



Just ASK:

REQUESTING AN INITIAL EVALUATION FOR SPECIAL EDUCATION ELIGIBILITY

QUESTION: “How do I get the school and AEA to proceed with an evaluation of my child when they want to continue intervention after intervention before evaluating?”

Section 1414(a)(1)(B) of IDEA 2004 plainly states that “. . . *either a parent of a child, or a State educational agency, other State agency, or local educational agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.*” So, clearly, the IDEA envisions that a request from a parent (OR the school district, Area Education Agency, OR another State agency) can trigger the evaluation process, whether or not the school and/or AEA agree it is necessary.

As with all important requests made to the school and/or AEA on behalf of your child, it is best to put your request in writing and address it to the Superintendent or Director of Special Education, indicating that you expect a reply within reasonable time (usually about two weeks). You may also choose to state in your letter that, along with your request, you are giving your consent for the school to proceed with the evaluation. That should help prevent any additional delay in obtaining your written consent.

If this ‘parental trigger’ provision was not clear enough, IDEA 2004 also added a timeline requirement for conducting evaluations: *“In general, such initial evaluation shall consist of procedures to determine whether a child is a child with a disability (as defined in section 1402 [of the IDEA]) within 60 days of receiving parental consent for the evaluation. . . . and to determine the educational needs of such child.”* IDEA Section 1414(a)(1)(C)(i). Creating a limit on how long the school has to complete the evaluation would make no sense if parents did not already have the ability to trigger the process to start.

There are only two exceptions to the 60-calendar-day timeframe. The first applies if the child changes school districts after the process has begun, and the second applies only if the parent *“repeatedly fails or refuses to produce the child for the evaluation.”* The clear language of the federal statute does not, however, recognize that the school has any right to delay a parental request for an initial evaluation for any other reason.

These evaluation provisions do not prevent the school district from continuing to implement general education interventions or other teaching strategies, or from gathering data from interventions that they are already using as part of

the evaluation process, so long as they proceed with the full and individual evaluation the IDEA requires and do not use other interventions to improperly delay the initial evaluation.

IDEA 2004 also specifies that *“[t]he 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.”* IDEA Section 1414(a)(1)(E). An evaluation requested under IDEA must meet the criteria established for an initial evaluation in the federal law.

School districts or AEAs may have a practice or policy of pursuing general education interventions before considering an evaluation on their own initiative, but once a parent has requested an evaluation for a child, the school should present the parent with a consent form, and once the parent has signed the consent, the evaluation should be conducted within a 60-day period. Any local policy that does not allow that to happen is not consistent with the requirements of IDEA 2004.

Steps to follow in requesting an evaluation for special education eligibility:

1. Write a letter asking for an initial evaluation of your child’s eligibility for special education.
2. Address your letter to the school Superintendent or Director of Special Education and the AEA Director of Special Education.
3. Ask for a response in about two weeks (or other reasonable time frame.)
4. Include in your letter a statement that you are giving your consent for the evaluation or ask in the letter to be provided with a parental consent form.
5. Keep a copy of your letter and any correspondence you receive.
6. Be prepared and willing to participate in a team meeting to determine what evaluation data should be gathered if you are asked to do so.
7. Make sure the appropriate person at the school and/or AEA receives and recognizes your consent. This will begin the 60 day timeline.
8. Expect a full and individual evaluation of your child to be conducted within 60 days of the date you provide your consent and an evaluation report to be completed shortly thereafter.
9. Once the evaluation findings are complete, parents should be invited to a team meeting to discuss the results.
10. If your request is denied, ask for your written parental notice explaining the school’s reasons for the denial.



ASK Resource Center
321 East Sixth Street, Des Moines, IA 50309-1903
Phone: (515) 243-1713 ~ Toll Free: (800) 450-8667 ~ Fax: (515) 243-1902
Email: info@askresource.org Website: www.askresource.org

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