CHILD FIND

The District shall ensure that all children residing within the District who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services are identified, located, and evaluated. This requirement applies to:

1. Homeless children;
2. Children who are wards of the state;
3. Children attending private schools;
4. Highly mobile children (including migrant children); and
5. Children who are suspected of being in need of special education but who are advancing from grade to grade.

20 U.S.C. 1412(a)(3)(A); 34 CFR 300.111(a)(1)(i), (c)

PRIVATE SCHOOL STUDENTS

The District shall conduct a timely and meaningful consultation with private school representatives regarding the child find process and the provision of special education and related services to children enrolled in private schools in the District.

The District shall undertake activities similar to those undertaken for public school children and shall complete the child find process for children enrolled in private schools in a time period comparable to that for other students attending public schools in the District.

20 U.S.C. 1412(a)(10)(A)(ii)–(iv) [See EHBAC regarding students in nondistrict placement]

PRESCHOOL STUDENTS

The District shall develop a system to notify District residents with children who are at least three and younger than six and who are eligible for enrollment in a special education program of the availability of the program. *Education Code 29.009*

REFERRALS

Referral of students for a full and individual initial evaluation for possible special education services shall be a part of the District's overall general education referral or screening system. Either a parent, TEA, another state agency, or the District may initiate a request for an initial evaluation.

Before referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students. If a student continues to experience difficulty in the general classroom after the provision of interventions, District personnel must refer the student for a full and individual initial evaluation.

20 U.S.C. 1414(a)(1); 34 CFR 300.301; 19 TAC 89.1011

NOTICE OF RIGHTS

A reasonable time before the District proposes or refuses to initiate the identification, evaluation, or educational placement of a student

or the provision of a free appropriate public education (FAPE) to a student, the District shall provide written notice to the student's parent or guardian. *20 U.S.C. 1415(b)(3); 34 CFR 300.503(a)* [See EHBAE]

INITIAL EVALUATION

The District shall conduct a full and individual initial evaluation before the initial provision of special education and related services. *20 U.S.C. 1414(a)(1)(A)*

The District shall ensure that evaluations of children who transfer from one district to another in the same academic year are coordinated with the children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations. *20 U.S.C. 1414(b)(3)(D)*

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. *20 U.S.C. 1414(a)(1)(E)*

CONSENT FOR INITIAL EVALUATION

Before the District conducts an initial evaluation, it shall make reasonable efforts to obtain informed parental consent.

If the parent does not provide consent for an initial evaluation, or if the parent fails to respond to a request to provide consent, the District may, but is not required to, pursue the initial evaluation by utilizing due process procedures [see EHBAE], except to the extent inconsistent with state law relating to such parental consent.

Parental consent to initial evaluation shall not be construed as consent for placement for special education and related services.

20 U.S.C. 1414(a)(1)(D)(i)(I); 34 CFR 300.300(b)

WARDS OF THE STATE

If the child is a ward of the state and is not residing with the child's parent, the District shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation, unless:

1. Despite reasonable efforts to do so, the District cannot discover the whereabouts of the parent;
2. The rights of the parent have been terminated; or
3. The rights of the parent to make educational decisions have been subrogated and an individual appointed by a judge to represent the student has given consent for an initial evaluation.

20 U.S.C. 1414(a)(1)(D)(iii); 34 CFR 300.300(a)(2)

TIME FRAME

The District must conduct the initial evaluation within 60 days of receiving parental consent for the evaluation, or a shorter time frame if one is established by the state.

This time frame shall not apply if:

1. A child enrolls in the current district after the relevant time frame has begun and before the previous district made a determination as to whether the child has a disability, but only if the current district is making sufficient progress to ensure a prompt completion of the evaluation and the parent and current district agree to a specific time for completion of the evaluation; or

2. The parent repeatedly fails or refuses to produce the child for the evaluation.

20 U.S.C. 1414(a)(1)(C); 34 CFR 300.301(c)–(e); Education Code 29.004

PSYCHOLOGICAL EXAMINATIONS

If the District determines that an additional examination or test is required for the evaluation, the District shall provide the information required by Education Code 29.0041(a) and shall obtain parental consent. If a parent does not give consent within 20 calendar days after the District provided the information, the parent's consent is considered denied.

The time required for the District to provide information and seek consent may not be counted toward the 60 calendar days for completion of an evaluation.

