

## **REGULATION III: IDENTIFICATION AND EVALUATION**

### **A. CHILD FIND**

It is the policy of the State of Missouri that all children with disabilities, residing in the state, including children with disabilities who are homeless children or are wards of the state, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services are identified, located, and evaluated. This requirement applies to highly mobile children with disabilities (such as migrant and homeless children) and children who are suspected of being a child with a disability and in need of special education even though they are advancing from grade to grade. The State of Missouri also ensures that it has procedures in place to determine which children are receiving needed special education and related services.

The Department of Elementary and Secondary Education (DESE) is the agency responsible for coordinating the planning and implementation of the child find activities for children birth to twenty-one (21).

### **CHILD FIND FOR STATE AGENCIES**

The following state agencies participate in the planning and implementation of child find activities.

Department of Mental Health assists in identification and location of infants, toddlers, and children with suspected disabilities through its Regional Centers for the Developmentally Disabled, State Habilitation Centers, and State Hospitals. Referrals are made to local school districts and the Part C system.

Department of Health assists in identification and location of infants, toddlers, and children with suspected disabilities through its Title V and Head Injury Programs. Referrals are made to local school districts and to the Part C system.

Department of Social Services:

- (1) The Children's Division assists in the identification of infants, toddlers, and children with suspected disabilities. Referrals are made to local school districts and to the Part C system.
- (2) Rehabilitation Services for the Blind identifies, locates, and refers infants, toddlers, and children who have visual problems. Referrals are made to local school districts or to the Part C system.
- (3) The Division of Youth Services identifies students with disabilities who are placed within the care and custody of the Missouri Division of Youth Services. Special education services are provided for these students within the Division's facilities.

Department of Corrections provides for the identification of and special education services to inmates with disabilities under age twenty-one (21) years, who are placed within its jurisdiction.

### **CHILD FIND FOR PUBLIC AGENCIES**

DESE requires local education agencies (LEAs) to annually assist in Child Find by conducting the following activities prior to November 1 each year:

- (1) Publishing one (1) public notice in local newspapers or on the school district website that describes the school district's responsibility to provide special education and related services to children ages three (3) to twenty-one (21). The notice must also describe the LEA's responsibility to refer infants and toddlers suspected of having a disability to the state Part C early intervention system.
- (2) Airing one (1) public notice on local radio and/or television stations, during general viewing/listening hours, which describe the school district's responsibility to provide special education and related services to children ages three (3) to twenty-one (21).
- (3) Placing posters/notices in all administrative offices of each building operated by the school district that describes the district's responsibility to provide special education and related services to children ages three (3) to twenty-one (21).
- (4) Providing written information through general distribution to the parents/guardians of students enrolled in the school district which describes the school district's responsibility to provide special education and related services to children ages three (3) to twenty-one (21).

Local school districts are also required to conduct Child Find in private schools as outlined in Regulation XIII.

### **CHILD FIND MONITORING**

DESE will monitor the implementation of the Child Find requirements. Such reviews will include:

- (1) Approval of each public agency's Compliance Plan documentation, and
- (2) A review of data from the annual child count reported by each public agency.

All data collected and used to meet Child Find requirements is subject to confidentiality requirements of 34 CFR 300.610 - 300.627.

Listed below is the statute of the State of Missouri which provides the legal basis and source for Missouri's policy for child find:

- (1) Section 162.700, RSMo

## **B. DEFINITIONS AND CRITERIA FOR DETERMINATION OF ELIGIBILITY**

The Individuals with Disabilities Education Act (IDEA) defines students with disabilities as those children, ages three (3) to twenty-one (21), who have been properly evaluated as having Intellectual Disability, Hearing Impairments and Deafness, Speech or Language Impairments, Visual Impairments including Blindness, Emotional Disturbance, Orthopedic Impairments, Autism, Traumatic Brain Injury, Other Health Impairments, a Specific Learning Disability, Deaf Blindness, or Multiple Disabilities and, who because of that disability, require special education and related services. As allowed under 34 CFR 300.8 implementing IDEA, the State of Missouri also defines a child with a disability to include children ages three (3) through five (5) who have been properly identified as a young child with a developmental delay.

