

Top 10 Tips to Prevent Dispute Resolutions Related to Reevaluations

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Agenda

- Review Federal and State regulations governing reevaluations.
- Analyze the top ten tips when completing the reevaluation process.
- Describe suggestions for successful reevaluation procedures.



Federal and State Regulations

Evaluations Versus Reevaluations

- The Individuals with Disabilities Education Act (IDEA) distinguishes between evaluations and reevaluations.

Evaluations

- Initial testing to determine eligibility
- Before services in the Individualized Education Program (IEP)

Reevaluations

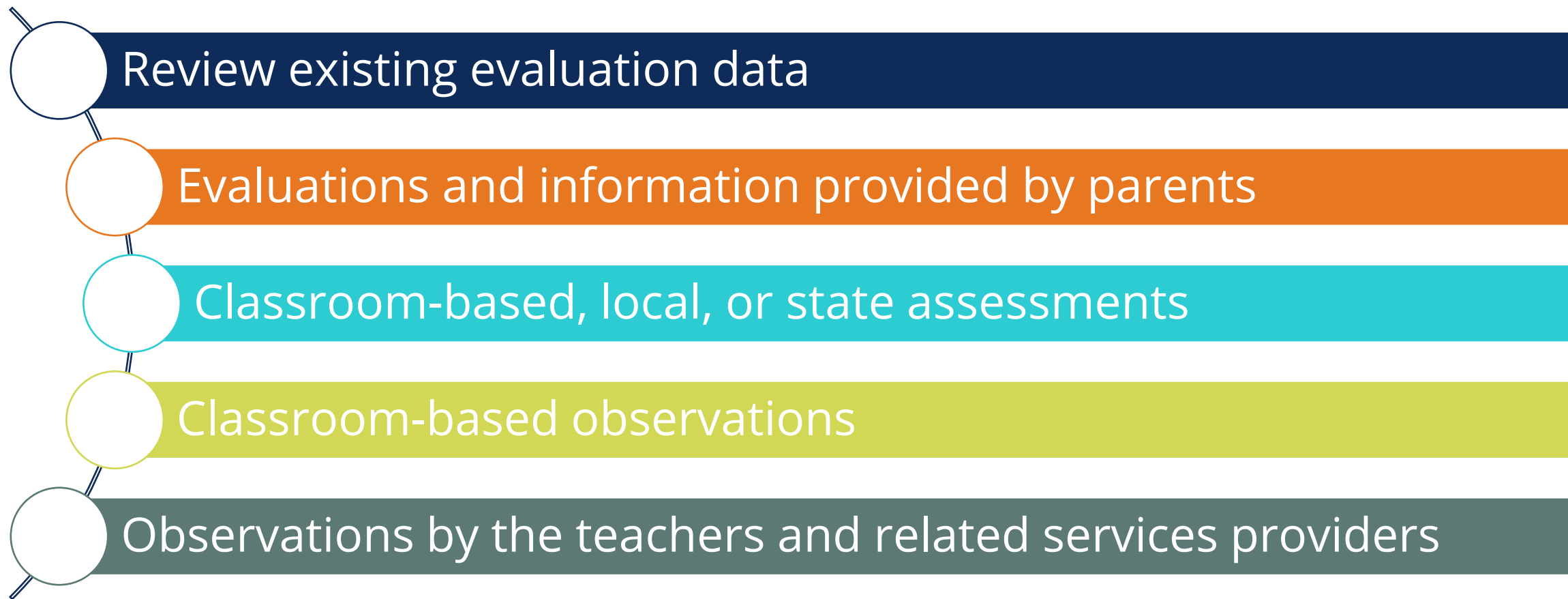
- Follow-up testing once a student has been made eligible
- Occurs throughout the course of the student's IEP services.

Federal Requirements Regarding Reevaluations

- IDEA outlines requirements for Local Education Agencies (LEAs) to follow regarding reevaluations.
 - Either the **LEA or the parent** can initiate a reevaluation ([34 C.F.R. § 300.303 \(a\)\(2\)](#)).
 - Must be conducted **at least every three years** or earlier if conditions warrant ([34 C.F.R. § 300.303 \(a\)\(b\)](#)).
 - Should be **completed by the triennial due date**, which means the reevaluation process should commence approximately **60 calendar days** prior to the eligibility determination date.

