

SPECIAL EDUCATION  
IDENTIFICATION, EVALUATION, AND ELIGIBILITY

EHBAA  
(LEGAL)

CHILD FIND

The District shall ensure that all children residing within the District who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services are identified, located, and evaluated. This requirement applies to children attending private schools, highly mobile children (including migrant and homeless children), children who are wards of the state, and children who are suspected of being in need of special education but who are advancing from grade to grade.

The District shall have a practical method for determining which children are currently receiving needed special education and related services.

*20 U.S.C. 1412(a)(3)(A); 34 CFR 300.125*

PRIVATE SCHOOL  
STUDENTS

The child find process shall be designed to ensure the equitable participation of parentally placed private school children with disabilities and an accurate count of such children. In carrying out this requirement, the District shall undertake activities similar to those undertaken for public school children.

The child find process for children enrolled in private schools shall be completed in a time period comparable to that for other students attending public schools in the District.

CONSULTATION  
WITH PRIVATE  
SCHOOL  
OFFICIALS

The District shall conduct a timely and meaningful consultation with private school representatives regarding the child find process and the provision of special education and related services to children enrolled in private schools.

When timely and meaningful consultation has occurred, the District shall obtain a written affirmation signed by the representatives of participating private schools. If such representatives do not provide such affirmation within a reasonable period of time, the District will forward the documentation to TEA.

*20 U.S.C. 1412(a)(10)(A)(ii)-(iv)*

PRESCHOOL  
STUDENTS

The District shall develop a system to notify District residents with children between the ages of three and five who are eligible for enrollment in a special education program of the availability of the program. *Education Code 29.009*

REFERRALS

Referral of students for a full and individual initial evaluation for possible special education services shall be a part of the District's overall general education referral or screening system. Either a parent, a state educational agency, another state agency, or the District may initiate a request for an initial evaluation.

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Before referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students, such as tutorial, remedial, compensatory, and other services. If a student continues to experience difficulty in the general classroom after the provision of interventions, District personnel must refer the student for a full and individual initial evaluation.

*20 U.S.C. 1414(a)(1); 19 TAC 89.1011*

NOTICE OF RIGHTS

A reasonable time before the District proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student or the provision of a free appropriate education to a student, the District shall provide written notice to the student's parent or guardian. *20 U.S.C. 1415(b)(3); 34 CFR 300.503(a)(i)* [See EHBAE]

INITIAL EVALUATION

The District shall conduct a full and individual initial evaluation before the initial provision of special education and related services. *20 U.S.C. 1414(a)(1)(A)*

The District shall ensure that assessments of children who transfer from one district to another in the same academic year are coordinated with the children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations. *20 U.S.C. 1414(b)(3)(D)*

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. *20 U.S.C. 1414(a)(1)(E)*

CONSENT FOR  
INITIAL  
EVALUATION

Before the District conducts an initial assessment, it shall obtain informed, written parental consent for the evaluation.

If the parent does not provide consent for an initial evaluation, or if the parent fails to respond to a request to provide consent, the District may pursue the initial evaluation by utilizing due process procedures [see EHBAE], except to the extent inconsistent with state law relating to such parental consent.

If a parent revokes consent, that revocation is not retroactive (that is, it does not negate an action that has occurred after the consent was given and before the consent was revoked). [See EHBD]

Parental consent shall not be construed as consent for placement.

*20 U.S.C. 1414(a)(1)(D), (E); 34 CFR 300.500(b)(1), 300.505, 300.531*

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WARDS OF THE  
STATE

If the child is a ward of the state and is not residing with the child's parent, the District shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation, unless:

1. Despite efforts to do so, the District cannot discover the whereabouts of the parent;
2. The rights of the parent have been terminated;
3. The rights of the parent to make educational decisions have been subrogated and an individual appointed by a judge has given consent for an initial evaluation.

*20 U.S.C. 1414(a)(1)(D)(iii)*

DETERMINATION

The initial evaluation shall consist of procedures to determine whether a child is a child with a disability within 60 days of receiving parental consent for the evaluation, or a shorter time frame if one is established by the state.

This time frame shall not apply if:

1. A child enrolls after the relevant time frame has begun and before the previous district made a determination as to whether the child has a disability, but only if the current district is making sufficient progress to ensure a prompt completion of the evaluation and the parent and District agree to a specific time for completion of the evaluation; or
2. The parent repeatedly fails or refuses to produce the child for the evaluation.

