement in the least restrictive environment.

When the assessment findings have been adequately analyzed by the multidisciplinary team and the significant information summarized in the report, the IEP team will be able to draw directly from the report in preparing the present levels of academic achievement and functional performance statements for the IEP. The sharing and analysis of the assessment data occurs separate from and precedes the IEP meeting. However, the sharing and analysis of assessment information and the IEP development may occur at one meeting, provided the assessment discussion occurs before the IEP is planned.

**Determination of a Disability**

At the conclusion of the meeting to review the assessment results, the team which includes the child's parent(s), will determine whether the unique educational needs of the student are due to a disability as defined by the IDEA 2004. Any inconsistencies in assessment information obtained from various procedures must be reconciled, and the explanations documented. The report must include a statement as to whether the student has a disability and what that disability is as defined in the IDEA 2004. The categories used in North Dakota are: specific learning disabilities, hearing impairment, deafness, visual impairment including blindness, deaf-blindness, intellectual disability, emotional disturbance, orthopedic impairment, other health impairment, traumatic brain injury, autism, and speech or language impairment.

For younger children in North Dakota, the Non-Categorical Delay (NCD) eligibility option may be used for ages 3 through the end of the school year in which the child turns 9. This option may be used in situations where the determination of a disability is not clear but delays are well documented.

Additional information regarding NCD can be found at <http://www.dpi.state.nd.us/speced/guide/NCDguidelines.pdf>

Some children may be inappropriately identified as having a disability because they have not received sufficient academic support. Therefore, in making an eligibility determination, a child may not be considered to be a child with a disability if the determinant factor is lack of instruction in reading or mathematics, or limited English proficiency. Consideration of these factors must be documented on the Integrated Written Assessment Report form.

If the student is not eligible under the IDEA 2004, the assessment report will determine if the student is considered "handicapped" under Section 504 of the Rehabilitation Act which is separate from the IDEA 2004. This eligibility assures the provision of parental rights, procedural safeguards, and an individualized accommodation plan, which are afforded under that law.

**Reevaluation**

The reevaluation procedure confirms the student has a disability and assures the student's total needs have been identified and are being met. The evaluation planning process for the purpose of reevaluation begins with the members of the IEP team. Team membership may expand to include other personnel based on questions that the team has about the student. As members of the IEP team, parents must participate in the review of the existing information.

As part of the student profile, the parent and public agency should discuss the advantages and disadvantages of conducting a reevaluation, as well as what effect a reevaluation might have on the child's educational program. After the completion of a student profile the parent and school district can agree that a reevaluation is not necessary. It is recommended that the team document this agreement as part of the student profile process.

The IDEA 2004 provides for the option that a reevaluation does not have to occur at least once every three years if the parents and public agency agree that a reevaluation is not necessary. If there is a decision to conduct a reevaluation, the IEP Team and other qualified professionals must review existing evaluation data. On the basis of that review the team will identify what additional data, if any, are needed to determine whether the child continues to have a disability, and to identify the educational needs of the child.

A reevaluation may occur not more than once a year and must occur at least once every three years, unless the parent and the public agency agree that a reevaluation is not necessary. If a parent requests more than one reevaluation in a year and the public agency does not believe a reevaluation is needed, the public agency must provide the parents with written notice of the agency's refusal to conduct a reevaluation, that explains, among other things, why the agency refuses to conduct the reevaluation and the parent's right to contest the agency's decision through mediation or a due process hearing. In situations where a public agency believes a reevaluation is necessary, but the parent disagrees and refuses consent for a reevaluation, the public agency may, but is not required to, pursue the reevaluation by using the consent override procedures.

**Sec. 300.303****Reevaluation.**

- (a) *General.* A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with §§ 300.304 through 300.311—
  - (1) 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
  - (2) If the child's parent or teacher requests a reevaluation.
- (b) *Limitation.* A reevaluation conducted under paragraph (a) of this section—
  - (1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and
  - (2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.

**Parent and District Agree No reevaluation necessary**

As part of the reevaluation process, the parent and public agency should discuss the advantages and disadvantages of conducting a reevaluation, as well as what effect a reevaluation might have on the child's educational program. After the discussion, the parent and school district can agree that a reevaluation is not necessary. It is recommended that the team document this agreement on the Student Profile Evaluation form.

**No Additional Information Needed**

Following the completion of the Student Profile, the child's IEP team may decide that no additional information is needed to determine if the child continues to be a child with a disability. If the child's team determines that no additional information is needed, the team decision that no additional information is needed and that the parents were notified of their right to request additional assessments must be documented on the bottom of the student profile form. The Integrated Written Assessment Report (IWAR) then must be developed. A copy of the IWAR must be given to the parents.

The Integrated Written Assessment Report should include all aspects that verify or fail to verify the determination of disability and all new information that requires significant attention in program planning.

**Sec. 300.305 (d)****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 public agency must notify the child's parents of—
  - (i) That determination and the reasons for the determination; and
  - (ii) 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.
- (2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.

**Additional Information Needed**

If, following the completion of the Student Profile, the team determines new information is needed, parental consent must be obtained. If a parent of the child with a disability refuses consent for reevaluation, the school may continue to pursue consent for reevaluation by using mediation and due process procedures.

If a parent fails to respond to consent for evaluation, the school must demonstrate that it has taken reasonable measures to obtain that consent, and the child's parent has failed to respond. The school must document attempts to contact the parents, such as: a detailed record of telephone calls made or attempted and the results of the calls; copies of correspondence sent to parents such as prior written notice forms and any responses received from the parents; detailed records of visits made to the parent's home or place of employment and the results of those visits.

The IEP team must remember that failing to respond to a request for consent is different from refusing to consent. A school district can proceed with a reevaluation without informed consent only when parents have failed to respond to the districts reasonable attempts to obtain the consent.

**Sec. 300.300****Parent Consent****(c) Parental consent for reevaluation**

- (1) Subject to paragraph (c) (2) of this section, each public agency –
  - (i) Must obtain informed parental consent, in accordance with §300.300 (a) (1), prior to conducting any reevaluation of a child with a disability.
  - (ii) 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 described in paragraph (a) (3) of this section.
  - (iii) The public agency does not violate its obligation under § 300.111 and §§ 300.301 through 300.311 if it declines to pursue the evaluation or reevaluation.
- (2) The informed parental consent described in paragraph (c) (1) of this section need not be obtained if the public agency can demonstrate that-
  - (i) It made reasonable efforts to obtain such consent; and
  - (ii) The child's parent has failed to respond.

When the team determines new information is needed, an Assessment Plan must be completed. The Assessment Plan will answer questions relating to the presence of a disability. Through sharing and analyzing current data and observations of the student's functioning, the team will determine what additional information is needed. In this way, appropriate assessment procedures can be selected to establish the student's present ability and achievement levels and to note any concerns regarding the student's current functioning. Thorough assessment planning at the time of reevaluation eliminates the use of unnecessary routine testing. As with the initial evaluation, it is not appropriate to administer the same battery of tests to all students.

Maintaining a broad scope throughout the evaluation process remains as critical at the time of a reevaluation as it does at the initial evaluation. Nondiscriminatory procedures must also be followed in the reevaluation. If there is a suspicion of a disability other than, or in addition to, the primary disability, all aspects of functioning must receive attention. This may include behavior, health, vision, hearing, social and emotional status, cognitive ability, academic performance, communicative status, and motor abilities. Such attention might lead to identification of other suspected disabilities which may have been unrecognized or overlooked. Thus, the functioning of the student as a total person will be observed. Each reevaluation should consider the student's long-range needs, including the skills necessary for a successful transition into adult living.

The Integrated Written Assessment Report should include all aspects that verify or fail to verify the determination of disability and all new information that requires significant attention in program planning. All components of an initial Integrated Written Assessment Report must also be included in each subsequent reevaluation report for the child.

If the reevaluation process results in a determination that a student who has been receiving special education services no longer meets the disability criteria under IDEA, the team needs to determine if services are appropriate under Section 504. It is recommended that students not eligible under IDEA or Section 504 be referred to the BLST for additional support.

## ***Independent Evaluations***

At the end of the evaluation process, parents who do not agree with some aspect of the evaluation have the right to request an independent educational evaluation at public expense. An independent evaluation is defined as an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of the child in question. If the school maintains that its assessment is appropriate, the school must file a due process complaint notice to show that its evaluation is appropriate.

If the school district initiates a due process hearing and findings show that the district's assessment is appropriate, parents may obtain an independent evaluation at their own expense. If a due process complaint notice is not filed, the school must ensure that an independent evaluation is provided at public expense. The school must provide to parents, on request, information indicating where an independent evaluation may be obtained and the school district's criteria for a qualified examiner.

Results from any independent evaluation must be considered by the team for evaluation activities or program planning. It is important to determine that a qualified person conducted the independent evaluation, and that criteria for evaluation procedures were met.

A parent is entitled to only one independent education evaluation at public expense each time the parent disagrees with a specific evaluation or reevaluation that is conducted or obtained by the school district.

If a parent disagrees with the results of a completed evaluation that includes a review of a child's response to intervention process, the parent has a right to an IEE at public expense, subject to the conditions in § 300.502(b)(2) through (b)(4). The parent, however, would not have the right to obtain an IEE at public expense before the public agency completes its evaluation simply because the parent disagrees with the public agency's decision to use data from a child's response to intervention as part of its evaluation to determine if the child is a child with a disability and the educational needs of the child. *8/14/06 Federal Register, Vol. 71 No. 156, page 46689*

**Appendices**

- A. Federal Regulations
  - Sec. 300.29
  - Sec. 300.111
  - Sec. 300.300
  - Sec. 300.301
  - Sec. 300.302
  - Sec. 300.303
  - Sec. 300.304
  - Sec. 300.305
  - Sec. 300.306
  - Sec. 300.502
  - Sec. 300.503
  - Sec. 300.504
  
- B. Secondary Transition Summary of Performance  
Components of Summary of Performance Form

# **Appendix A**

## Federal Regulations

**Sec. 300.29****Native language**

- (a) Native language, when used with respect to an individual who is limited English proficient, means the following:
- (1) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in paragraph (a)(2) of this section.
  - (2) In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment.
- (b) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or oral communication).

**Sec. 300.111****Child find**

- (a) *General.*
- (1) The State must have in effect policies and procedures to ensure that:
    - (i) 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; and
    - (ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.
- (b) *Use of term developmental delay.* The following provisions apply with respect to implementing the child find requirements of this section:
- (1) A State that adopts a definition of developmental delay under §300.8(b) determines whether the term applies to children aged three through nine, or to a subset of that age range (e.g., ages three through five).
  - (2) A State may not require an LEA to adopt and use the term developmental delay for any children within its jurisdiction.
  - (3) If an LEA uses the term developmental delay for children described in §300.8(b), the LEA must conform to both the State's definition of that term and to the age range that has been adopted by the State.
  - (4) If a State does not adopt the term *developmental delay*, an LEA may not independently use that term as a basis for establishing a child's eligibility under this part.
- (c) *Other children in child find.* Child find also must include-
- (1) Children who are suspected of being a child with a disability under §300.8 and in need of special education, even though they are advancing from grade to grade; and
  - (2) Highly mobile children, including migrant children.
- (d) *Construction.* Nothing in the Act requires that children be classified by their disability so long as each child who has a disability that is listed in §300.8 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act.