No child may be determined to be eligible if the determinant factor for that eligibility determination is lack of appropriate instruction in reading, including the essential components of comprehensive literacy instruction (as defined in section 2221(b)(1) of the ESEA), or lack of appropriate instruction in math or limited English proficiency 34 CFR 300.306(b)(1).

Several conditions may be diagnosed by other professionals such as physicians, psychologists, etc. that are not specified by IDEA. These may include such conditions as Tourette syndrome, diabetes, sickle cell anemia, leukemia, dyslexia, central auditory processing disorder, etc. Students who present significant learning problems by virtue of the condition may demonstrate eligibility for special education under one or more of the disabilities identified above.

### **DISABILITY CATEGORIES, DEFINITIONS, AND INITIAL ELIGIBILITY CRITERIA IN ALPHABETICAL ORDER**

Autism  
Deaf/Blindness  
Emotional Disturbance  
Hearing Impairment and Deafness  
Intellectual Disability  
Multiple Disabilities  
Orthopedic Impairment  
Other Health Impairment  
Specific Learning Disability  
Speech or Language Impairment  
Traumatic Brain Injury (TBI)  
Visual Impairment/Blindness  
Young Child with a Developmental Delay

Autism: Autism means a developmental disability significantly affecting verbal or nonverbal communication and social interaction, generally evident before age three (3) that adversely affects a child's educational performance. Other characteristics often associated with autism are

engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

The term does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disability as defined in this document.

A child who manifests the characteristics of autism after age three (3) could be identified as having autism if the criteria are satisfied.

A child displays autism when:

- (1) Through evaluation that includes a review of medical records, observation of the child's behavior across multiple environments, and an in-depth social history, the following behaviors are documented:
  - a. Disturbances of speech, language-cognitive, and nonverbal communication: The child displays abnormalities that extend beyond speech to many aspects of the communication process. Communicative language may be absent or, if present, language may lack communicative intent. Characteristics may involve both deviance and delay. There is a deficit in the capacity to use language for social communication, both receptively and expressively.
  - b. Disturbance of the capacity to relate appropriately to people, events, or objects: The child displays abnormalities in relating to people, objects, and events. There is a deficit in the capacity to form relationships with people. The capacity to use objects in an age appropriate or functional manner may be absent, arrested, or delayed. The child may seek consistency in environmental events to the point of exhibiting rigidity in routines.
- (2) The condition adversely affects the child's educational performance.
- (3) The autism is not a result of an emotional disability as defined in this document.

Other Behaviors Which the Child May Exhibit Include:

- (1) Disturbance of developmental rates and sequences: The child may also exhibit delays, arrests, or regressions in physical, social, or learning skills. Areas of precocious skill development may also be present, while other skills may develop at normal or extremely depressed rates. The order of skill acquisition frequently does not follow normal developmental patterns.
- (2) Disturbances of responses to sensory stimuli: The child's behavior may also range from being hyperactive to being unresponsive to people and objects in their environment and can alternate between these two (2) states over periods ranging from hours to months. Disturbances may be apparent in auditory, visual, olfactory, gustatory, tactile, and kinesthetic responses. The child may respond to stimulation inappropriately and in repetitive or nonmeaningful ways.

Deaf/Blindness: Deaf/Blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

A child is deaf/blind when:

- (1) Both visual and hearing impairments are present as described in the criteria for Hearing Impairment/Deafness and Visual Impairment/Blindness, and
- (2) The impairments together cause severe communication, developmental, and educational needs.

Emotional Disturbance: Emotional Disturbance means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

- (1) An inability to learn that cannot be explained by intellectual, sensory, or health factors;
- (2) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- (3) Inappropriate types of behavior or feelings under normal circumstances;
- (4) A general pervasive mood of unhappiness or depression; and,
- (5) A tendency to develop physical symptoms or fears associated with personal or social problems.

The term includes schizophrenia, but does not apply to children who are socially maladjusted unless it is determined they have an emotional disturbance.