Aspects of the Evaluation and Reevaluation Process

As part of an initial evaluation (if appropriate) and as part of any **reevaluation**:



Additional Requirements for Evaluations and Reevaluations

On the basis of review, and input from the child's parents, identify what additional data, if any, are needed to determine—

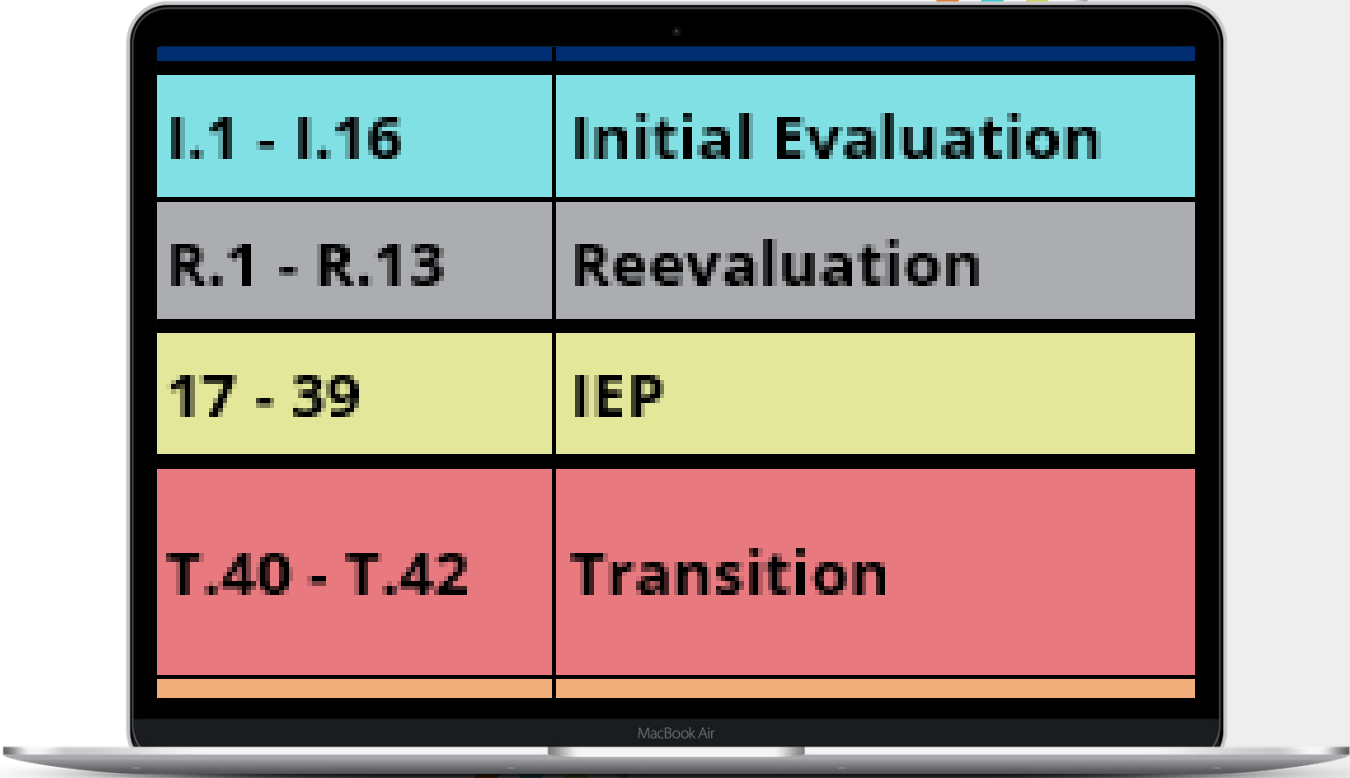
Reevaluation Decisions

- Whether the child continues to have a disability
- Educational needs of the child
- Whether the child continues to need special education and related services
- Any additions or modifications to the special education and related services that are needed

See: [34 C.F.R. § 300.305\(a\)\(2\)](#)

State Requirements Regarding Reevaluations

- Reevaluations are a part of the Individualized Education Program (IEP) Monitoring Protocol.
- To complete a reevaluation, IEP teams must complete the ***Reevaluation Summary Report*** to determine what, if any, evaluations are needed to support the existence of a disability.



