



ADVOCACY CENTER

SERVING PEOPLE WITH DISABILITIES AND SENIOR CITIZENS

**EDUCATIONAL RIGHTS OF
CHILDREN
WITH DISABILITIES IN
LOUISIANA:
A Guide for Parents**

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2. BEGINNING THE PROCESS

A Guide for Parents



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DEDICATION

After Glow

I'd like the memory of me
to be a happy one.
I'd like to leave an after glow
of smiles when life is done.
I'd like to leave an echo
whispering softly down the ways,
Of happy times and laughing times
and bright and sunny days.
I'd like the tears of those who grieve,
to dry before the sun
of happy memories
that I leave when life is done.

Anonymous

Lee Ann Vaught was a positive force for good, who worked tirelessly on behalf of the children she represented. She was a born advocate and teacher.

In fact, Lee began her career as a teacher. After graduating from the University of Mississippi with a major in journalism and English, Lee taught language arts at the middle school level and later taught English and Journalism at the high school level. After teaching at Dominican High School in New Orleans for eight years, Lee felt that she could continue to affect the lives of students in a positive but different way by becoming a lawyer/advocate.

After graduating from Loyola School of Law in 1996, Lee went to work for the New Orleans Legal Assistance Corporation as a Staff Attorney. In the Fall of 1998, Lee joined the staff of the Advocacy Center where she was able to get fully immersed in Special Education law. She had come back to her first love—helping children to reach their full potential through advocacy that was based on solid legal principles and a warm heart. Not very long after Lee joined the Advocacy Center's staff, she was promoted from Staff Attorney to Managing Attorney and took over leadership of AC's Special Education Issue Group. Lee took her work seriously and worked long hours on behalf of her young clients.

Yet, she never let the seriousness of the work she did cloud her days. Everyone at the Advocacy Center, where she worked for over ten years, envied those who were part of Lee's Special Education Issue Group because, whenever they met, the rest of us could hear loud and raucous laughter echoing through the office.

In the sentiment of the poem quoted above, Lee Ann Vaught would want those of us left behind to remember her with happy memories. No problem, Lee. You brought happiness and laughter to all the lives you touched during your short stay on this earth. We dedicate this booklet to you.

2.1 EARLY INTERVENTION

Introduction

Federal and state laws governing education for children with disabilities mandate an early start for education supports and services. The earlier children with special needs receive help, the more independent and productive they can become as they grow up. After receiving assistance early in life some children may need fewer or no special programs or care later in life. Also, early intervention provides support and information to parents from other parents and professionals. Part C of IDEA assists states in establishing a statewide comprehensive system of early intervention for infants and toddlers. Louisiana's Early Intervention Program for Infants and Toddlers with Special Needs and Their Families is known as Early Steps.

Early Steps

Early Steps is a statewide, comprehensive, coordinated, multi-disciplinary, interagency program of early intervention. The Louisiana Department of Health and Hospitals [DHH] has designated the Office of Citizens with Developmental Disabilities [OCDD] as the lead agency for Early Steps. OCDD is responsible for planning and implementing services in coordination with other public and private agencies.

Early Steps provides coordination among state, regional and local agencies - both public and private - to assure the best use of early intervention resources available for children who have special needs from birth until their third birthday. This is a comprehensive system that fills gaps and eliminates duplication of services.

Early Intervention Services

Early Intervention programs serve infants and toddlers who are experiencing developmental delays, including children who are at risk of having developmental delays from birth until their third birthdays. Services are designed to meet the developmental needs of each child and the needs of each family related to enhancing the child's development. Early intervention services may include assistive technology, audiology, health services (family education and assistance with other Early Steps services only), medical

services (for evaluation only), nutrition services, occupational therapy services, physical therapy services, psychological services, service coordination, social work services, special instruction, speech language pathology, transportation (to and from an Early Steps service only), translation interpreter services (foreign language and sign language), and vision services.

To the maximum extent possible, services are to be provided in natural environments, including home and community settings in which children with disabilities participate. The services each child and family receives are outlined in an Individual Family Service Plan (IFSP).

Some services are free by law. These include evaluation and assessment, family service coordination, and development and review of IFSPs. Other services are subject to a fee, which may be paid on a payment system, sliding scale or through insurance. Nevertheless, a parent's inability to pay will not result in a denial of services to the child.

Identifying Your Child for Services

A child may be identified as needing services in a number of ways. A parent or guardian may request services directly by contacting their local Service Point of Entry [SPOE]. To find your local SPOE, you can follow the links on the Early Steps website <http://www.dhh.louisiana.gov/offices/?ID=334> . You can also call OCDD at either 1-225-342-0095 or 1-866-783-5553 [toll free]. Hospitals, physicians, day care programs, school districts, and social services agencies may also make referrals.

The SPOE is the single point of entry into Early Steps. This does not mean that other public and private agencies will not provide evaluation or assessment services.

Once a referral has been made, a multi-disciplinary team evaluates the child to determine eligibility for services. The evaluation may not be performed without the signed, informed consent of the parent or guardian.

If a family wishes to do so, it may share information about its concerns, priorities, and resources. Any such assessment that is conducted must be voluntary on the part of the family, and services cannot be denied to a child found eligible in the multi-disciplinary evaluation because the family declines to share information. All records on the child and family are confidential and can only be released with written permission.

The evaluation and assessment of the child and family must be completed within 45 days of the referral.

Eligibility

In Louisiana, individualized programs must be designed for infants and toddlers with disabilities stemming from established medical conditions and developmental delays. Developmental delays are assessed in the areas of cognitive development; physical development, including vision and hearing; communication development; social and emotional development; adaptive skills; and the unique strengths or needs of the infant or toddler. Examples of physical or mental conditions having a high probability of developmental delay include Down's Syndrome, spina bifida, autism, microencephaly, seizure disorders, and fetal alcohol syndrome.

Individualized Family Service Plan

Once a child under age three is determined to be eligible for early intervention services, a plan for the delivery of services must be developed. The plan, an Individualized Family Service Plan (IFSP) is similar to the Individualized Education Plan provided for school age children but can also include family needs. The IFSP must be developed jointly by the family and appropriately qualified personnel, including family service coordinators, involved in the provision of early intervention services. Parents must agree fully with the plan that is developed and must consent to it in writing before services are provided for the child.

The IFSP must be reviewed every six months and an annual meeting must be held to evaluate and revise the IFSP. The purpose of the periodic review is to determine the child's progress in achieving the outcomes and whether modifications to any part of the plan is necessary.

The following persons must be present at the initial and annual IFSP meetings to evaluate the IFSP:

- The parent(s);
- Other family members as requested by the parent;
- An advocate or other person outside the family as requested by the parent;
- The service coordinator;
- Personnel directly involved in conducting assessments;
- As appropriate, persons who will be providing services to the child or family.

IFSP meetings must be conducted in settings and at times that are convenient for families and in the native language or means of communication used by the family.

Contents of the IFSP

The IFSP must include:

- A statement of the child's present levels of physical development (including vision, hearing and health); cognitive, communication, social, or emotional development, and adaptive skills;
- A statement of major outcomes to be achieved by the child and family and the criteria, procedures and timelines used to determine the degree to which progress towards outcomes is being made and whether revisions are necessary;
- A statement of the natural environment in which early intervention services should be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;
- Specific services necessary to meet the unique needs and expected outcomes for the child and family (including frequency, intensity, location, and method of delivery and payment arrangements, if any);
- Name of the service coordinator;
- Projected dates for initiation of services and anticipated duration;
- Steps for transition to preschool, special education, or other services appropriate for the child at age 3;
- A statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability.

It is important that the IFSP include steps to support the transition of the child at age three to preschool special education and related services. Included among those steps are procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting, and transmission of information about the child to the local school district to ensure continuity of services.