A child displays an emotional disturbance when:

- (1) Through evaluation procedures that must include observation of behavior in different environments and an in-depth social history, the child displays one of the following characteristics:
  - a. An inability to learn that cannot be explained by intellectual, sensory, or health factors;
  - b. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
  - c. Inappropriate types of behavior or feelings under normal circumstances;
  - d. A general pervasive mood of unhappiness or depression; and,
  - e. A tendency to develop physical symptoms or fears associated with personal or social problems.

- (2) The characteristic(s) must have existed to a marked degree and over an extended period of time. In most cases, an extended period of time would be a range from two (2) through nine (9) months depending upon the age of the child and the type of behavior occurring. For example, a shorter duration of disturbance that interrupts the learning process in a younger student might constitute an extended period of time. Difficulties may have occurred prior to the referral for evaluation; and,
- (3) The emotional disturbance adversely affects the child's educational performance.

NOTE: Manifestations of an emotional disturbance can be observed along a continuum ranging from normal behavior to severely disordered behavior. Children who experience and demonstrate problems of everyday living and/or those who develop transient symptoms due to a specific crisis or stressful experience are not considered to have an emotional disturbance.

Hearing Impairment and Deafness: Hearing Impairment means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance, but is not included in the following definition for deafness. Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a child's educational performance.

A child displays a Hearing Impairment/Deafness when:

- (1) A hearing impairment has been diagnosed by an audiologist, and
- (2) The hearing impairment adversely affects the child's educational performance.

Intellectual Disability: Intellectual Disability means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior manifested during the developmental period that adversely affects a child's educational performance.

A child displays intellectual disability when:

- (1) The child performs 2.0 Standard Deviations below their peers of equivalent age, ethnic, and cultural background when measured by a standardized instrument of cognitive ability;
- (2) The child displays adaptive behavior consistent with measured cognitive ability. Adaptive behavior refers to the effectiveness with which a student meets the standards of personal independence and social responsibility expected of his/her age and cultural group. There should be a significant positive correlation between the student's intellectual ability and adaptive behavior; and,
- (3) The disability adversely affects the child's educational performance.

Multiple Disabilities: Multiple Disabilities means concomitant impairments (such as intellectual disability-blindness, intellectual disability-orthopedic impairment, etc.), the combination of which

causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf/blindness.

A child displays multiple disabilities when:

- (1) Concomitant impairments occur, and
- (2) The impairments together cause severe educational needs.

Orthopedic Impairment: Orthopedic Impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., club foot, absence of some member, etc.), impairments caused by disease (poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations and fractures, or burns that cause contractures).

A child displays a physical impairment when:

- (1) An orthopedic impairment has been diagnosed by a licensed physician, and
- (2) The physical impairment adversely affects the child's educational performance.

Other Health Impairment: Other Health Impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment that is due to chronic or acute health problems, such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette Syndrome, and adversely affects a child's educational performance.

A child displays a Health Impairment when:

- (1) A health impairment has been diagnosed by a licensed physician, licensed psychologist, licensed professional counselor, licensed clinical social worker, or school psychologist, and
- (2) The health impairment adversely affects the child's educational performance.

Specific Learning Disability: Specific Learning Disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include learning problems that are primarily the result of a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or, limited English proficiency.

A child has a specific learning disability when:

- (1) The child does not achieve adequately for the child's age or to meet State approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or State approved grade-level standards:
  - a. Oral Expression
  - b. Listening Comprehension
  - c. Written Expression
  - d. Basic Reading Skill
  - e. Reading Fluency Skills
  - f. Reading Comprehension
  - g. Mathematics Calculation; and,
  - h. Mathematics Problem Solving
  
- (2) The child does not make sufficient progress to meet age or State approved grade-level standards in one or more of the areas identified in A above when using a process based on the child's response to scientific, research-based intervention; or the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with 34 CFR 300.307-300.311. A pattern of strengths and weaknesses is defined as a severe discrepancy between achievement and intellectual ability of at least 1.5 standard deviations; and,
  
- (3) The group determines that its findings under A and B of this section are not primarily the result of:
  - a. A visual, hearing, or motor disability;
  - b. Intellectual disability;
  - c. Emotional disturbance;
  - d. Cultural factors;
  - e. Environmental or economic disadvantage;
  - f. Limited English Proficiency;
  - g. Lack of appropriate instruction in reading, including the essential components of comprehensive literacy instruction (as defined in section 2221(b)(1) of the ESEA);
  - h. Lack of appropriate instruction in math; and,
  
- (4) To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation:
  - a. Data that demonstrate that prior to or as part of the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel, and

- b. Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.

