

Chapter 5

EVALUATION AND ASSESSMENT

What This Chapter Is About

Many kinds of evaluations take place in school. Some evaluations, including the initial evaluations that help determine eligibility and subsequent similar reevaluations are carried out by a team. These evaluations are called Multidisciplinary Evaluation Team (MET) evaluations in Michigan.

While the law requires that MET evaluations occur periodically, it also requires that the school provide other, less extensive evaluations on an as needed or requested basis. When the student's parents or teacher request evaluations, they must be provided. This kind of evaluation might be used to determine whether an additional service is needed or may help in designing individualized programs.

Students in special education must also have access to evaluations, such as the Michigan Education Assessment Program (MEAP), given to general education students, or an alternative. If the student has behavior difficulties, evaluations may be provided to determine how best to write a behavior intervention plan.

Evaluations are not just standard tests, or checklists. The Individualized Education Program Team (IEP Team) can design a specific evaluation process to determine the need for any kind of special education service, including services like extended school year services, or an individual aide.

Advocacy Hints in Chapter 5

- ◆ Make sure the person consenting to the evaluation is the parent (Page 3).
- ◆ Apply the state rule on when an evaluation must be completed (Page 3).
- ◆ Beware waiving your right to enforce the timelines (Page 3).
- ◆ Don't wait; ask for a reevaluation when your child's situation changes (Page 4).
- ◆ Look beyond the evaluation to include all facts (Page 4).
- ◆ Use the reevaluation process to evaluate necessary changes in your child's program (Page 4).
- ◆ Students with disabilities are part of the statewide standardized assessment process (Page 6).

- ◆ Understand the tests your child will be given, the results obtained, and how those results are reported (Page 6).
- ◆ When requesting an individual evaluation, be specific about the part of the school's evaluation you do not like (Page 7).

After the parents have signed consent to evaluate, the school district must conduct an evaluation and convene an IEP Team meeting in a timely manner. There are many different types of evaluations. Evaluations include intelligence tests and achievement tests, usually given by schools. They include tests done by physicians, such as hearing and sight tests. They also include tests on how the brain functions, asking questions like does this child have problems reading, remembering, controlling movement or emotions.

The importance of evaluations to the special education process cannot be overrated. This chapter will examine the legal requirements for conducting evaluations and provide information about specific tests often used by schools.

Legal Requirements for Special Education Evaluations

The legal requirements for conducting evaluations are quite extensive, covering issues such as when evaluations must be conducted, what the scope of the evaluation must be, who must be on the evaluation team, and what specific matters the evaluation team must review. The school staff that does the evaluations must have the credentials or training necessary to administer the assessments.

An evaluation is probably the single most important step in determining an appropriate education. A student must be provided a “full and individual evaluation” by a multidisciplinary team before the student may be placed in a special education program. **34 CFR 300.301(a)**. When the IEP Team determines that the student is eligible for special education, the evaluation becomes an important factor in the development of the student's individualized education program. **34 CFR 300.15**.

When Are Evaluations Required?

As a starting point, it is helpful to distinguish between the initial evaluation of a student and subsequent reevaluations.

Initial Evaluations

Initial evaluations determine whether a child is eligible for special education. The parents must give written consent for an initial evaluation. If the parent refuses to consent to an initial evaluation, the school may, but is not required to, request a due process hearing to order an evaluation. **20 USC 1414(a); 34 CFR 300.300**.

► **Advocacy Hint: Who is the parent?** A parent is a biological or adoptive parent, a foster parent, a guardian, a person acting as a parent (such as a caregiver relative), or a “surrogate parent” appointed by the school. **34 CFR 300.30**. In cases involving foster parents, the biological parent is presumed to be the parent with authority to consent to evaluations unless the court has assigned that authority to someone else. **R 340.1701b(d)**. Public agency case managers or service providers cannot serve as surrogate parents, but private agency providers can be appointed by courts as surrogate parents in some circumstances. **34 CFR 300.519**.

The Individuals with Disabilities Education Act (IDEA) requires that initial eligibility evaluations use more than one test, and that a team of evaluators perform the evaluations. In Michigan, the Multidisciplinary Evaluation Team (MET) performs the evaluations.

The Michigan rules allow the school 30 school days after they receive the parents’ consent to complete the initial evaluation and hold an IEP Team meeting. **R 340.1721b(1)**. Note that the timeline does not start to run upon *requesting* the evaluation, but upon *signing the consent* to the evaluation. If the District does not send you consent forms in a timely manner, or if you do not sign them in a timely manner, the District has whatever that time was *plus* 30 school days to complete the evaluation.