## Sec. 300.300

**Parental consent.****(a) Parental consent for initial evaluation.**

- (1)
  - (i) The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under § 300.8 must, after providing notice consistent with §§ 300.503 and 300.504, obtain informed consent, consistent with § 300.9, from the parent of the child before conducting the evaluation.
  - (ii) Parental consent for initial evaluation must not be construed as consent for initial provision of special education and related services.
  - (iii) The public agency must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.
- (2) For initial evaluations only, if the child is a ward of the State and is not residing with the child's parent, the public agency is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if—
  - (i) Despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the child;
  - (ii) The rights of the parents of the child have been terminated in accordance with State law; or
  - (iii) The rights of the parent 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.
- (3)
  - (i) 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 under paragraph (a)(1) of this section, 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 in subpart E of this part (including the mediation procedures under § 300.506 or the due process procedures under §§ 300.507 through 300.516), if appropriate, except to the extent inconsistent with State law relating to such parental consent.
  - (ii) The public agency does not violate its obligation under § 300.111 and §§ 300.301 through 300.311 if it declines to pursue the evaluation.

- (b) Parental consent for services.** (1) A public agency that is responsible for making FAPE available to a child with a disability must obtain informed consent from the parent of the child before the initial provision of special education and related services to the child.
- (2) The public agency must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child.
- (3) If the parent of a child fails to respond or refuses to consent to services under paragraph (b)(1) of this section, the public agency may not use the procedures in subpart E of this part (including the mediation procedures under § 300.506 or the due process procedures under §§ 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child.

## Sec. 300.300

**Parental consent. (cont.)**

- (4) If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the public agency—
- (i) Will not be considered to be in violation of the requirement to make available FAPE to the child for the failure to provide the child with the special education and related services for which the public agency requests consent; and
  - (ii) Is not required to convene an IEP Team meeting or develop an IEP under §§ 300.320 and 300.324 for the child for the special education and related services for which the public agency requests such consent.
- (c) *Parental consent for reevaluations.*
- (1) Subject to paragraph (c)(2) of this section, each public agency—
- (i) Must obtain informed parental consent, in accordance with § 300.300(a)(1), prior to conducting any reevaluation of a child with a disability.
  - (ii) 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 described in paragraph (a)(3) of this section.
  - (iii) The public agency does not violate its obligation under § 300.111 and §§ 300.301 through 300.311 if it declines to pursue the evaluation or reevaluation.
- (2) The informed parental consent described in paragraph (c)(1) of this section need not be obtained if the public agency can demonstrate that—
- (i) It made reasonable efforts to obtain such consent; and
  - (ii) The child's parent has failed to respond.
- (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.
- (2) In addition to the parental consent requirements described in paragraph (a) of this section, a State may require parental consent for other services and activities under this part if it ensures that each public agency in the State establishes and implements effective procedures to ensure that a parent's refusal to consent does not result in a failure to provide the child with FAPE.
- (3) 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 required by this part.
- (4)
- (i) 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 the parent fails to respond to a request to provide consent, consent override procedures (described in paragraphs (a)(3) and (c)(1) of this section); and
  - (ii) The public agency is not required to consider the child as eligible for services under §§ 300.132 through 300.144.
- (5) To meet the reasonable efforts requirement in paragraphs (a)(1)(iii), (a)(2)(i), (b)(2), and (c)(2)(i) of this section, the public agency must document its attempts to obtain parental consent using the procedures in § 300.322(d).

**Sec. 300.301****Initial Evaluation**

- (a) *General.* Each public agency must conduct a full and individual initial evaluation, in accordance with §§ 300.305 and 300.306, before the initial provision of special education and related services to a child with a disability under this part.
- (b) *Request for initial evaluation.* Consistent with the consent requirements in § 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.
- (c) *Procedures for initial evaluation.* The initial evaluation— (1)(i) Must be conducted within 60 days of receiving parental consent for the evaluation; or (ii) If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and(2) Must consist of procedures—
- (i) To determine if the child is a child with a disability under § 300.8; and (ii) To determine the educational needs of the child.
- (d) *Exception.* The timeframe described in paragraph (c)(1) of this section does not apply to a public agency 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 public agency after the relevant timeframe in paragraph (c)(1) of this section 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 under § 300.8.(e) The exception in paragraph (d)(2) of this section 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. 300.302**

Screening for instructional purposes is not evaluation. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

**Sec. 300.303****Reevaluations.**

- (a) *General.* A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with 300.304 through 300.311—
- (1) If the public agency determines that the educational or related service needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or
  - (2) If the child’s parent or teacher requests a reevaluation.
- (b) *Limitation.* A reevaluation conducted under paragraph (a) of this section—
- (1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and
  - (2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary).

## Sec. 300.304

**Evaluation procedures.**

- (a) *Notice.* The public agency must provide notice to the parents of a child with a disability, in accordance with 300.503, that describes any evaluation procedures the agency proposes to conduct.
- (b) *Conduct of evaluation.* In conducting the evaluation, the public agency must—
- (1) 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—
    - (i) Whether the child is a child with a disability under 300.8; and
    - (ii) 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);
  - (2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and or determining an appropriate educational program for the child; and
  - (3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
- (c) *Other evaluation procedures.* Each public agency must ensure that—
- (1) Assessments are other evaluation materials used to assess a child under this part—
    - (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 assessments 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.
  - (2) 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.
  - (3) 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 assessment 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).
  - (4) 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;
  - (5) 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 300.301(d)(2) and (e), to ensure prompt completion of full evaluations.
  - (6) In evaluating each child with a disability under 300.304 through 300.306, 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.
  - (7) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

## Sec. 300.305

**Additional requirements for evaluations and reevaluations.**

- (a) *Review of existing evaluation data.* As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must—
- (1) Review existing evaluation data on the child, including—
    - (i) Evaluations and information provided by the parents of the child;
    - (ii) Current classroom-based, local, or State assessments, and classroom-based observations; and
    - (iii) Observations by teachers and related services providers; and
  - (2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—
    - (i) (A) Whether the child is a child with a disability, as defined in 300.8, and the educational needs of the child; or  
(B) In case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child;
    - (ii) The present levels of academic achievement and related developmental needs of the child;
    - (iii) (A) Whether the child needs special education and related services; or  
(B) In the case of a reevaluation of a child, whether the child continues to need special education and related services; and
    - (iv) 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.
- (b) *Conduct the review.* The group described in paragraph (a) of this section may conduct its review without a meeting.
- (c) *Source of data.* The public agency must administer such assessments and other evaluation measures as may be needed to produce the data identified under paragraph (a) of this section.
- (d) *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 public agency must notify the child's parents of—
    - (i) That determination and the reasons for the determination; and
    - (ii) 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.
  - (2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.
- (e) *Evaluations before change in eligibility.*
- (1) Except as provided in paragraph (e)(2) of this section, a public agency must evaluate a child with a disability in accordance with 300.304 through 300.311 before determining that the child is no longer a child with a disability.
  - (2) The evaluation described in paragraph (e)(1) of this section is not required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under State law.
  - (3) For a child whose eligibility terminates under circumstances described in paragraph (e)(2) of this section, 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 postsecondary goals.

## Sec. 300.306

**Determination of eligibility.**

- (a) *General.* Upon completion of the administration of assessments and other evaluation measures—
  - (1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in § 300.8, in accordance with paragraph (b) of this section and the educational needs of the child; and
  - (2) The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.
- (b) *Special rule for eligibility determination.* A child must not be determined to be a child with a disability under this part—
  - (1) If the determinant factor for that determination is—
    - (i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA);
    - (ii) Lack of appropriate instruction in math; or
    - (iii) Limited English proficiency; and
  - (2) If the child does not otherwise meet the eligibility criteria under §300.8(a).
- (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 under § 300.8, and the educational needs of the child, each public agency 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; and
    - (ii) Ensure that information obtained from all of these sources is documented and carefully considered.
  - (2) If a determination is made that a child has a disability and needs special education and related services, and IEP must be developed for the child in accordance with §§ 300.320 through 300.324.

**Sec. 300.502****Independent educational evaluation.***(a) General.*

- (1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section.
- (2) Each public agency must provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in paragraph (e) of this section.
- (3) For the purposes of this subpart—
  - (i) Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and
  - (ii) Public expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at not cost to the parent, consistent with 300.103.

*(b) Parent right to evaluation at public expense.*

- (1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency, subject to the conditions in paragraphs (b) (2) through (4) of this section.
- (2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either—
  - (i) File a due process complaint to request a hearing to show that its evaluation is appropriate; or
  - (ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to 300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria.
- (3) If the public agency files a due process complaint notice to request a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.
- (4) If a parent requests in independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.
- (5) A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.

*(c) Parent-initiated evaluations.* If the parent obtains an independent educational evaluation at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation—

- (1) Must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and
- (2) May be presented by any party as evidence at a hearing on a due process complaint under subpart E of this part regarding that child.

*(d) Requests for evaluations by hearing officers.* If a hearing officer requests an independent educational evaluation as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.*(e) Agency criteria.*

- (1) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.
- (2) Except for the criteria described in paragraph (e) (1) of this section, a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

**Sec. 300.503****Prior notice by the public agency; content of notice.**

- (a) *Notice.* Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before public agency—
- (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
  - (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.
- (b) *Content of notice.* The notice required under paragraph (a) of this section must include—
- (1) A description of the action proposed or refused by the agency;
  - (2) An explanation of why the agency proposes or refuses to take the action;
  - (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
  - (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and , if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
  - (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part;
  - (6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and
  - (7) A description of other factors that are relevant to the agency's proposal or refusal.
- (c) *Notice in understandable language.*
- (1) The notice required under paragraph (a) of this section must be—
    - (i) Written in language understandable to the general public; and
    - (ii) Provided in the native language understandable to the general public; and
    - (iii) That there is written evidence that the requirements in paragraphs (c) (2) (i) and (ii) of this section have been met.
  - (2) If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure—
    - (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
    - (ii) That the parent understands the content of the notice; and
    - (iii) That there is written evidence that the requirements in paragraphs (c) (2) (i) and (ii) of this section have been met.

**Sec. 300.504****Procedural safeguards notice.**

- (a) *General.* A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy also must be given to the parents—
- (1) Upon initial referral or parent request for evaluation;
  - (2) Upon receipt of the first State complaint under 300.151 through 300.153 and upon receipt of the first due process complaint under 300.507 in a school year;
  - (3) In accordance with the discipline procedures in 300.530(h); and
  - (4) Upon request by a parent.
- (b) *Internet Web site.* A public agency may place a current copy of the procedural safeguards notice on its Internet Web site if a Web site exists.
- (c) *Contents.* The procedural safeguards notice must include a full explanation of all the procedural safeguards under 300.148, 300.151, through 300.153, 300.300, 300.502 through 300.503, 300.505 through 300.518, 300.520, 300.530 through 300.536 and 300.610 through 300.625 relating to—
- (1) Independent educational evaluations;
  - (2) Prior written notice;
  - (3) Parental consent;
  - (4) Access to education records;
  - (5) Opportunity to present and resolve complaints through the due process complaint and State complaint procedures, including—
    - (i) The time period in which to file a complaint;
    - (ii) The opportunity for the agency to resolve the complaint; and
    - (iii) The difference between the due process complaint and the State complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures;
  - (6) The availability of mediation;
  - (7) The child's placement during the pendency of any due process complaint;
  - (8) Procedures for students who are subject to placement in an interim alternative educational setting;
  - (9) Requirements for unilateral placement by parents of children in private schools at public expense;
  - (10) Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
  - (11) State-level appeals (if applicable in the State);
  - (12) Civil actions, including the time period in which to file those actions; and
  - (13) Attorneys' fees.
- (d) *Notice in understandable language.* The notice required under paragraph (a) of this section must meet the requirements of 300.503(c).

