



DISTRICT OF COLUMBIA

OFFICE OF THE STATE SUPERINTENDENT OF

EDUCATION

SPECIAL EDUCATION NON-REGULATORY GUIDANCE

FLEXIBILITIES FOR COMPLETING SPECIAL EDUCATION EVALUATIONS

July 2022

In the District of Columbia, local education agencies (LEAs) must make and document reasonable efforts to obtain parental consent within 30 days of receiving a referral for an initial evaluation and complete an initial evaluation within 60 days of obtaining parental consent,¹ and must conduct reevaluations for each student with a disability at least once every three years.² The Office of the State Superintendent of Education (OSSE) recognizes that school closures, distance learning and staffing shortages due to coronavirus (COVID-19) have significantly impacted the timely completion of initial evaluations and reevaluations. OSSE offers this non-regulatory guidance to assist LEAs in identifying creative solutions and exercising flexibilities, where appropriate, to ensure the completion of special education evaluations consistent with Part B of the Individuals with Disabilities Education Act (IDEA). This document generally constitutes informal guidance and does not impose any additional requirements beyond those included in applicable federal and local law and regulations.³

Leverage Existing Data

When conducting evaluations, LEAs must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child. LEAs and individualized education program (IEP) teams making decisions regarding a student's eligibility or educational needs have broad discretion to consider a variety of data sources, including both formal and informal data. LEAs are encouraged to leverage existing data to support decision making during the evaluation process, especially when it may be challenging to complete formal assessments.

As part of an initial evaluation or reevaluation, the IEP team and other qualified professionals must review existing evaluation data, including evaluations and information provided by the parents, current classroom-based assessments and observations, and observations by teachers and related service providers. For children under the age of 6, the group must review relevant information provided by any agency, medical professional, service provider, child care provider, early childhood program or relative who may have relevant information regarding the student, and any IDEA Part C assessments and other related data.

The IEP team and other qualified professionals must consider a broad variety of sources of existing data, including but not limited to student achievement data, teacher and service provider observations and

¹ D.C. Official Code § 38-2561.02(a)(2)(A); 5-A DCMR § 3005.4 (also requires reasonable efforts to obtain parent consent to begin within ten (10) days of receiving a referral for an initial evaluation.

² 5-A DCMR §3007.1.

³ See generally 5-A DCMR § 3006 (Evaluation Procedures) and 5-A DCMR § 3007 (Reevaluation).

input, and parent input. If the IEP team and other qualified professionals can determine whether the student is or continues to be a student with a disability using existing student data and information, and can determine the educational needs of the student in such a manner as to support appropriate IEP development, then additional assessments may not be necessary. However, if a parent disagrees and requests a full evaluation of the student, even if the other IEP team members do not believe assessments are necessary, the LEA must ensure appropriate assessments are conducted to inform the evaluation.

The group IEP team and other qualified professionals must consider exclusionary factors, including whether the determinant factor for the eligibility determination is a lack of instruction in reading (including the essential components of reading) or math.⁴ This may be challenging in the wake of school closures and periods of distance learning due to COVID-19 when students may have experienced a lapse in the receipt of educational services. LEAs should administer appropriate achievement assessments and employ effective progress monitoring practices to develop a strong foundation of documented data to inform eligibility determinations and assist the group of persons in considering the impacts of a lack of appropriate instruction.

Growing the LEA's Pool of Evaluators

Assessments must be administered by qualified evaluators, which is defined as “an evaluator who has met the state education agency (SEA)-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the evaluator’s field in the location where the evaluator practices. For the administration of standardized tests, a qualified evaluator means a person who is trained and knowledgeable and administers the test in accordance with the instructions provided by the producer of the test.”⁵ Qualified evaluators could be a broad variety of LEA personnel, including general and special education teachers, and is not limited to school psychologists. LEAs should consider whether school personnel could receive necessary training to become qualified evaluators in needed assessments. Educators or other qualified staff may administer educational assessments, which may alleviate burdens on school psychologists. LEAs may use IDEA Part B grant funds or American Rescue Plan (ARP)-IDEA Part B grant funds to support such training.

LEAs may also use IDEA, ESSER, and ARP-IDEA funds to contract with external evaluators to conduct assessments, hire additional school psychologists or bring on part-time support staff to manage paperwork and documentation efforts to alleviate administrative burdens for education professionals to dedicate time and resources to evaluation and instruction. LEAs may pursue partnerships with local institutes of higher education to leverage graduate students to complete assessments, as appropriate, and under the supervision of qualified personnel. In doing so, LEAs should consider qualification requirements, supervision standards and the needs of specific student populations (including students who may have complex medical or educational needs).

