

SPECIAL EDUCATION
IDENTIFICATION, EVALUATION, AND ELIGIBILITY

EHBAA

IDENTIFICATION CHILD FIND The School shall refer for evaluation all students of whom it becomes aware who have disabilities, beyond deafness or auditory impairment, regardless of the severity of their other disabilities to determine if that student is in need of special education and/or additional related services, and who are in need of special education and related services are identified, located, and evaluated. This requirement applies to:

1. Homeless children;
2. Children who are wards of the state;
3. Children attending private schools;
4. Highly mobile children (including migrant children); and
5. Children who are suspected of being in need of special education but who are advancing from grade to grade.

20 U.S.C. 1412(a)(3)(A); 34 CFR 300.111(a)(1)(i), (c)

PRESCHOOL STUDENTS The School shall develop a system to publicize to residents of the State of Texas with children who are at least three and younger than six and who are eligible for enrollment at TSD. *Education Code 29.009*

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

OBLIGATION TO REFER Students experiencing difficulty in the general classroom should be considered for all support services available to all students, such as tutorial, remedial, compensatory, response to evidence-based interventions, and other academic or behavior support services. A student is not required to be provided with interventions for any specific length of time prior to a referral being made or a full individual and initial evaluation being conducted. If the student continues to experience difficulty in the general classroom with the provision of interventions, school personnel must refer the student for a full individual and initial evaluation. A referral for a full individual and initial evaluation may be initiated at any time by school personnel, the student’s parents or legal guardian, or another person involved in the education or care of the student. *19 TAC 89.1011(a)*.

PARENTAL REQUEST If a parent submits a written request to the School’s designated administrator for special education services or to a School administrative employee for a full individual and initial evaluation of a student, the School

SPECIAL EDUCATION
IDENTIFICATION, EVALUATION, AND ELIGIBILITY

EHBAA

shall, not later than the 15th school day after the date the School receives the request:

1. Provide the parent with prior written notice of its proposal to conduct an evaluation consistent with 34 C.F.R. 300.503, a copy of the procedural safeguards notice required by 34 C.F.R. 300.504, and an opportunity to give written consent for the evaluation; or
2. Provide the parent with prior written notice of its refusal to conduct an evaluation consistent with 34 C.F.R. 300.503, and a copy of the procedural safeguards notice required by 34 C.F.R. 300.504

20 U.S.C 1414(a)(1); 34 C.F.R. 300.301; 19 TAC 89.1011(b); Education Code 29.004(c)

NOTICE OF RIGHTS

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

INITIAL EVALUATION
REQUIRED

A full and initial evaluation before the provision of special education is the responsibility of the LEA. *20 U.S.C. 1414(a)(1)(A)*

TSD may undertake an initial evaluation of a child attending TSD and is under the age of 3 years to determine whether or not that child be admitted to TSD in accordance with TSD's Board Policy FD and such evaluation will be presented to the child's ARD committee.

CONSENT FOR
EVALUATION

Before the School conducts an evaluation, it shall make reasonable efforts to obtain informed parental consent.

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

Parental consent to evaluation shall not be construed as consent for placement for special education and related services.

20 U.S.C. 1414(a)(1)(D)(i)(I); 34 C.F.R. 300.300(b)

TIME FRAME FOR
COMPLETION OF
WRITTEN REPORT

The School must conduct the written report of a full individual and initial evaluation:

3. Not later than the 45th school day following the date on which the School receives written consent for the evaluation from the student's parent. If a student has been absent from school during that period or three or more school days, the period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent; or
4. For student under five years of age by September 1 of the school year and not enrolled in public school and for students enrolled in a private or homeschool setting, not later than the 45th school day following the date on which the School receives written consent for the evaluation from the student's parent.

If the School receives written consent for the evaluation from the student's parent at least 35 but less than 45 school days before the last instructional day of the school year, the written report of a full individual and initial evaluation of a student must be provided to the student's parent not later than June 30 of that year.

If the School receives written consent signed by a student's parent less than 35 school days before the last instructional day of the school year or if the School receives the written consent at least 35 but less than 45 school days before the last instructional day of the school year but the student is absent from school during that period on three or more days, the report must be completed not later than the 45th school day following the date the School received written consent, except that the period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent.