## **Appendix B**

### Secondary Transition Summary of Performance

- Components of the Summary of Performance Form

## COMPONENTS OF THE SUMMARY OF PERFORMANCE FORM

The Local Education Agency is required to provide this information for youth exiting special education due to graduating with a diploma or exceeding the age of eligibility.

### 1. Student Information:

This section contains student contact and demographic information that will be helpful to future service providers and to post-school surveyors who will contact students after graduation. A school contact person is also listed. Complete and up-to-date information is crucial to the North Dakota follow-up process. Include the student's disability and if applicable, secondary disability, primary language and date of the most recent IEP. A checklist may also be included of the most recent copies of evaluation reports that your team is attaching that diagnose and identify the student's disability or functional limitations, and/ or will assist in the postsecondary planning.

### 2. Student's Measurable Postsecondary Goals:

IDEA 2004 requires that special education students aged 16 and above (or younger, when deemed appropriate by the IEP team) have measurable postsecondary goals (based upon age appropriate transition assessments) related to: Education or training, Employment, and where appropriate, Independent living Skills.

These goals are the desired postsecondary outcomes of the student. This section should be completed using information from the student's recent Transition IEP Plan as well as updated information provided by the student. The information may be filled out independently by the student or completed with the student through an interview.

### 3. Summary of Performance: Academic Achievement and Functional Performance

List the student's present level of performance – for example, grade level, standard scores, strengths and needs, and accommodations and modifications, such as assistive technology, used in high school, and why they are needed.

Academic Achievement – This should include reading, math, writing, and other related academic skills. What are the student's present levels? Include: strengths, needs, necessary accommodations, modifications, assistive technology, etc. Remember that the purpose of the document is to help that next service provider to better understand how to help the student. What do you think is the most relevant information to convey? How does the student's disability affect their performance in academic activities?

Functional Performance – This could include present levels for general ability, problem solving skills, attention, organization, communication, social skills, behaviors, independent living skills, self-advocacy skills, career/vocational skills/experience, and any additional functional information that relates to the student's measurable postsecondary goals. How does the student's disability affect their performance in daily activities. The completion of these two areas may require input from a number of school personnel including the special education teacher, regular education teacher, school psychologist or related service personnel.

### 4. Recommendations to Assist the Student in Achieving Measurable Postsecondary Goals –

Include suggestions for accommodations, adaptive devices, compensatory strategies, assistive technology or support services to enhance access in a post-secondary environment, including higher education, training, employment, independent living or community participation. The recommendations can relate to the student's educational goals, community participation, employment, and/or independent living. Words of caution when filling out this section, Employers and colleges have different expectations and obligations. Do not recommend things in the SOP that colleges and employers aren't required to provide. Post-secondary providers will continue to make eligibility decisions on a case by case basis and the recommendations do not imply that the service a student qualified for in high school would automatically be the rule in post-secondary.

## 5. Student Input – (Optional)

Asking the student about what supports and services have helped them to be successful in high school, and about what services or supports will be needed in the future, can help promote self advocacy and the development of understanding of the disability and how it will impact postsecondary activities.

### Definitions:

An **Accommodation** is defined as a support or service that is provided to help a student fully access the general education curriculum or subject matter. Students with impaired spelling or handwriting skills, for example, may be accommodated by a note-taker or permission to take class notes on a laptop computer. An accommodation *does not change the content* of what is being taught or the expectation that the student meet a performance standard applied for all students.

A **Modification** is defined as a change to the general education curriculum or other material being taught, which alters the standards or expectations for students with disabilities. Instruction can be modified so that the material is presented differently and/or the expectations of what the student will master are changed. Modifications are not allowed in most postsecondary education environments.

**Assistive Technology** is defined as any device that helps a student with a disability function in a given environment.

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## Introduction

The Department of Public Instruction, Office of Special Education, has prepared these guidelines to assist educators in the task of locating, identifying, and evaluating children and youth with unique educational needs. The *Guidelines: Evaluation Process*, provides information regarding required practices and recommended procedures for North Dakota schools in the areas of:

- Public awareness
- Child find
- Screening
- Response to Intervention
- Referral
- The complete evaluation process

### Benefits of a Comprehensive Evaluation Process

- Allows input from a variety of sources.
- Focuses assessment on educationally relevant questions.
- Considers the student's environments, influences, and experiences.
- Considers and accommodates cultural, environmental, economic, social-emotional, motor and sensory issues.
- Assures that appropriate procedures are used to answer the questions.
- Assures complete information and accurate identification.

The terms evaluation and assessment are used in federal regulations and in the literature. Federal regulations define evaluation as procedures used to determine whether a child has a disability and needs special education and related services. The terms initial evaluation and reevaluation are used consistently in the federal regulation headings to describe the overall decision making in regard to eligibility for special education. Hereafter, in the document, reference to evaluation and to reevaluation implies the complete evaluation process.

The evaluation process is an active, on-going process that utilizes relevant information from a full range of sources (home, school, and community). The evaluation process supports the instructional process, providing information that improves student outcomes. The evaluation process recognizes individual experiences and differences. This process must be nondiscriminatory and nonbiased. The findings of the evaluation process will:

- determine if the student has a disability;
- provide vital information relating to the academic, developmental and functional needs of the child; and
- guide decision making in determining the appropriate individualized educational programming for each child with a disability to enable the child to be involved and progress in the general education curriculum.

The basis for location, identification, and evaluation of students with disabilities is the Individuals with Disabilities Education Improvement Act (IDEA 2004) which mandates that school districts locate and evaluate children and youth suspected of having a disability. Each school district is required to have an ongoing method to locate, identify, and evaluate children suspected of having a disability. This ongoing system should include collaboration with agencies that locate and serve children and youth with disabilities. The interaction between school districts and local agencies assists the school and community in anticipating long-range needs to better serve all children and youth with disabilities.

This document includes the IDEA 2004 revisions pertaining to identification and evaluation. With regard to evaluation, the IDEA 2004 emphasizes using information from general education interventions, researched-based assessments, existing data, information concerning behavior, and information on how the child can be involved in the general curriculum. There is a continued emphasis on the importance of input from the child's parents during: the initial evaluation process; in determining eligibility for special education services and placement decisions; and during the reevaluation process. The reauthorization is viewed as an opportunity to review, strengthen, and improve the IDEA to better educate children with disabilities and enable them to achieve quality education.

### ***Location and Identification Public Awareness and Child Find***

School districts must conduct activities for creating public awareness of special education services, advising the public of the rights of children and parents, and alerting community residents to the need for identifying and serving children who are in need of special education and related services. This includes: identification and location of children attending private schools; children who are wards of the state; highly mobile children such as migrant and homeless children; and children who are suspected of having a disability even though they are progressing from grade to grade.

Methods used by school districts to conduct the awareness activities include but are not limited to the following:

- utilization of various local media resources including television, radio, and newspaper for public service announcements and print advertisements, as well as guest appearances on local radio and television programs;
- development of communication links with various agencies that provide services to children eligible for special education within the community, including dissemination of information on child find activities to agencies and programs such as Head Start and other early childhood and child care programs, health services, hospitals, clinics, pediatricians, pediatric nurses, and social service professionals involved in child and family services;
- direct contact activities with members of the community, including those who may not easily understand English or who may live in rural or isolated geographic areas. Examples of such activities are presentations at community meetings, business group meetings, church sponsored meetings, and meetings of public employees and officials; and
- notices posted on school district websites and bulletin boards in public places such as supermarkets, laundromats, gas stations, senior citizens centers, human service centers, and county social services offices.

## Sec. 300.111

**Child find**(a) *General.*

(1) The State must have in effect policies and procedures to ensure that—

- (i) 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; and
- (ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.

(b) *Use of term developmental delay.* The following provisions apply with respect to implementing the child find requirements of this section:

- (1) A State that adopts a definition of *developmental delay* under § 300.8(b) determines whether the term applies to children aged three through nine, or to a subset of that age range (e.g., ages three through five).
- (2) A State may not require an LEA to adopt and use the term *developmental delay* for any children within its jurisdiction.
- (3) If an LEA uses the term *developmental delay* for children described in § 300.8(b), the LEA must conform to both the State's definition of that term and to the age range that has been adopted by the State.
- (4) If a State does not adopt the term *developmental delay*, an LEA may not independently use that term as a basis for establishing a child's eligibility under this part.

(c) *Other children in child find.* Child find also must include—

- (1) Children who are suspected of being a child with a disability under § 300.8 and in need of special education, even though they are advancing from grade to grade; and
- (2) Highly mobile children, including migrant children.

(d) *Construction.* Nothing in the Act requires that children be classified by their disability so long as each child who has a disability that is listed in § 300.8 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act.

## Screening

As part of child find responsibilities school districts can conduct screening activities. Screening activities assist in identifying students who are at risk of not progressing according to expectations or who are suspected of needing additional supplemental services. As part of the district's screening process, qualified personnel may identify risk factors that impact the student's ability to learn in areas such as:

- vision
- hearing
- speech and language
- social-emotional or mental health
- preschool developmental areas, and
- secondary-level students who are at higher risk of dropping out or who have dropped out of school to verify that the reasons for dropping out are not related to a previously unidentified disability

The result of the screening process is a systematic collection of information for every student screened. The professional(s) that review the results of the screening need to determine: 1) whether the student should be screened again at a later time; 2) referred for follow-up services by the school or another agency; or 3) referred for a comprehensive evaluation.

### Screening Procedures for Behavior Concerns

When planning screening procedures for behavior concerns, the identification process must be placed within the larger context of the school operation. Sometimes, problems perceived as student problems are in fact system problems. Most student behavior concerns can be addressed through school-wide and classroom-based systems, such as school-wide Response to Intervention - Behavior (RTI-B). For those students who are unable to benefit from pre-established, well-defined rules and supports, there may be a need for additional screening and consideration of further individualization of the student's educational program.

## Screening for Instructional Purposes

In addition to screening processes to identify at-risk students, the child's classroom teacher or a specialist may complete a screening as part of the instructional process. This type of screening is considered to be a relatively simple and quick process that can be used with groups of children and is not considered to be an evaluation to determine eligibility for special education and related services.

### Sec. 300.302

#### Screening for instructional purposes is not evaluation

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

**Intervention Process**

For school-age children, follow-up services may be provided through an intervention process. This could be through the Response to Intervention process (RTI) or a building level team process such as the Building Level Support Team (BLST). Some schools refer to this as the teacher assistance team (TAT).