► **Advocacy Hint: Michigan, not Washington, time.** Under the 2004 IDEA Amendments, a school district has 60 calendar days or an alternate state deadline from the date the parent consents to the evaluation to complete the evaluation. Michigan has set its own timeline of 30 school days which, in this case, overrides the federal standard.

► **Advocacy Hint: Waivers at work.** Some schools ask parents to sign waivers of the time requirements, either before the evaluation or even after the evaluation is complete. These waivers are sometimes included in other documents. Be aware of your right not to waive the timelines if you feel the resulting delay will hurt your child.

The 2004 IDEA Amendments also require schools to coordinate assessments of children with disabilities who move from school district to another during the same academic year. The goal is to complete all evaluations promptly. **20 USC 1414(b)(3); 34 CFR 300.304(c)(5)**.

Reevaluations

Students with disabilities shall be reevaluated if the school determines that eligibility or educational needs have changed or if the student’s parents or teacher ask for a reevaluation. **20 USC 1414(a)(2); 34 CFR 300.303(a)**.

Reevaluations shall occur at least once every three years unless the parent and the school agree that a reevaluation is unnecessary. The 2004 IDEA Amendments limit reevaluations to once a year unless the parent and the school agree to hold additional evaluations during the school year. **34 CFR 300.303(b).**

In Michigan, reevaluations are subject to the same timelines as initial evaluations – they must be completed within 30 school days from the receipt of consent, unless the parent waives the timeline. **R 340.1721b(1).**

► **Advocacy Hint: Changes may call for reevaluation.** When requesting a reevaluation, explain why you think it is necessary. A parental request, including reasons related to changes in a student’s service needs, achievement, or performance, is powerful.

What Must Evaluations Cover?

The initial IEP Team meets to review the MET evaluations and other information to determine whether the student meets any of the eligibility criteria listed in the rules. The team will review and discuss the school’s MET evaluations and any other information about the student which will help them decide whether the student is eligible for special education. They must review information provided by the parents and school staff and must also review any evaluations the parents provide from outside sources.

The student must be assessed in every area related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor (physical) abilities. **34 CFR 300.304(c)(4).**

► **Advocacy Hint: Look at all facts.** While evaluations form the basis for services in special education, the IEP Team can make decisions that vary from the evaluation recommendations if it is in the best interests of the student to do so. IEP Team decisions about programs are based on the information that evaluations provide but are not bound by them.

Evaluations must address both the student’s eligibility and the student’s educational needs. **20 USC 1414(b); 34 CFR 300.301(c), 300.304(b).**

► **Advocacy Hint: More than eligibility.** Even if no additional data is needed to decide that the student is eligible, there may be a need for more evaluation data and recommendations on the details of the student’s educational needs and services.

How Are Evaluations Conducted?

An evaluation must include a variety of standardized tests, behavioral observations, and academic information from the parents, the IEP Team, and other qualified specialists to assess all areas of a student's functioning – physical, social, emotional, intellectual, and educational. A comprehensive evaluation can provide a good picture of the student's abilities and needs.

The rules that implement IDEA define the standards that must be met in evaluating a student. **20 USC 1414(b)(3); 34 CFR 300.304.** State and local educational agencies must make certain that tests and other evaluation materials meet the following minimum standards:

- ◆ Assessment and evaluating materials selected shall not be racially or culturally discriminatory. Tests and other evaluation materials must be administered in the form most likely to give accurate information on what the child can do.
- ◆ Tests and other evaluation materials must be administered by trained and knowledgeable personnel who meet the qualifications described by the producer of the material.
- ◆ Tests and evaluation tools must be validated and reliable for the specific purpose for which they are used. For example, a test that was designed only to measure intelligence cannot be used to measure achievement.
- ◆ Tests must be selected and given so that when the tests are administered to a student with impaired sensory, manual, or speaking skills, the test results will accurately reflect the student's disability, unless those tests are specifically designed to determine the extent of an impairment.
- ◆ Tests and other evaluation materials must include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single measure of intelligence. The materials should provide relevant information that directly assists in determining the educational needs of the child. Under the 2004 IDEA Amendment, the school may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors when determining whether a child has a disability.
- ◆ No single measure or assessment test or tool is to be used as the sole criterion for determining an appropriate education program for a student.