### Professional Judgment

If a responsible public agency uses a severe discrepancy method: A child who does not display a discrepancy of at least 1.5 standard deviations as defined in B above, may nonetheless be deemed to have a specific learning disability if:

- (1) The child meets the other criteria of this rule; and
- (2) Based upon professional judgment and review of formal and informal assessments, the evaluation team concludes that a severe discrepancy exists.

In such cases, sufficient data must be presented in the evaluation report to document the existence of a specific learning disability.

It is the policy of the State of Missouri that any agency using a Response to Intervention model for the identification of Specific Learning Disability, must have written procedures for implementation that, at a minimum, incorporate guidelines developed by the SEA which are found on the Department website.

Speech or Language Impairment: Speech or Language Impairment means a communication disorder, such as stuttering, impaired articulation, language impairment, or voice impairment that adversely affects a child's educational performance.

A language impairment is present when:

- (1) The child consistently exhibits inappropriate use in any of the structures of language (e.g., morphology, syntax, semantics, and pragmatics) as measured by language sampling or other clinical tasks;
- (2) The child's language functioning is significantly below the child's abilities as measured by two (2) or more standardized language assessments. Significantly below is defined as two (2) standard deviations below the mean for children three (3) to five (5) years of age but not eligible for kindergarten, and 1.5 standard deviation below cognitive ability for children who are kindergarten age eligible and older;
- (3) The language impairment adversely affects the child's educational performance; and,
- (4) The language impairment is not a result of dialectal differences or second language influence.

## Professional Judgment

A child may also be deemed eligible if the evaluation documents through formal and informal assessment that a language impairment is present even though the standard scores do not meet the criteria in A above. In such cases, sufficient data must be presented in the evaluation report to document the existence of the language impairment.

A Sound System Disorder, which includes articulation and/or phonology, is present when:

- (1) The student exhibits a delay of correct sound production based on state designated normative data. The child's sound system is significantly delayed based on a single word test and/or a sentence/phrase repetition task and a connected speech sample with consideration given to the type of error recorded (substitutions, omissions, distortions, and/or additions). These errors may be described as single sound errors or errors in phonological patterns or multiple errors in the child's speech that compromise intelligibility and/or listener perception even though the recorded errors are considered within normal developmental guidelines;
- (2) The Sound System Disorder adversely affects the child's educational performance; and,
- (3) The sound system disorder is not a result of dialectal differences or second language influence.

Sufficient data is present in the evaluation report to document the existence of a disorder due to multiple errors in the sound system which compromise the child's intelligibility and/or the listener's perception even though the recorded errors are considered within normal developmental guidelines (professional judgment).

A fluency impairment is present when:

- (1) The child consistently exhibits one or more of the following symptomatic behaviors of dysfluency:
  - a. sound, syllabic, or word repetition;
  - b. prolongations of sounds, syllables, or words;
  - c. blockages; or,
  - d. hesitations;
- (2) The child's fluency is significantly below the norm as measured by speech sampling in a variety of contexts. A significant discrepancy is defined as five (5) or more dysfluencies per minute or a ten (10) percent dysfluency rate and distracting to the listener; and,
- (3) The fluency impairment adversely affects the child's educational performance.

## Professional Judgment

A child may also be deemed eligible if the evaluation documents through formal and informal assessment that a fluency impairment is present even though the criterion in C above is not met. In such cases, sufficient data must be presented in the evaluation report to document the existence of the fluency impairment.