The BLST process is a general education activity that is used to provide support to the classroom teacher. A structured problem-solving process is used by educators and parents to develop interventions for a student who is experiencing difficulty in classroom achievement or behavior.

**Potential Follow-up Activities as a Result of Screening**

- Rescreening
- Referral to another agency
- Referral to the Building Level Support Team
- Participation in the Response to Intervention process
- Referral for diagnostic assessments
- Resource packets provided for parents

RTI is the practice of providing high-quality instruction and interventions matched to student need, monitoring progress frequently to make decisions about changes in instruction or goals and applying child response data to important educational decisions. RTI can be applied to decisions in general, remedial and special education, creating a well-integrated system of instruction/intervention guided by child outcome data. Optimal learning outcomes occur when students' skills and abilities closely match the curriculum and instructions within the classroom. Quality classroom instruction usually provides a good match for students. With RTI, struggling students can be identified early and provided appropriate instruction, thus increasing the likelihood that they can be successful.

It is strongly recommended that parents be involved from the very beginning in any intervention process. If parents are involved in the attempts to improve learning for the child, they will be more knowledgeable about issues regarding their child's education.

It is important to note that a team process such as the BLST and RTI assists in planning interventions for children ages birth to five who are experiencing developmental delays or displaying problems in other areas. Personnel in programs such as Head Start, Early Intervention Programs and other child care settings have as much need for a support system as do teachers of elementary and secondary students. Special education personnel with expertise in early childhood education for children with disabilities should be available when such expertise is needed.

For children ages birth to three, screening results may indicate to the team a need for the services provided through the ND Department of Human Services, Developmental Disabilities Division and local Early Intervention Programs. Right Track is a ND Department of Human Services program for families of children ages birth to three who may be at risk for developmental delays. Right Track staff provides developmental screenings, resources relating to child development, information and referrals to local, state, and national organizations.

If the follow-up services and interventions tried by the parent and school or agency personnel do not assist the student in addressing the difficulty experienced, the process of collecting additional information should be initiated, in a timely manner, through a referral for a comprehensive evaluation.

## **Referral for Evaluation**

School districts and other agencies involved in providing services to children with disabilities are responsible for having a written referral process in place. The procedures for parental and agency referral must be part of the school's written referral process. This process must include the written policies, procedures, and forms required to ensure a comprehensive referral process.

The school district is responsible for informing parents of the referral for a comprehensive evaluation. The school must provide written notice, which includes a complete listing of procedural safeguards. Explanation of the purposes and nature of the proposed evaluation should occur in a dialogue with parents. This critical step is part of the ongoing communication that must take place with parents.

The following items are areas that impact the student's learning and should be addressed as part of the written referral:

- reason for referral, including specific questions raised by personnel who are requesting the referral;
- observations of behavior and/or learning patterns that interfere with the student's ability to succeed in the classroom or natural setting;
- basic biographical data for identification purposes and additional personal data with educational implications significant to the analysis of the student's performance and/or behavior; and
- a brief summary of interventions to accompany the written referral, including a delineation of attempts to address the difficulty experienced within the general educational setting and the results of such attempts. When a child is referred without appropriate intervention information (i.e., a preschool child or a parent referral) the evaluation planning process should address modifications and adaptations to the various natural and learning environments.

### **Parental consent must be obtained before:**

- selective screening;
- conducting an initial evaluation or reevaluation; and
- initially providing special education and related services.

The parent of a child or the school district may initiate the initial evaluation procedures. Persons such as employees of the school district or other public agencies may identify children who might need to be referred for an evaluation. However, it is the parent of a child and the public agency that have the responsibility to initiate the evaluation procedures. District policy and procedures must identify the individual(s) who will serve as the school district representative to initiate the evaluation procedures.

The public agency proposing to conduct an initial evaluation must make reasonable efforts to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability. This includes the parent of a child who is a ward of the State. These efforts must be documented using procedures such as: a detailed record of telephone calls made or attempted and the results of the calls; copies of correspondence sent to parents such as prior written notice forms and any responses received from the parents.

An exception to the parental consent requirements for initial evaluations is for a child who is a ward of the State who is not residing with the child's parent. The exception applies if:

- the public agency has made reasonable efforts to obtain the parent's consent, but is unable to discover the whereabouts of the parent,
- the rights of the parent of the child have been terminated under State law, or
- the rights of the parent to make educational decisions have been subrogated by a judge under State law and consent for the initial evaluation has been given by an individual appointed by the judge to represent the child.

Parents must understand the purpose of the referral for an evaluation and that their consent is voluntary. If the parents of a child with a disability, enrolled or seeking to be enrolled in a public school, refuse consent for evaluation or fails to respond to the request to provide consent, the school may pursue consent for evaluation by using mediation or due process procedures.

The initial evaluation process must be completed within 60 calendar days after the parent of the child provides written consent for the evaluation. Exceptions to the 60 calendar day timeline are if:

- The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or
- A child transfers to a school in a different public agency before an evaluation has been completed, if the new school is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and new public agency agree to a specific time when the evaluation will be completed.

The meaning of "repeatedly fails" or "refuses to produce" will vary depending on the specific circumstances in each case. For example, a situation in which a child is absent from appointments because the child is ill would be treated differently than if a parent repeatedly failed to keep scheduled appointments for their child. Similarly, if a parent failed to keep scheduled appointments when a public agency repeatedly scheduled the evaluation to accommodate the parent's schedule is different than situations in which a public agency makes no attempt to accommodate a parent's schedule. School districts must establish policies and procedures relating to this process.

Beginning October 1, 2009, two additional exceptions to the 60-day timeline will be allowed:

- *Adverse Weather Conditions.* An extension is necessary because of extreme weather that prevented or interfered with the evaluation and the extreme weather is documented; and
- *Limited Access to Qualified Evaluators:* Either party establishes to the NDDPI's satisfaction that access to a qualified evaluator is so limited that the evaluation cannot occur in the initial 60 days.

The district will be required to have a variety of documents supporting their decision to delay. For example, the district would be required to submit documentation detailing the attempts at making an out-of-state appointment, indicating the date of the first attempt, and documents indicating the waiting period for an appointment at the outside agency. If weather conditions caused the delay, documentation from the ND State Department of Transportation could be submitted as proof.

**Highly Mobile Children**

Congress recognized the unique problems homeless children face and included several new provisions in the Act to ensure that homeless children and youth with disabilities have access to the same services and supports as all other children with disabilities. The Department recognizes that the high mobility rates of some homeless children with disabilities (as well as other children, including some children who are in the custody of a State child welfare agency) pose unique challenges when a child is referred for an evaluation, but moves to another district or State before an evaluation can be initiated or completed. In such cases, the Department believes it is important that the evaluations be completed as expeditiously as possible, taking into consideration the date on which the child was first referred for evaluation in any LEA. However, the high mobility rate of these children and their potential range of evaluation needs means that any specific expedited timeframe could be both too long to ensure that all children are evaluated before they move, and too short to be reasonable in all circumstances. *8/14/06 Federal Register, Vol. 71 No. 156, page 46637*

If the school personnel do not suspect that the child has a disability, they may refuse to evaluate the child. The school must inform the parents in writing of its reasons for refusal. However, if the parents suspect the child has a disability that requires special education, they may pursue an evaluation using mediation or due process hearing procedures.

**Sec. 300.300****Parental consent***(a) Parental Consent for Initial Evaluation*

- (1)
  - (i) The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under § 300.8 must, after providing notice consistent with §§ 300.503 and 300.504, obtain informed consent, consistent with § 300.9, from the parent of the child before conducting the evaluation.
  - (ii) Parental consent for initial evaluation must not be construed as consent for initial provision of special education and related services.
  - (iii) The public agency must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.
- (2) For initial evaluations only, if the child is a ward of the State and is not residing with the child's parent, the public agency is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if--
  - (i) Despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the child;
  - (ii) The rights of the parents of the child have been terminated in accordance with State law; or
  - (iii) The rights of the parent 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.
- (3)
  - (i) 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 under paragraph (a)(1) of this section, 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 in subpart E of this part (including the mediation procedures under § 300.506 or the due process procedures under § 300.507 through § 300.516), if appropriate, except to the extent inconsistent with State law relating to such parental consent.
  - (ii) The public agency does not violate its obligation under § 300.111 and § 300.301 through § 300.311 if it declines to pursue the evaluation.

**Sec. 300.301****Initial Evaluation**

- (a) *General.* Each public agency must conduct a full and individual initial evaluation, in accordance with §300.305 and 300.306, before the initial provision of special education and related services to a child with a disability under this part.
- (b) *Request for initial evaluation.*  
Consistent with the consent requirements in § 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.
- (c) *Procedures for initial evaluation.* The initial evaluation—
  - (1)
    - (i) Must be conducted within 60 days of receiving parental consent for the evaluation; or
    - (ii) If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and
  - (2) Must consist of procedures—
    - (i) To determine if the child is a child with a disability under § 300.8; and
    - (ii) To determine the educational needs of the child.
- (d) *Exception.* The timeframe described in paragraph (c)(1) of this section does not apply to a public agency 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 public agency after the relevant timeframe in paragraph (c)(1) of this section 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 under § 300.8.
- (e) The exception in paragraph (d)(2) of this section 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.

## Evaluation Planning Process

Each component of the evaluation planning process serves a function to ensure that a comprehensive and appropriate evaluation is completed for each child. The evaluation planning process components include:

- identification of a multidisciplinary team;
- completion of Student Demographics;
- development of a Student Profile;
- formulation of assessment questions on the Assessment Plan;
- completion of the individualized assessments; and
- preparation of an Integrated Written Assessment Report.

### Multidisciplinary Team

Refer to the **Guidelines: Identification and Evaluation of Students with Specific Learning Disabilities** (June 2007) for additional evaluation procedures.

Once a referral for a comprehensive evaluation is made, a multidisciplinary team (MDT) must be identified. The members of the MDT may represent the same roles as the members as the IEP team. Input must be obtained by multidisciplinary team members who, because of their expertise or special knowledge of the student, can observe, gather data, and assess any aspect of the student's functioning that may be affected by the suspected disability.

The multidisciplinary team has the responsibility to:

- develop a Student Profile;
- develop an Assessment Plan with modifications, as needed;
- carry out the Assessment Plan;
- analyze the findings throughout the process; and
- prepare an Integrated Written Assessment Report to summarize pertinent observational data and other relevant assessment results that will determine if the student has a disability that adversely affects education.

#### *§ 300.301 Initial evaluations.*

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

#### *§300.305 Additional Requirements for evaluations and reevaluations.*

(a) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, if appropriate, must –  
1) Review existing evaluation data on the child...

The number of persons involved in the evaluation process will vary from one student to another. The following list includes examples of persons who may be considered as members of the multidisciplinary team, based on what is known or suspected in terms of the student's needs.

- The **parents** play an important role in the evaluation process and must be a part of their child's multidisciplinary team. It is critical to obtain input from parents so the team will fully understand the scope of the student's needs. The parents are able to contribute valuable information about their child including developmental milestones, healthcare issues, behavior in the home and other settings, homework completion, recreational interests, and vocational interests.
- The **special education teacher** of the child, or where appropriate, a special education provider, is a vital team member. The special education teacher should have experience in conducting and interpreting assessment for the suspected disability area. If more than one disability is suspected, persons knowledgeable in each disability should be included. The data gathered during the referral process will assist in determining the appropriate special education personnel.

