

## **Q&A: Reevaluations under Part B of the Individuals with Disabilities Education Act (IDEA)**

The Minnesota Department of Education (MDE), Division of Compliance and Assistance, has developed this document to address questions raised by parents and school districts regarding reevaluations. The purpose of this document is to provide helpful, general information to the public. It does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information below should not be relied upon as a comprehensive or definitive response to your specific legal question.

**Note:** An initial evaluation of a child is the first complete assessment to determine if the child has a disability under the Individuals with Disabilities Education Act (IDEA) and the nature and extent of special education and related services required. Once a child has been fully evaluated, a decision has been rendered that a child is eligible for services under the IDEA, and the required services have been determined, any subsequent evaluation of a child is considered a reevaluation.

The reevaluation process requires a review of existing evaluation data about the child. Based on that review and input from the child's parents, the team must identify what additional data, if any, are needed to determine whether the child continues to have a disability. The team must also identify the educational needs of the child; the present levels of academic achievement and related developmental needs of the child; whether the child continues to need special education and related services; and whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program (IEP) of the child and to participate, as appropriate, in the general education curriculum.

Evaluation reports must be comprehensive and include all the components, including but not limited to, due process components outlined in state and federal law.

**Authority:** 34 C.F.R. § 300.301 (c)(2); 34 C.F.R. § 300.303; 34 C.F.R. § 300.304 (b) and (c); 34 C.F.R. § 300.305(a); Minn. R. 3525.2710, subps. 4 and 5; and 71 Fed. Reg. 46640-46642 (Aug. 14, 2006).

### **Question 1: What is the process for initiating a special education evaluation?**

**Answer:** Typically the evaluation plan is developed after discussion between district staff and parents, all of whom provide input in determining all areas of suspected disability.

Once the evaluation plan is completed, the district must provide the parent with a prior written notice that describes the proposed evaluation procedures. The prior written notice must also address any areas of evaluation requested by the parent that the district has refused to include in the evaluation plan and the reason why they were rejected.

The district must obtain written parental consent before it can proceed with an initial evaluation. The district can proceed with a reevaluation after it receives written parental consent, or if the parent does not object, after 14 calendar days from the date the district mails or hand delivers the prior written notice to the parent.

**Authority:** 34 C.F.R. § 300.301 (c) (2); 34 C.F.R. § 300.304; 34 C.F.R. § 300.305(a); Minn. R. 3525.2710; Minn. Stat. § 125A.091 subds. 3a and 5; Minn. R. 3525.3600; and 71 Fed. Reg. 46629- 46637 (Aug. 14, 2006).

**Question 2:** **Is an evaluation to determine continuing eligibility considered a reevaluation for a child who is turning seven, has already been determined to be a child with a disability, and is currently receiving special education and related services under the developmental delay criteria?**

**Answer:** Yes. A child who is already determined to be a child with a disability and is receiving special education and related services by meeting developmental delay criteria is a child who has been fully evaluated under Part B of the IDEA. Eligibility under the developmental delay category is limited to children from three through six years of age. Therefore, a district must conduct an evaluation to determine whether a child continues to have a disability under another disability category prior to the child's seventh birthday. This subsequent evaluation is a reevaluation but requires a child to meet initial eligibility criteria for one of the other 12 disability categories.

**Authority:** 34 C.F.R. § 300.303; 34 C.F.R. § 300.305; 71 Fed. Reg. 46640 (Aug. 14, 2006).

**Question 3:** **Is an evaluation to determine transition needs considered a reevaluation for a child who is in Grade 9, has already been determined to be a child with a disability, and is currently receiving special education and related services?**

**Answer:** Yes. A district must conduct an evaluation to determine transition needs during Grade 9 for a child continuing to receive special education and related services. This evaluation is a reevaluation. In addition to the requirements for all reevaluations, it must also include at least two age appropriate transition assessments.

**Authority:** Minn. Stat. § 125A.08 (b)(1); 34 C.F.R. § 300.303; and 34 C.F.R. § 300.320(b).

**Question 4:** **When a child has already been determined to be a child with a disability and is currently receiving special education and related services, is an evaluation to determine additional needs not identified in the most recent evaluation considered a reevaluation?**

**Answer:** Yes. If a district or parent suspects that a child has additional needs that were not identified in the most recent evaluation, the district must either propose or explain its refusal to conduct further evaluation. The evaluation must identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been classified. This evaluation is a reevaluation.