*20 U.S.C. 1414(a)(1)(C)(ii); Education Code 29.004*

The time required for the District to provide information and seek consent under Education Code 29.0041(b) may not be counted toward the 60 calendar days for completion of an evaluation under Education Code 29.004. If a parent does not give consent under Education Code 29.0041(b) within 20 calendar days after the date the District provided to the parent the information required, the parent's consent is considered denied. *Education Code 29.0041(c)*

DETERMINATION OF  
ELIGIBILITY

Upon completion of the administration of assessments and other evaluation measures, a team of qualified professionals and the parent shall make the determination of whether the child is eligible for special education and related services. Lack of instruction in reading or math or limited English proficiency shall not be the determinant factor. *20 U.S.C. 1414(b)(4)-(5); 34 CFR 300.534(a)*

FIRST-TIME  
REFERRALS

The admission, review, and dismissal (ARD) committee shall make its decisions regarding a student referred for a full and individual

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initial evaluation within 30 calendar days from the date of the completion of the written evaluation report. If the 30th day falls during the summer and school is not in session, the ARD committee shall have until the first day of classes in the fall to finalize decisions concerning the initial eligibility determination, the IEP, and placement, unless the initial evaluation indicates the student will need extended school year (ESY) services during that summer.  
*19 TAC 89.1050(d)*

COPY OF REPORT  
TO PARENTS

A copy of the evaluation report and the documentation of determination of eligibility must be given to the parent. *20 U.S.C. 1414(b)(4)(B); 34 CFR 300.534(a)(2)*

REEVALUATIONS

The District shall ensure that each child is reevaluated if the District determines that the educational or related services needs of the child, including improved academic achievement and functional performance, warrant a reevaluation, or if the child's parent or teacher requests a reevaluation.

Reevaluation shall occur:

1. No more than once a year, unless the parent and the District agree otherwise; and
2. At least once every three years, unless the parent and District agree that a reevaluation is unnecessary.

*20 U.S.C. 1414(a)(2), (b), (c); 34 CFR 300.505, 300.536*

CHANGE IN  
ELIGIBILITY

The District shall evaluate a child before determining that the child is no longer a child with a disability. However, an evaluation is not required before the termination of eligibility due to graduation from secondary school with a regular diploma or due to exceeding the age eligibility for a free appropriate public education under state law. *20 U.S.C. 1414(c)(5); 34 CFR 300.534(c)(1)*

INDEPENDENT  
EVALUATION

The parents have a right to obtain an independent educational evaluation if they disagree with the District's evaluation.

If a parent requests an independent evaluation, the District shall provide the parents with information regarding where one can be obtained. In addition, the District shall either ensure that an evaluation is performed at public expense or initiate a due process hearing to establish that the District's evaluation is appropriate.

AT PUBLIC  
EXPENSE

If an independent 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 District uses when it initiates an evaluation.

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AT PRIVATE  
EXPENSE

If the District initiates a hearing, and the District's evaluation is found to be appropriate, the parent still has a right to an independent evaluation, but not at public expense. If the parent obtains an independent educational evaluation at private expense, the results of the evaluation shall be considered by the District, if it meets District criteria, in any decision made with respect to providing a free appropriate public education to the child.

*34 CFR 300.502*

DEFINITION OF  
ELIGIBILITY

A student is eligible to participate in the District's special education program if:

1. The student is between the ages of 3 and 21, inclusive;
2. The student has one or more of the disabilities listed in federal regulations, state law, or both; and
3. The student's disability(ies) prevent the student from being adequately or safely educated in the public schools without the provision of special services.

*Education Code 29.003(b); 19 TAC 89.1035; 19 TAC 89.1040*

VISUAL AND  
AUDITORY  
IMPAIRMENTS

A student with a visual or auditory impairment shall be eligible to participate in the District's special education program from birth.  
*19 TAC 89.1035(b); Education Code 30.002*

PRESCRIPTION  
MEDICATION

An employee of the District is prohibited from requiring a child to obtain a prescription for a substance covered under the federal Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving an evaluation for special education, or receiving special education and related services.

An employee is not prohibited from consulting or sharing classroom-based observations with parents regarding a student's academic and functional performance, behavior in the classroom or school, or the need for evaluation for special education or related services.

*20 U.S.C. 1412(a)(25)*