

Overview of the Referral Process

Referral for special education eligibility consideration can be initiated at any time for a student who is suspected of having a disability. Either a parent/guardian 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 (§300.301). When a request is received, an LEA must

- Conduct a meeting to review a referral for special education within 10 school days of receipt.
- A copy of the procedural safeguards must be provided to the parents upon initial referral or parent request for evaluation (§300.504).
- The referral is reviewed by the parent and a team of qualified professionals that includes individuals described in §300.321 and other qualified professionals, known as the Evaluation Team. In addition, when considering a student who is an English Language Learner, an ESL teacher, bilingual teacher, coordinator for ELLs, or other person knowledgeable in instruction and assessment of English Language Learners must be included.
- This team meets to determine if a special education evaluation is warranted.

Prior to any decision regarding referral of a student to an Evaluation Team for determination of eligibility for special education and related services as a student with a SLD, intensive interventions delivered in the general education setting to alleviate the educational problems shall be provided to the student. However, these interventions must not delay appropriate evaluation if the student is suspected of having a disability, regardless of the number of days or levels in such interventions the student has completed. A direct referral shall be made to the evaluation team if a student's educational problem(s) are such that a direct referral is warranted and can be supported and documented. A child who has not failed, is making academic progress, and is passing from grade to grade may still be suspected of having a disability (§300.101).

If an LEA declines a request for an evaluation, the LEA must issue a prior written notice as required under §300.503(a)(2), which states, "written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability within a reasonable time (ten school days) before the public agency refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a Free Appropriate Public Education (FAPE) to the child." A parent can challenge this decision by requesting a due process hearing to resolve the dispute regarding the child's need for an evaluation.

Referral of student in an RTI process by problem-solving team

Special education eligibility consideration (referral for evaluation) can be initiated at any time for a student who is suspected of having a disability. For a student already participating in a Response to Intervention process, evidence of a significant academic skill deficit and insufficient progress, even when provided research-based interventions, could trigger the suspicion of a specific learning disability and a referral for evaluation. An additional consideration when making the referral might be the apparent need for ongoing and specialized supports and services in order for the student to benefit from the general education curriculum.

In deciding whether a referral for special education evaluation is warranted, the evaluation team must carefully examine all the information it has on hand. The group carries the responsibility of determining if additional information may be necessary before it can decide if there is a suspicion of a disability, and therefore a need for a special education evaluation. A judgment must be made on the sufficiency of the collected evidence on the curriculum and instruction the student has received, on the student's lack of response to that instruction and to a sequence of specific evidence based interventions. This judgment includes the fidelity of implementation of instruction and interventions. If the evidence is sufficient, the group will have an understanding of the curriculum, instruction and environmental conditions of the student's learning situation, the student's language proficiency, literacy level and achievement, rate of progress, and the intensity of intervention needed for the student to learn. Questions to consider as part of the referral process include:

- Does evidence exist that this student's achievement behavior differs significantly from that of other students with

similar demographic characteristics?

- Does evidence exist that the core curriculum is effective for a high percentage of students, aligned with Grade-level/span expectations and includes evidence-based instruction targeted to and appropriate for the student's level of English proficiency and learning needs?
- Did the instruction and interventions provided to the student take into consideration the child's **cultural, linguistic, socioeconomic, and experiential** background?
- Do the interventions implemented represent Scientifically Based Research or represent instructional best practice for the student population being served?
- Were the interventions carried out with fidelity (i.e., carried out as prescribed)?
- Were the interventions provided for an adequate length of time?
- Were adjustments made to the interventions as a result of ongoing progress monitoring?(Were changes made to the intensity, duration or frequency of the interventions or were additional interventions implemented in response to student performance data?)
- Is the student benefitting from the interventions as evidenced in progress monitoring data?
- Was any diagnostic assessment administered for the purpose of informing appropriate instruction/intervention, particularly if the student was not responding adequately to early intervention attempts? If so, what were the results?
- Is there evidence of a significant achievement gap even after targeted and/or intensive intervention?
- Is the achievement gap with grade-level peers closing?
- Does the student need ongoing supports and services that cannot be maintained through general education alone in order to benefit from general education?

RTI does not replace the right of a child with a disability to be identified as such and to receive special education services. Caution should be taken not to delay a referral for special education evaluation beyond the point when the team should be suspecting a disability. If a referral to evaluate has been made, the LEA must conduct a meeting with the Evaluation Team to review the referral within 10 school days of receipt of the request. If the student is already participating in an RTI process, the school may continue to collect the student's response to intervention data up until the time of the eligibility meeting (and continue, as appropriate, based on the decisions made at the eligibility meeting). Additional evaluation data will be collected and any further assessments conducted according to the evaluation plan.

Referral by Parent

Parents have the right to request a special education evaluation at any time. An LEA must conduct a meeting with the evaluation team to review the referral within 10 school days of receipt of the request. The team must utilize all available data, including any independent evaluation data shared by the parent, to determine if a special education evaluation is needed. If the LEA agrees with the parent that the child may be a child with a disability, then the LEA must evaluate the child. The team must review existing evaluation data on the child and determine whether additional data are needed to determine whether the child is a child with a disability and the child's educational needs. If the LEA does not believe an evaluation is warranted, prior written notice to the parents must be issued that addresses why an evaluation is not warranted. The parent can challenge this position by requesting a due process hearing to resolve the dispute regarding the child's need for an evaluation.

Referral of student not in RTI process

The team must utilize all available data, including any independent evaluation data shared by the parent, to determine if a special education evaluation is needed. If the LEA agrees to proceed with an evaluation, the evaluation team must determine what evaluation information is needed to complete a full and individual comprehensive evaluation and obtain parental consent to evaluate the child. The sixty-day timeline for completing the evaluation begins when the LEA obtains parental consent. If the student has not been involved in a Response to Intervention process, appropriate intervention needs to be provided in the area(s) of difficulty and the student's response/progress regularly monitored. Data collected through this process will be utilized as part of the full and individual comprehensive evaluation. The criteria for eligibility as a student with SLD do not change. Parents should have a role on the problem-solving team as a Response to Intervention process is being implemented for their child.