Role of the SPOE

Each Early Steps eligible child and family will be provided with a family service coordinator who is responsible for:

- Coordinating all services across agency lines;
- Serving as single point of contact in helping parents obtain services;
- Assisting parents in gaining access to services;
- Coordinating the provision of services;
- Facilitating timely delivery of services;
- Seeking new services;
- Coordinating assessments;
- Facilitating the development of the IFSP;
- Informing families of advocacy services;
- Coordinating with medical and health providers;
- Informing parents of their rights;
- Providing data on each child to the Office of Special Education Services
- Facilitating the development of the transition plan.

Family service coordinators must acknowledge and respect the parents' role as the ultimate decision makers regarding services to their child. A family may elect to refuse family service coordination and must then assume those responsibilities themselves.

Disagreements with the IFSP

A child cannot receive services without the parent's signed consent. Parents or guardians have the right to determine, for themselves and their family, whether to accept or decline any service without jeopardizing other services. Consent can be withdrawn at any time.

If the parent disagrees with the IFSP, s/he should first try informal resolution procedures. If these procedures do not resolve the conflict, s/he may consider using mediation. Parents may also consider filing a written complaint to Louisiana's Department of Education, Complaint Management Bureau. Parents always have the right to request a due process hearing to assert that their child's rights have been violated. These procedures should be explained to the parent by the service coordinator.

A sample letter requesting an evaluation for Early Steps services is included at the end of this section.

For information concerning early intervention visit the Department of Health and Hospitals Website at <http://www.dhh.louisiana.gov/offices/?ID=334>.

**SAMPLE LETTER
REQUEST FOR EVALUATION FOR EARLY INTERVENTION (AGE 0-3)
(Be sure to keep a copy for your records)**

(Name of Early Steps Coordinator, if known)
Early Steps, Coordinator
Office of Citizens with Developmental Disabilities
(Name of Parish and Address)

RE: Request for evaluation for Early Steps Program

RE: Request for evaluation for early intervention

Dear (Name of Coordinator):

I would like my child (name of child) to be evaluated for early intervention services. (Describe reasons you believe the child may need early intervention. See examples below.)

It is my understanding that the parish will evaluate (name of child) at no charge to me, within forty-five calendar days of receiving my referral for evaluation. Please forward any necessary * to me within ten working days, and I will complete and return them as soon as possible. If you need any further information, or would like to meet with me, please let me know. My telephone number is (telephone number).

Sincerely,

(Parent's name, address, and telephone number)

Examples:

- Susan is two months old and has spina bifida.
- Josh is twelve months old and seems to be significantly delayed in his development. He just learned to sit up and cannot yet crawl.

2.2 IDENTIFICATION AND REFERRAL FOR SPECIAL EDUCATION

Introduction

Special education enables children with disabilities to receive special services that will provide a free and appropriate public education in accordance with their individual needs. In order to receive such services, a child must first be identified, and then referred for a formal evaluation that will determine whether the child has a qualifying disability (exceptionality). This process is referred to as "Child Find."

IDEA regulations clarify that the requirements of Child Find apply to children who are suspected of having a disability even though they are advancing from grade to grade. In addition, they apply to "highly mobile children" (e.g., migrant and homeless children). Also, child find activities apply to children attending private school as well as public school. Identification of children who are possibly in need of services usually occurs in one of two ways, depending upon whether the child is in school.

Children Not in School

For young children, or others who for some reason have not entered school, identification is usually made by referrals from parents, social service workers, or doctors. For children from birth to age three, referrals are made as outlined above. Children age 3 through 5, or former special education students who have left a public school without completing their public education by obtaining a State diploma, shall be referred to the local education agency's Child Search Coordinator.

For some children, identification of a disability occurs soon after birth, and referrals can be made early. For others, a parent or others may see indications of problems in the child's development or functioning that could result from a less obvious disability. To determine whether such a child might need special education services, the parent should discuss the child's development, progress, and skills with professionals such as the child's doctor, and with other people who know the child and have experience with other children of similar ages. Parents should seek a second opinion, or go ahead and ask that the child be evaluated, if they remain concerned about the child's condition. Evaluations of children under three years of age must be performed within forty-five calendar days of the request. Evaluations of all other children must be completed within sixty working days of the request.

Sample letters requesting an evaluation of a child not in school are included at the end of this section.

Children Already in School

For children already in school, identification and referrals are made through the School Building Level Committee (SBLC). (This may be called a Student Assessment Team or SAT in some parishes.) Frequently, teachers will ask the SBLC to review information on a child suspected of having a disability. Parents may also request and participate in a SBLC review if they suspect that their child has special needs.

It is often difficult to know whether the child needs special education. However, the parent should regularly discuss the child's situation and progress with the teacher, and be prepared to ask detailed questions about the child's behavior, abilities, and performance. The checklist at the end of this section suggests questions that should be asked.

A sample letter requesting a referral to the SBLC is included at the end of this section.

The Referral Process

School age children who are suspected of being in need of special education services are referred first to the School Building Level Committee (SBLC) (This may be called a Student Assessment Team or SAT in some parishes.). Parents may ask a teacher to refer their child to the committee. However, it is advisable to also make a formal written request to the school principal. A sample request letter is included at the end of this section. The SBLC is made up of at least two school staff members, and is chaired by the school principal or his or her designee. The referring teacher, who is usually one of the child's teachers, usually presents information about a particular child to the committee. (A flow chart of the SBLC process is provided at the end of this section.)

Parents should be invited to participate at the SBLC meeting where their child will be discussed. Because many different children may be discussed at these meetings, parents may be required to wait outside except when their own child's situation is being discussed. If parents are to participate at the SBLC meeting they should bring any medical information that would help to explain their child's disability.

The Role of the SBLC

The role of the SBLC is to gather information, review it, and suggest alternative interventions that may be used to address the student's problems. Just because a child is having difficulty in school does not mean that he or she needs special education. Sometimes the child just needs some special attention or accommodations within the regular classroom. One of the main purposes of the SBLC process is to determine what sort of assistance can and should be provided to the child in the classroom. Usually a referral for a special education evaluation is made only after such suggestions have been tried and have not been successful.

Response to Interventions (RTI)

Usually the SBLC will first recommend that some specific interventions be tried in the regular classroom, and will advise the parents of the proposed interventions. Parents must allow the school system this opportunity. Interventions need not be elaborate or complicated. The following are some examples of interventions which could be easily implemented in regular classrooms: reading and/or math instruction, peer or volunteer tutoring, behavior management techniques, changing the child's study group or seating arrangement, using different teaching materials or techniques, changing the child's teacher, counseling, arranging for vision and hearing aids, simplifying the child's work, providing experience-based instruction, or providing more frequent opportunities to practice areas of difficulty.

The teacher should begin to use the suggested interventions in the classroom and then report back to the committee and the parents on their success. (If parents do not receive a follow up report within 30-60 days, they should contact the teacher and/or the SBLC committee for the information). After receiving this report, the committee may make further suggestions and continue to monitor the situation, or it may refer the child to Pupil Appraisal for a formal evaluation.

If a Request is Ignored or Denied

If the parent's request for a referral to SBLC is not answered within a reasonable amount of time (thirty days), s/he should re-contact the principal (in writing) and send a letter to the special education supervisor. It is not uncommon for a school to resist SBLC level review, or a referral for a formal evaluation, because the child is perceived to be merely "lazy" or "wild", or because the child has not yet failed enough to "justify" assistance. This is

inappropriate educational practice. Children who are described in such a manner may have some hidden disabilities that cause them to have difficulties in school. Waiting for a child to fail for a year or more before interventions are begun merely makes a bad situation worse. Parents should insist upon SBLC review, interventions, and accommodations as soon as they become aware of any problems, and, if these do not work, should insist upon a formal evaluation, so that an appropriate diagnosis of the child's problems may be made. Parents are entitled to seek a due process hearing if a school system refuses to refer a child for an evaluation.

