

## **Special Education Eligibility and Educational Need FAQs**

**Q. What does school staff do if they suspect a child needs a related service (e.g., speech) only?**

**A.** Have the child screened. If the screening results indicate problems, then refer the child for a full evaluation to determine whether the child is eligible for special education and related services.

**Q. What is the purpose of eligibility?**

**A.** To determine if the child has a disability, to determine the child's educational needs and to identify the related services a student will need.

**Q. What is the first step in determining eligibility?**

**A.** Obtaining the parent's/legal guardian's written consent for evaluation. This consent must describe any evaluations procedures the school plans to conduct, prior to evaluating the child. The school must explain that parental consent for evaluation is not consent for special education or related services. If the parents/guardians refuse consent for evaluation, the school may continue to pursue an evaluation by utilizing mediation and due process procedures.

**Q. What's the time frame for determining eligibility?**

**A.** The initial evaluation and eligibility must be completed within 60 days of receiving parental consent.

**Q. What is the purpose of an evaluation?**

**A.** To determine the educational needs of the child.

**Q. What does an evaluation include?**

**A.** Existing evaluation data on the child, including evaluations and information provided by the child's parents, and collected evaluation data, using a variety of assessment tools. The data must include relevant functional and developmental information about the child, including information related to enabling the child to be involved in and progress in the general education curriculum, or, for preschoolers, to participate in appropriate activities. Examples of assessment data\* includes: standardized test results, current classroom based assessments, observations and data, and teacher and related services providers' observations, and information from private evaluations provided by the parents/guardians.

**Q. How is a decision made about the child's eligibility for special education?**

**A.** After the child's evaluations results are complete, a qualified team of professionals and

the parents/guardians look at all the information gathered during the evaluation and answer “yes” to two questions:

- Does the child have a disability?
- Does the child need special education and related services?

**Q. What does a “child with a disability” mean?**

**A.** “A child with a disability” means a child with—mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and “who by reason thereof needs special education and related services.” (Wrightslaw: IDEA 2004)

**Q. Who is NOT eligible for special education?**

**A.** A child without a disability, a child with a disability who does **not** need special education services, or a child that has educational needs but there is evidence of lack of instruction in reading or math or there is limited English proficiency.

**Q. What happens if the school says a child is not eligible for special education services?**

**A.** The school must tell the parents/guardians this in writing, explain why the child is ineligible, and provide documentation of ineligibility and a copy of the evaluation report. The school must also give parents/guardians information regarding what they can do if they disagree with this decision and explain how parents can challenge the decision.

**Q. What does the school do with the evaluation results?**

**A.** All of the information is used to decide if a child is eligible for special education and/or related services; and to help the family and the school decide what the child needs educationally.

**Q. Who gets a copy of the school's evaluations on a child?**

**A.** Parents must be given a copy of evaluation reports and documentations about how eligibility decisions were made.

**Q. What if the parents/guardians do not consent to special education services for their child?**

**A.** The school cannot pursue a due process hearing against the parent. If the parent refuses consent for services, the school is not required to convene an IEP meeting or develop an IEP for the child.

**Q. When the student has met age of majority (e.g., 18), how does this impact eligibility?**

**A.** At age 17, the child must be informed that he/she will reach age of majority at age 18. The school must obtain written documentation that the child (if feasible) and parents/guardians have been informed. At age 18, the child must sign consent (if feasible) for any evaluations, special education and/or related services and placement decisions.

**Q. How/When do reevaluations occur?**

**A.** The school must obtain parental consent prior to conducting any reevaluations. Reevaluations must occur every three years or earlier if the child's parents/guardians or teacher requests a reevaluation.

A school team must review standardized tests, current classroom based assessments, observations and data, teacher and related services providers' observations, and information from private evaluations provided by the parents to determine whether services can be continued/discontinued. If the IEP team and other qualified professionals (as appropriate) agree the child **continues** to have a disability, they do not need to collect additional data/evaluations but they must:

- notify the child's parents/guardians of the determination and the reasons for not reevaluating;
- explain to the parents/guardians that they have the right to request an assessment to determine whether the child continues to have a disability.

**Q. Can special education and/or related services be discontinued following a reevaluation?**

**A.** Yes, but only if data is collected and reviewed and the team, including the parents, determines that the child no longer requires special education and/or related services.

**Q. How are related services determined following eligibility?**

**A.** Following the child's evaluation and eligibility determination, a team of individuals called the IEP team---which includes the parents and, where appropriate, the student---sits down and writes an Individualized Education Program (IEP) for the student. Based on the evaluation results, the IEP team discusses, decides upon, specifies the related services that a child needs in order to benefit from special education, and decides how often related services will be provided.

(\*NOTE: Assessment tools must be technically sound, selected and administered so as not to be discriminatory on a racial or cultural basis, and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so. Standardized tests must be administered by trained and knowledgeable personnel, and administered in accordance with instructions provided by the test producers.)

