

Special Education Evaluation and Eligibility

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and State Rules**

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Laws and Rules



Individuals with Disabilities Education Act (IDEA)

34 CFR §300.17

34 CFR §300.30

34 CFR §300.111

34 CFR §300.300 - §300.306

34 CFR §300.311

34 CFR §300.320 - §300.323

34 CFR §300.502 - §300.504



Michigan Administrative Rules for Special Education (MARSE)

R 340.1701b

R 340.1705 – R 340.1717

R 340.1721

R 340.1723c

Rehabilitation Act of 1973, Section 504

Who is Considered a Parent Under the IDEA

The IDEA defines a “parent” as:

- **A biological or adoptive parent**
- **A guardian** authorized to make general or educational decisions (but not the state if the child is a ward of the state)
- **An individual acting in place of a biological or adoptive parent** (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare
- **A surrogate parent** who has been appointed by the student’s local education agency
- **A person appointed by a judge’s order**

There are protections in IDEA that ensures the rights of students who are eligible or suspected to be eligible for special education services when a:

- parent can’t be identified
- the school cannot locate the parent
- the child is a ward of the state
- the child is an unaccompanied homeless youth

When a student turns 18, all parental rights transfer to the student unless a legal guardian has been appointed through court proceedings.

Child Find



Birth to 3 years

MiEarlyChildhood.org

1-800-Early-On

(1-800-327-5966)



3 years to 5 years

buildupmi.org

1-888-320-8384

(MI Special Education Information
Line)



Birth through 25 years

Office of Special Education

1-888-320-8384

(MI Special Education Information Line)

Child Find is a legal requirement of the Individuals with Disabilities Education Act (IDEA) that schools identify, locate and evaluate all children who are in need of special education programs and services.

In Michigan **Child Find** covers every **child** from birth through age 25.

The process of public awareness activities, screening and evaluation is designed to locate as early as possible children with disabilities who need early intervention and special education services.

In Michigan, Child Find activities are coordinated by Early On (birth-age 3) and Child Find Coordinators (ages 3 through 25).



Does A Child Need an Evaluation?

If your child is struggling in school, find out why.

Your child may have a disability that is affecting his/her educational performance and may be eligible for special education and related services that can help.

Interventions Prior to Evaluation

Using interventions in the general education classroom or modifying instruction cannot be used to delay or deny an evaluation for special education services when there is a suspected disability.

If interventions provided to all children are not working for your child, an evaluation can be requested.

Request to Evaluate

A parent can request that their child be evaluated, or the school may ask to evaluate the child.

When a verbal request is made, the school must support the parent in documenting this request.

If an evaluation is going to be done, the school must evaluate the child at no cost to the parent.

If the school says they will not evaluate your child, you must be notified in writing.

Prior Written Notice (PWN)

Within **10 days (school days)** of receiving a request to evaluate, and before any evaluation is done, the school must provide the parent with written notice and request consent from the parent to evaluate.

Prior Written Notice is a legal requirement of IDEA. It is written information given to parents by the school to explain decisions about your child's education and the reasons for those decisions.

When is Prior Written Notice Required?

Prior Written Notice is required whenever the school wants to (or refuses to):

- Evaluate your child
- Change your child's disability identification
- Change your child's educational placement
- Change the way in which your child is provided with a free appropriate public education (FAPE)



Notice is required prior to the school requesting consent to evaluate your child and the first time your child will receive special education and related services.

The information in the notice will help parents make an informed decision about providing consent.

Requirements of Prior Written Notice (PWN)

Prior Written Notice for an initial evaluation must include providing information outlining parent and student rights in a document called the Procedural Safeguards.

As part of providing Prior Written Notice, the school must:

- ✓ Describe what action the school wants to take (or is refusing to take)
- ✓ Explain why it wants to conduct an evaluation (or why it refuses);
- ✓ Describe each evaluation procedure, assessment, record, or report the school district used in proposing the evaluation (or refusing to conduct the evaluation);
- ✓ Explain where parents can go to get help in understanding IDEA's provisions;
- ✓ Explain what other options the IEP team considered and why those were rejected;
- ✓ Provide a description of other factors relevant to the school's proposal (or refusal) to evaluate.

Review of Existing Evaluation Data (REED)

As part of the initial evaluation process, there may be a Review of Existing Evaluation Data (REED). It is best practice to review:

- Child's classwork
- Discipline record
- Performance on state or district assessments
- Observations by teachers and related services providers
- Information provided by the parent

The REED process is not required for an initial evaluation.

Parental Consent (Informed Consent)

The IDEA requires the school to obtain parent consent before an initial evaluation.

