

1. It is my understanding we must get consent to screen a student for vision and/or hearing unless the entire grade is being screened. (Prior to being served in special services) Is there a way the district can word their assessment plan in such a way that would allow us to screen any child as needed? We are trying to figure this out to be a part of the RTI process.

Answer: Consent for evaluation is required if the screening is being administered because you suspect a disability. If you are doing a routine screening without suspecting a disability, no consent is needed as it is not treated as evaluation.

2. I have a question regarding the diagnosis of OHI. As I read through the eligibility criteria, I wonder how a diagnosis of Fetal Alcohol Syndrome fits in to OHI.

Answer: OHI is not meant to be a "catch-all" category. Therefore you need to be careful to not use a diagnosis itself in this category if the symptoms/conditions qualify elsewhere. For instance, with Fetal Alcohol Syndrome, mental retardation, learning disabilities, or emotional disturbance may be more appropriate categories. If you need help working on the criteria for an individual child, call one of our supervisors in the Compliance Section or the compliance consultant at the Regional Professional Development Center (RPDC) for help.

3. It has come to my attention that the Triennial Evaluation Documentation Waiver form cannot be used by itself and our district will be found out of compliance on IMACS. Does the form have to be used in conjunction with the review of existing data or some other form of documentation to indicate that all areas have been reviewed? I thought the reason for this new form was to reduce paperwork and to not have to complete the review of existing data or some other paperwork to document some type of review of information.

Answer: You are correct; use of the waiver form should not result in a compliance issue on IMACS. You are correct about the purpose of the form. However, when you enter the file in IMACS, you need to be careful not to check off the box for "reevaluation." Remember, the waiver means that NO reevaluation process is occurring. If you check "reevaluation" the IMACS system is assuming a reevaluation did occur, and then expects to see all the required components of the reevaluation.

4. A question I have been wondering about lately is how to write in the IEP about course level examinations that are replacing the MAP test in my building next school year 08-09. Will there be a new IEP page created to mark what tests they will be taking, do we write it somewhere in the present level... ? Also what accommodations will be allowed for these tests and where do we document those within the IEP.

Answer: See SELS message of February 28. Additionally, accommodations will be the same as with the MAP.

5. If a student's program is of functional nature and they have been documented as exempt from Carnegie units on the IEP; but are required to earn the same number of total credits to graduate as other students, are the teachers required to be HQ in the subject area for which the credit is given (for example, transitional math, transitional health, etc.)? Can they be shown as math credit, health credit, etc. on the transcript?

Answer: There are three issues raised by this question. The first issue, is whether the student is required to earn the same number of credits as other students. The state board of education adopted graduation guidelines. These indicate that a student with a disability is to graduate and be awarded a regular diploma if they either meet the credit requirements of the district, or if that is not appropriate, that they meet their IEP goals as determined by the IEP team. The second issue is when do teachers have to be Highly Qualified when serving a student with a disability. They always have to be HQ, but that looks differently depending on the student. Students who qualify for MAP-A, can be taught by special education teachers with elementary certification or who have been highly qualified through an alternative means to teach elementary level. All other students must be taught by teachers who are HQ because of the core content knowledge. We will post a brief powerpoint on our web site in the near future on the HQ issue. Finally, the third issue of whether to designate credit on the transcript is determined by local discretion.

6. Is there such a thing as a monitoring IEP?

Answer: Not officially. IDEA does not provide for this. Under IDEA a student should only have an IEP if it provides for specially designed instruction. If the child no longer needs special education, they should be exited.

7. Someone mentioned to me the other day that the state allows 15% of a districts special education funds to be spent on interventions. It was also said that a special education teacher can pull a child from the regular classroom to provide the interventions in her classroom, even though the child does not have an iep. Is that correct?

Answer: IDEA does provide for up to 15% of your special education grant to be spent on Early Intervening Services (EIS). EIS are regular education services provided to non-disabled children that follow certain parameters listed in the IDEA regulations. While a special education certificated teacher can work with a non-disabled student or group of students as a part of EIS (for example, a reading group under a Reading First model), the provision of services by the special education teacher to a non-disabled child, in a special education classroom, is not permissible. That is because this would involve placement of a non-disabled child, in special education. For more information on EIS, please view the webstream on EIS, that is part of the Special Education Professional Development Series posted on our web site at the end of September. You can locate it on the Compliance website (see graphic at bottom of that page and click on it). Also, please check out the document on Response to Intervention (RtI) as an EIS, posted on our web site, under the RtI button.

8. Does that apply to speech EIS as well. I thought that speech EIS might be an exception based on the MO CASE conference session.