For additional information on allowable uses of IDEA Part B grant funds, please visit the OSSE [website](#). For additional information on strategies for using ARP-IDEA Part B grant funds to support students with disabilities, please visit the OSSE [website](#).

Ensure Provision of FAPE

For students requiring reevaluations, LEAs are reminded to continue to ensure the provision of a free appropriate public education (FAPE) by implementing existing but “expired” or overdue IEPs, as

⁴ 34 C.F.R. § 300.306(b)(1); 5-A DCMR § 3010.2.

⁵ 5-A DCMR § 3099 (“Qualified evaluator”)

appropriate. IEP teams should update IEPs to reflect known educational needs of the student while awaiting results of reevaluations or additional assessments.

LEA Capacity-Building Activities

LEAs should consider training and professional development that builds LEA and IEP team capacity to make decisions about evaluations, including determining appropriate assessments and improving data-based decision making. Increasing IEP team knowledge and understanding about exclusionary factors may be especially useful when it may be challenging to rule out COVID-19-related educational impacts.

Improving pre-referral intervention practices, including Response to Intervention (RTI) or multi-tiered systems of support (MTSS) processes, can support educators in identifying students who may be students with disabilities and establish a strong foundation of student data to be considered during the evaluation process. While pre-referral interventions cannot delay or deny a full evaluation, such interventions and data collection should be leveraged to inform the evaluation. LEAs should consider implementing training and processes to improve both implementation of pre-referral interventions and data collection practices.

LEAs should consider how to maximize resource availability by prioritizing staff and efficiently delegating responsibilities based on the unique qualifications or skills of specific staff members. For example, LEAs may want to ensure school psychologists prioritize the provision of clinical services or completion of specialized assessments, while assigning other personnel to provide services that do not require specific clinical expertise. LEAs may leverage the expertise of existing clinical psychologist staff to review and identify student-specific services and assessments that can otherwise be provided by LEA staff without clinical expertise.

Extend Eligibility Timelines Where Appropriate

IDEA provides for extension of evaluation timelines in two specific circumstances:

1. When initial eligibility for specific learning disability (SLD) is being considered, the LEA and parent may agree to extend the timeline by mutual written agreement if, prior to referral, the student did not make adequate progress after an appropriate period of time when provided instruction or for the reevaluation of a student currently eligible for SLD ⁶, and
2. When a student transfers between LEAs during the evaluation process and the new LEA is making sufficient progress to ensure the prompt completion of the evaluation, the LEA and parent may agree to a specific time when the evaluation will be completed.⁷

LEAs must meet due dates established through mutually agreed upon extensions of evaluation timelines. LEAs must document delayed procedural timelines in the rare instance of student unavailability or impossibility due to COVID-19 via prior written notice to the parent and documented in the student's file in the Special Education Data System (SEDS). OSSE will consider such documentation as part of its monitoring and oversight activities.

Parent Engagement

Parents are an integral part of the evaluation process, and LEAs should effectively engage parents to help inform the process. LEAs should gather and utilize parent input and information and seek parent support in obtaining existing documentation such as medical records or input from child care facilities or community organizations. LEAs must ensure clear, frequent communication with parents throughout the

⁶ 34 C.F.R. § 300.309(c).

⁷ 34 C.F.R. § 300.301(d)(2) and (e); 5-A DCMR §3 005.5.

evaluation process, but especially when the LEA is experiencing difficulty completing the evaluation in a timely manner to ensure parents are aware of and understand the impact of delays. If an LEA will not complete a timely evaluation, the LEA must issue a prior written notice (PWN) notifying the parent and advising how the parent can access the procedural safeguards and receive support in understanding their rights.

Monitoring and Compliance

OSSE recognizes the challenges faced by LEAs and will factor this into monitoring activities and corrective actions. In accordance with OSSE's monitoring and oversight obligations under IDEA, which remain unchanged by the COVID-19 public health emergency, OSSE must issue findings for noncompliance with required timelines for correction of these findings. However, LEAs are encouraged to ensure transparent and timely communication with parents and documentation of notices provided to parents. LEAs must document delayed procedural timelines in the rare instance of student unavailability or impossibility due to COVID-19 via PWN to the parent that is documented in the student's SEDS file. Receipt of this information from LEAs will support OSSE delivery of technical assistance throughout the process whereby noncompliance is corrected.

If you have questions relating to this guidance, please contact the Division of Systems and Supports, K12 policy team at OSSE.DSEpolicy@dc.gov.