Consent means:

- Parent has been fully informed of all relevant information about the evaluation in native language or through another mode of communication.
- Parent understands and agrees in writing to the evaluation.
- Parent understands that granting consent is voluntary and can be withdrawn at any time.



Parental consent to evaluate **is not** consent for the initial provision of special education and related services.

School may seek to conduct an initial evaluation of your child if parent refuses consent or doesn't respond to request to provide consent, using consent override procedures.

Evaluation of a Child With a Suspected Disability

Having a disability does not necessarily make a child eligible for special education and related services.

Evaluations involve gathering information from a variety of sources, including information provided by the parent, about a child's functioning and development in all suspected areas of disability.

A child must have a full and individual first (or initial) evaluation to determine whether he/she has a disability and may be eligible to receive special education programs and/or services.

Initial evaluation

A child with a disability means a child who has been evaluated and based on Michigan Administrative Rules for Special Education (MARSE) has a disability under one of the 13 disability eligibility categories, and the child who, because of their disability, needs special education and related services.

The purpose of an initial evaluation is to:

- See if the child is a “child with a disability” as defined by the Individuals with Disabilities Education Act (IDEA) or Michigan Administrative Rules for Special Education (MARSE).
- Gather information that will help determine the child’s educational needs.
- Provide information about appropriate educational programming for the child.

Initial Evaluation Process

A school team of qualified professionals called a Multidisciplinary Evaluation Team (MET) will conduct the evaluation.

Comprehensive evaluation to identify all the child's special education and related services needs, whether or not commonly linked to the suspected disability category.

Could include assessments of health, vision, hearing, social and emotional status, general intelligence, academic performance, communication, and motor abilities.

Evaluation must use a variety of assessment tools and strategies.

Evaluation must consider information provided by parent.

Evaluation process must be completed within **30 school days** from the date of receipt of parent consent to evaluate.

Multidisciplinary Evaluation Team (MET)

A Multidisciplinary Evaluation Team (MET) will-

- Complete a full and individual evaluation of the child
- Meet to review information about the child
- Prepare a written report that is presented to the Individualized Education Program (IEP) team.

The MET must include a minimum of 2 people who are responsible for evaluating the student suspected of having a disability.

The team shall include at least 1 special education teacher or specialist who has knowledge of the suspected disability.

MET Report and Recommendation

The report must include the information needed by the IEP team, including the parent, to determine:

- Eligibility
- Present level of academic achievement and functional performance
- The educational needs of the student

The MET makes a recommendation about whether the child meets eligibility requirements for special education and related services.

Eligibility for Special Education Services

The Michigan Administrative Rules for Special Education (MARSE) defines thirteen categories of disability and criteria for eligibility for each category.

A child must meet the requirements in one or more of the disability categories in the Michigan Administrative Rules for Special Education (MARSE) to be eligible for special education services.

The disability must affect the child's involvement and progress in the general education curriculum and the child must need specially designed instruction and related services.

The child's IEP team, including the parent as a member of the IEP team, determines a child's eligibility to receive special education programs and services.

[Special Education Eligibility Categories](#)

The Individualized Education Program (IEP) Team

The Individualized Education Program (IEP) team must include:

- Student's parents
- At least one general education teacher (if the child is or may be participating in the general environment)
- At least one special education teacher/special education provider
- Representative of the public agency
- Individual who can interpret evaluation results
- Child, if appropriate



Parent or school may invite others who has specific knowledge or expertise about the child.

IEP meeting is held, and the school provides the parent with the notice of an offer of a free appropriate public education (FAPE) or determination of ineligibility.

If eligible, the IEP team must develop an Individualized Education Program (IEP) to address the child's unique needs that result from his/her disability. The results of the evaluation will form the basis for developing the IEP.

From the time parent signs consent to evaluate to the notice of the offer of FAPE or the determination of ineligibility must not be more than **30 school days**.

Parent Participation in the IEP Meeting

Schools must take steps to ensure the meaningful participation of parents in the IEP meeting by:

- Notifying parent of the meeting early enough to ensure he/she can attend
- Scheduling the meeting at a mutually agreed upon time and place.

Schools may conduct meetings in person, virtually, or by teleconference.

Meaningful participation may need to include parent training on technology being used.

The schools must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP team meeting, including arranging for an interpreter for parents who are deaf or hard of hearing or whose native language is other than English.

Notice of FAPE and Initiation of the IEP

Within **10 school days** of the request for an evaluation, the school must provide notice and request parental consent to evaluate.

The time from the school's receipt of the request for an evaluation to the offer of a FAPE or determination of ineligibility for special education services must not be more than **30 school days**.

