

# Evaluating Children for Disability

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Evaluation is an essential beginning step in the special education process for a child with a disability. Before a child can receive special education and related services for the first time, a full and individual initial evaluation of the child must be conducted to see if the child has a disability and is eligible for special education. Informed parent consent must be obtained before this evaluation may be conducted.

The evaluation process is guided by requirements in our nation's special education law, the Individuals with Disabilities Education Act (IDEA). This section of NICHCY's website will help you learn more about what these requirements are.

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## Purposes of Evaluation

The initial evaluation of a child is required by IDEA before any special education and related services can be provided to that child. The purposes of conducting this evaluation are straightforward:

- To see if the child is a "child with a disability," as defined by IDEA
- To gather information that will help determine the child's educational needs
- To guide decision making about appropriate educational programming for the child.

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## IDEA's Definition of a "Child with a Disability"

IDEA lists different disability categories under which a child may be found eligible for special education and related services. These categories are:

- Autism
- Deafness
- Deaf-blindness
- Developmental delay
- Emotional disturbance
- Hearing impairment
- Intellectual disability
- Multiple disabilities
- Orthopedic impairment
- Other health impairment
- Specific learning disability
- Speech or language impairment
- Traumatic brain injury
- Visual impairment, including blindness.

To find out more about these disabilities and how IDEA defines them, you'll find [Categories of Disability under IDEA](#) right to the point.

Having a disability, though, does not necessarily make a child eligible for special education. Consider this language from the IDEA regulations:

***Child with a disability** means a child evaluated in accordance with §§300.304 through 300.311 as having [one of the disabilities listed above] and who, by **reason thereof**, needs special education and related services. [emphasis added]*

This provision includes the very important phrase "...and who, by reason thereof..." This means that, *because of the disability*, the child needs special education and related services. Many children have disabilities that do not bring with them the need for extra educational assistance or individualized educational programming. If a child has a disability but is not eligible under IDEA, he or she may be eligible for the protections afforded by other laws—such as [Section 504](#) of the Rehabilitation Act of 1973, as amended. It's not uncommon for a child to have a 504 plan at school to address disability-related educational needs. Such a child will receive needed assistance but not under IDEA.

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## Identifying Children for Evaluation

Before a child's eligibility under IDEA can be determined, however, a full and individual evaluation of the child must be conducted. There are at least two ways in which a child may be identified to receive an evaluation under IDEA:

(1) *Parents may request that their child be evaluated.* Parents are often the first to notice that their child's learning, behavior, or development may be a cause for concern. If they're worried about their child's progress in school and think he or she might need extra help from special education services, they may call, email, or write to their child's teacher, the school's principal, or the Director of Special Education in the school district. If the school agrees that an evaluation is needed, *it must evaluate the child at no cost to parents.*

(2) *The school system may ask to evaluate the child.* Based on a teacher's recommendation, observations, or results from tests given to all children in a particular grade, a school may recommend that a child receive further screening or assessment to determine if he or she has a disability and needs special education and related services. The school system must ask parents for permission to evaluate the child, and parents must give their informed written permission before the evaluation may be conducted.

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## Giving Parents Notice

It is important to know that IDEA requires the school system to *notify parents in writing* that it would like to evaluate their child (or that it is *refusing* to evaluate the child). This is called giving [prior written notice](#). It is not enough for the agency to tell parents that it would like to evaluate their child or that it refuses to evaluate their child. The school must also:

- explain why it wants to conduct the evaluation (or why it refuses);
- describe each evaluation procedure, assessment, record, or report used as a basis for proposing the evaluation (or refusing to conduct the evaluation);
- where parents can go to obtain help in understanding IDEA's provisions;
- what other options the school considered and why those were rejected; and
- a description of any other factors that are relevant to the school's proposal (or refusal) to evaluate the child.

The purpose behind this thorough explanation is to make sure that parents are fully informed, understand what is being proposed (or refused), understand what evaluation of their child will involve (or why the school system is refusing to conduct an evaluation of the child), and understand their right to refuse consent for evaluation, or to otherwise exercise their rights under IDEA's [procedural safeguards](#) if the school refuses to evaluate.

All written communication from the school must be in a form the general public can understand. It must be provided in parents' native language if they do not read English, or in the mode of communication they normally use (such as Braille or large print) unless it is clearly not feasible to do so. If parents' native language or other mode of communication is not a written language, the school must take steps to ensure:

- that the notice is translated orally (or by other means) to parents in their native language or other mode of communication,
- that parents understand the content of the notice, and
- that there is written evidence that the above two requirements have been met.