- The **representative of the local education agency (LEA)** is a key member of the multidisciplinary team because of the administrative and instructional leadership inherent in this position. The LEA representative ensures that all necessary activities are carried out throughout the special education process. He/she must have the authority to commit and monitor the use of resources, including personnel. If needed, the LEA representative can consult with special education administrative personnel regarding procedural concerns and funding questions that may arise throughout the evaluation process. The LEA representative is knowledgeable about the general education curriculum and can provide a broader perspective regarding the child's needs within the curriculum. Finally, the LEA representative can provide information to the team on how the student functions outside the classroom, particularly when behavior is a concern.
- The **regular education teacher** is a key member of the multidisciplinary team because of his/her involvement in any intervention activities. The child's classroom teacher will provide vital information concerning the child's level of functioning within the general education curriculum and the instructional implications that result from the disability. The team depends on the classroom teacher for reporting classroom data such as the outcomes of diagnostic teaching, interactions with other students, and day-to-day performance. If the child does not have a regular education teacher, then the regular education teacher or other person qualified to teach a child of that age would be appropriate.
- An **individual who can interpret the instructional implications of evaluation results** will provide the team with valuable information linking assessment findings to the child's ability to function in the regular education environment. This professional could serve as the regular education, special education, or LEA member already part of the team.

Other persons may be asked to participate in the evaluation process depending upon the information needed about the student. Members of the school's intervention team (BLST or RTI) who have background information on the student may be part of the child's evaluation team. Similarly, agency personnel, private practitioners, and employers may be team members if they bring critical information about the child.

A multidisciplinary team ensures that observations and other sources of data are gathered from a variety of settings in which the student demonstrates varying strengths and needs. The data gathered by each of the team members will be used as the basis for the Integrated Written Assessment Report.

### ***Student Demographics***

The multidisciplinary team will complete the demographic information regarding the student who has been referred for evaluation. Identifying information establishes the student's educational background, provides child count information, and ensures accurate data management.

### ***Student Profile Evaluation***

The multidisciplinary team completing the evaluation will develop a profile of the student based on the information previously gathered from all available sources. The team must gather relevant functional, instructional, and developmental information about the child.

***Purpose for Assessment.*** The reason for the evaluation must be documented on the *Student Profile Evaluation Form*. If the student is being evaluated for the first time, check *Initial Evaluation*. If a student has been dismissed from special education services and is being evaluated for another suspected disability, this is also considered an initial evaluation. However, if a student is being evaluated within three years of the most recent comprehensive evaluation to confirm the student's disability, the second option, *Reevaluation*, should be checked. The third option, *Evaluation or Reevaluation for Individual Program Needs*, is checked when:

- assessment information is needed to verify current programming,
- new questions arise calling for additional assessment procedures,
- a change in student performance is noticed, or
- prior to a student's dismissal from special education and related services.

#### **Century Code 15.1-32-01. Definitions.**

4. a. "Student with a disability" means an individual who is at least three years of age but who has not reached the age of twenty-one before September first of the year in which the individual turns twenty-one and who requires special education and related services...

Prior to dismissal from receiving special education and related services, the school district must complete the evaluation process before determining that the child is no longer a child with a disability. This includes a child who is dismissed from a single service, but who continues to receive other special education or related services. A comprehensive evaluation is not required before the termination of a student's eligibility due to exceeding the age of eligibility for FAPE or due to graduation with a regular high school diploma. For these individuals the MDT must provide a Summary of Performance (SOP). The SOP must include information about the student's academic achievement and functional performance, as well as recommendations on how to assist the student in meeting the student's postsecondary goals. Additional information relating to the development of an SOP and the recommended state form can be found in Appendix C.

The student profile evaluation will:

- provide a comprehensive picture of the child;
- identify patterns of current student functioning; and
- indicate areas where further information is needed.

***Student Characteristics/Influence.*** The team needs to consider a variety of characteristics and influences in a student's life when organizing the information already known about the student.

These factors, which are recorded under the column *Student Characteristics/Influences*, represent broad categories rather than specific data findings. The categories may include, but are not limited to cognitive characteristics, physical characteristics, adaptive characteristics, classroom characteristics, and environmental influences.

***Source of Information.*** The team should consider a variety of information sources. These may include data gathered from interventions, teacher reports, medical reports, student cumulative file, previous assessment reports, referral forms, data collected from other agencies, and information given by the student and parent(s). These sources are recorded under the *Source of Information* column.

***Findings.*** The specific information from each source is recorded in the *Findings* column. Such information reflects the student's learning characteristics and will provide direction for the assessment plan. In addition, those factors that precipitated the referral for evaluation should be noted as a significant part of the student's profile. Evidence of strengths and patterns of needs provide insight relating to the student, but may raise new questions that can be answered by gathering additional information relating to the child.

***Additional Information Needed.*** After all available information has been organized and reviewed, the team will identify areas where additional information is needed to determine:

- whether a disability exists or, in the case of a reevaluation, if a disability continues to exist;
- the current levels of academic achievement related to the developmental needs of a child;
- whether the child may need 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: (1) to meet the measurable annual goals in the child's individualized education program, and (2) to be involved in and progress in the general education curriculum, or for a preschool child, to participate in age appropriate activities.

The need for additional information is the basis for constructing the Assessment Plan. Whether additional information is needed must be determined on a case-by-case basis. Refer to the Reevaluation section for further guidance regarding *Additional Information Needed*.

In some cases, it may be decided that no additional information is needed to determine or to confirm the child has a disability. If the child's team determines that no additional information is needed, an Integrated Written Assessment Report must be completed to summarize all the information reviewed and to verify agreement that all current information has been gathered to make disability determination decisions.

### **Assessment Plan**

The development of the Student Profile leads the multidisciplinary team into the evaluation planning process by defining what additional information is needed. The Assessment Plan details how the additional information will be obtained and by whom.

**Considerations for Nonbiased Assessment.** Throughout the evaluation planning process, it is important to identify all factors that may mask ability and cause the student to appear to have a disability. The Considerations for Nonbiased Assessment section on the state-recommended form allows the team to address factors which may interfere with obtaining a true picture of the student's functioning.

School districts have an obligation to review their selection and administration of assessments for potential discrimination. Tests and other assessment materials used to evaluate a child must be selected and administered so as not to be discriminatory on a racial or cultural basis. They must be provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible.

#### **Sec. 300.305 (e)**

**Evaluations before change in eligibility.** (1) Except as provided in paragraph (e)(2) of this section, a public agency must evaluate a child with a disability in accordance with §§ 300.304 through 300.311 before determining that the child is no longer a child with a disability. (2) The evaluation described in paragraph (e)(1) of this section is not required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under State law. (3) For a child whose eligibility terminates under circumstances described in paragraph (e)(2) of this section, 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 postsecondary goals.

**Sec. 300.304 (c)(1)(i)(ii)**

- (c) *Other evaluation procedures.* Each public agency must ensure that—
- (1) Assessments and other evaluation materials used to assess a child under this part—
    - (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;

Students under extreme stress or students without benefit of the cultural or educational experiences assumed in the assessment may perform poorly in assessment situations. Those same factors may also cause students to perform poorly in classroom activities.

The team must consider how the following factors may interfere with the evaluation process:

- *Cultural.* Information about the child’s culture and his/her receptive and expressive language abilities must be gathered to assist in providing nonbiased assessments.
- *Environmental.* It is important to consider all of the student’s environments and make accommodations during the evaluation process so the student’s true abilities are reflected.
- *Motor or Sensory.* When assessing a student, the evaluation procedures and instruments must measure the concerns expressed through the evaluation process and consider motor or sensory impairments. For example, a test of cognitive functioning administered to a child with a hearing impairment must assess cognitive functioning and not misinterpret assessment results based on a communication disability.
- *Socioeconomic Factors.* The team needs to be sensitive to social and economic factors that may limit exposure to varied environments.
- *Emotional.* Psychological conditions can interfere with the child’s ability to provide valid responses to assessment tasks. Awareness of a child’s emotional status will permit a true picture of that child’s capacity.

**Questions to Answer through Assessment.** In the assessment planning process, the team will develop questions regarding student performance. The questions will be derived from the *Additional Information Needed* area on the Student Profile form and documented on the *Questions to Answer through Assessment* section of the Assessment Plan form.

Questions should focus on all areas related to the child's needs, methods of learning, and learning environment. In the area of specific learning disabilities, specific issues required by federal regulations must be addressed (e.g., the determination of the team concerning the effects of environmental, cultural or economic disadvantage). These issues will guide the questions to be asked.

The more specific the questions are, the greater the likelihood that the team will select assessment procedures that yield educationally relevant data. Based on the questions asked, the team will construct an Assessment Plan for gathering needed assessment information.

**Assessment Procedures.** The multidisciplinary team will outline specific procedures to be followed when gathering assessment information in the *Assessment Procedures* section of the Assessment Plan. No single procedure can be used as the sole criterion in deciding whether a child has a disability. A team 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.

The information pertaining to the child can be gathered using a variety of approaches and sources. Traditional assessments are formal, standardized tools designed to assess a specific area or level of functioning. These are used to gather in-depth information related to the student's capabilities and performance.

Standardized tests must be validated for the specific purpose for which they are used and be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producers of the tests. If an assessment is not conducted under standard conditions, information about the extent to which the assessment varied from standard conditions, such as the qualification of the persons administering the test or the method of test administration, needs to be included in the assessment report. The team can then evaluate the effects of these variances on the validity and reliability of the information reported and determine whether additional assessments are needed. Examples of traditional assessment tools are:

- Woodcock-Johnson Psychoeducational Battery-Revised;
- Wechsler Intelligence Scales for Children-Revised;
- AAMR (American Association of Intellectual Disability) Adaptive Behavior Scale-School; and
- Statewide achievement tests such as the ND State Assessment and the ND Alternate Assessment

Another way to gather valuable information is through the use of assessment procedures that are not standardized. These methods provide opportunities to gather a wide range of information about the student's performance across several environments.

Examples are:

- utilizing information gathered through the Building Level Support Team or Response to Intervention process;
- observing the student in various learning environments;
- utilizing information and records in the student's cumulative folder;
- analyzing the student's work samples including classroom-based assessments;
- implementing diagnostic teaching methods or other systematic methods of instruction; and
- interviewing persons who can provide key information (e.g., student, parent, previous teachers, community/neighborhood people).

***Person(s) Responsible.*** The list of questions that have been formulated and need to be answered will determine who will assist in gathering the data, and whether additional persons need to be added to the multidisciplinary team.

#### **Other Considerations for Developing the Assessment Plan**

The content of the Assessment Plan will be determined by the data already available and the information that still needs to be gathered. When reviewing existing data on the child, the team should include:

- assessments and information provided by the parents of the child, private practitioners and agency personnel;
- current classroom-based, local and State assessments and classroom-based observations; and
- observations by teachers and related services providers.