A voice impairment is present when:

- (1) The child consistently exhibits deviations in one or more of the parameters of voice: pitch, quality, or volume;
- (2) The child's voice is discrepant from the norm as related to his/her age, sex, and culture and is distracting to the listener;
- (3) The voice impairment is not the result of a temporary problem such as: normal voice changes, allergies, colds, or other such conditions; and,
- (4) The voice impairment adversely affects the child's educational performance.

Traumatic Brain Injury (TBI): Traumatic Brain Injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability, psychosocial impairment, or both that adversely affects a child's educational performance. The term includes open or closed head injuries resulting in impairments in one or more areas, such as, cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychological behavior, physical functions, information processing, and speech. The term does not include brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma.

A child has a Traumatic Brain Injury when:

- (1) A traumatic brain injury/head injury has been diagnosed by a licensed physician or through a neuropsychological assessment, and
- (2) The student's educational performance is adversely affected by deficits in acquisition, retention, and/or generalization of skills. Students with a brain injury may have rapidly changing profiles, therefore, educational assessment should include current documentation of the student's functional capabilities and indicate deficits in one or more of the following areas:
  - a. Building or maintaining social competence;
  - b. Performance of functional daily living skills across settings;
  - c. The ability to acquire and retain new skills; and,
  - d. The ability to retrieve prior information.

## Professional Judgment

A child may also be deemed eligible if the child displays characteristics of TBI even though a medical diagnosis of head injury has not been made by a physician. In such cases, substantial data to document the medical basis for a head injury must be present in the evaluation report.

Visual Impairment/Blindness: Visual Impairment, including blindness, means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

A child displays a Visual Impairment when:

- (1) A visual impairment or a progressive vision loss has been diagnosed by an optometrist or ophthalmologist;
- (2) Visual acuity has been determined to be:
  - a. For visual impairment of 20/70 to 20/200 in the better eye with best correction by glasses;
  - b. For blindness of 20/200 or less in the better eye after best correction by glasses or a visual field measuring 20 degrees or less; and,
- (3) The visual impairment adversely affects the child's educational performance.

Young Child with a Developmental Delay: Young Child with a Developmental Delay means a child ages three (3) through five (5) who is experiencing developmental delays, as measured by appropriate evaluation instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development, and who need special education and related services.

Note: LEAs in Missouri are not required to adopt and use the term "Young Child with a Developmental Delay" for any children in their jurisdiction. However, if an LEA uses the term "Young Child with a Developmental Delay," the LEA must conform to both the State's definition of the term and the age range.

A child has a developmental delay when:

For children ages three (3) through five (5) (not kindergarten age eligible)

- (1) The child's development is at or below 1.5 standard deviations, or equivalent levels, of the mean in any TWO areas of development OR at or below 2.0 standard deviations, or equivalent levels, in any ONE area of development as compared to typical development. Areas of development that can be used to determine eligibility include physical, cognitive, communication, social/emotional, or adaptive.
- (2) The child needs special education and related services.

## Professional Judgment

A child may also be deemed eligible when:

- (1) The evaluation report documents through formal and informal assessment that a significant deficit exists and a child is eligible for services even though the standard scores, or equivalent levels, do not meet the stated criterion levels in A above, or
- (2) The team may determine that a child, who is functioning above the stated criterion level and because of intensive early intervention, is eligible for services based on expected regression if services were to be terminated.

For children ages five (5) (kindergarten eligible)

- (1) Children kindergarten age eligible may continue eligibility as a Young Child with a Developmental Delay if they were identified as such prior to attaining kindergarten age eligibility.

## **C. PROCEDURES FOR EVALUATION AND DETERMINATION OF ELIGIBILITY**

DESE ensures that each public agency establishes and implements procedures for evaluation and determination of eligibility that meet the requirements of this section.

### **PARENTAL CONSENT FOR INITIAL EVALUATION**

Consent of the parent must be obtained by the responsible public agency from a parent prior to conducting the initial evaluation.

Consent for initial evaluation may not be construed as consent for initial provision of special education and related services. Public agencies must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.