A sample letter to use if your request is ignored or denied is included at the end of this section.

Alternatives if a Child is Deemed Ineligible for Special Education

If a formal evaluation concludes that a child is not eligible for special education, the parent has the option of challenging the evaluation, or continuing to seek assistance for the child through the regular education system.

Even if the child is not eligible for special education services, there are still opportunities to secure needed assistance for the child through the regular education system. As noted above, SBLC review is appropriate for all children who are having difficulty with their school program. All children are entitled to classroom interventions, such as those listed above, to improve the learning experience. Therefore, the parents of children ineligible for special education services should continue to insist upon needed interventions in the regular classroom setting. Excuses that accommodations are "unfair" to other children should be flatly dismissed. Each child is entitled to an education appropriate to his or her needs, and should not be forced to fail because his or her needs are different from those of other children.

Some children who do not qualify for special education services may qualify as "disabled" under Section 504 of the Rehabilitation Act, which would qualify the child for an Individual Accommodations Plan. If the SBLC refuses to recommend needed accommodations or interventions for such children, or if they are not provided after being recommended, the parent may want to consider filing a discrimination complaint under Section 504.

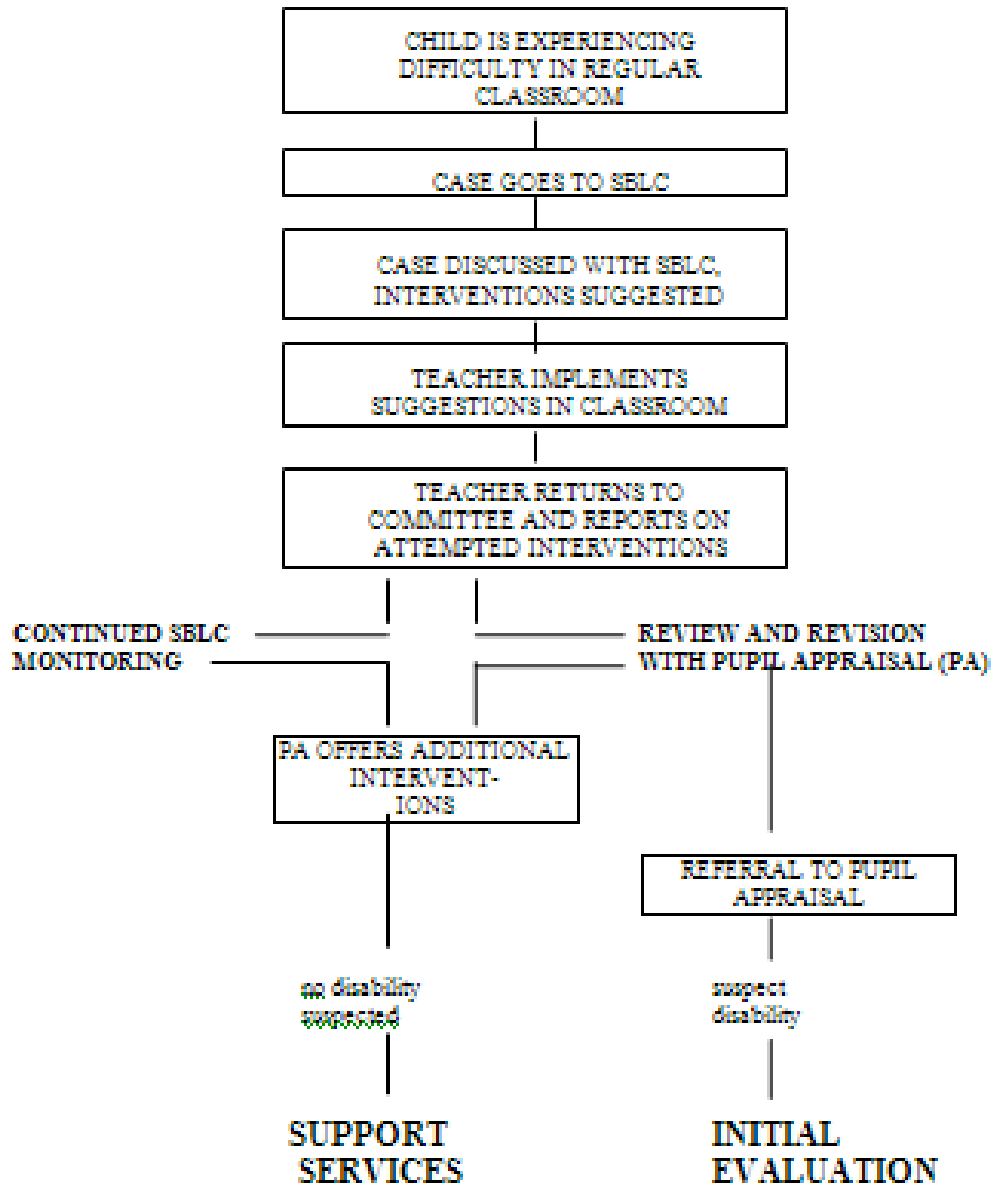
Checklist: Questions to Ask When a Child Has Problems With Education

- Is the child making acceptable grades and/or progress in school?
- What explanations does the child give for poor work?
- What explanations, if any, does the teacher give for the child's poor work?
- Are grades poor only in some specific subjects? If so, is there a particular type of activity that is most difficult for the child? (For example, reading, writing, spelling, math).
- Does the child seem to remember and repeat information orally, but have difficulty putting it in writing?
- Does the child forget things he or she previously learned?
- Does the child have physical mannerisms that might interfere with learning, such as inability to sit still, short attention span, inability to concentrate?
- Does the child have problems with physical coordination (such as running, skipping, hopping) or with fine motor skills (such as using small objects like pencils, video game controls, tying shoes)?
- Is the child easily frustrated? How does the child act when frustrated?
- Is the child frequently angry? Does the child have frequent emotional outbursts or temper tantrums? Does the child become physically out of control?
- Does the child cry more than most children his/her age?
- Has the child had any unusual, repeated, or serious illnesses or injuries? If so, has the child been medically tested for any harm caused by them? Did the child's school performance change dramatically after such an illness or injury? Have the child's vision and hearing been recently tested? (If routine tests do not indicate problems, but it seems the child does not see or hear well, additional testing is suggested.)
- Does the child have difficulty with speech or language? Does the child speak less clearly than children the same age? Does the child use more immature language than children of the same age?

- Does the child have difficulty following verbal instructions?
- Does the child like school? Why or why not?
- What are the teacher's answers to these questions?

For information on Child Find and Referrals see: Bulletin 1508, Bulletin 1706, Subpart A, § 111; and 34 C.F.R. § 300.111

SCHOOL BUILDING LEVEL COMMITTEE (SBLC) FLOW CHART



**SAMPLE LETTER
REQUEST FOR EVALUATION OF CHILD NOT IN SCHOOL (AGE 0-3)
(Be sure to keep a copy for your records)**

(Date)
(Name of Child Search Coordinator, if known)
Child Search Coordinator
(Name of Parish and Address)

Dear (Name of Coordinator):

I would like my child (name of child) to be evaluated for special education services. (Describe reasons you believe the child may need special education, using the checklist on previous page for guidance. See example below.)

It is my understanding that the parish will evaluate (name of child) at no charge to me, within forty-five calendar days of receiving my referral for evaluation. Please forward any necessary forms to me within ten working days, and I will complete and return them as soon as possible. If you need any further information, or would like to meet with me, please let me know. My telephone number is (telephone number).