Strategies to implement the Assessment Plan will vary according to the individual student needs. The evaluation process will determine if the student has a disability and because of the disability, needs special education and related services. However, the range of needs reported, the complexity of those needs, and the age of the student will determine the type and amount of assessment required. During the evaluation process, if the team determines that assessment in any area is incomplete, the plan should be revised.

The team's conclusions should be documented as each area is addressed. The written Assessment Plan will become a working document for each team member and will serve as a reference for accountability.

### **Assessment Considerations for Secondary-Level Students**

The IDEA 2004 requires that postsecondary goals for students 16 and older be based on age-appropriate transition assessments related to education or training, employment, and where appropriate, independent living skills. Information from age-appropriate transition assessments will assist IEP teams in making informed decisions about the needs of the student regarding the achievement and the appropriateness of their postsecondary goals.

Although the broad purpose of transition assessments will vary depending on the individual and the setting, consideration should be given to the following questions during the assessment planning process;

- What knowledge and skills does the student need to successfully enter employment, postsecondary education, adult services, independent living, or community participation?
- What knowledge and skills does the student currently demonstrate in each of these areas?
- What knowledge and skills does the student still need to acquire over the next few years?

Types of transition assessments may include: behavioral assessment information, aptitude tests, interest and work values inventories, cognitive and achievement tests, personality or preference tests, career maturity or readiness tests, work-related temperament scales, and transition planning inventories.

### **Functional Behavioral Assessment Considerations**

A Functional Behavioral Assessment is a problem-solving process. The process assists the team in discovering relationships between factors in the school environment and a student's behavior. It is not a single test, but rather a systematic way of collecting information and analyzing it. A Functional Behavior Assessment (FBA) will yield information that is useful in developing positive behavioral supports.

An FBA provides critical information for instructional programming, the teaching of alternative skills, and responses to problem behaviors including crisis management and long-term prevention. Problem behaviors often adversely affect a student's quality of life in terms of relationships, access to preferred activities, and inclusion with same-age peers who do not have disabilities. Appropriate behavioral skills are also crucial to a student's successful participation in home, workplace, and community settings.

Functional Behavior Assessments can be conducted by professionals with expertise in behavior measurement and analysis, and with backgrounds in educational strategies, methods, and curriculum. This combination of competencies is necessary to analyze the ecology of the student's classroom, the student's interactions with instructional tasks, curriculum materials, classroom variables, and peers. University programs in school psychology, social work, mental health counseling, and special education teacher education routinely include both coursework and field-based experiences in analyzing behaviors, developing interventions to resolve behavior problems, and collaborating with multidisciplinary teams.

### ***Integrated Written Assessment Report***

The team will write a report that integrates findings from all sources. The report should consider all current and relevant data that has been gathered and reviewed to make disability determination decisions. The integration of all assessment data ensures that attention has been given to observations and other information shared by each team member. In addition, it protects the student from being labeled inappropriately, which might occur if a decision were made by one person or on the basis of one procedure or situation.

The Integrated Written Assessment Report (IWAR) needs to be written in a manner that is understandable to parents and other professionals; it should not reiterate test scores that are not meaningful to parents or others. The school must provide a copy of the IWAR and the documentation of determination of eligibility to the parents.

Each of the areas listed and discussed below should be considered and documented during the team's analysis of the assessment findings:

- observational information relating to the student's current level of functioning;
- input from all team members that reflects all areas of the student's current level of functioning;
- consideration of nondiscriminatory procedures that were addressed throughout the evaluation process;
- all other current and relevant data relating to the child; and
- determination of the child's disability.

### **Observational Findings**

The written findings need to reflect the relationship of observational information to the student's current levels of functioning. If a student is less than school age, a team member should observe the student in an environment appropriate and familiar to the student. A summary report based on team analysis ensures that observations are not only recorded and shared but that attention is given to observations of the student's ability to process information, express an idea, or perform a skill. Since observational data may either support or conflict with conclusions based on other assessment procedures, the inclusion of such data is critical.

**Sec. 300.305****Additional Requirements for evaluations and reevaluations.**

- (1) Review of evaluation data on the child including-
  - (i) Evaluations and information provided by the parents of the child;
  - (ii) Current classroom-based, local, or State assessments, and classroom-based observations; and
  - (iii) Observations by teachers and related service providers; and

**Consideration of Input from all Team Members**

An Integrated Written Assessment Report enables all multidisciplinary team members, including the parents, to know whether their assessment information and observations were considered. A student's unique patterns of functioning, particularly for students where problems are complex, will emerge only after the team's joint analysis of all input. Conclusions drawn by an individual without benefit of discussion and deliberation with other team members typically fail to describe complex interactions and are less likely to reconcile inconsistencies in the data. It is important that contradictions in data be carefully considered and explained.

The team's conclusions are derived from the assessment data and recorded in the IWAR. Input from all team members and all parameters of functioning must be considered. If some interfering factors are due to disabilities in addition to the primary disability, the IWAR ensures that such secondary disabilities are identified and the complexity of the interaction of various disabilities is addressed.

Assessment findings from evaluators outside the school district should be considered in conjunction with all other findings and integrated into the written report. All information gathered during the evaluation process is important, whether conducted by school personnel or outside evaluators.

**Nondiscriminatory Procedures**

Nondiscriminatory assessment procedures that were addressed throughout the evaluation process must be included in the IWAR so this information can be considered when determining whether the child has a disability and whether the child needs special education or related services. These conclusions assure that the student is not identified as having a disability when the concerns are primarily related to cultural, environmental, sensory, motor, emotional, social and/or economic issues.

**Current and Relevant Data for Determining Educational Needs**

The IWAR should serve as a resource document for all planning teams, including the school intervention process. Recommendations regarding instructional needs and participation in the general education curriculum should be included in the report as further explanation of the student's performance within areas of strength or need. Such recommendations may be implemented by qualified personnel regardless of whether there is an identified disability.

It is important to provide immediate attention to areas in need of modification or adaptation that may not be relevant to eligibility or placement decisions.

Examples of such situations are given below.

- Medical and other health-related problems and environmental circumstances that are physically threatening or otherwise affect a student's physical well being need to be addressed. Response to such needs often requires a referral to specialists or other agencies.
- Classroom situations that impair learning or achievement require attention regardless of placement. These situations should be addressed immediately. For instance, if a hearing impairment is reported and preferential seating is necessary, a change in seating arrangement should not be delayed until the development of the individualized education program (IEP). Any immediate changes implemented at this time will benefit the child and be advantageous to the assessment and program planning process.
- The Integrated Written Assessment Report should indicate needs that are specifically setting-related. When assessment shows that setting-related factors make critical differences, the observations should be noted in the report. Examples include: physical accessibility; number of personnel with whom the student will be expected to interact; and number and age of students in classroom.

The IWAR will not establish whether special education or related services are required or who is responsible for any resulting services; it will determine whether the student has a disability and educational needs of the child. It is important to remember that when a student has been determined to have a disability, the IEP process rather than the evaluation process determines whether the student is in need of special education and related services and placement in the least restrictive environment.

When the assessment findings have been adequately analyzed by the multidisciplinary team and the significant information summarized in the report, the IEP team will be able to draw directly from the report in preparing the present levels of academic achievement and functional performance statements for the IEP. The sharing and analysis of the assessment data occurs separate from and precedes the IEP meeting. However, the sharing and analysis of assessment information and the IEP development may occur at one meeting, provided the assessment discussion occurs before the IEP is planned.

**Determination of a Disability**

At the conclusion of the meeting to review the assessment results, the team which includes the child's parent(s), will determine whether the unique educational needs of the student are due to a disability as defined by the IDEA 2004. Any inconsistencies in assessment information obtained from various procedures must be reconciled, and the explanations documented. The report must include a statement as to whether the student has a disability and what that disability is as defined in the IDEA 2004. The categories used in North Dakota are: specific learning disabilities, hearing impairment, deafness, visual impairment including blindness, deaf-blindness, intellectual disability, emotional disturbance, orthopedic impairment, other health impairment, traumatic brain injury, autism, and speech or language impairment.

For younger children in North Dakota, the Non-Categorical Delay (NCD) eligibility option may be used for ages 3 through 9. This option may be used in situations where the determination of a disability is not clear but delays are well documented. Additional information regarding NCD can be found at <http://www.dpi.state.nd.us/speced/guide/NCDguidelines.pdf>

Some children may be inappropriately identified as having a disability because they have not received sufficient academic support. Therefore, in making an eligibility determination, a child may not be considered to be a child with a disability if the determinant factor is lack of instruction in reading or mathematics, or limited English proficiency. Consideration of these factors must be documented on the Integrated Written Assessment Report form.

If the student is not eligible under the IDEA 2004, the assessment report will determine if the student is considered "handicapped" under Section 504 of the Rehabilitation Act which is separate from the IDEA 2004. This eligibility assures the provision of parental rights, procedural safeguards, and an individualized accommodation plan, which are afforded under that law.

**Reevaluation**

The reevaluation procedure confirms the student has a disability and assures the student's total needs have been identified and are being met. The evaluation planning process for the purpose of reevaluation begins with the members of the IEP team. Team membership may expand to include other personnel based on questions that the team has about the student. As members of the IEP team, parents must participate in the review of the existing information.

As part of the student profile, the parent and public agency should discuss the advantages and disadvantages of conducting a reevaluation, as well as what effect a reevaluation might have on the child's educational program. After the completion of a student profile the parent and school district can agree that a reevaluation is not necessary. It is recommended that the team document this agreement as part of the student profile process.

The IDEA 2004 provides for the option that a reevaluation does not have to occur at least once every three years if the parents and public agency agree that a reevaluation is not necessary. If there is a decision to conduct a reevaluation, the IEP Team and other qualified professionals must review existing evaluation data. On the basis of that review the team will identify what additional data, if any, are needed to determine whether the child continues to have a disability, and to identify the educational needs of the child.

A reevaluation may occur not more than once a year and must occur at least once every three years, unless the parent and the public agency agree that a reevaluation is not necessary. If a parent requests more than one reevaluation in a year and the public agency does not believe a reevaluation is needed, the public agency must provide the parents with written notice of the agency's refusal to conduct a reevaluation, that explains, among other things, why the agency refuses to conduct the reevaluation and the parent's right to contest the agency's decision through mediation or a due process hearing. In situations where a public agency believes a reevaluation is necessary, but the parent disagrees and refuses consent for a reevaluation, the public agency may, but is not required to, pursue the reevaluation by using the consent override procedures.

**Sec. 300.303****Reevaluation.**

- (a) *General.* A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with §§ 300.304 through 300.311—
  - (1) 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
  - (2) If the child's parent or teacher requests a reevaluation.
- (b) *Limitation.* A reevaluation conducted under paragraph (a) of this section—
  - (1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and
  - (2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.

**Parent and District Agree No reevaluation necessary**

As part of the reevaluation process, the parent and public agency should discuss the advantages and disadvantages of conducting a reevaluation, as well as what effect a reevaluation might have on the child's educational program. After the discussion, the parent and school district can agree that a reevaluation is not necessary. It is recommended that the team document this agreement on the Student Profile Evaluation form.

**No Additional Information Needed**

Following the completion of the Student Profile, the child's IEP team may decide that no additional information is needed to determine if the child continues to be a child with a disability. If the child's team determines that no additional information is needed, the team decision that no additional information is needed and that the parents were notified of their right to request additional assessments must be documented on the bottom of the student profile form. The Integrated Written Assessment Report (IWAR) then must be developed. A copy of the IWAR must be given to the parents.

