

“My child struggles a lot in school. I think we need to do more, but I don’t know what the next steps are...

What do I do?”



That’s a question we hear all too often at the beginning of the second semester. Parents who have watched their child struggle in school for months can become frustrated and confused. There are specific next steps that parents can take to request an evaluation for Special Education when they feel a disability might be the reason for their child’s difficulties in school.

Understanding the Evaluation Process, Part 1

There are good reasons for not evaluating a child for Special Education too quickly. Many children can get low-level assistance (usually referred to as “interventions” by schools), and have no need for anything else. However, there are also good reasons for pursuing an evaluation without significant delay. Understanding your child’s right to an evaluation for Special Education can help you flush out what your next steps should be. You can find legal language about evaluation for Special Education in the first three sections of Title 20, Chapter 33, Subchapter II, Section 1414 of the Individuals with Disabilities Education Act (IDEA). The sections are titled “Initial Evaluation, Reevaluations, and Additional Requirements”. The IDEA Regulations published in August of 2006 are a second important source of information. They contain the U.S. Department of Education’s interpretation of how the IDEA should be implemented. [Links to both are provided in “Tips and Tools” at the back of this newsletter.](#)

An Important Timeline in IDEA law:

“a parent of a child . . . may initiate a request for an initial evaluation to determine if the child is a child with a disability.” (The IDEA, 20 U.S.C. § 1414(a)(1)(B)). “Such initial evaluation shall consist of procedures – to determine whether a child is a child with a disability (as defined in section 1402) within 60 days of receiving parental consent for the evaluation . . .” (20 U.S.C. § 1414 (a)(1)(C)).

There are only two exceptions to the 60-calendar-day time frame within the law. The first applies if the child changes school districts after the process has begun, and the second applies only if the parent “repeatedly fails or refuses to produce the child for the evaluation.” The language of the federal law does not recognize that delaying a parental request for an initial evaluation for any other reason is permissible. If parents ask, consent, and make the child available, an evaluation for eligibility is to be performed within 60 calendar days of the parental consent.

So, what does this process look like in Iowa? Keep reading...

The Disability Suspected Form



As with all important requests made to any type of provider on behalf of your child, it is best to put a request for an evaluation for Special Education in writing, and address it to the superintendent of your school or the director of special education. Be specific about why you believe your child needs an evaluation and what skill areas need to be evaluated. If your request is vague, there may be an evaluation, but it may not provide the specific information you and the rest of the team needs to help your child.

After you have made your request, add a statement to indicate that you expect to receive written notice if the request is denied. Something like, “If my request for an evaluation is denied, please provide me with my parental written notice explaining the reasons for the denial”. Include a reasonable time frame within which you expect a reply. Two weeks is reasonable. [A link to a template letter to request an evaluation is provided in “Tips and Tools” at the back of this newsletter.](#)

In Iowa, the “Disability Suspected” Form is used by the school and AEA to determine the next steps they need to take. The Disability Suspected Form has been developed to guide teams through this process.

To begin the process, the school will hold a meeting with the parents and AEA to determine the presence of a suspected disability using the form as a guide. This process should not delay an evaluation. While the meeting is officially a “Suspected Disability” meeting, most schools just refer to it as a “meeting” or “initial meeting”. Generally, schools don’t want to use terms that might confuse or intimidate parents, so they keep their jargon about official terms of meetings types to a minimum. At this first meeting, you should expect to discuss what the issues are that led you to believe a disability is or might be affecting your child’s ability to learn.

It is perfectly reasonable to expect the Suspected Disability meeting to be scheduled within 10 calendar days of notifying the school in writing that you are requesting an evaluation. The Suspected Disability meeting should NOT take 30 days or more to schedule from the date you requested the evaluation in writing.

There is no need for obtaining added data to determine if a disability is suspected that warrants an evaluation at this step in the process. The bar for determining whether a disability is suspected is intended to be low. This process should not require extensive analysis, and should not wait for other interventions to be tried first. The question is whether the team suspects that a student may have a disability that may be impacting the student’s progress or participation. Suspected Disability meetings are meant to establish that an evaluation is needed because:

1. A known disability is affecting a student’s ability to learn in such a way that there may be a need for specialized and individualized instruction, or
2. There is no current diagnosis, but something is affecting the student’s ability to learn which needs to be further investigated to see if a disability is present that warrants specialized or individualized instruction.