**Authority:** 34 C.F.R. § 300.304(c)(6); 34 C.F.R. §§ 300.303-300.306; and 34 CFR § 300.503.

**Question 5: (a) Is an evaluation to determine whether the child's disability category has changed considered a reevaluation?**

**(b) Is an evaluation to determine whether a child qualifies under an additional disability category, commonly referred to as a "secondary disability," considered a reevaluation?**

**Answer:** Yes to both questions. There is no requirement to identify a child as eligible under more than one disability category, but there is also no prohibition on such dual identification as long as the child meets categorical eligibility criteria under Minnesota rules. Additionally, federal regulations acknowledge that a child may have multiple disabilities. The term "secondary disability" does not exist in federal or state special education law. This subsequent evaluation is a reevaluation that requires a child to meet initial eligibility criteria for any new disability category.

**Authority:** 34 C.F.R. § 300.8(a)(1); 304 C.F.R. § 300.304(c)(6); Minn. Stat. § 125A.01; Minn. R. 3525.0200; and Minn. R. 3525.2710, subps. 4(A)(2), 6(B).

**Question 6: Would a functional behavioral assessment (FBA) be considered a reevaluation for a child who has already been determined to be a child with a disability and is currently receiving special education and related services?**

**Answer:** Yes. FBAs must be conducted in accordance with federal and state evaluation procedures. If a child has already been determined eligible for special education services, any subsequent FBA conducted for an individual child is considered a reevaluation. A district may conduct an FBA to evaluate an individual child to assist in determining the nature and extent of special education and related services. A district may also conduct an FBA to develop or modify a behavioral intervention plan in a child's IEP. In addition, a district may conduct an FBA to determine whether the positive behavioral interventions and supports set forth in a child's IEP will be effective in enabling the child to make progress toward the IEP goals and objectives.

**Authority:** Letter to Christiansen, 48 IDELR 161, 107 LRP 45740, OSEP, (Feb. 9, 2007); Letter to Anonymous, 59 IDELR 14, 112 LRP 23125, OSEP, (April 9, 2012); 34 C.F.R. § 300.15; 34 C.F.R. § 300.305(a); *See also*, 34 C.F.R. § 300.300(c).

**Question 7: Is an evaluation to identify related service needs, including assistive technology needs, considered a reevaluation for a child who has already been determined to be a child with a disability and is currently receiving special education and related services?**

**Answer:** Yes. If a district or parent suspects that a child has additional related services needs, including assistive technology needs that were not identified in the most recent evaluation, the district must conduct an evaluation to identify all of the child's related

services needs, whether or not commonly linked to the disability category in which the child has been classified. This evaluation is a reevaluation.

**Authority:** 34 C.F.R. § 300.303(a)(1); and 71 Fed. Reg. 46640, (Aug. 14, 2006).

**Question 8: If a child enrolls in a district and has previously been determined eligible for special education and related services using an alternative evaluation procedure, such as Students Needing Alternative Programming (SNAP), is a subsequent evaluation considered a reevaluation?**

**Answer:** Yes. Subsequent evaluations of a child who has been determined eligible for special education and related services using an alternative evaluation procedure are reevaluations. The child must demonstrate a continuing need for services under the identified category that was reported to MDE through the Minnesota Automated Reporting Student System (MARSS).

**Authority:** 34 C.F.R. § 300.305.

**Question 9: Must all reevaluations (including, but not limited to, an evaluation to determine transition needs, an FBA, or an evaluation to determine assistive technology needs) be incorporated into a comprehensive evaluation report?**

**Answer:** Yes. At a minimum, the evaluation report must include: a summary of all evaluation results; documentation of whether the child continues to have such a disability; the child's present levels of performance and educational needs that derive from the disability; whether the child continues to need special education and related services; and whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the child's IEP and to participate, as appropriate, in the general curriculum.

**Authority:** Minn. R. 3525.2710, subp. 6. See also 34 C.F.R. § 300.303; 34 C.F.R. § 300.305 and 34 C.F.R. § 76.731.

**Question 10: When a district conducts a reevaluation for a student with a disability, is it always necessary to address each eligibility criteria component in the respective rule, including observations?**

**Answer:** No. When a district conducts a reevaluation of a student, the evaluation team must review existing evaluation data and input from the student's parents to identify what additional data, if any, is needed to determine whether the student continues to have the identified disability and the educational needs of the student. The evaluation report must document the student's present levels of performance and educational needs that derive from the disability, so in some cases additional data (including observational data) is necessary to document the student's present levels and education needs. But if the data is sufficient, additional evaluations, including observations, are unnecessary.

**Authority:** 34 C.F.R. § 300.305(a)