The Integrated Written Assessment Report should include all aspects that verify or fail to verify the determination of disability and all new information that requires significant attention in program planning.

**Sec. 300.305 (d)****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 public agency must notify the child's parents of—
  - (i) That determination and the reasons for the determination; and
  - (ii) 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.
- (2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.

**Additional Information Needed**

If, following the completion of the Student Profile, the team determines new information is needed, parental consent must be obtained. If a parent of the child with a disability refuses consent for reevaluation, the school may continue to pursue consent for reevaluation by using mediation and due process procedures.

If a parent fails to respond to consent for evaluation, the school must demonstrate that it has taken reasonable measures to obtain that consent, and the child's parent has failed to respond. The school must document attempts to contact the parents, such as: a detailed record of telephone calls made or attempted and the results of the calls; copies of correspondence sent to parents such as prior written notice forms and any responses received from the parents; detailed records of visits made to the parent's home or place of employment and the results of those visits.

The IEP team must remember that failing to respond to a request for consent is different from refusing to consent. A school district can proceed with a reevaluation without informed consent only when parents have failed to respond to the districts reasonable attempts to obtain the consent.

**Sec. 300.300****Parent Consent****(c) Parental consent for reevaluation**

- (1) Subject to paragraph (c) (2) of this section, each public agency –
  - (i) Must obtain informed parental consent, in accordance with §300.300 (a) (1), prior to conducting any reevaluation of a child with a disability.
  - (ii) 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 described in paragraph (a) (3) of this section.
  - (iii) The public agency does not violate its obligation under § 300.111 and §§ 300.301 through 300.311 if it declines to pursue the evaluation or reevaluation.
- (2) The informed parental consent described in paragraph (c) (1) of this section need not be obtained if the public agency can demonstrate that-
  - (i) It made reasonable efforts to obtain such consent; and
  - (ii) The child's parent has failed to respond.

When the team determines new information is needed, an Assessment Plan must be completed. The Assessment Plan will answer questions relating to the presence of a disability. Through sharing and analyzing current data and observations of the student's functioning, the team will determine what additional information is needed. In this way, appropriate assessment procedures can be selected to establish the student's present ability and achievement levels and to note any concerns regarding the student's current functioning. Thorough assessment planning at the time of reevaluation eliminates the use of unnecessary routine testing. As with the initial evaluation, it is not appropriate to administer the same battery of tests to all students.

Maintaining a broad scope throughout the evaluation process remains as critical at the time of a reevaluation as it does at the initial evaluation. Nondiscriminatory procedures must also be followed in the reevaluation. If there is a suspicion of a disability other than, or in addition to, the primary disability, all aspects of functioning must receive attention. This may include behavior, health, vision, hearing, social and emotional status, cognitive ability, academic performance, communicative status, and motor abilities. Such attention might lead to identification of other suspected disabilities which may have been unrecognized or overlooked. Thus, the functioning of the student as a total person will be observed. Each reevaluation should consider the student's long-range needs, including the skills necessary for a successful transition into adult living.

The Integrated Written Assessment Report should include all aspects that verify or fail to verify the determination of disability and all new information that requires significant attention in program planning. All components of an initial Integrated Written Assessment Report must also be included in each subsequent reevaluation report for the child.

If the reevaluation process results in a determination that a student who has been receiving special education services no longer meets the disability criteria under IDEA, the team needs to determine if services are appropriate under Section 504. It is recommended that students not eligible under IDEA or Section 504 be referred to the BLST for additional support.

## ***Independent Evaluations***

At the end of the evaluation process, parents who do not agree with some aspect of the evaluation have the right to request an independent educational evaluation at public expense. An independent evaluation is defined as an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of the child in question. If the school maintains that its assessment is appropriate, the school must file a due process complaint notice to show that its evaluation is appropriate.

If the school district initiates a due process hearing and findings show that the district's assessment is appropriate, parents may obtain an independent evaluation at their own expense. If a due process complaint notice is not filed, the school must ensure that an independent evaluation is provided at public expense. The school must provide to parents, on request, information indicating where an independent evaluation may be obtained and the school district's criteria for a qualified examiner.

Results from any independent evaluation must be considered by the team for evaluation activities or program planning. It is important to determine that a qualified person conducted the independent evaluation, and that criteria for evaluation procedures were met.

A parent is entitled to only one independent education evaluation at public expense each time the parent disagrees with a specific evaluation or reevaluation that is conducted or obtained by the school district.

If a parent disagrees with the results of a completed evaluation that includes a review of a child's response to intervention process, the parent has a right to an IEE at public expense, subject to the conditions in § 300.502(b)(2) through (b)(4). The parent, however, would not have the right to obtain an IEE at public expense before the public agency completes its evaluation simply because the parent disagrees with the public agency's decision to use data from a child's response to intervention as part of its evaluation to determine if the child is a child with a disability and the educational needs of the child. *8/14/06 Federal Register, Vol. 71 No. 156, page 46689*

**Appendices**

- A. Federal Regulations
  - Sec. 300.29
  - Sec. 300.111
  - Sec. 300.300
  - Sec. 300.301
  - Sec. 300.302
  - Sec. 300.303
  - Sec. 300.304
  - Sec. 300.305
  - Sec. 300.306
  - Sec. 300.502
  - Sec. 300.503
  - Sec. 300.504
  
- B. Secondary Transition Summary of Performance  
Components of Summary of Performance Form

# **Appendix A**

## Federal Regulations

**Sec. 300.29****Native language**

- (a) Native language, when used with respect to an individual who is limited English proficient, means the following:
- (1) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in paragraph (a)(2) of this section.
  - (2) In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment.
- (b) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or oral communication).

**Sec. 300.111****Child find**

- (a) *General.*
- (1) The State must have in effect policies and procedures to ensure that:
    - (i) 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; and
    - (ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.
- (b) *Use of term developmental delay.* The following provisions apply with respect to implementing the child find requirements of this section:
- (1) A State that adopts a definition of developmental delay under §300.8(b) determines whether the term applies to children aged three through nine, or to a subset of that age range (e.g., ages three through five).
  - (2) A State may not require an LEA to adopt and use the term developmental delay for any children within its jurisdiction.
  - (3) If an LEA uses the term developmental delay for children described in §300.8(b), the LEA must conform to both the State's definition of that term and to the age range that has been adopted by the State.
  - (4) If a State does not adopt the term *developmental delay*, an LEA may not independently use that term as a basis for establishing a child's eligibility under this part.
- (c) *Other children in child find.* Child find also must include-
- (1) Children who are suspected of being a child with a disability under §300.8 and in need of special education, even though they are advancing from grade to grade; and
  - (2) Highly mobile children, including migrant children.
- (d) *Construction.* Nothing in the Act requires that children be classified by their disability so long as each child who has a disability that is listed in §300.8 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act.

## Sec. 300.300

**Parental consent.****(a) Parental consent for initial evaluation.**

- (1)
  - (i) The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under § 300.8 must, after providing notice consistent with §§ 300.503 and 300.504, obtain informed consent, consistent with § 300.9, from the parent of the child before conducting the evaluation.
  - (ii) Parental consent for initial evaluation must not be construed as consent for initial provision of special education and related services.
  - (iii) The public agency must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.
- (2) For initial evaluations only, if the child is a ward of the State and is not residing with the child's parent, the public agency is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if—
  - (i) Despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the child;
  - (ii) The rights of the parents of the child have been terminated in accordance with State law; or
  - (iii) The rights of the parent 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.
- (3)
  - (i) 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 under paragraph (a)(1) of this section, 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 in subpart E of this part (including the mediation procedures under § 300.506 or the due process procedures under §§ 300.507 through 300.516), if appropriate, except to the extent inconsistent with State law relating to such parental consent.
  - (ii) The public agency does not violate its obligation under § 300.111 and §§ 300.301 through 300.311 if it declines to pursue the evaluation.

- (b) Parental consent for services.** (1) A public agency that is responsible for making FAPE available to a child with a disability must obtain informed consent from the parent of the child before the initial provision of special education and related services to the child.
- (2) The public agency must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child.
- (3) If the parent of a child fails to respond or refuses to consent to services under paragraph (b)(1) of this section, the public agency may not use the procedures in subpart E of this part (including the mediation procedures under § 300.506 or the due process procedures under §§ 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child.

## Sec. 300.300

**Parental consent. (cont.)**

- (4) If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the public agency—
- (i) Will not be considered to be in violation of the requirement to make available FAPE to the child for the failure to provide the child with the special education and related services for which the public agency requests consent; and
  - (ii) Is not required to convene an IEP Team meeting or develop an IEP under §§ 300.320 and 300.324 for the child for the special education and related services for which the public agency requests such consent.
- (c) *Parental consent for reevaluations.*
- (1) Subject to paragraph (c)(2) of this section, each public agency—
- (i) Must obtain informed parental consent, in accordance with § 300.300(a)(1), prior to conducting any reevaluation of a child with a disability.
  - (ii) 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 described in paragraph (a)(3) of this section.
  - (iii) The public agency does not violate its obligation under § 300.111 and §§ 300.301 through 300.311 if it declines to pursue the evaluation or reevaluation.
- (2) The informed parental consent described in paragraph (c)(1) of this section need not be obtained if the public agency can demonstrate that—
- (i) It made reasonable efforts to obtain such consent; and
  - (ii) The child's parent has failed to respond.
- (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.
- (2) In addition to the parental consent requirements described in paragraph (a) of this section, a State may require parental consent for other services and activities under this part if it ensures that each public agency in the State establishes and implements effective procedures to ensure that a parent's refusal to consent does not result in a failure to provide the child with FAPE.
- (3) 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 required by this part.
- (4)
- (i) 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 the parent fails to respond to a request to provide consent, consent override procedures (described in paragraphs (a)(3) and (c)(1) of this section); and
  - (ii) The public agency is not required to consider the child as eligible for services under §§ 300.132 through 300.144.
- (5) To meet the reasonable efforts requirement in paragraphs (a)(1)(iii), (a)(2)(i), (b)(2), and (c)(2)(i) of this section, the public agency must document its attempts to obtain parental consent using the procedures in § 300.322(d).

**Sec. 300.301****Initial Evaluation**

- (a) *General.* Each public agency must conduct a full and individual initial evaluation, in accordance with §§ 300.305 and 300.306, before the initial provision of special education and related services to a child with a disability under this part.
- (b) *Request for initial evaluation.* Consistent with the consent requirements in § 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.
- (c) *Procedures for initial evaluation.* The initial evaluation— (1)(i) Must be conducted within 60 days of receiving parental consent for the evaluation; or (ii) If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and(2) Must consist of procedures—
- (i) To determine if the child is a child with a disability under § 300.8; and (ii) To determine the educational needs of the child.
- (d) *Exception.* The timeframe described in paragraph (c)(1) of this section does not apply to a public agency 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 public agency after the relevant timeframe in paragraph (c)(1) of this section 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 under § 300.8.(e) The exception in paragraph (d)(2) of this section 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. 300.302**

Screening for instructional purposes is not evaluation. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

**Sec. 300.303****Reevaluations.**

- (a) *General.* A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with 300.304 through 300.311—
- (1) If the public agency determines that the educational or related service needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or
  - (2) If the child's parent or teacher requests a reevaluation.
- (b) *Limitation.* A reevaluation conducted under paragraph (a) of this section—
- (1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and
  - (2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary).