### **WARD OF THE STATE**

For initial evaluations only, if the child is a ward of the State and is not residing with the child's parent, the public agency is not required to obtain informed consent from the parent for an initial evaluation to determine if the child is a child with a disability if:

- (1) The public agency cannot discover the whereabouts of the parent of the child despite reasonable efforts to do so;
- (2) The rights of the parent of the child have been terminated in accordance with State law; and,

- (3) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

### **FAILURE TO CONSENT**

If the parent of a child enrolled in a public agency or seeking to be enrolled in a public agency does not provide consent for initial evaluation or the parent fails to respond to a request to provide consent, the public agency may, but is not required to, pursue the initial evaluation of the child by utilizing the procedural safeguards (including mediation procedures or due process procedures), if appropriate, except to the extent inconsistent with State law relating to such parental consent. A public agency does not violate its obligation under “child find” or “evaluations and reevaluations” of the Act if it declines to pursue the evaluation.

### **EVALUATION TIMELINES**

The following timelines are adopted by the state for purposes of evaluation. The public agency shall provide the parent with a Notice of Intent to Evaluate as soon as possible, but within thirty (30) calendar days of the date of referral for evaluation. Delays beyond this time may be permitted for just cause (school breaks for summer or holidays, student illness, etc.) and documented in the student's record.

The evaluation shall be completed and a decision regarding eligibility rendered within sixty (60) calendar days following parent consent or notice, as the case may be. This timeline does not apply if the parent of the child repeatedly fails or refuses to produce the child for evaluation or the child enrolls in a school of another public agency after the timeline has begun and prior to a determination by the child's previous public agency as to whether the child is a child with a disability or there is just cause (school breaks for summer or holidays, student illness, etc.) documented in the student's record.

### **PARENT REQUEST FOR EVALUATION**

Parents may request an evaluation for their child. If the public agency receives such a request, the district shall:

- (1) Accept the request and proceed with the evaluation process in accordance with the timelines and requirements set forth in this section, or
- (2) Refuse the request and provide the parent with Notice of Action Refused

### **INITIAL EVALUATION (34 CFR 300.301)**

Each public agency shall conduct a full and individual initial evaluation, in accordance with 34 CFR 300.305 and 34 CFR 300.306, before the initial provision of special education and related services to a child with a disability. This may or may not include additional testing as determined by the evaluation team members.

Either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

The initial evaluation must be conducted within the evaluation timelines set forth above and must consist of procedures to determine if the child is a child with a disability as defined in this State Plan and to determine the educational needs of the child.

If a parent of a child repeatedly fails or refuses to produce the child for evaluation or, if a child enrolls in a school of another public agency after the evaluation timeline has begun and prior to the determination by the child's previous public agency as to whether the child is a child with a disability, the sixty (60) day timeframe does not apply. An exception to this applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and the subsequent public agency agree to a specific time when the evaluation will be completed.

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.

### **REEVALUATIONS (34 CFR 300.303)**

A public agency must ensure that a reevaluation of each child with a disability is conducted if the public agency determines that the educational or related services needs, including improved academic achievement and functional performance of the child warrant a reevaluation or if the child's parent or teacher requests a reevaluation.

A reevaluation may occur not more than once a year, unless the parent and the public agency agree otherwise. A reevaluation must occur at least once every three years, unless the parent and the public agency agree that a reevaluation is unnecessary.

For parent or district requested reevaluations, initial evaluation timelines specified in this section must be followed.

### **EVALUATION PROCEDURES (34 CFR 300.304)**

The public agency must provide notice to the parents of a child with a disability that describes any evaluation procedures including, but not limited to, standardized and non-standardized tests, classroom observations, functional behavioral assessments (FBAs), interviews that the public agency proposes to conduct. Each public agency shall ensure, at a minimum, that the following requirements are met:

- (1) A variety of assessment tools and strategies are used to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, and information related to enabling the child to be involved in and progress in the general curriculum (or for a preschool child, to participate in

appropriate activities), that may assist in determining whether the child is a child with a disability and the content of the child's IEP.