A student is considered absent for the school day if the student is not in attendance at the school's official attendance taking time or at the alternate attendance taking time set for that student. A student is considered in attendance if the student is off campus participating in an activity that is approved by the school board and is under the direction of a professional staff member of the School.

"School day" does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent fall school term.

These time frames shall not apply if the parent repeatedly fails or refuses to produce the child for the evaluation.

SPECIAL EDUCATION
IDENTIFICATION, EVALUATION, AND ELIGIBILITY

EHBAA

TRANSFER
STUDENTS

The School shall ensure that evaluations of children who transfer from the School to another school district or vice versa in the same academic year are coordinated with the child's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations.

If a student was in the process of being evaluated for special education eligibility by a district and is being considered for admission to the School before the previous district completed the full individual and initial evaluation, the School must coordinate with the previous district as necessary and as expeditiously as possible to ensure a prompt completion of the evaluation by the LEA in accordance with 34 C.F.R., 300.301(d)(2) and (e) and 300.304(c)(5).

The time lines above do not apply in such a situation if:

The School is making sufficient progress to ensure a prompt completion of the evaluation by the LEA; and

The parent, the LEA, and the School agree to a specific time when the evaluation will be completed.

20 U.S.C. 1414(a)(1)(C), (b)(3)(D); 34 C.F.R. 300.301(c)-(e); Education Code 29.004; 19 TAC 89.1011

PSYCHOLOGICAL
EXAMINATIONS

If the School determines that an additional examination or test is required for the initial and individual evaluation, the School shall notify the LEA of the additional information required by Education Code 29.0041(a) and/or TSD's Board Policy FD; and the LEA shall obtain the additional parental consent. If a parent does not give consent within 20 calendar days after the School provided the information, the parent's consent is considered denied.

The time required for the School to provide information and seek consent may not be counted toward the timeframe for completion of an evaluation. [See TIME FRAME FOR COMPLETION OF WRITTEN REPORT, above]

Education Code 29.0041

STUDENT
PARTICIPATION IN
TSD'S PROGRAMS

The Texas School for the Deaf is a state agency established to provide educational services to persons who are 21 years of age or younger on September 1 of any school year and who are deaf or hard of hearing and who may have one or more other disabilities. The school shall provide comprehensive educational services, on a day or residential basis, and short-term services to allow a student to better achieve educational results from services available in the community. The school is not intended to serve:

SPECIAL EDUCATION
IDENTIFICATION, EVALUATION, AND ELIGIBILITY

EHBAA

(1) students whose needs are appropriately addressed in a home or hospital setting or a residential treatment facility; or

(2) students whose primary, ongoing needs are related to a severe or profound emotional, behavioral, or cognitive deficit.

Education Code 30.051(a)

VISUAL AND
AUDITORY
IMPAIRMENTS

A student with an auditory and visual impairment shall be eligible to participate in the School's program from birth. *19 TAC 89.1035(b); Education Code 30.002*

DETERMINATION OF
INITIAL ELIGIBILITY

Upon completion of the administration of the initial assessments and other evaluation measures the LEA in accordance with federal and state law and its policies shall determine if the child has a disability and the educational needs of the child.

20 U.S.C. 1414(b)(4); 34 CFR 300.306(a)

DISABILITY
DEFINITIONS

To be eligible to receive special education services, a student must be a "child with a disability," as defined in 34 CFR 300.8(a), subject to the provisions of 34 CFR 300.8(c), Education Code 29.003, and 19 Administrative Code 89.1040. The provisions in 19 Administrative Code 89.1040 specify criteria to be used in determining whether a student's condition meets one or more of the definitions of federal regulations or in state law. *19 TAC 89.1040*

Once an LEA determines that a child is entitled to special education services, TSD's admission, review, and dismissal (ARD) committee must make its decision regarding a student's individualized education program (IEP) and placement within 30 calendar days from the date of the completion of the written full individual and initial evaluation report. If the 30th day falls during the summer and school is not in session, the student's ARD committee has until the first day of classes in the fall to finalize decisions concerning the student's initial eligibility determination, IEP, and placement, unless the full individual and initial evaluation indicates that the student will need extended school year (ESY) services during that summer.