## Sec. 300.304

**Evaluation procedures.**

- (a) *Notice.* The public agency must provide notice to the parents of a child with a disability, in accordance with 300.503, that describes any evaluation procedures the agency proposes to conduct.
- (b) *Conduct of evaluation.* In conducting the evaluation, the public agency must—
- (1) 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—
    - (i) Whether the child is a child with a disability under 300.8; and
    - (ii) 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);
  - (2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and or determining an appropriate educational program for the child; and
  - (3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
- (c) *Other evaluation procedures.* Each public agency must ensure that—
- (1) Assessments are other evaluation materials used to assess a child under this part—
    - (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 assessments 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.
  - (2) 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.
  - (3) 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 assessment 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).
  - (4) 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;
  - (5) 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 300.301(d)(2) and (e), to ensure prompt completion of full evaluations.
  - (6) In evaluating each child with a disability under 300.304 through 300.306, 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.
  - (7) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

## Sec. 300.305

**Additional requirements for evaluations and reevaluations.**

- (a) *Review of existing evaluation data.* As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must—
- (1) Review existing evaluation data on the child, including—
    - (i) Evaluations and information provided by the parents of the child;
    - (ii) Current classroom-based, local, or State assessments, and classroom-based observations; and
    - (iii) Observations by teachers and related services providers; and
  - (2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—
    - (i) (A) Whether the child is a child with a disability, as defined in 300.8, and the educational needs of the child; or  
(B) In case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child;
    - (ii) The present levels of academic achievement and related developmental needs of the child;
    - (iii) (A) Whether the child needs special education and related services; or  
(B) In the case of a reevaluation of a child, whether the child continues to need special education and related services; and
    - (iv) 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.
- (b) *Conduct the review.* The group described in paragraph (a) of this section may conduct its review without a meeting.
- (c) *Source of data.* The public agency must administer such assessments and other evaluation measures as may be needed to produce the data identified under paragraph (a) of this section.
- (d) *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 public agency must notify the child's parents of—
    - (i) That determination and the reasons for the determination; and
    - (ii) 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.
  - (2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.
- (e) *Evaluations before change in eligibility.*
- (1) Except as provided in paragraph (e)(2) of this section, a public agency must evaluate a child with a disability in accordance with 300.304 through 300.311 before determining that the child is no longer a child with a disability.
  - (2) The evaluation described in paragraph (e)(1) of this section is not required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under State law.
  - (3) For a child whose eligibility terminates under circumstances described in paragraph (e)(2) of this section, 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 postsecondary goals.

## Sec. 300.306

**Determination of eligibility.**

- (a) *General.* Upon completion of the administration of assessments and other evaluation measures—
  - (1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in § 300.8, in accordance with paragraph (b) of this section and the educational needs of the child; and
  - (2) The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.
- (b) *Special rule for eligibility determination.* A child must not be determined to be a child with a disability under this part—
  - (1) If the determinant factor for that determination is—
    - (i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA);
    - (ii) Lack of appropriate instruction in math; or
    - (iii) Limited English proficiency; and
  - (2) If the child does not otherwise meet the eligibility criteria under §300.8(a).
- (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 under § 300.8, and the educational needs of the child, each public agency 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; and
    - (ii) Ensure that information obtained from all of these sources is documented and carefully considered.
  - (2) If a determination is made that a child has a disability and needs special education and related services, and IEP must be developed for the child in accordance with §§ 300.320 through 300.324.

**Sec. 300.502****Independent educational evaluation.***(a) General.*

- (1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section.
- (2) Each public agency must provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in paragraph (e) of this section.
- (3) For the purposes of this subpart—
  - (i) Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and
  - (ii) Public expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at not cost to the parent, consistent with 300.103.

*(b) Parent right to evaluation at public expense.*

- (1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency, subject to the conditions in paragraphs (b) (2) through (4) of this section.
- (2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either—
  - (i) File a due process complaint to request a hearing to show that its evaluation is appropriate; or
  - (ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to 300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria.
- (3) If the public agency files a due process complaint notice to request a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.
- (4) If a parent requests in independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.
- (5) A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.

*(c) Parent-initiated evaluations.* If the parent obtains an independent educational evaluation at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation—

- (1) Must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and
- (2) May be presented by any party as evidence at a hearing on a due process complaint under subpart E of this part regarding that child.

*(d) Requests for evaluations by hearing officers.* If a hearing officer requests an independent educational evaluation as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.*(e) Agency criteria.*

- (1) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.
- (2) Except for the criteria described in paragraph (e) (1) of this section, a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

**Sec. 300.503****Prior notice by the public agency; content of notice.**

- (a) *Notice.* Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before public agency—
- (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
  - (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.
- (b) *Content of notice.* The notice required under paragraph (a) of this section must include—
- (1) A description of the action proposed or refused by the agency;
  - (2) An explanation of why the agency proposes or refuses to take the action;
  - (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
  - (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and , if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
  - (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part;
  - (6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and
  - (7) A description of other factors that are relevant to the agency's proposal or refusal.
- (c) *Notice in understandable language.*
- (1) The notice required under paragraph (a) of this section must be—
    - (i) Written in language understandable to the general public; and
    - (ii) Provided in the native language understandable to the general public; and
    - (iii) That there is written evidence that the requirements in paragraphs (c) (2) (i) and (ii) of this section have been met.
  - (2) If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure—
    - (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
    - (ii) That the parent understands the content of the notice; and
    - (iii) That there is written evidence that the requirements in paragraphs (c) (2) (i) and (ii) of this section have been met.

**Sec. 300.504****Procedural safeguards notice.**

- (a) *General.* A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy also must be given to the parents—
- (1) Upon initial referral or parent request for evaluation;
  - (2) Upon receipt of the first State complaint under 300.151 through 300.153 and upon receipt of the first due process complaint under 300.507 in a school year;
  - (3) In accordance with the discipline procedures in 300.530(h); and
  - (4) Upon request by a parent.
- (b) *Internet Web site.* A public agency may place a current copy of the procedural safeguards notice on its Internet Web site if a Web site exists.
- (c) *Contents.* The procedural safeguards notice must include a full explanation of all the procedural safeguards under 300.148, 300.151, through 300.153, 300.300, 300.502 through 300.503, 300.505 through 300.518, 300.520, 300.530 through 300.536 and 300.610 through 300.625 relating to—
- (1) Independent educational evaluations;
  - (2) Prior written notice;
  - (3) Parental consent;
  - (4) Access to education records;
  - (5) Opportunity to present and resolve complaints through the due process complaint and State complaint procedures, including—
    - (i) The time period in which to file a complaint;
    - (ii) The opportunity for the agency to resolve the complaint; and
    - (iii) The difference between the due process complaint and the State complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures;
  - (6) The availability of mediation;
  - (7) The child's placement during the pendency of any due process complaint;
  - (8) Procedures for students who are subject to placement in an interim alternative educational setting;
  - (9) Requirements for unilateral placement by parents of children in private schools at public expense;
  - (10) Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
  - (11) State-level appeals (if applicable in the State);
  - (12) Civil actions, including the time period in which to file those actions; and
  - (13) Attorneys' fees.
- (d) *Notice in understandable language.* The notice required under paragraph (a) of this section must meet the requirements of 300.503(c).

## **Appendix B**

### Secondary Transition Summary of Performance

- Components of the Summary of Performance Form

## COMPONENTS OF THE SUMMARY OF PERFORMANCE FORM

The Local Education Agency is required to provide this information for youth exiting special education due to graduating with a diploma or exceeding the age of eligibility.

### 1. Student Information:

This section contains student contact and demographic information that will be helpful to future service providers and to post-school surveyors who will contact students after graduation. A school contact person is also listed. Complete and up-to-date information is crucial to the North Dakota follow-up process. Include the student's disability and if applicable, secondary disability, primary language and date of the most recent IEP. A checklist may also be included of the most recent copies of evaluation reports that your team is attaching that diagnose and identify the student's disability or functional limitations, and/ or will assist in the postsecondary planning.

### 2. Student's Measurable Postsecondary Goals:

IDEA 2004 requires that special education students aged 16 and above (or younger, when deemed appropriate by the IEP team) have measurable postsecondary goals (based upon age appropriate transition assessments) related to: Education or training, Employment, and where appropriate, Independent living Skills.

These goals are the desired postsecondary outcomes of the student. This section should be completed using information from the student's recent Transition IEP Plan as well as updated information provided by the student. The information may be filled out independently by the student or completed with the student through an interview.

### 3. Summary of Performance: Academic Achievement and Functional Performance

List the student's present level of performance – for example, grade level, standard scores, strengths and needs, and accommodations and modifications, such as assistive technology, used in high school, and why they are needed.

Academic Achievement – This should include reading, math, writing, and other related academic skills. What are the student's present levels? Include: strengths, needs, necessary accommodations, modifications, assistive technology, etc. Remember that the purpose of the document is to help that next service provider to better understand how to help the student. What do you think is the most relevant information to convey? How does the student's disability affect their performance in academic activities?

Functional Performance – This could include present levels for general ability, problem solving skills, attention, organization, communication, social skills, behaviors, independent living skills, self-advocacy skills, career/vocational skills/experience, and any additional functional information that relates to the student's measurable postsecondary goals. How does the student's disability affect their performance in daily activities. The completion of these two areas may require input from a number of school personnel including the special education teacher, regular education teacher, school psychologist or related service personnel.

### 4. Recommendations to Assist the Student in Achieving Measurable Postsecondary Goals –

Include suggestions for accommodations, adaptive devices, compensatory strategies, assistive technology or support services to enhance access in a post-secondary environment, including higher education, training, employment, independent living or community participation. The recommendations can relate to the student's educational goals, community participation, employment, and/or independent living. Words of caution when filling out this section, Employers and colleges have different expectations and obligations. Do not recommend things in the SOP that colleges and employers aren't required to provide. Post-secondary providers will continue to make eligibility decisions on a case by case basis and the recommendations do not imply that the service a student qualified for in high school would automatically be the rule in post-secondary.

## 5. Student Input – (Optional)

Asking the student about what supports and services have helped them to be successful in high school, and about what services or supports will be needed in the future, can help promote self advocacy and the development of understanding of the disability and how it will impact postsecondary activities.

### Definitions:

An **Accommodation** is defined as a support or service that is provided to help a student fully access the general education curriculum or subject matter. Students with impaired spelling or handwriting skills, for example, may be accommodated by a note-taker or permission to take class notes on a laptop computer. An accommodation *does not change the content* of what is being taught or the expectation that the student meet a performance standard applied for all students.

A **Modification** is defined as a change to the general education curriculum or other material being taught, which alters the standards or expectations for students with disabilities. Instruction can be modified so that the material is presented differently and/or the expectations of what the student will master are changed. Modifications are not allowed in most postsecondary education environments.

**Assistive Technology** is defined as any device that helps a student with a disability function in a given environment.