Sincerely,

(Parent's name, address, and telephone number)

Example:

Joseph is two years old and has Down Syndrome. He has received specialized services and intensive therapy in another state since birth. Since he is approaching pre-school age, we would like him to be evaluated for special education services.

**SAMPLE LETTER
REQUEST FOR EVALUATION OF CHILD NOT IN SCHOOL
(OVER AGE 3)
(Be sure to keep a copy for your records)**

(Date)

(Name of Child Search Coordinator, if known)
Child Search Coordinator
(Name of Parish and Address)

RE: Request for evaluation for special education services

Dear (Name of Coordinator):

I would like my child (name of child) to be evaluated for special education services. (Describe reasons you believe the child may need special education. See example below.)

It is my understanding that the parish will evaluate (name of child) at no charge to me, within sixty calendar days of receiving my consent to the evaluation. Please forward any necessary forms to me within ten working days, and I will complete and return them as soon as possible. If you need any further information, or would like to meet with me, please let me know. My telephone number is (telephone number).

Sincerely,

(Parent's name, address, and telephone number)

Example:

Jane is three years old, and is very slow in developing speech and language. She speaks like a two year old. This has been observed and commented on by her day care providers who deal with a lot of children of these age groups. Except for her speech problems, she seems very bright. Her pediatrician has also expressed some concerns, and has suggested that we have her evaluated for speech and language problems so that she can get any needed services as early as possible.

**SAMPLE LETTER
REQUEST FOR SBLC REVIEW OF CHILD ALREADY IN SCHOOL
(Be sure to keep a copy for your records)**

(Date)

(Name of Principal)

(Name of School and Address)

Dear (Name of Principal):

I am the parent of (name of student). My child is having problems with (his/her) schoolwork. (brief summary of problems -- see examples below). I suspect these problems may be caused by a disability that would entitle (him/her) to special education services. I would like you to review (child's name) situation at your next School Building Level Committee meeting. I have already discussed (child's name)'s problems with (his/her) teacher(s) (name of teachers), who can provide the committee with information about (his/her) performance in the classroom.

It is my understanding that the SBLC meets regularly to review student problems and to either make suggestions for solving them within the classroom, or to refer the child for an evaluation for special education services. I would like to be notified in writing within five school days whether (child's name) will be referred for SBLC review and, if so, when the meeting is scheduled. I will be happy to provide any additional information which you or the committee believes necessary.

Sincerely,

(Parent's name, address, and telephone number)

cc: Child's teacher(s)

Examples:

- He has a short attention span and cannot sit still. He was described as hyperactive when he was younger. I am concerned that he has some sort of learning disability or behavior problem that is preventing him from applying himself to his schoolwork.
- She has great difficulty with reading and writing, but can remember anything she is told and repeat it back verbally. I am concerned that she has a learning disability that is causing her to fail with her written schoolwork.
- He has had a very difficult time learning ever since he injured his head last year. The doctors say he may have a brain injury. His grades have gone down, despite efforts to provide extra help. I am concerned that he needs even more specialized testing to understand what is causing his problems.

**SAMPLE LETTER
IF INITIAL REQUEST FOR SBLC REVIEW IS IGNORED OR DENIED
(Be sure to keep a copy for your records)**

(Date)

(Name of Special Education Supervisor, if known)
Special Education Supervisor
(Name of Parish)
(Address)

Dear (Name of Supervisor, if known):

I am the parent of (child's name), who is a student at (name of school). On (date) I made a written request to (name of principal) asking that (child's name) situation be reviewed at the next SBLC meeting. A copy of that letter is enclosed. (Facts about unsatisfactory response, or failure to respond -- see examples below)

It is my understanding that all children suspected of having disabilities are entitled to a timely SBLC review, and if appropriate, a referral for an evaluation for special education. I am concerned that this process begins as soon as possible so that (child's name) problems can be appropriately addressed in a timely manner before they become worse.

Please review this matter, and advise me in writing within five working days of your conclusions. I will be glad to provide any additional information that may be needed.

Sincerely,
(Parent's name, address, and telephone number)

cc: (Principal's name)

Examples

- In the month since that letter was sent, I have received no response from (principal's name). (Child's name)'s teacher says s/he has not been asked for any referral information regarding (child's name), and that (he/she) is continuing to have serious problems in the classroom.
- (Principal's name) responded by telephone, and told me that (child's name)'s case is not serious enough to justify a review at this time. (Child's name) continues (to make poor grades) and/or (to have behavior problems which result in disciplinary actions).

2.3 NOTICE AND CONSENT

Introduction

School systems are required to notify parents about their children's rights under the special education laws, and about special education procedures. Many actions cannot be taken without the consent of the parent (or other person with legal authority to make decisions) of the child with the disability. The law requires that the notice provided be "full and effective" and that consent meet the standards of "formal parental approval".

Who May Receive Notice and Give Consent

Legal Parent or Custodian

Typically, a child's legal parent(s) (by birth or adoption), legal custodian(s) or person(s) authorized by the legal parent to act as a parent should receive notice and, when needed, give consent for the child's educational program. If parents are separated or divorced, the school system should not deny participation, information, or copies of educational records to the non-custodial parent unless advised that the parent does not have the authority under applicable state law or under any applicable custody order of a court.

IDEA regulations have amended the definition of parent to include a person acting in the place of a parent such as a grandparent or stepparent with whom the child lives. It will also permit States in certain circumstances to use foster parents as parents under the Act unless prohibited by law.

Surrogate Parent

A surrogate parent is someone who will take the place of a parent in exercising a student's educational rights. Federal regulations require that a surrogate parent be appointed to represent a student when no parent of the student can be identified or found, or when the student is a ward of the State. The school officials must identify those students needing a surrogate parent and appoint one. The person appointed should receive training and/or information that will assist him or her in performing the responsibilities of the parent.

The person selected as the surrogate parent must have no interest that conflicts with the interests of the student. The surrogate parent must be knowledgeable about the student and be capable of representing his/her interests. The surrogate parent cannot be an employee of an agency that provides educational services or care for the child.

The surrogate parent is a substitute for the parent and has the same duties as the parent, with respect to the child's educational rights. This includes making sure that the student is properly identified, evaluated, and placed in special education. The surrogate parent also makes sure that the school provides a free appropriate public education to the student.

The Adult Student

When a student reaches the age of 18, the student becomes a legal adult. At that point, s/he has all the rights of an adult, and must be treated as such by the school officials and his/her parents for the purposes of making educational decisions. The rights discussed in this chapter then become the rights of the adult student, and the parents no longer solely exercise these rights unless they have the written permission of the student. (However, the continued participation of the parents is expected.) The only time this is not true is if the adult student has been declared legally incompetent or incapacitated by a judge and has had a curator (guardian), limited curator, or continuing tutor appointed by the judge. In those instances, the legally responsible party exercises these rights for the adult student.

The school district should, however, determine whether an adult student is capable of giving informed consent, even where he or she is legally competent; otherwise, decisions made by the student alone may be invalid.

General Notice

School systems must give all parents of children with disabilities written notice of their general rights. A general statement of rights should be handed out upon initial referral for evaluation, upon every notification of an IEP meeting, upon reevaluation of the child, or when a parent files a formal complaint, and should also be available upon request. It is very important that the parents receive this information. If parents have difficulty understanding the information, they have the right to request an explanation.

Specific Notice

In addition to general notice of rights, parents must receive specific notice in a number of situations. All notices must meet the requirements of Section 504 of Bulletin 1706, Subpart A. The notice must be in writing and state the specific actions the school will be taking/refusing. Prior notice about proposed actions must be received before the school can change the

decision whether or not the student has a disability, or change his/her label. Prior notice must also be received before the school can conduct an assessment, change the current education program, or change the placement of the student. This would include any proposed disciplinary action. A change in placement also refers to the graduation of a student. The school district must give notice a reasonable time before proposing to graduate a student (even with a regular diploma), in order to ensure that there is sufficient time for the parents and student to plan for, or challenge, the pending graduation.