- (2) No single measure or assessment is used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for a child.
- (3) The public agency uses technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
- (4) Assessments and other evaluation materials used to assess a child under Part B of the Act are selected and administered so as not to be discriminatory on a racial or cultural basis, are provided and administered in the child's native language or other mode of communication, and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to provide or administer.
- (5) Assessments and other evaluation materials used to assess a child are used for the purposes for which the assessments or measures are valid and reliable and are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests. If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test or the method of test administration) must be included in the evaluation report.
- (6) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
- (7) Assessments are selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
- (8) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.
- (9) Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent school as necessary and as expeditiously as possible to ensure prompt completion of full evaluations.

- (10) In evaluating each child with a disability, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.
- (11) The public agency uses assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.

**ADDITIONAL REQUIREMENTS FOR EVALUATIONS AND REEVALUATIONS (34 CFR 300.305)**

As part of an initial evaluation (if appropriate) and as part of any reevaluation under Part B of IDEA, the IEP Team and other qualified professionals, as appropriate, shall review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based, local or State assessments, classroom based observations, and observations by teachers and related services providers. On the basis of that review and input from the child's parents, the IEP Team and other qualified professionals, as appropriate, shall identify what additional data, if any, are needed to determine:

- (1) Whether the child has a particular category of disability and the educational needs of the child, or in case of a reevaluation of a child, whether the child continues to have such a disability and the educational needs of the child;
- (2) The present levels of academic achievement and related developmental needs of the child;
- (3) Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and,
- (4) 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 IEP of the child and to participate, as appropriate, in the general curriculum.

The group making these decisions may conduct its review without a meeting. The public agency shall administer tests and other evaluation methods as may be needed to produce the data identified above.

If the determination of the group is that no additional data are needed to determine whether the child continues to be a child with a disability, the public agency shall notify the child's parents of that determination and the reasons for it, and of the right of the parents to request an assessment to determine whether, for purposes of services under the Individuals with Disabilities Education Act, the child continues to be a child with a disability, and to determine the child's educational needs.

If the parent requests assessment, even though the determination has been made that no additional data are needed, the public agency must grant the request if the issue is continued eligibility under Part B of IDEA or to determine the child's educational needs.

A public agency must evaluate a child with a disability before determining that the child is no longer a child with a disability. An evaluation is not required before the termination of a child's eligibility due to graduation from secondary school with a regular diploma or due to reaching the age of twenty-one (21).

A public agency must provide a child whose eligibility terminates due to graduation from secondary school with a regular diploma or due to reaching the age of twenty-one (21) a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's post secondary goals.

### **DETERMINATION OF ELIGIBILITY (34 CFR 300.306)**

Upon completing the administration of tests and other evaluation materials, a group of qualified professionals and the parent of the child must determine whether the child is a child with a disability and the educational needs of the child. The public agency must provide a copy of the evaluation report which documents the determination of eligibility at no cost to the parent.

In interpreting evaluation data for the purpose of determining if a child is a child with a disability and the educational needs of the child, each public agency must – (i) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and, (ii) Ensure that information obtained from all of these sources is documented and carefully considered.

If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with this state plan.

### **EVALUATION REPORT**

Each public agency shall develop a written Evaluation Report for all initial evaluations and any reevaluations which required additional testing or resulted in a change in eligibility. The evaluation report must include a:

- (1) Statement of whether the child has a specific disability as defined in Regulation III of this document;
- (2) Synthesis of information from the evaluation considering all areas of functioning;
- (3) Basis for making the determination of eligibility for a disability;
- (4) Statement that the disability is not a result of lack of appropriate instruction in reading, including the essential components of comprehensive literacy instruction (as defined in section 2221(b)(1) of the ESEA) or lack of appropriate instruction in math or Limited English proficiency; and,

- (5) List of the individuals who were in attendance at the eligibility determination meeting and their role.