Standardized Tests and Assessments

Under IDEA, students with disabilities must participate in statewide assessments such as the Michigan Educational Assessment Program (MEAP) or Michigan Merit Examination (MME). **20 USC 1412(a)(16).** Individualized Education Program's (IEPs) must now include a statement of any modifications a student needs to take the MEAP or other assessment; or, if the IEP Team decides the student should not take the tests, the IEP must explain why not and describe the alternate assessment. **20 USC 1414(d); 34 CFR 300.320(a)(6).**

The Michigan Department of Education (MDE) has prepared a guide to accommodations on statewide assessments. The guide lists a number of possible accommodations, including but not limited to flexible test scheduling, revised test format, flexible setting, revised test directions, use of aids and devices, audiocassette test editions, qualified signers, interpreters and readers, scribes and tape recorders, word processors, calculators, and other accommodations.

The guide may be found on the Michigan Department of Education website at:

http://www.michigan.gov/documents/mde/Updated_Revised_Accommodation_Summary_Table_092909_294052_7.pdf.

There is also a process for reviewing and approving any accommodations that are not included on the standard list. MDE also has an alternate assessment for students whose IEPs indicate such assessments are appropriate. (*Note: The number of students who may take alternate assessments is limited by regulations implementing the federal Elementary and Secondary Education Act Amendments of 2001.*)

► **Advocacy Hint: Everyone takes a test.** Under both IDEA and the federal Every Student Succeeds Act (ESSA), all students must take either the standard assessment or an alternate assessment. School districts are found to be failing the “adequate yearly progress” standard under ESSA when they fail to test at least 95% of their students. IEP teams do not have the authority to exclude students with disabilities from statewide testing.

► **Advocacy Hint: Understand your test.** You should understand what test will be given, how it will be given, what it is supposed to show, why it is chosen for the student, and how the results will be reported. An intelligence test, for example, should never be used as the sole basis of placement in special education.

The Independent Educational Evaluation

Parents who disagree with the school’s evaluation of the student have a right to obtain an independent educational evaluation (IEE). An IEE is “an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question.” The right to an independent evaluation is a procedural safeguard. **34 CFR 300.502; R 340.1723c.**

Parents have a right to an IEE at public expense when they disagree with the evaluation performed by the school. The school must provide parents with information about independent evaluations at public expense. This information must include criteria regarding credentials for qualified examiners, suggested sources and locations, procedures for reimbursement, reasonably expected costs, and notice that the parents are not restricted to choosing from sources suggested by the public agency.

The school district may set reasonable criteria on the cost of independent evaluations. Parents may demonstrate that unique circumstances justify an independent evaluation that does not fall within the district's criteria.

If parents want an independent evaluation, Michigan rules require that the request be written, signed, and dated. **R 340.1723c(2)**. See Appendix 4-2 for an example of a letter requesting an independent evaluation.

When parents request an independent evaluation, the school must respond in writing within seven calendar days. The school has only two choices – it may honor the request, or it may initiate a hearing to show that its evaluation is appropriate. At the hearing, the school must prove that its evaluation is appropriate for the student. If the hearing officer finds that the school's evaluation is appropriate, the parents may still obtain an independent evaluation, but the parents must pay for it.

If the parents choose to obtain an independent evaluation, that evaluation must be considered in decisions made regarding the student's education and may be introduced as evidence at any administrative hearing. If a disagreement goes to hearing, the hearing officer may also request an independent evaluation at the school's expense.

► **Advocacy Hint: What don't you like?** When requesting an independent evaluation, make sure you understand what part of the school's evaluation you disagree with. Do you disagree with the results of standardized assessments, interpretation of assessment results, or recommendations made?

When an independent evaluation is approved, the evaluator must be given access to the school in order to observe the student in the classroom or other educational setting. **34 CFR 300.502; 71 Fed.Reg. 46690 (8/14/06)**.

Parents' Role in The Evaluation

The most vital role of parents in their child's evaluation is providing information and observations about the child's abilities and behavior in a variety of circumstances. **NO ONE** has more opportunity to observe the student than parents. It is important that parents' observations be stated honestly to assure that the student is assessed as accurately as possible. Parents should neither overestimate nor underestimate what the child can do.

Advocates should also be informed about the types of tests suggested for use and possible pitfalls in testing. The parents have a right to explanations regarding tests and results kept in the student's records and should not hesitate to question school personnel during the evaluation procedure.