The written notice as described above must describe the action the school wants to take, why the school wants to take that action, what other options the school considered, why those other options were rejected and any evaluation, test or other information that supports the school's position. The notice must also include sources for parents to contact to obtain assistance in understanding the notice and a statement informing the parents about the State complaint procedures and a description of how to file that complaint.

The written notice must be written in clear language understandable to the parents receiving it and be provided in the native language of the parents. If the parents cannot read or write, the school's notice must be given orally, on cassette tapes, in Braille, or in any other way that the parents will understand.

Parents have the right to receive written notice a reasonable amount of time before the school system takes action. If the school refuses to make changes requested by parents, it must give specific written notice of the reasons for the refusal.

Consent

Informed parental consent is required before a school system may take certain actions with respect to special education services for a child. The state defines informed parental consent to mean that the parent has been **fully informed** of all information relevant to the activity, in his or her native language or other mode of communication, the parent has approved of the activity in writing, and the parent understands that the approval is voluntary and may be revoked at any time. In other words, the parents/students must be fully informed of all relevant information in a manner that is clearly understandable to them. In addition, consent by the parent/student is to be given freely, and it may be withdrawn in writing at any time. However, if consent is revoked, that revocation is not retroactive and does not negate an action that occurred after the consent was given and before the consent was revoked.

Formal parental consent is required for both an initial evaluation and reevaluations for special education services, initial IEP/placement, the release of educational records, accessing parent's private insurance, or the placement into regular education of a child previously classified as exceptional. Formal parental consent for evaluations may not be construed as consent for the placement of their child for the receipt of special education and related services. If the parent refuses to provide consent for the evaluation, the agency may continue to pursue the evaluation by utilizing mediation and due process procedures.

At an initial IEP/placement meeting, a school system must obtain formal, written parental approval before it can provide a student with special education and related services in any setting. If the parent refuses to provide consent, the local education agency shall not provide special education and related services to the child. **The school system has no right to utilize mediation or due process procedures to override the parental decision.**

After the parent/student has given formal written approval, the IEP is in effect. This means that the IEP has been developed properly, is regarded by both the parent/student and the school system as being appropriate for the student, and will be implemented as written. The parent must be provided a completed copy of the IEP/placement document that is signed by the official representative of the school system. A copy of the IEP shall be given to a parent upon request.

Parents may take issue with all or some parts of the initial program, placement, or related services proposals. The school system and the parents should make conciliatory attempts to resolve the disputes, including making modifications to the proposed program, placement, and related services. If no change will occur, the school system is required to notify the parents of this decision in writing. In this case, the student must remain in the current educational setting or be offered a different placement within the school system, if the parents agree, until the matter is resolved.

Parents' refusal to give consent does not affect the student's basic right to attend school and participate in school activities. In addition, refusing consent for one service, benefit, or activity does not allow a school district to deny any other service, benefit, or activity the child is entitled to receive, except as provided by IDEA. Parents have the right to file for a due process hearing to resolve disagreement over the proposed initial IEP/placement of the child. The school system, likewise, has the right to attempt to override the parental decision to withhold approval for an initial evaluation, but the school system does not have the right to attempt to override a parental decision to refuse consent for services.

Most other actions of the school system, such as review IEP meetings, and proposed changes in placement, do not require formal parental consent, but do require full and effective notice before actions may be taken. Parents who disagree with a proposed action have the right to voice their disagreement at meetings scheduled to discuss them and, if not resolved satisfactorily at the meeting, may refuse to sign an IEP. **A school system may not remove a child from special education, or deny specific services, because a parent will not sign a review IEP.** The IEP team may, however, implement an IEP that has been **properly** developed after full and effective notice has been given the parents and after affording the parent full participation, even if the parent refuses to sign the IEP document. School systems or parents both have the right to request due process if they cannot agree about what is written on the IEP. If due process is invoked, the child has the right to remain in the last agreed upon placement and program pending a resolution of the dispute.

If Actions are Taken Without Parental Notice or Consent

If a parent learns that action has been taken without notice or, where required, without consent, s/he should immediately contact the special education supervisor/director, in writing, to protest the action and the lack of notice. Such a complaint may be made even if the parent does not disagree with action taken, since the failure to provide notice is itself a reason for concern and complaint. If the school system does not rectify the problem to the parent's satisfaction, s/he may file a complaint with the state complaint management system. If the parent disagrees with the action taken, as well as the lack of notice and/or opportunity to consent, s/he should request an immediate meeting to resolve the issue and, if not satisfied with the result, may wish to seek a due process hearing.

Sample letters for when a school system takes action without notice or consent are included at the end of this section.

For more information concerning laws governing notice and consent requirements see: Bulletin 1706, Subpart A, § 504 and § 505

**SAMPLE LETTER
ACTION TAKEN WITHOUT NOTICE, NO DISAGREEMENT WITH
ACTION**

(Be sure to keep a copy for your records)

(Date)

(Name if known)

(Director or Supervisor of Special Education)

(Address)

Re: (Name of child, name of school)
Actions taken without notice

Dear (name if known):

On (date) I discovered that (describe action) was taken without any notice to me. It is my understanding that I have a right under special education law to prior notice before any such action is taken.

While I do not disagree with the particular action taken, I am entitled to receive advance notice of all proposed changes so that I can have the opportunity to understand them and communicate any concerns I may have. It is also important that I know in advance when changes are planned so that I may help prepare my child for them.

Please investigate this matter, and take appropriate action to remedy this violation of my child's rights. At a minimum, I would ask for a finding or admission that notice was required but not given, and a description of actions taken to insure that this will not happen in the future.

I look forward to hearing from you in writing within ten days of the date of this letter. Please contact me if you require any further information.

Sincerely,

(Parent's name, address, and telephone number)

**SAMPLE LETTER
ACTION TAKEN WITHOUT NOTICE, DISAGREEMENT WITH ACTION
(Be sure to keep a copy for your records)**

(Date)

(Name if known)
(Director or Supervisor of Special Education)
(Address)

Re: (Name of child, name of school)
Actions taken without notice

Dear (name if known):

On (date) I discovered that (describe action) was taken without any notice to me, and without my having given consent for it. It is my understanding that I have a right under special education law to prior notice, and must provide formal written consent before any such action is taken.

I do not consent to (the action taken) and request that (matters be immediately returned to the way they were) before this illegal action was taken. I will be glad to meet with appropriate personnel to discuss this matter once I am given appropriate advance notice. If (the action taken) is not immediately suspended, I will seek a remedy through complaint management and/or due process proceedings.

Even if (the action complained of) is suspended, I would ask that you investigate this matter, and take appropriate action to remedy this violation of my child's rights. At a minimum, I would ask for a finding or admission that notice and consent were required but not given, that the action was therefore illegal and must be suspended, and a description of actions taken to insure that this will not happen in the future.

I look forward to hearing from you in writing within ten days of the date of this letter. Please contact me if you require any further information.

Sincerely,

(Parent's name, address, and telephone number)

2.4 EDUCATION RECORDS

Introduction

Parents advocating for special education services for their child or parents developing the Individualized Education Plan (IEP) may need to refer to different records. These records may include:

- Teacher's notes;
- SBLC Committee (SAT) notes;
- Progress reports;
- Grades or report cards;
- Achievement tests;
- Discipline reports;
- Parent contact notes;
- Assessment reports (which may include tests of intelligence, motor skills, self-help skills, language development, and social and emotional skills);
- Reports from medical doctors (such as eye tests, hearing tests and physical examinations);
- Individualized Education Plans (IEPs);
- Former school system evaluations.