3 Instances Outlined by the Suspected Disability Form that Trigger an IDEA Evaluation

- 1) The child has a disability that meets one of the 13 categories of disability under IDEA (autism; deaf-blindness; deafness; emotional disturbance; hearing impairment; intellectual disability; orthopedic impairment; other health impairment; specific learning disability; speech or language impairment; traumatic brain injury; visual impairment; including blindness) AND that disability has an impact on the student’s education.
- 2.) There is data to suggest that the student has received high quality instruction (including general education, and targeted and supplemental interventions) and the student isn’t making or progressing towards the expected minimum standards. The student is unique when compared to peers, and the performance can’t be explained by other factors than a suspected disability .
- 3.) The child has received high quality instruction and interventions targeted to the area of concern and is making or progressing towards meeting the standards but will likely require continued support.

The Suspected Disability Form Continued...

“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.”



34 C.F.R. 300.10 (c) Iowa Administrative Code r.281-41.101

Guidance for schools and AEAs states that any of the following three circumstances can trigger evaluation:

1. Diagnosed condition that impacts performance
2. Not meeting standards despite intervention
3. Meeting standards but intervention requires substantial and ongoing resources

If any of the 3 circumstances is true then the agency should evaluate the student . If none of the 3 is true then the team may deny the parental request for evaluation, but should provide the parent with a Prior Written Notice (PWN) explaining the factors used to make that decision. Ask for a written PWN if your request is denied.

3 Things IDEA does NOT say:

1. IDEA does not say that a child must be failing at school to qualify for an evaluation.
2. IDEA does not say that a child must be in the bottom 10th percent or 12th percent of the class to qualify for an evaluation.
3. IDEA does not say that a child must have completed other general education interventions (like Response to Intervention (RTI)) to qualify for an evaluation.

IDEA 2004 specifies that “[t]he 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.” IDEA Section 1414(a)(1)(E). An evaluation requested under IDEA must meet the criteria established for an initial evaluation in the Federal law. So, while general education instructional strategies or interventions like RTI may be used with any student, they do not replace a full and individual evaluation, and should not delay the start of an evaluation.

In a January 21, 2011 “Dear Colleague” letter, Dr. Melody Musgrove, Director of the Office of Special Education Programs at the U.S. Department of Education wrote, “...It has come to the attention of the Office of Special Education Programs that, in some instances, local education agencies (LEAs) may be using Response to Intervention (RTI) strategies to delay or deny a timely initial evaluation for children suspected of having a disability. States and LEAs have an obligation to ensure that evaluations of children suspected of having a disability are not delayed or denied because of implementation of an RTI strategy”. [A link to the full “Dear Colleague” letter, is provided in “Tips and Tools” at the back of this newsletter.](#)

Remember:

Parents may request an evaluation at any time. A full and individual, initial evaluation, however, is required only if the child is suspected of having a disability.



Creating Support: Your Child's Disability and Health at School

Evaluation and meeting your child's health care needs at school intersect in several ways. Your child may be eligible for supports and related services to address their educational, developmental and functional needs during the day at school resulting from their disability under the category of "Other Health Impairments". It is one of the 13 categories of disability listed in the Individuals with Disabilities Education (IDEA) Act. IDEA states:

"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. [§300.8(c)(9)]"*

Learn more at: <http://nichcy.org/disability/specific/ohi#idea>

Tips & Tools

- IDEA language regarding evaluations, courtesy of Cornell Law School: www.law.cornell.edu/uscode/text/20/1414
- U.S. Dept. of Ed. Regulations interpreting IDEA law about evaluations: <http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CTopicalBrief%2C4%2C>
- Template letter to request an evaluation: www.askresource.org/images/Documents/IDEA/sample-letter-requesting-spec-ed-eval.pdf
- Dear Colleague letter from U.S. Dept. of Ed. about RTI: www.ed.gov/policy/speced/guid/idea/memosdcltrs/osep11-07rtimemo.pdf



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