I.1 - I.16	Initial Evaluation
R.1 - R.13	Reevaluation
17 - 39	IEP
T.40 - T.42	Transition

Reevaluation Process in TN PULSE

Re-evaluation Summary Report Process

[SELECT PROCESS](#)

Reevaluation
Background
Information

Previous
Eligibility
Determinations
and Evaluations

Current IEP
Services and
Student
Performance

Create
Reevaluation
Summary Report

Eligibility
Determination

Top 10 Tips

Completing the Reevaluation Summary Report

- **All** sections of the Reevaluation Summary Report (RSR) document should be completed for **all** students with a disability at the triennial review or when a reevaluation is warranted.
- An eligibility area **does not** dictate which sections of the RSR are to be completed.



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Importance of Observations

- Direct and indirect observational data:
 - is an integral and required part of the review of existing data for a student with a disability, and,
 - is important and valid data to assist the IEP team regarding next steps in the reevaluation process.

Observations/Input Needed

Parent

General
Education
Teacher

Special
Education
Teacher

Related Services
Providers
(as applicable)



Scenario One

- Connor's IEP team is meeting for his triennial reevaluation in 4 days. The IEP case manager notices that Connor's parent observation form has not been returned.
- What could she do?
 - A. Ask a special education teacher to complete the questionnaire for the parent.
 - B. Call the parent to inquire about the form and/or interview the parent on the phone.
 - C. Just ignore the form since she rarely attends the meetings anyway.



Formative and Summative Assessments

- The current classroom-based, local, or State assessments noted in the IDEA are **formative** and **summative assessments** found in the RSR and are **required**.
- This requirement is also part of the Tennessee Department of Education's IEP monitoring protocol.

R.2

Review of Past and Current
Assessment: Reevaluation
[34 C.F.R. § 300.305\(a\)\(1\)\(i-ii\)](#)

All applicable components of the state reevaluation summary report or an LEA-level version with all state components of the reevaluation summary report are completed, including, but not limited to, background, IEP service history, past evaluation components leading to eligibility decisions, other evaluations (including, but not limited to, formative and summative evaluations), information provided by the parent*; and current classroom-based, local, or state assessments.

Formative Assessments

- Measures student learning throughout the year
- Supports the learning standards and highlights the progress a student makes toward annual goals as measured at various points during the school year
- Facilitates the development of support for students who are not making progress
- Assists with plans for reteaching or acceleration of specific standards with groups of students



Source: Tennessee Department of Education. (2023). Response to Instruction and Intervention Manual.

Summative Assessments

- Measures student learning at the end of the semester/year in relation to the grade level expectations
- Provides district and school leaders, teachers, parents, and students with specific information about student learning to improve the education of all students
- Provides feedback to all stakeholders who invest in Tennessee students



Source: Tennessee Department of Education. (2023). Response to Instruction and Intervention Manual.

Classroom Connection

- Without formative and summative assessment data, the IEP team is unable to consider all variables contributing to the adverse educational impact of the disability.
- Without formative and summative assessment data, the IEP team is not able to fully relate how the intervention impacts the student in the classroom.



Formative



Teacher-made assessment

Therapy data

Exit ticket

Progress monitoring data

Speech/Language Sample

Summative



TCAP/End of Course
assessment

End of unit assessment

Attainment of IEP goals

Teacher-created rubric

Pre/Post Assessments

Neither



Cognitive Assessment

Preschool Language Scale-5

Peer-reviewed research

File Review Versus Assessment

- The Reevaluation Summary Report guides the IEP team through historical and current data so that the team can best determine next steps regarding eligibility and programming and planning.

File Review

New
Assessments

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To Test or Not to Test Upon Reevaluation



File Review

- Affirms the team is well-informed and has a plan based on **current** data
- Affirms the student is still a student with a disability and the primary disability is most appropriate
- Affirms there have been no new significant changes impacting the student's education
- Affirms the student continues to require special education



Assessment

- Ensures that the student is appropriately identified based on current assessments
- Ensures the programming is informed by current data and needs

File Review

- A review of existing data is a required part of the RSR process ([34 C.F.R. §300.305 \(a\)\(1\)](#)).
- It begins the reevaluation process (*Letter to Anonymous*, [48 IDELR 136](#) (OSEP 2007)).
- A file review does **not** replace the potential need for additional assessments to be completed for the student.
- Based on the review of existing data, the IEP team and other qualified professionals have the discretion to determine whether additional assessments are needed ([34 C.F.R. § 300.305](#)).