Education Code 29.0041

DETERMINATION OF ELIGIBILITY

Upon completion of the administration of assessments and other evaluation measures, a team of qualified professionals and the parent shall make the determination of whether the child has a disability and of the educational needs of the child.

The District shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

20 U.S.C. 1414(b)(4); 34 CFR 300.306(a)

REEVALUATIONS

The District shall ensure that each child with a disability is reevaluated if the District determines that the educational or related services needs of the child, including improved academic achievement and functional performance, warrant a reevaluation, or if the child's parent or teacher requests a reevaluation.

Reevaluation shall occur:

1. No more than once a year, unless the parent and the District agree otherwise; and

2. At least once every three years, unless the parent and District agree that a reevaluation is unnecessary.

The District shall obtain informed parental consent before conducting a reevaluation, except that informed parental consent is not needed if the District can demonstrate that it has taken reasonable measures to obtain consent and the child's parent has failed to respond.

20 U.S.C. 1414(a)(2), (c)(3); 34 CFR 300.303

EVALUATION FOR CHANGE IN ELIGIBILITY

The District shall evaluate a child before determining that the child is no longer a child with a disability. However, an evaluation is not required before the termination of eligibility due to graduation from secondary school with a regular diploma or due to exceeding the age eligibility for FAPE under state law. *20 U.S.C. 1414(c)(5); 34 CFR 300.305(e)*

INDEPENDENT EVALUATION

The parents have a right to obtain an independent educational evaluation of their child. If a parent requests an independent evaluation, the District shall provide the parents with information regarding where one can be obtained and the District's criteria for independent evaluations.

AT PUBLIC EXPENSE

If a parent requests an independent evaluation at public expense, the District shall, without unnecessary delay, either:

1. File a due process complaint to request a hearing to show that its evaluation is appropriate; or

2. Ensure that an independent evaluation is provided at public expense, unless the District demonstrates that the evaluation obtained by the parent did not meet District criteria.

AT PRIVATE EXPENSE

If the District initiates a hearing, and the final decision is that the District's evaluation is appropriate, the parent still has a right to an independent evaluation, but not at public expense. If the parent obtains an independent evaluation at private expense, the results of the evaluation shall be considered by the District, if it meets District criteria, in any decision made with respect to providing FAPE to the child.

34 CFR 300.502

ELIGIBILITY

A student is eligible to participate in the District's special education program if:

1. The student is between the ages of 3 and 21, inclusive;

2. The student has one or more of the disabilities listed in federal regulations, state law, or both; and

3. The student's disability(ies) prevents the student from being adequately or safely educated in the public schools without the provision of special services.

20 U.S.C. 1401(3); Education Code 29.003(b); 19 TAC 89.1035, .1040

VISUAL AND AUDITORY IMPAIRMENTS

A student with a visual or auditory impairment shall be eligible to participate in the District's special education program from birth. *19 TAC 89.1035(b); Education Code 30.002*

CONSENT TO SERVICES

The District must obtain informed consent from the parent for the initial provision of special education and related services. If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of services, the District:

1. May not use the procedures in 34 CFR part 300 subpart E (including the mediation and due process procedures) in order to obtain agreement or a ruling that the services may be provided to the child;

2. Will not be considered to be in violation of the requirement to make FAPE available to the child for the failure to provide the services for which the District requests consent; and

3. Is not required to convene an ARD meeting or develop an IEP for the child for the services.

If, at any time after the provision of initial services, the parent of a child revokes consent in writing for the continued provision of services, the District:

1. May not continue to provide services to the child, but must provide prior written notice before ceasing services;

2. May not use the procedures in 34 CFR part 300 subpart E in order to obtain agreement or a ruling that the services may be provided to the child;

3. Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further services; and

4. Is not required to convene an ARD meeting or develop an IEP for further provision of services.

34 CFR 300.300(b)

PRESCRIPTION MEDICATION

An employee of the District is prohibited from requiring a child to obtain a prescription for a substance covered under the federal Controlled Substances Act (21 U.S.C. 801 *et seq.*) as a condition of attending school, receiving an evaluation for special education, or receiving special education and related services.

An employee is not prohibited from consulting or sharing classroom-based observations with parents regarding a student's academic and functional performance, behavior in the classroom or school, or the need for evaluation for special education or related services.

20 U.S.C. 1412(a)(25)