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## Parental Consent

Before the school may proceed with the evaluation, parents must give their informed written consent. This consent is for the evaluation only. It does not mean that the school has the parents' permission to provide special education services to the child. *That* requires a *separate* consent.

If parents refuse consent for an initial evaluation (or simply don't respond to the school's request), the school must carefully document all its attempts to obtain parent consent. It may also continue to pursue conducting the evaluation by using the law's [due process procedures](#) or its [mediation](#) procedures, unless doing so would be inconsistent with state law relating to parental consent.

However, if the child is home-schooled or has been placed in a private school by parents (meaning, the parents are paying for the cost of the private school), the school *may not override* parents' lack of consent for initial evaluation of the child. As the Department of Education (2006) notes:

...once parents opt out of the public school system, States and school districts do not have the same interest in requiring parents to agree to the evaluation of their children. In such cases, it would be overly intrusive for the school district to insist on an evaluation over a parent's objection. (71 Fed. Reg. at 46635)

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## Timeframe for Initial Evaluation

Let's move on from the prerequisites for initial evaluation (parent notification and parent consent) to the actual process of initial evaluation and what the law requires. Let us assume that parents' informed consent has been given, and it's time to evaluate the child. Must this evaluation be conducted within a certain period of time after parents give their consent?

Yes. In its reauthorization of IDEA in 2004, Congress added a specific timeframe: The initial evaluation must be conducted **within 60 days** of receiving parental consent for the evaluation—or if the state establishes its own timeframe for conducting an initial evaluation, within *that* timeframe. (In other words: Any timeframe established by the state takes precedence over the 60-day timeline required by IDEA.)

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## The Scope of Evaluation

A child's initial evaluation must be *full and individual*, focused on that child and only that child. This is a longstanding provision of IDEA. An evaluation of a child under IDEA means much more than the child sitting in a room with the rest of his or her class taking an exam for that class, that school, that district, or that state. How the child performs on such exams will contribute useful information to an IDEA-related evaluation, but large-scale tests or group-administered instruments are not enough to diagnose a disability or determine what, if any, special education or related services the child might need, let alone plan an appropriate educational program for the child.

The evaluation must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent. When conducting an initial evaluation, it's important to examine all areas of a child's functioning to determine not only if the child is a child with a disability, but also determine the child's educational needs. This full and individual evaluation includes evaluating the child's:

- health,
- vision and hearing,
- social and emotional status,
- general intelligence,
- academic performance,
- communicative status, and
- motor abilities

As IDEA states, the school system must ensure that—

...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.

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## Review Existing Data

Evaluation (and particularly reevaluation) typically begins with a **review of existing evaluation data** on the child, which may come from the child's classroom work, his or her performance on State or district assessments, information provided by the parents, and so on.

The purpose of this review is to decide if the existing data is sufficient to establish the child's eligibility and determine educational needs, or if additional information is needed. If the group determines there is sufficient information available to make the necessary determinations, the public agency must notify parents:

- of that determination and the reason for it; and
- that parents have the right to request assessment to determine the child's eligibility and educational needs.

Unless the parents request an assessment, the public agency is not required to conduct one.

If it is decided that additional data is needed, the group then identifies what is needed to determine:

- whether your son or daughter has a particular category of disability (e.g., "other health impairment," "specific learning disability");
- your child's present levels of performance (that is, how he or she is currently doing in school) and his or her academic and developmental needs;
- whether your child needs special education and related services; and
- if so, whether any additions or modifications are needed in the special education and related services to enable your child to meet the goals set out in the IEP to be developed and to participate, as appropriate, in the general curriculum.

An example may help crystallize the comprehensive scope of evaluations: Consider a first-grader with suspected hearing and vision impairments who's been referred for an initial evaluation. In order to *fully* gather relevant functional, developmental, and academic information and identify all of the child's special education and related services needs, evaluation of this child will obviously need to focus on hearing and vision, *as well as*, cognitive, speech/language, motor, and social/behavioral skills, to determine:

- the degree of impairment in vision and hearing and the impact of these impairments on the child;
- if there are additional impairments in other areas of functioning (including those not commonly linked to hearing and/or vision) that impact the child's aptitude, performance, and achievement; and
- what the child's educational needs are that must be addressed.