File Review Cautions

- Only completing a file review of existing data can be considered a denial of a Free Appropriate Public Education (FAPE) if more information is needed in planning and programming the student's IEP.
 - *District of Columbia Pub. Schs.*, [119 LRP 30345](#) (SEA DC 06/12/19)
 - *Z.B. v. District of Columbia*, [72 IDELR 27](#) (D.C. Cir. 2018)
 - *James v. District of Columbia*, [68 IDELR 11](#) (D.D.C. 2016)
 - *New Mexico Pub. Educ. Dep't*, [115 LRP 12278](#) (SEA NM 03/02/15).



LEA Obligations

- The LEA must ensure the reevaluation of a student with a disability if it determines that the student's educational or related services needs warrant a reevaluation, or if the child's parent or teacher requests a reevaluation ([34 C.F.R. § 300.303 \(a\)](#), *Canon-McMillan Sch. Dist.*, [114 LRP 39912](#) (SEA PA 08/26/14)).
- The LEA may have its personnel assess the student or arrange a third-party evaluation at no cost to the parents.
- The LEA cannot require the parents to obtain their own evaluation (*N.B. and C.B. v. Hellgate Elem. Sch. Dist.*, [50 IDELR 241](#) (9th Cir. 2008); *City of Chicago Sch. Dist. #299*, [60 IDELR 173](#) (SEA IL 2013)).

Considering Assessments

- Questions for the IEP team to consider:
 - When was the student last evaluated?
 - Are there significant academic, behavior, or social-emotional concerns?
 - Is there a lack of progress towards IEP goals?
 - Are teachers or parents requesting accommodations be added to the IEP?
 - Did the last evaluation consider all potential suspected disabilities?
 - Has the family shared new information about a medical/private diagnosis?



Reevaluation Decision

- There is essentially one of three reevaluation decisions the team could agree upon after answering a series of questions related to whether additional data is needed.



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Reevaluation Options

An evaluation is needed to determine the existence of a disability or disabilities and the need for special education and related services.

The student continues to be eligible for Special Education services with currently identified disabilities, but additional assessment is needed for program planning purposes.

No additional assessments are needed. The student continues to be eligible for Special Education services with currently identified disabilities.





Evaluation Needed

- This option is selected:
 - when an assessment is needed that will impact the student's eligibility, either primary, secondary, or tertiary,
 - if the IEP team needs current assessment data to determine if the student remains eligible for special education and related services, and/or
 - if the IEP team wants to consider an additional area (or remove an area) of eligibility.

Program Planning

- This option is selected:
 - when the IEP team needs additional assessments that will not impact eligibility (e.g., updated vocabulary testing from the speech-language pathologist), and
 - when the assessment information will be used to best support IEP programming and planning.



No Additional Assessments

- This option is selected:
 - when the student remains eligible under **currently identified** eligibility areas and there will be no changes to the student's eligibility areas.



Parent Consent

- Informed parental consent **is needed** for a reevaluation ([34 C.F.R. § 300.300 \(c\)\(1\)\(i\)](#)).
- If the LEA is not able to obtain written parental consent, the LEA can, but it is not required to do so, utilize IDEA's mediation and due process procedures ([34 C.F.R. § 300.300 \(c\)\(1\)\(ii\)](#)).



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Informed Parental Consent

- The parent has been fully informed of **all information** relevant to the activity for which consent is obtained in the parent's preferred language.
 - Focus on the concerns noted in the educational setting that have brought the team to the conversation.
 - Be transparent when the concerns align with multiple disability categories which are being considered through the reevaluation process.



Documenting Efforts

- “Reasonable efforts” are to be made to obtain informed parental consent with reevaluations ([34 C.F.R. § 300.300 \(c\)\(2\)\(i\)](#)).
- If parental consent is not obtained, document efforts taken to contact the student’s parent/s ([34 C.F.R § 300.322 \(d\)](#)).
 - Detailed records of phone calls,
 - Written correspondence, and
 - Records of home or employment visits to meet with the parent/s.