Within **7 school days of the IEP meeting**, the school must provide an offer of a FAPE and identify where programs and services will be provided and when the IEP will begin. School and parents may agree to a later initiation date for the proposed IEP if the later date is clearly defined in the IEP.

After receiving the initial offer of FAPE, a parent has **10 school days** to provide the school with parental consent to initiate special education programs and services.

Unless a parent has filed an appeal, the school must initiate a proposed IEP as soon as possible and not more than **15 school days** after the parent's receipt of notification, or not more than **15 school days** after the receipt of parent consent.

Initial Evaluation Procedure for Special Education Programs and Services

Michigan Department of Education Office of Special Education Guidance Document:

[Guidance for Timeline for Initial Evaluations](#)

1

Request
for initial evaluation



from parent or teacher to district

2

Written Notice
of proposal or refusal to evaluate



from district to parent
within 10 school days of request

3

Written Consent
to conduct evaluation in all areas of
suspected disability, if district proposes
to conduct an evaluation



from parent to district

4

Conduct Evaluation
after receipt of parental consent
within 30 school days



Multi-disciplinary Evaluation Team (MET)
conducts evaluation and recommends eligibility;
Individualized Education Program (IEP) Team
(including parent) determines eligibility

5

Develop the IEP
if the IEP Team determines eligible



IEP Team (including parent) develops IEP
based on the unique needs of the student

6

Written Notice
of eligibility determination;
offer of a FAPE, if applicable



from district to parent
**within 30 school days of receiving
parental consent for evaluation**
An extension is allowable if agreed to in
writing by the district and the parent

7

Written Consent
for special education programs and services



from parent to district
**within 10 school days of receiving
offer of a FAPE**

8

Implement the IEP
after receipt of parental consent



District implements IEP
**within 15 school days of receiving
parental consent for services**

The Right to Disagree With the Evaluation Results

Parents have options under the Procedural Safeguards if they disagree with results of their child's evaluation



Parents have the right to request an **Independent Educational Evaluation (IEE)**. The school must respond to a written or verbal request for an IEE within **7 calendar days** of receipt.

The district may grant the request for the IEE or must provide Notice and file a due process complaint and request a hearing to show that its own evaluation was appropriate.

If the district grants the request for an IEE

- It is completed at no cost to the parent
- Conducted by a qualified examiner not employed by the school, district, or responsible for educating the child

Options for Resolving Disagreements



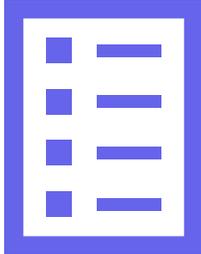
Informal Meeting



Facilitated Meeting



Mediation



State Complaint



Due Process Complaint/Hearing



FAPE for Adult Learners

Adult learners with disabilities, ages 18-26 retain their right to special education and related services if they have not received a regular education diploma.

This includes young adults who are enrolled in adult education, alternative education, and transition programs.

Initial evaluations to determine an adult learner's eligibility for special education and related services are the same as for younger students.

In establishing the initial evaluation process, school districts have the flexibility as they adapt to the unique needs of adults.

The process should emphasize providing the adult learner with information about disability, evaluation process, special education supports, community supports, educational options, and self determination.

Special Education Reevaluation Process

The reevaluation process is intended to address students with disabilities' changing needs through the years.

When to conduct a reevaluation

- Reevaluation must occur **at least once every 3 years**, unless the parent and school agree the reevaluation is not necessary.
- When the school determines the educational or related services needs, including improved academic achievement and functional performance, of the student warrant a reevaluation
- The child's parent or teacher requests an evaluation.
- May not occur more than once a year, unless parent and school district agree otherwise.

When parents and school agree a reevaluation is unnecessary

- Parent and school may agree that a reevaluation is unnecessary to determine that the child continues to have a disability needs special education and related services.
 - A review of existing educational data (REED) should be completed
 - Parent can change their mind at any time and request a reevaluation
 - School must conduct the evaluation or provide notice to the parent about why the reevaluation is unnecessary

Before stopping a student's special education services, a school district must evaluate a student with a disability, unless the student is exiting due to graduation or aging out.

Key Takeaways

An initial evaluation is the essential first step in the special education process for a child with a disability.

Parental consent (informed consent) must be obtained before the initial evaluation may be conducted.

The evaluation process is guided by requirements in Part B of the Individuals with Disabilities Education Act (IDEA) and Michigan Administrative Rules for Special Education (MARSE).

It's important to understand the initial evaluation process, procedures, timelines, the determination of whether your child is eligible for special education and related services, and what to do if you disagree with the evaluation results, so you can best advocate for what your child needs to be successful in school.



800-552-4821 www.michiganallianceforfamilies.org

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In collaboration with



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