For any child who is currently attending TSD and is under the age of 3 years, TSD shall comply with the requirements of *19 TAC 89.1011(d), (e)(4)*.

SPECIAL EDUCATION
IDENTIFICATION, EVALUATION, AND ELIGIBILITY

EHBAA

CONSENT FOR
SERVICES

The School must obtain informed consent from the parent for the initial provision of special education and related services. If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of services, the School:

INITIAL
PROVISION OF
SERVICES

1. May not use the procedures in 34 C.F.R. part 300 subpart E (including the mediation and due process procedures) in order to obtain agreement or a ruling that the services may be provided to the child;
2. Will not be considered to be in violation of the requirement to make FAPE available to the child for the failure to provide the services for which the School requests consent; and
3. Is not required to convene an ARD meeting or develop an IEP for the child for the services.

REVOKING CONSENT

If, at any time after the provision of initial services, the parent of a child revokes consent in writing for the continued provision of services, the School:

May not continue to provide services to the child, but must provide prior written notice before ceasing services;

May not use the procedures in 34 C.F.R. part 300 subpart E in order to obtain agreement or a ruling that the services may be provided to the child;

Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further services; and

Is not required to convene an ARD meeting or develop an IEP for further provision of services.

34 C.F.R 300.300(b)

REEVALUATIONS

The School shall ensure that each child with a disability is reevaluated if the School 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:

6. No more than once a year, unless the parent and the School agree otherwise; and

SPECIAL EDUCATION
IDENTIFICATION, EVALUATION, AND ELIGIBILITY

EHBAA

7. At least once every three years, unless the parent and School agree that a reevaluation is unnecessary.

The School shall obtain informed parental consent before conducting a reevaluation, except that informed parental consent is not needed if the School can demonstrate that it has taken reasonable measures to obtain consent and the child's parent has failed to respond.

20 U.S.C. 1414(a)(2), (c)(3); 34 CFR 300.303

EVALUATION FOR
CHANGE IN
ELIGIBILITY

The School must evaluate a child with a disability 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 FAPE under state law. If a child's eligibility terminates under the aforementioned circumstances, the School must provide a summary of academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting postsecondary goals. *20 U.S.C. 1414(c)(5); 34 CFR 300.305(e).*

All students graduating under 19 Administrative Code 89.170 must be provided with a summary of academic achievement and functional performance as described above. This summary must consider, as appropriate, the views of the parent and student and written recommendations from adult service agencies on how to assist the student in meeting postsecondary goals. An evaluation as required by 34 CFR 300.305(e)(1), must be included as part of the summary for a student graduating under 19 Administrative Code 89.1070(b)(3)(A), (B), or (C) or (f)(4)(A), (B), (C). *19 TAC 89.1070(g).*

INDEPENDENT
EVALUATION

The parents have a right to obtain an independent educational evaluation of their child. If a parent requests an independent evaluation, the School shall provide the parents with information regarding where one can be obtained and the School's criteria for independent evaluations.

The results of a parent-initiated independent educational evaluation, whether at public or private expense, must be considered by the School if it meets the School's criteria, in any decision made with respect to providing FAPE to the child.

AT PUBLIC
EXPENSE

If a parent requests an independent evaluation at public expense, the School shall, without unnecessary delay, either:

1. File a due process complaint to request a hearing to show that its evaluation is appropriate; or

SPECIAL EDUCATION
IDENTIFICATION, EVALUATION, AND ELIGIBILITY

EHBAA

2. Ensure that an independent evaluation is provided at public expense, unless the School demonstrates that the evaluation obtained by the parent did not meet School criteria.

AT PRIVATE
EXPENSE

If the School initiates a hearing, and the final decision is that the School's evaluation is appropriate, the parent still has a right to an independent evaluation, but not at public expense.

34 CFR 300.502

PRESCRIPTION
MEDICATION
PRESCRIPTION
MEDICATION

An employee of a 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)