Review Existing Data

- The LEA does **not** need parental consent to review existing data as part of the reevaluation process ([34 C.F.R. § 300.300 \(d\)\(1\)\(i\); Letter to Gallo \(OSEP, 2013\)](#)).
 - Existing data may consist of:
 - IEP progress reports,
 - Teacher observations,
 - Related service provider observations
 - Previous assessments, and/or
 - Curriculum-based assessments.
- The LEA **does** need parental consent if reevaluating for a suspected disability, either current or additional.

Review Existing Data Case Example

A complaint from the District of Columbia contended that the LEA did not review all existing data or evaluate all areas of suspected disability.

Finding: However, the Hearing Officer found that the LEA reviewed progress reports, teacher observations, and classroom assessments to document the student's disability. The documentation helped the district show that it reviewed appropriate data in documenting the needs of the student. (See: *District of Columbia Pub. Schs.*, [122 LRP 40295](#) (SEA DC 08/29/22))

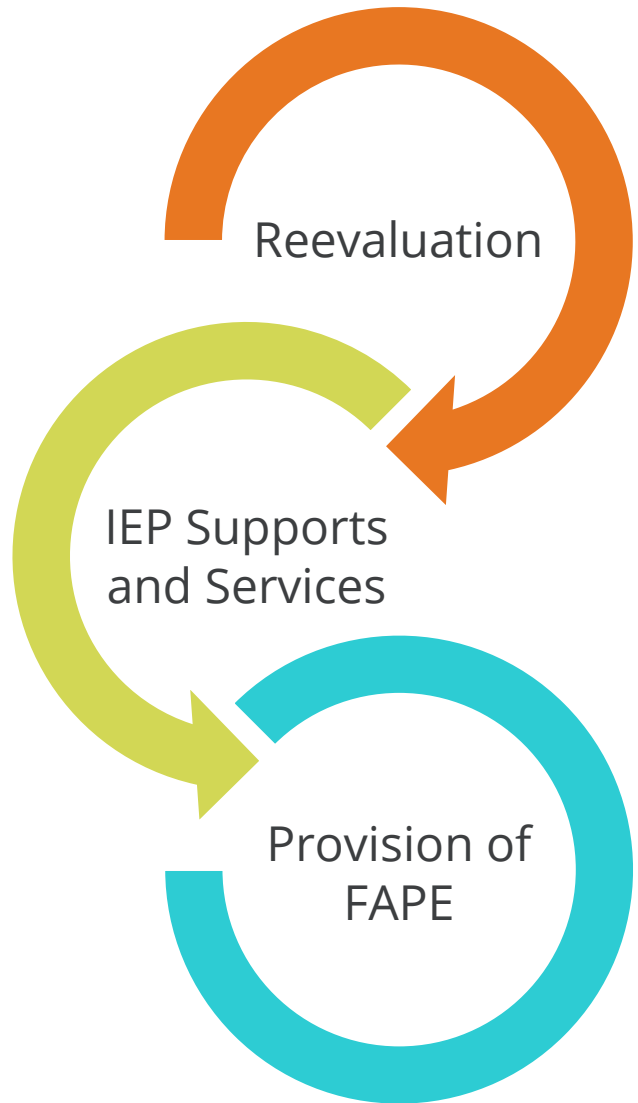
Timeliness of Reevaluations

- Neither federal nor state law speaks to specific timelines regarding reevaluations.
- LEAs should conduct reevaluations within a **reasonable** timeframe.
- Again, no dedicated timeframe for reevaluations, yet 60 calendar days is a good benchmark for consideration.



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Reevaluation Cycle



You Be The Judge

- An Ohio charter school began the reevaluation process within the triennial timeframe, but due to delays in obtaining informed parental consent and documentation issues, they did not complete the reevaluation until 2 years post the date of the reevaluation cycle.
- Did the courts find that this was an issue?



Sufficiently Comprehensive

- 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” ([34 C.F.R. § 300.304 \(c\)\(6\)](#)).
- It is recommended that IEP teams capture and address the questions and concerns through the reevaluation process.