This chapter offers suggestions about keeping records and provides information about how to access records. Also included is information about confidentiality of records.

Keeping Records

Parents should keep all of their child's education records in one place. Good record keeping will enable the parent to participate in developing the IEP, and to monitor the child's progress. It will also assist the parent in making certain that the child is getting needed services.

Parents should also keep a written record of their conversations and meetings concerning the child. For each meeting or conversation, the parent should write down to whom s/he spoke, the date and time of the communication, and a summary of what was discussed. It is a good idea to follow up telephone calls with a letter confirming the conversation. Keep copies of all letters and reports mailed and received.

How to Get Copies of Records

Federal law guarantees parents the right to examine all records relating to their child. Education records are defined as "records, files, documents, and other materials which (i) contain information directly related to a student, and (ii) are maintained by an educational agency ..." Records may include "any information or data recorded in any medium including, but not limited to: handwriting, print, tapes, film, microfilm, and microfiche".

The above definition of education records does not include records that are maintained separately from education records, nor does it include records that only contain information about an individual after he or she is no longer a student at that agency or institution. Apparently this means that once a student exits the school system he or she is no longer afforded the protections of the Family Education Rights and Privacy Act (FERPA).

Parental Rights Under FERPA (The Buckley Amendment)

- Except under limited circumstances (which mainly pertain to college students) each education agency or institution is required to permit a parent (or eligible student) to inspect and review any education records of the student.
- Under federal law, the education agency or institution must comply with a request for access to records within a reasonable period of time, but in no case more than 45 days after it has received the request. In Louisiana, a school system has 45 calendar days after a request is made by a parent or authorized representative to either arrange for the person to see the records or to receive copies if arrangements cannot be made to see them.
- The educational agency or institution must respond to a reasonable request for an explanation or interpretation of the records if a person has difficulty understanding them.
- By law the education agency is also required to give the parent or eligible student a copy of the records if failure to do so would effectively prevent the parent or student from exercising the right to inspect and review the records.
- The education agency or institution may not destroy any education records if there is an outstanding request to inspect and review the records under this section.

- Finally, while an education agency or institution is not required to give an eligible student access to treatment records, the student may have those records reviewed by a physician or other appropriate professional of the student's choice. This same rule holds true for parents.

To see a child's education records, the parent should first write a letter to the person in charge of records at the child's school. Each year the school is required, upon request, to give the parent a list of all the different kinds of education records that the school collects, or uses to educate the child. They must also inform the parent, upon request, where those records are kept. The parent has the right to inspect and review the records. S/he also has the authority to see records made by a private physician or other private professional if these records become a part of the school's education records.

Remember, the school system has, in no case, more than 45 calendar days after a request for records has been made to either arrange for the parent to see the records or to give him/her copies. The school system should comply with the request for records without unnecessary delay and before any meeting regarding an IEP or any hearing relating to the identification, evaluation or educational placement of the child or the provision of FAPE to any child. The U.S. Department of Education encourages schools to provide free copies of records. However, the school system can charge for copies so long as the fee does not result in preventing the parent from reviewing the records. The school system may charge the parent for photocopies of records, but it cannot charge the parent for the time of the person who does the copying. The school system may not charge the parent for his/her review of the records.

If a parent has trouble understanding anything in the records, s/he should ask for an explanation. The school must respond to reasonable requests for explanations and interpretations of the records. Again it is advisable to ask for explanations in writing.

If the parent asks for a due process hearing, s/he must be allowed to see the records prior to the hearing. When reviewing records the parent should be sure s/he is given all the time needed to thoroughly review and understand the records.

A sample letter requesting records from the school is included at the end of this section.

Confidentiality of Records

A student's records are private. A parent has the authority to inspect and review records unless the school system has been advised that the parent does not legally have the authority. The school system must keep a list of parties obtaining access to educational records (except access by parents and authorized employees of the school system). That record should include the name of the party, the date the record was reviewed, and the purpose of the authorized use. School officials must show the parent this list if requested. (Louisiana Education Bulletin 1706, Subpart A, § 517) Legally, parental consent is needed before a child's records can be shown to anyone outside the school system who is not involved in the student's education.

Getting Records Changed

If a parent believes that the information in the education records is inaccurate, misleading, or if it violates the privacy or other rights of the child, the parent can ask in writing that the school system amend the information as requested, and inform him or her of its decision within a reasonable period of time. If the school system refuses to amend the information, school officials must inform the parent of the decision and instruct the parent about his or her right to a hearing. If the hearing officer decides in the parent's favor, the records must be amended, and the parent must be notified in writing of the changes that were made. If the hearing officer decides that the records do not have to be changed, school officials must allow the parent to place a statement into the records explaining why he or she disagrees with the records or believes that the statements are unfair. The parent's statement must be kept with the records. Whenever the records are shown to persons, the parent's comments must also be shown to them.

A sample letter requesting a change in records included at the end of this section.

If Access to Records is Refused

Under FERPA school systems may not:

- Refuse to allow a parent to review, copy or correct school records, or
- Violate confidentiality by failing to obtain prior consent of a parent before releasing the records to non-school personnel.

If a parent's rights are violated, s/he may send a written complaint to:

**Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue S.W.
Washington, DC 20202-5920**

The FERPA office is responsible for enforcing FERPA. Be sure to file the complaint as soon as possible after the incident occurs, and keep a copy of the letter.

A sample complaint to FERPA is included at the end of this section.

**SAMPLE LETTER
REQUESTING THE CHILD'S RECORDS
(Be sure to keep a copy for your records)**

(Date)

(Name of Principal)
(School)
(Address)

Dear (Name of Principal):

I am the parent of (name of student), a special education student at your school. Please inform me in writing of the types and location of all past and present education records concerning (name of student). Please inform me where all there records are kept and whom I should contact so I can review them.

If you need to speak with me I can be reached at (telephone number) during working hours.

Thank you for your assistance. I look forward to hearing from you within ten days.

Sincerely,

(Parent's name, address, and telephone number)

**SAMPLE LETTER
REQUESTING A CHANGE IN YOUR CHILD'S RECORDS
(Be sure to keep a copy for your records)**

(Date)

(Name of Principal)
(School)
(Address)

Dear (Name of Principal):

My son/daughter (name of student) is a special education student at your school. There is a statement in (name of student)'s (Name of records; i.e. March 15, 12004 speech evaluation performed by Diane Jones, CCC, LSP), which I believe is (example: misleading, inaccurate and/or in violation of my child's rights) because (give your reasons).

I request that you change (name of student), (name of record) so that they will no longer be (example: misleading, inaccurate, and/or in violation of my child's rights).

If you need more information I can be reached at (telephone number during working hours).

Thank you for your assistance. I look forward to hearing from you within ten days.

Sincerely,

(Parent's name, address, and telephone number)

**SAMPLE LETTER
COMPLAINT TO FERPA
(Be sure to keep a copy for your records)**

(Date)

Supervisor of Complaints
FERPA Office
U.S. Department of Education
Room 407A Switzer Building
400 Maryland Ave., S.W.
Washington, DC 20202-6186

RE: (Statement fo violation, i.e., denial of access to school records)
(Name of Sschool)
(Name of city, state)

Dear Sir or Madam:

My son/daughter (name of student) is a student at (name of school). On (date) I requested to see (name of student)'s records. On (date) I received a reply from (name of principal or other person and his/her title), informing me that I could not see the (name of records).

I believe that this is a violation of my parental rights under the Family Educational Rights and Privacy Act, 20 U.S.C. 1232(g).

I want to request an investigation of my complaint and that I be informed of your findings within a reasonable amount of time.