Answer: A speech teacher or speech pathologist can provide speech services to a child as EIS without this being viewed as special education. The distinction is that in the first example, the child would be placed in a special education classroom. In the speech example, no special education is involved.

9. When setting up a meeting with a parent to gain permission for initial evaluation, if DESE's Notice of Meeting form is used, it indicates that all members of an IEP Team is required. Is the complete IEP Team required to be present at that initial meeting? Should the Notice of Meeting form not be used in this instance, even though the purpose of the meeting is to Review Existing Data?

Answer:

I assume when you referenced the permission for initial evaluation meeting you are referring to the meeting to review existing data and a request for written consent for initial evaluation as a result of that review. It is important to remember that a review of existing data may be conducted without a meeting; but, if it is held, parents must be invited and all required members must attend or documentation must show that the required members participated through alternate means.

With that clarification in mind, we have noticed our notification of meeting form might be confusing because it has asterisks beside the required participants and indicates that the parent and LEA may agree/consent in writing to excusal. While it is true that these participants may be excused for an IEP meeting, they may not be excused when a review of existing data meeting is conducted and must attend or participate through an alternate means. We hope to clarify this by revising the note at the bottom of the participant list on the Notification of Meeting Form. We should accomplish this shortly.

10. Can districts take referrals for children under the age of 3 if they have NOT been identified as delayed by First Steps? What we are finding is that First Steps is not taking referrals for students who are 2.5, they are referring them directly to ECSE.

Answer: Yes, a school district can accept a referral, and evaluate a child under age 3, even though the child is not in First Steps, if that child is a resident of your district, and will want to do so as a part of the Child Find responsibilities. Please e-mail or call me if you can give me specific examples of First Steps refusing referrals of kids at 2.5 years of age; this should not be happening, and I want to follow-up if it is. It is appropriate for First Steps service coordinators, to discuss with parents the option of proceeding directly to the school district for an ECSE evaluation, when the child is within 1 to 3 months of 3 years old. This should not be happening though if the child is 2.5 years of age.

11. If a student is in the middle of an evaluation and they receive a 10 day suspension in addition to a 10 day suspension earlier in the year, should that discipline be placed on hold until after the completion of the evaluation or can we provide services to the student such as homebound since we do not know if the student is a student with a disability until the completion of the evaluation.

Answer: The second 10 day suspension would still not amount to a disciplinary change of placement, so even if the child were already identified as special education, you could move forward. But I think the real issue you are raising is whether you have any duty to provide services during the 10 day suspension, since implementation of it will bring you over 10 days cumulatively in the school year. I think you could either provide services, or only provide services if the teacher in consultation with the administrator thinks the kid needs it, OR document that at the completion of the evaluation the IEP team will consider compensatory services assuming the kid is found eligible.

12. Question on the requirements of the LEAs to provide FAPE for in their early childhood program IF they have a tuition based early childhood program

Answer: The duty to provide FAPE to the kids in the early childhood program only extends to those kids already identified and under an IEP, who are there as a part of the implementation of that IEP.

---

#### SUPPLEMENTAL RESPONSE TO QUESTION AND ANSWER #14 OF THE FEB. 6 WEBINAR

#14 When using RtI to determine eligibility, is there a standard conclusion to use in the evaluation report? Can we see some sample evaluation conclusions when RtI has been used to determine eligibility?

Answer: It was not clear what was meant by the term “standard conclusion” in the question. There is not a requirement in the federal or state regulations for a section of the Evaluation Report to be titled “Conclusions” and the only reference in the Special Education Compliance Standards and Indicator to conclusions refers to the requirement that each member must certify in writing that the evaluation report reflects his/her conclusions, and if not, a dissenting statement must be present. The basis for the determination of eligibility must be reflected throughout the report, and while it is helpful when the key points leading to the determination are summarized in a section of the report, that is not an absolute requirement. We do expect that each Evaluation Report contains a statement of the existence and nature of the disability, and that is generally a very short summation indicating the child qualifies under a particular eligibility category and demonstrates the need for special education. There are no unique requirements for this statement when the child is identified as a child with a specific learning disability using RtI.

We have posted on our web site (<http://dese.mo.gov/divspeced/PDF/SLDappA.pdf>) a document listing the required elements of evaluation reports for students and the requirements that are unique for students evaluated under the Specific Learning Disability (SLD) criteria, using both Scientific Research Based Intervention (RtI) and the Strengths and Weaknesses (Discrepancy) model. We are also working on developing an example of an evaluation report for a student when RtI is used to determine eligibility under SLD and we will notify districts as soon as that is available.