Appendix 5-1

Letter Requesting an Evaluation*

(Be sure to keep a copy for your records)

(Date)

(Name of Principal)

(Name of School)

(Address of School)

Dear (Name of Principal):

We are the parents of (name of student). Because of difficulties related to school work, (give information about the difficulties your child is having, such as difficulty in understanding spoken directions, not reading at an expected level, having coordination problems), we suspect our child may have an unidentified disability. Please schedule evaluations to see if there is a disability and if special education and related services are necessary. Please tell us in writing who will be performing the evaluation so that we may give our consent.

Thank you for your help. We look forward to hearing from you soon.

Sincerely,

(Your name)

(Your address)

(Your telephone number)

*All materials so designated in this section are taken from *Parent Manual – Education for Your Handicapped Child*, Advocacy Incorporated, Austin, Texas, 1979. Materials have been revised to conform with Michigan law.

Appendix 5-2

Letter Requesting an Independent Evaluation*

(Be sure to keep a copy for your records)

(Date)

(Name of Principal)

(Name of School)

(Address of School)

Dear (Name of Principal):

We are the parents of (name of student). We disagree with the results of the evaluation of (name of student) on (date) because (reason why you feel the tests were invalid, inadequate or not an accurate measure of your child's performance).

We would like an independent evaluation to gather the valid and reliable information we need to plan an appropriate educational program for our child. Please send us information on: (a) criteria for qualified examiners; (b) suggested sources and locations for examiners; (c) procedures for reimbursements; and (d) reasonable and expected costs.

We understand that the school must pay for the independent evaluation unless it can prove in a due process hearing that its assessment is appropriate. Please inform us in writing within seven days regarding your intention to honor our request or to request a hearing on the issue.

We will forward the results of the evaluation to you because, as we understand it, the results of an independent evaluation must be considered in any future decisions about our child's education.

Thank you. We look forward to hearing from you soon.

Sincerely,

(Your name)

(Your address)

(Your telephone number)

Appendix 5-3

Letter Requesting An Independent Evaluation Exceeding The School's Recommendation Of "Reasonable Cost"*

(Be sure to keep a copy for your records)

(Date)

(Name of Principal)

(Name of School)

(Address of School)

Dear (Name of Principal):

We are the parents of (student's name). On (date you requested the independent evaluation) we requested an independent evaluation because we disagreed with the school's evaluation of our child. We disagreed with the evaluation because (reason why you feel the tests were invalid, inadequate, or not an accurate measure of your child's performance). On (date you received independent evaluation information from the school), we received information from you on obtaining an independent evaluation. Contained in this information was an amount (amount), which is your proposed reasonable expected cost for the evaluation.

While we agree in principle with your desire to contain costs, there are unique circumstances which preclude an evaluation for the costs you mention. (Give your argument here for the tests you think are required, e.g., although in general there is agreement that our child has a learning disability, no tests to date have identified any specific disability or teaching strategies that will help; or, although we agree that our child has an emotional impairment, the program based on current evaluations has failed to meet his or her needs).

We have identified a qualified examiner who has had success in (the examiner's unique area of expertise). Costs for this evaluation are expected to be (cost). We understand that if you believe these fees are unreasonable you may either pay this cost or initiate a due process hearing to prove that the costs are unreasonable.

Sincerely,

(Your name)

(Your address)

(Your telephone number)

Appendix 5-4

Letter Requesting Reevaluation*

(Be sure to keep a copy for your records)

(Date)

(Name of Principal)

(Name of School)

(Address of School)

Dear (Name of Principal):

We are the parents of (name of student). We recently reviewed our child's evaluation and it is (out-of-date, incomplete, inappropriate due to growth and changes, time for a three-year evaluation). We request that our child be reevaluated. Please tell us in writing who will be doing the evaluation and when it will be scheduled.

Thank you for your help. We look forward to hearing from you soon.

Sincerely,

(Your name)

(Your address)

(Your telephone number)

Appendix 5-5

Letter Requesting Additional Testing*

(Be sure to keep a copy for your records)

(Date)

(Name of Principal)

(Name of School)

(Address of School)

Dear (Name of Principal):

We are the parents of (name of student). We have studied the reports of the school's evaluation of our child and feel that (student's name) was not evaluated in every area of suspected disability. We believe additional testing is needed in the area of (list areas needing further testing). Please tell us in writing who will be performing the additional testing.

Thank you for your help. We look forward to hearing from you soon on this matter.

Sincerely,

(Your name)

(Your address)

(Your telephone number)