Should you need to contact me I can be reached at (daytime telephone number) during normal business hours. Thank you for your assistance with this matter.

Sincerely,

(Parent's name, address, and telephone number)

Cc: (Name of principal)
(Name of school)

2.5 EVALUATION PROCESS

Introduction

Every child who is suspected of being in need of special education and related services has the right to be evaluated by the special education department of his/her local school system. The Local Education Agency (LEA) is said to have knowledge that a child is a child with a disability if:

- the parent has expressed concern in writing to supervisory or administrative personnel of the appropriate agency, or a teacher of the child, that the child is in need of special education and related services;
- the parent of the child has appropriately requested an evaluation; or
- the teacher or other personnel of the LEA has expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education or other supervisory personnel of the agency.

Even where these circumstances are present, the school system is not deemed to have knowledge that a child has a disability if:

- 1) the parent has refused to consent to an evaluation of the child;
- 2) the parent has refused special education services for the child, or
- 3) the school system has performed an evaluation and it was determined that the child was not eligible for special education.

An evaluation is what occurs when the student's performance is professionally evaluated through test results, interviews, observations and other relevant information, in order to determine the nature and extent of the student's impairment and the need for special education and related services.

How to Ask for an Individual Evaluation

If the child is not in school, parents should write to the special education department in their parish and ask for an evaluation. If the child is an infant or toddler, the school system should be able to refer parents to the agency

performing evaluations under the infant and toddler plan. Parents should include copies of any private evaluations, diagnosis or treatment plan within the written request.

If the child is presently in school, parents should give the school building level committee (SBLC) at the child's school a formal written request for review of his/her educational program.

A sample letter for requesting an initial evaluation is included in the section on "Identification and Referral for Special Education," which begins on page 7.

Individual Re-Evaluation

A re-evaluation is required once every three (3) years, unless the parent and the local education agency agree that a re-evaluation is not necessary. However, a re-evaluation can occur anytime when one of the following five events occurs:

- 1) the re-evaluation is requested in writing by the student's teacher or by the LEA's special education director/supervisor;
- 2) the re-evaluation is requested in writing by the student's parents (the request can be made orally if the parent is illiterate in English or has a disability that prevents the production of a written statement);
- 3) a significant change in the educational placement of a student is proposed by the school system, the parent, or both;
- 4) a final written decision has been issued by a court of competent jurisdiction requiring that an individual evaluation be conducted, or
- 5) a student is suspected of no longer having a disability and no longer in need of service.

A sample letter requesting a re-evaluation is included at the end of this section.

The Evaluation Process

If the SBLC/Student Assessment Team (SAT) determines that there is a need for an evaluation, the committee will notify the principal who will then refer the child to Pupil Appraisal personnel for an individual evaluation. Children with disabilities not recognized as exceptional under IDEA may still be entitled to an evaluation under Section 504 of the Rehabilitation Act.

Timelines for Initial Evaluation

A request for parental consent to conduct an evaluation must be made within 10 business days after the receipt of the referral by pupil appraisal. The initial evaluation report must be completed and disseminated within 60 business days of receipt of parental approval, unless a justified extension of time is requested. If an evaluation is begun less than sixty operational days before the end of the school year, the time for completion may be suspended during the summer vacation.

Timelines for Re-evaluations

If a parent requests a re-evaluation prior to the mandated triennial re-evaluation, a re-evaluation report must be completed within 60 business days of parent notice, and the same extension allowances and summer vacation rules apply as for initial evaluations.

Triennial re-evaluations must be completed on or before the third-year anniversary of the previous evaluation. Justified extensions for re-evaluations are permitted, except end-of-school-year extensions during the mandated triennial re-evaluation.

See Bulletin 1508, Evaluation timelines, for specific rules regarding time extensions.

Areas of Assessment

Each individual evaluation consists of the Pupil Appraisal Assessment Program and/or a Diagnostic Assessment. The Pupil Appraisal Assessment Program is a process of informally gathering information about a child in order to make practical education decisions on the child's behalf. The program is classroom based and is conducted by a team of professionals called the Pupil Appraisal staff who work with the child's teacher. In some cases the Pupil Appraisal Assessment Program may be the only part of the evaluation that is needed.

A Diagnostic Assessment is a more formal way of getting information about the child in order to make decisions about his/her education. The Diagnostic Assessment may include classroom observation, assessment of educational, developmental and adaptive behavior, psychological, psychiatric, social and medical evaluations, interviews with parents and teachers and speech and language evaluations. The evaluation must be sufficiently comprehensive to identify all of the child's educational needs, whether or not they are

manifestations of the child's disability category. In addition, the testing instruments used in the evaluation must be appropriate for the age and skill level of the child. They must also be conducted in the language normally used by the child in his/her home and learning environment. For individuals with deafness, blindness, or no written language, the evaluation must be conducted using the mode of communication typically used by the student. .

An individual evaluation that determines a student to be exceptional must consist of all required components as specified below and meet the requirements for each specific exceptionality. However, it is permissible to determine a student to be non-exceptional on the basis of selected components.

Specified components of an individual evaluation:

- Sensory screening, if not previously conducted;
- A review and analysis of all pre-referral activities and any pre-existing evaluation data of the student;
- An interview with the student;
- A family interview conducted by the school social worker or other qualified personnel to determine the impact of educational, socioeconomic, environmental, cultural, developmental, emotional, and/or health/medical factors on the student's educational performance;
- An interview with the student's teacher in order to specify and define behaviorally the areas of concern, determine the teacher's expectations for the student and class, and clarify previous interventions;
- Observation and study of the student's physical condition, academic and/or social behaviors in daily activities conducted by pupil appraisal personnel;
- A determination of the student's instructional level(s) and frustration level(s) by a curriculum based assessment plan within the general curriculum;
- When behavior is of concern, a functional behavioral assessment must be conducted by a certified school psychologist, a school social worker, or other appropriately trained personnel;

- An assessment of the student's health status conducted by a school nurse or other qualified personnel when health procedures, such as special diet, medications, blood glucose monitoring, seizure management, modified activities of daily living, and respiratory treatments, are required by the student;
- The development and implementation of individual behavioral and instructional interventions, conducted or directed by pupil appraisal personnel for a reasonable period of time. The interventions must be relevant to the referral concern(s);
- Systematic measurement of academic and/or social behaviors of concern conducted prior to the intervention and following implementation of the intervention;
- An analysis of the results of the individual intervention(s);
- Educational developmental, functional and/or adaptive behavior assessment;
- Psychological, social and medical assessments;
- Speech and language assessments and/or assessment of the communication mode of the student;
- an assistive technology assessment, if warranted;
- Transitional needs must be addressed as part of all evaluations occurring after the 14th birthday of a student with disabilities;
- Other evaluations (e.g. orientation & mobility) determined to be necessary by the multi-disciplinary team.

No single procedure may be used as the sole criterion for determining an appropriate educational program for the child/student.

The Evaluation Report

The final written report must be a compilation of the data gathered during the individual evaluation. The data collected by Pupil Appraisal personnel must be integrated and written in language that is clear to the individuals who will use it.

The integrated written report of the child's evaluation must contain the following minimal requirements:

1. reason for referral,
2. the individual evaluation questions or statements of concern;
3. a description of the evaluation procedures, including interventions, used to address each evaluation question;
4. a description of the student's present level of functioning in relationship to the general curriculum;
5. a description of the student's relative strengths and support needs,
6. a description of the educational needs of the student ranked in order of importance;
7. a description of the impairment or condition that enables the student to be classified as eligible for special education and related services;
8. information to determine the validity of the evaluation data;
9. an explanation of any discrepancies between test results and the child's customary behaviors and daily activities, or of any discrepancies among evaluation results;
10. the recommendations of services necessary to meet the child's educational needs;
11. a brief summary of the evaluation findings;
12. an explanation for all extensions of the evaluation timelines;
13. names of assessment personnel participating in the evaluation, and
14. signatures of assessment personnel whose conclusions are accurately reflected in the report.