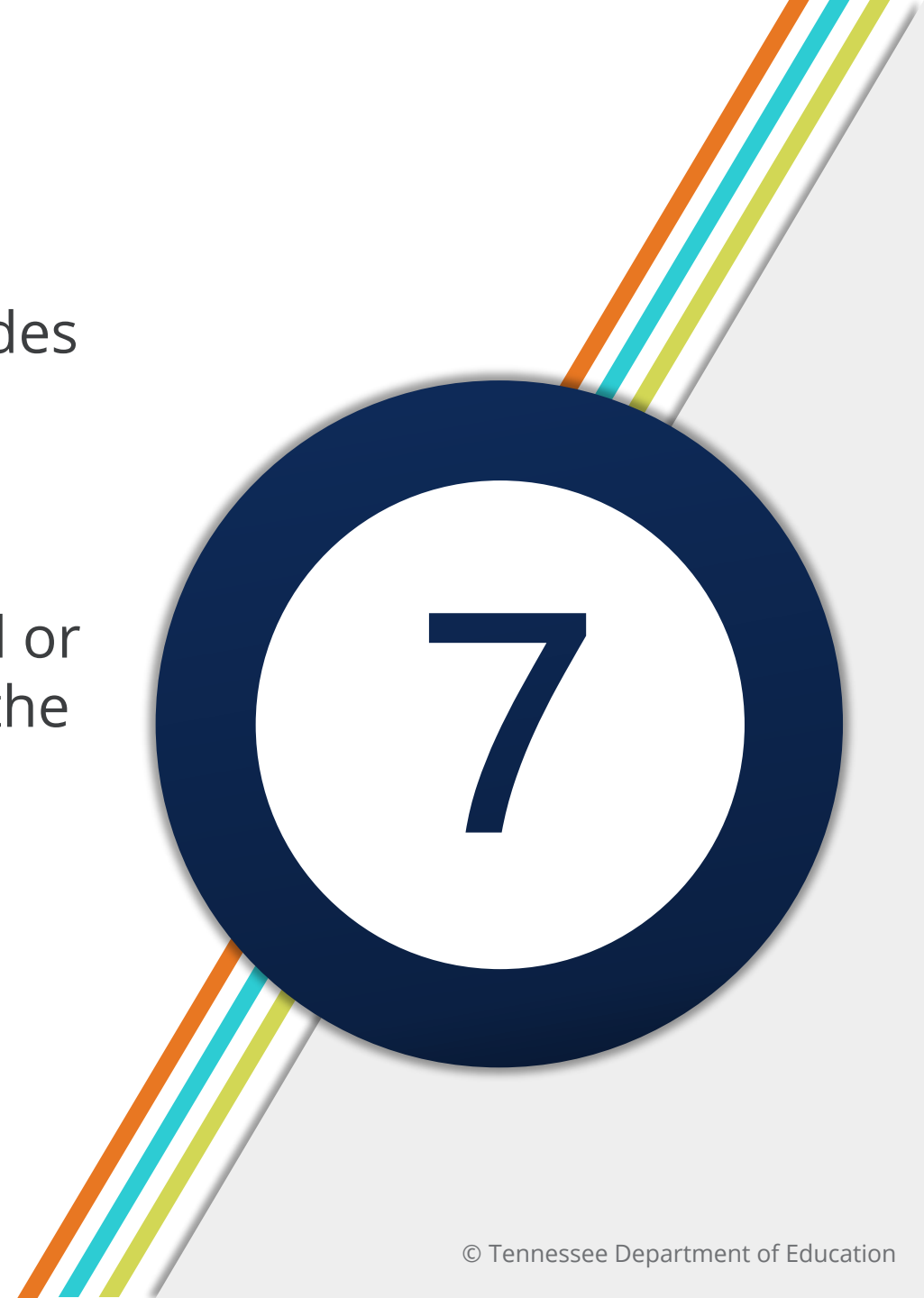
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Comprehensive Reevaluation



Prior Written Notice

- A **thorough** Prior Written Notice (PWN) provides transparency and clarity for the LEA and the parent.
- Indicate the **reevaluation decision** proposed or rejected by the school team and **recap** what the parent will see through the reevaluation.