The Evaluation Report for students identified as Specific Learning Disabled must include items A through E above and the following:

- (1) Relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to academic functioning;
- (2) Educationally relevant medical findings, if any;
- (3) Whether the child:
  - a. Does not achieve adequately for the child's age or to meet State approved grade-level standards, and
  - b. Does not make sufficient progress to meet age or State approved grade-level standards, or
  - c. Exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State approved grade-level standards, or intellectual development;
- (4) The determination of the group concerning the effects of a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or Limited English proficiency on the child's achievement level;
- (5) If the child has participated in a process that assesses the child's response to scientific, research-based intervention:
  - a. The instructional strategies used,
  - b. The student-centered data collected,
  - c. Documentation that the child's parents were notified about:
    - The State's policies regarding the amount and nature of student performance data that would be collected,
    - The general education services that would be provided,
    - The strategies for increasing the child's rate of learning, and
    - the parents right to request an evaluation; and,
- (6) Each team member shall certify in writing whether the report reflects his/her conclusion; if it does not reflect his/her conclusion, the team member must submit a separate statement presenting his/her conclusions.

### **DETERMINATION OF ELIGIBILITY FOR YOUNG CHILDREN AGES 3 THROUGH 5**

School districts shall, through approved district policy, determine eligibility for children ages three (3) through five (5) (not kindergarten age eligible) using one of the following methods:

- (1) Identify all children using any of the disability categories except that of Young Child with a Developmental Delay (YCDD); or,
- (2) Identify all children as eligible using only the category of Young Child with a Developmental Delay (YCDD); or,
- (3) Identify all children as eligible using any of the disability categories including that of Young Child with a Developmental Delay (YCDD).

For a child with a disability who becomes Kindergarten age eligible (age five (5) before August 1), districts shall, through approved district policy, choose one of the following methods to determine continuing eligibility for special education:

- (1) If the district selected methods 2) or 3) above, they may either:
  - a. Continue a child as eligible under the Young Child with a Developmental Delay (YCDD) or apply any of the other disability categories, or
  - b. Apply any disability category other than Young Child with a Developmental Delay (YCDD).
- (2) If the district selected method 1) above, all children will continue to be identified as eligible using any disability category other than Young Child with a Developmental Delay (YCDD).
- (3) Children who are kindergarten age eligible (age five (5) before August 1) and have not been identified as eligible for special education in prior years, must meet criteria of any disability category other than Young Child with a Developmental Delay (YCDD).
- (4) Children who are first grade age eligible (age six (6) before August 1) must meet criteria of any disability category other than Young Child with a Developmental Delay (YCDD).

## **D. ADDITIONAL PROCEDURES**

### **DETERMINATION OF ELIGIBILITY FOR CHILDREN WITH SPECIFIC LEARNING DISABILITIES (34 CFR 300.307)**

The State has adopted criteria for determining whether a child has a specific learning disability. The criteria adopted by the State does not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability and permits the use of a process based on the child's response to scientific, research based intervention.

Public agencies in the state must use the State criteria in determining whether a child has a specific learning disability.

### **ADDITIONAL GROUP MEMBERS 34 CFR 300.308**

The determination of whether a child suspected of having a specific learning disability is a child with a disability must be made by the child's parents and a team of qualified professionals that must include:

- (1) The child's regular teacher or, if the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; for a child of less than school age, an individual qualified by the Department to teach a child of his or her age, and
- (2) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

### **EXTENSION OF EVALUATION TIMELINES WHEN DETERMINING ELIGIBILITY FOR SPECIFIC LEARNING DISABILITIES**

The public agency must promptly request parental consent to evaluate the child to determine if the child needs special education and related services and must adhere to the evaluation timelines, unless extended by mutual written agreement of the child's parents and the evaluation professionals, if prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction and whenever a child is referred for an evaluation.

### **OBSERVATION (34 CFR 300.310)**

The public agency must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.

The group determining whether a child has a specific learning disability must decide to:

- (1) Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation, or
- (2) Have at least one member of the group conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent is obtained.

In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

Listed below are the statutes of the State of Missouri which provide the legal basis and source for Missouri's policy.

- (1) Section 162.700 RSMo Evaluations
- (2) Section 162.700(2), RSMo Eligibility determination
- (3) Section 162.945, RSMo-Notice of evaluation results