The information in the evaluation report provide information to educators and parents that will assist in determining the content of the student's IEP or IFSP.

Challenging an Evaluation

Parents should carefully read the completed evaluation, and seek a thorough explanation of technical terms that they may not understand. It is crucial that parents understand the evaluation so they will know whether to challenge it and how to use it. If the school system does not explain the evaluation to the parent's satisfaction, s/he may wish to seek the assistance of special education advocates or other professionals.

If parents feel that their child's evaluation was incomplete, they can request that the school conduct additional testing in order to more fully evaluate the child. If parents think the school's evaluation did not use the right tests or come to the right conclusions, they may write a letter to the director or supervisor of special education explaining why they do not agree with the evaluation.

As previously stated, the parent can also request a re-evaluation to be done by the school system. A re-evaluation is to take place at least every three (3) years, but, may be conducted sooner if conditions warrant a re-evaluation, or if the child's parent or teacher requests a re-evaluation.

A sample letter requesting additional testing is included at the end of this section.

Independent Educational Evaluation

If the school system stands behind its findings, parents have the right to an independent evaluation, which is done by a qualified professional not employed by the school. The evaluation must meet all the same requirements that the school's evaluation must meet. However, if there is objection to only one component of an evaluation, it may be possible to supplement that component with independent information, and to either accept the rest of the school system's evaluation or ask the school system to provide the other components of a new evaluation. For example, if a parent objects to incomplete medical or psychological testing in a school system evaluation, they may seek an independent source of such testing, and ask the school system to complete the other portions of the evaluation.

If parents give written notice to a school system about their disagreements with an evaluation and request an independent evaluation, one should be performed at no cost to the parents unless the school system, within ten days of receiving notice of the parents' disagreement, seeks a ruling from a due process hearing officer as to whether there should be an independent evaluation at the school board's expense. School districts may ask why the parent objects to the public evaluation, but may not require the explanation.

School systems can place limitations on the costs of independent educational evaluations. (The Louisiana State Department of Education has commented that an independent educational evaluation's cost should not exceed the average cost of such an evaluation within the state of Louisiana or within a 75 mile radius of the school system. The United States Department of Education has commented that school systems can establish a maximum cost for independent evaluations, but parents must be given the opportunity to demonstrate unique circumstances for exceeding a school system's established maximum cost. Also, the maximum fee established by a school system may not be a general average of all fees in the area, but must be an average established so that parental choice exists and only the most unreasonable fees are eliminated.) A school system may not simply refuse to pay for a properly requested independent evaluation unless it secures such a ruling.

A child always has the right to an independent evaluation if the parents pay for it themselves. It is sometimes more efficient to pay for an independent evaluation, after giving notice of disagreements and requesting one, and then seek reimbursement for the expenses. However, many parents cannot afford to advance such costs. In such cases, the parent may have to seek a due process ruling on the issue if the school district refuses to pay for a properly requested independent evaluation before obtaining the independent evaluation.

After an independent educational evaluation is obtained, it is used by the IEP team in determining programming and placement. If it was paid for by the school district, then it must be used during the IEP meeting and in any related programming decisions. If it was paid for by the parents and not reimbursed, then the IEP team only has to "consider" it in any determinations or decisions.

A sample letter asking for an independent evaluation is included at the end of this section.

How to Use a Completed Evaluation

The evaluation serves as the blueprint for a child's educational plan. It contains detailed information and recommendations about a child's individual needs and appropriate programming, and should therefore serve as the primary reference point for developing a child's IEP. Unfortunately, school systems do not always make use of the evaluation information. It is important for the parent to be familiar with the evaluation and to remind school personnel to refer to it frequently.

All recommendations contained in the evaluation should be discussed at each IEP meeting. If the school system fails to offer a specific type of service or program suggested in the evaluation, it should explain, to the parents' satisfaction, why the child does not need this service at a particular time. For example, an acceptable reason might be that the evaluation recommends trying something that has already been successfully or unsuccessfully attempted in the past. An unacceptable reason would be that there are not enough related services personnel on contract to provide needed services. If unacceptable reasons are given, the parent should continue to request that all services recommended in the evaluation be included in the IEP. If agreement cannot be reached, the parent may wish to include a comment about the disagreement on the IEP form or refuse to sign the new IEP.

Suggested Sources of Independent Evaluations

Possible sources of independent evaluations would be the university affiliated program, hospitals, university education or special education departments, programs which specialize in providing services to children with disabilities, and medical specialists who work with children with disabilities. In addition, sometimes arrangements can be made to have an evaluation done by Pupil Appraisal personnel from a neighboring parish school system.

For information on evaluations see: Bulletin 1508; Bulletin 1706, Subpart A § 301-308; and 34 C.F.R. § 300.300-300.311.

**SAMPLE LETTER
REQUESTING RE-EVALUATION
(Be sure to keep a copy for your records)**

(Date)

(Name of Director Supervisor of Special Education)

(Name of School)

(Address of School)

Dear (Name of Director or Supervisor):

I am the parent of (name of student). I recently reviewed my child's assessment and I believe it is out-of-date. I request that (name of student) be re-evaluated because (give your explanation as to why the child should be re-evaluated).

Thank you for your help. I look forward to hearing from you within five school days of the date you receive this letter if you do not plan to consider my request. Otherwise, please contact me so we can arrange a time and a place to further discuss (name of student)'s re-evaluation.

Sincerely,

(Parent's name, address, and telephone number)

cc: (School Principal)

Some examples of reasons why you feel the child should be re-evaluated are:

- The school failed to evaluate the child for assistive technology.
- You disagree with the denial of assistive technology services.
- You disagree with the denial of occupational therapy or physical therapy services.
- You disagree with the manner in which the child's IQ was tested or you question the results.
- The child's need have changed.
- The child has been found to have a new or different disability that is not being addressed in his current program.

**SAMPLE LETTER
REQUESTING ADDITIONAL TESTING
(Be sure to keep a copy for your records)**

(Date)

(Name of Director or Supervisor of Special Education
(Name of School)
(Address of School)

Dear (Name of Director or Supervisor):

I am the parent of (name of student). I have studied the reports of the school's assessment of my child and feel that (he/she) was not evaluated in every area of (list areas needing further testing).

Thank you for your help. I look forward to hearing from you by (insert date one week from date you mail the letter) if you do not plan to consider my request. Otherwise, please contact me so that we can arrange a time and a place to further discuss additional testing for (name of student).

Sincerely,

(Parent's name, address, and telephone number)

cc: (School Principal)

**SAMPLE LETTER
REQUESTING AN INDEPENDENT EVALUATION
(Be sure to keep a copy for your records)**

(Date)

(Name of Director or Supervisor of Special Education
(Name of School)
(Address of School)

Dear (Name of Director or Supervisor):

I am the parent of (name of student). I do not feel that the school system's assessment of (name of student) dated (date of evaluation) is appropriate, and I am requesting an independent evaluation.

Please tell me in writing of the criteria under which the independent assessment must be conducted so that it meets the criteria the school uses in its assessment. Also, please tell me in writing where I may obtain an independent evaluation for my child.

I understand that the school must pay for the independent assessment unless it requests a hearing to prove that its assessment was appropriate. I will send you the results of the independent evaluation. I understand that it must be considered in any future decisions about my child's education.

Thank you for your help. I look forward to hearing from you within five school days of the date you receive this letter.

Sincerely,

(Parents name, address, and telephone number)

cc: (School Principal)

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