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Reevaluation Decisions in the Prior Written Notice

An evaluation is needed to determine the existence of a disability or disabilities and the need for special education and related services. Eligibility will be determined when the team reconvenes to review the evaluation results.

The student continues to be eligible for Special Education services with currently identified disabilities, but additional assessment is needed for program planning purposes.

No additional assessments are needed. The student continues to be eligible for Special Education services with currently identified disabilities.

Examples

- “These concerns can be associated with multiple disability areas, so we request permission to evaluate in these assessment areas that align with autism, language impairment, and other health impairment.”
- “These concerns are currently being addressed through current programming, based on a review of existing data to include IEP progress reports, previous assessment data, classroom-based assessments, parent input, teacher input, direct observational data, and related service provider input. No additional assessments are needed for continued eligibility under Intellectual Disability.”

Examples are for training purposes only.

Exiting From a Disability Category

An IEP team in Ohio exited a student made eligible under the category autism from all special education and related services.

The IEP team did so on the basis that the student was working independently in the general education classroom and determined that a 504 Plan would better meet the student's needs.

- What has gone well so far?
- What might be a concern here?



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Results

- The Ohio Department of Education found that:
 - The LEA did not conduct a thorough review of existing data as they did not conduct **observations** or obtain **parent information**.
 - The LEA did not consider if **new assessments** were needed by reviewing outside agency reports from the student’s pediatrician and private speech-language pathologist.
 - The LEA completed a “flawed” **Prior Written Notice**.



Exiting From a Disability Category

- If the IEP team is considering exiting a student from a disability area, the IEP team will want to ensure **all sections** of the RSR are **complete** with both historical and current information.
- Before exiting a student from an eligibility area, a sufficiently comprehensive evaluation would **need** to be completed ([34 C.F.R. § 300.305 \(e\)\(1\)](#)).

Before Exiting a Student

- Reevaluate in **all** areas of **suspected** disability (*See Victor Elementary School District, [50 IDELR 204](#) (CA SEA 2008)*).
- Consider multiple sources of information before exiting a student beyond student grades.
- Garner information from teacher observations and parents.
- Make adjustments in programming and reevaluate first before exiting the student from special education and related services if the student is not making progress (*Letter to Borucki, [16 IDELR 884](#) (OSEP 1990)*).



You Be The Judge

- A 13-year-old student identified as having a Specific Learning Disability was exited from special education and related services based on a benchmark assessment that indicated she no longer demonstrated a severe discrepancy.



Results

- The courts determined that the district used only one assessment measure to determine eligibility (the benchmark assessment).
 - “Even the appearance of doing so can lead to litigation.”
- The courts further determined that the previous evaluation data and the observations, which the district claimed they used, indicated the student had continued difficulties in reading and math, which would have sparked the need for further assessments.

M.B. and K.H. ex rel. J.B. v. South Orange/Maplewood Bd. of Educ., [55 IDELR 18](#) (D.N.J. 2010).

Independent Educational Evaluations

- Independent Educational Evaluations (IEEs) can be a part of the reevaluation process.
- Remember, parents can request an IEE after each evaluation conducted by the school district.
- Parents may bring an IEE to the LEA to begin a reevaluation or as part of the reevaluation process (*Montgomery County Pub. Schs.*, [117 LRP 31056](#) (SEA MD 04/12/17)).
- Consider the IEE and document the review of the IEE as well as any decisions proposed or rejected in the Prior Written Notice.



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Eligibility Areas and Services

- An eligibility category acts as a gatekeeper for special education, but it does not prescribe the type/s or amount of special education and related services a student may need.
- Special education and related services are individualized and based on student data linked to the adverse educational impact of the disability and the present levels of academic achievement and functional performance.
- Special education and related services should support the student in accessing the general education curriculum given the student's unique circumstances.



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“

The IDEA concerns itself not with labels, but with whether a student is receiving a free and appropriate education.”

Suggestions for Successful Reevaluations

Suggestions for Successful Reevaluations

- Begin pulling together data early.
- Use a tracking system for important reevaluation dates and assembling of data.
- Keep parents notified and informed.
- Develop strong internal procedures for successful management of reevaluations
- Start scheduling reevaluation meetings before the reevaluation date is due.





Thank You!

Contact Info or Questions?

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