With this example, any of the following individuals might be part of this child's evaluation team: audiologist, psychologist, speech-language pathologist, social worker, occupational or physical therapist, vision specialist, regular classroom teacher, educational diagnosticians, or others.

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## **Variety, Variety!**

The evaluation must use a variety of assessment tools and strategies. This has been one of the cornerstones of IDEA's evaluation requirements from its earliest days. Under IDEA, it is inappropriate and unacceptable to base any eligibility decision upon the results of only one procedure. Tests alone will not give a comprehensive picture of how a child performs or what he or she knows or does not know. Only by collecting data through a *variety of approaches* (e.g., observations, interviews, tests, curriculum-based assessment, and so on) and from a *variety of sources* (parents, teachers, specialists, child) can an adequate picture be obtained of the child's strengths and weaknesses.

IDEA also requires schools to use technically sound instruments and processes in evaluation. Technically sound instruments generally refers to assessments that have been shown through research to be valid and reliable (71 Fed. Reg. at 46642). Technically sound processes requires that assessments and other evaluation materials be:

- administered by trained and knowledgeable personnel;
- administered in accordance with any instructions provided by the producer of the assessments; and
- used for the purposes for which the assessments or measures are valid and reliable.

In conjunction with using a variety of sound tools and processes, assessments must include those that are tailored to assess specific areas of educational need (for example, reading or math) and not merely those that are designed to provide a single general intelligence quotient, or IQ.

Taken together, all of this information can be used to determine whether the child has a disability under IDEA, the specific nature of the child's special needs, whether the child needs special education and related services and, if so, to design an appropriate program.

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## **Consider Language, Communication Mode, and Culture**

Another important component in evaluation is to ensure that assessment tools are **not discriminatory on a racial or cultural basis**. Evaluation must also be conducted in the child's typical, accustomed mode of communication (unless it is clearly not feasible to do so) and in a form that will yield accurate information about what the child knows and can do academically, developmentally, and functionally. For many, English is not the native language; others use sign to communicate, or assistive or alternative augmentative communication devices. To assess such a child using a means of communication or response not highly familiar to the child raises the probability that the evaluation results will yield minimal, if any, information about what the child knows and can do.

Specifically, consideration of language, culture, and communication mode means the following:

- If your child has limited English proficiency, materials and procedures used to assess your child must be selected and administered to ensure that they measure the extent to which your child has a disability and needs special education, rather than measuring your child's English language skills.

This provision in the law is meant to protect children of different racial, cultural, or language backgrounds from misdiagnosis. For example, children's cultural backgrounds may affect their behavior or test responses in ways that teachers or other personnel do not understand. Similarly, if a child speaks a language other than English or has limited English proficiency, he or she may not understand directions or words on tests and may be unable to answer correctly. As a result, a child may mistakenly appear to be a slow learner or to have a hearing or communication problem.

- If an assessment is not conducted under standard conditions—meaning that some condition of the test has been changed (such as the qualifications of the person giving the test or the method of giving the test)—a description of the extent to which it varied from standard conditions must be included in the evaluation report.
- If your child has impaired sensory, manual, or speaking skills, the law requires that tests are selected and administered so as best to ensure that test results accurately reflect his or her aptitude or achievement level (or whatever other factors the test claims to measure), and not merely reflect your child's impaired sensory, manual, or speaking skills (unless the test being used is intended to measure those skills).

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## What About Evaluation for Specific Learning Disabilities?

IDEA's regulations specify additional procedures required to be used for determining the existence of a [specific learning disability](#). Sections 300.307 through 300.311 spell out what these procedures are. You can learn more by reading [Module 11](#) of NICHCY's *Building the Legacy* training curriculum on IDEA 2004.

It's important to note, though, that IDEA 2004 made dramatic changes in how children who are suspected of having a learning disability are to be evaluated.

- States must *not require* the use of a severe discrepancy between intellectual ability and achievement.
- States must permit the use of a process based on the child's response to scientific, research-based intervention; and
- States may permit the use of other alternative research-based procedures for determining whether a child has a specific learning disability.
- The team that makes the eligibility determination must include a regular education teacher and at least one person qualified to conduct individual diagnostic examinations of children, such as a school

psychologist, speech-language pathologist, or remedial reading teacher.

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## Determining Eligibility

Parents were not always included in the group that determined their child's eligibility and, in fact, were often excluded. Since the IDEA Amendments of 1997, **parents are to be part of the group that determines their child's eligibility** and are also to be provided a copy of the evaluation report, as well as documentation of the determination of the child's eligibility.

Some school systems will hold a meeting where they consider only the eligibility of the child for special education and related services. At this meeting, your child's assessment results should be explained. The specialists who assessed your child will explain what they did, why they used the tests they did, your child's results on those tests or other evaluation procedures, and what your child's scores mean when compared to other children of the same age and grade.

It is important to know that the group may not determine that a child is eligible if the determinant factor for making that judgment is the child's lack of instruction in reading or math or the child's limited English proficiency. The child must otherwise meet the law's definition of a "child with a disability"—meaning that he or she has one of the disabilities listed in the law and, because of that disability, needs special education and related services.

If the evaluation results indicate that your child meets the definition of one or more of the disabilities listed under IDEA and needs special education and related services, the results will form the basis for developing your child's IEP. The IEP is discussed in detail in NICHCY's pages beginning at [All About the IEP](#).

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## What Happens if You Don't Agree with the Evaluation Results?

If you, as parents of a child with a disability, disagree with the results of your child's evaluation as obtained by the public agency, you have the right to obtain what is known as an [Independent Educational Evaluation](#), or IEE. An IEE means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of your child. If you ask for an IEE, the public agency must provide you with, among other things, information about where an IEE may be obtained.

*Who pays for the independent evaluation?* The answer is that some IEEs are at public expense and others are paid for by the parents. For example, if you are the parent of a child with a disability and you disagree with the public agency's evaluation, you may request an IEE at public expense. "At public expense" means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to you as parents. The public agency may grant your request and pay for the IEE, or it may initiate a hearing to show that its own evaluation was appropriate. The public agency may ask why you object to the public evaluation. However, the agency may not require you to explain, and it may not unreasonably delay either providing the IEE at public expense or initiating a due process hearing to defend the public evaluation.



If the public agency initiates a hearing and the final decision of the hearing officer is that the agency's evaluation was appropriate, then you still have the right to an IEE but not at public expense. As part of a due process hearing, a hearing officer may also request an IEE; if so, that IEE must be at public expense. Whenever an IEE is publicly funded, that IEE must meet the same criteria that the public agency uses when it initiates an evaluation. The public agency must tell you what these criteria are—such as location of the evaluation and the qualifications of the examiner—and they must be the same criteria the public agency uses when it initiates an evaluation, to the extent they are consistent with your right to an IEE. However, the public agency may not impose other conditions or timelines related to your obtaining an IEE at public expense.

Of course, you have the right to have your child independently evaluated at any time at your own expense. (Note: When the same tests are repeated within a short time period, the validity of the results can be seriously weakened.) The results of this evaluation must be considered by the public agency, if it meets agency criteria, in any decision made with respect to providing your child with FAPE. The results may also be presented as evidence at a hearing regarding your child.

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## **What Happens Down the Road?**

After the initial evaluation, evaluations must be conducted at least every three years (generally called a triennial evaluation) after your child has been placed in special education. Reevaluations can also occur more frequently if conditions warrant, or if you or your child's teacher request a reevaluation. Informed parental consent is also necessary for reevaluations.

As with initial evaluations, reevaluations begin with the review of existing evaluation data, including evaluations and information provided by you, the child's parents. Your consent is not required for the review of existing data on your child. As with initial evaluation, this review is to identify what additional data, if any, are needed to determine whether your child continues to be a "child with a disability" and continues to need special education and related services. If the group determines that additional data are needed, then the public agency must administer tests and other evaluation materials as needed to produce the data. Prior to collecting this additional information, the agency must obtain your informed written consent.

Or, if the group determines that no additional data are needed to determine whether your child continues to be a "child with a disability," the public agency must notify you:

- of this determination and the reasons for it; and
- of your right, as parents, to request an assessment to determine whether, for the purposes of services under IDEA, your child continues to be a "child with a disability."

*A final note with respect to reevaluations:* Before determining that your child is no longer a "child with a disability" and, thus, no longer eligible for special education services under IDEA, the public agency must evaluate your child in accordance with all of the provisions described above. This evaluation, however, is not required before terminating your child's eligibility due to graduation with a regular high school diploma or due to exceeding the age eligibility for FAPE under State law.

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