

## **Your Child's Education**

### **An Overview of Special Education Due Process Steps**

Federal and state laws have specific steps to make sure the rights of children with educational disabilities and their parents or guardians are protected. These rights include making sure that you have a chance to work in partnership with the school district in making the major decisions about your child's education. These steps are carried out in a way that is fair to your child. Each step must be done in order.

#### **Step 1: Referral**

#### **Step 2: Evaluation**

#### **Step 3: Eligibility**

#### **Step 4: Individual Education Program Planning**

#### **Step 5: Placement**

#### **Step 6: Implementation and Progress Monitoring**

#### **Step 7: Review**

#### **Step 8: Re-evaluation**

#### **Step 1: Referral**

When parents, school staff, or someone who has extensive knowledge of a student notices that a child might need special help in school, they should give that information in writing to the school system. Schools focus on preventive strategies, also known as Response to Intervention (RtI), to remediate and skill deficits a student may experience. Within this process, schools intensify services based on student need and their "response" to previous interventions. If a student continues to increase in deficit, then a school team or parent may refer the student for an educational evaluation.

If a parent or individual not employed by the school district wants to refer a child or youth, the school district must provide assistance to make sure the written referral is completed and given to the school. An important part of the process for referral is the attempt at intervention to address the need that the child has. The referral information must show that the child did not respond to interventions tried. This 'response to intervention' is especially important when addressing reading difficulties. Interventions for reading must be research-based. Data must be collected and evaluated.

When the school receives a referral, the process starts. The parent will be notified in writing that a referral on their child was received. The notice will tell them the referral was made and will ask them to attend an Admissions and Release Committee (ARC) meeting to discuss the referral. The ARC, with the parent as a member, will determine if enough information is available to begin a full and individual evaluation. If the referral information is complete, the ARC will decide if there is a need for a full and individual evaluation of the child. If the referral information is not complete or does not support a suspected disability and the need for a full and individual evaluation, the ARC records the basis for the decision.

The school district must have the parent or guardian's written permission (consent) before the child can be individually evaluated. Written permission is required by federal and state regulations.

The total amount of time from the date of the signed written permission until the date services are initiated, excluding the number of days the district is waiting for parental decisions, shall not exceed sixty school days according to state regulations.

## **Step 2: Evaluation**

Once written permission from the parent is obtained, a team of people who works with the child will evaluate the child's abilities and needs. They will use tests and procedures such as individual tests, review of school work, and school records, behavioral observations, interviews, and rating scales. All of these individual tests and procedures may be used to ensure that the evaluation is valid.

The law says:

- The child or youth will be individually evaluated at no cost to the parent.
- The full and individual evaluation must be done by a team or group of people who are trained to give the tests and procedures and interpret the results. This is called a multidisciplinary team evaluation.
- At least one of the people on the multidisciplinary team must have knowledge in the area of the disability the child is suspected to have.
- Several different tests and procedures are to be used, not just one. Eligibility for specially designed instruction and related services cannot be based on a single test or procedure.
- All tests must be given in the language a child uses and in a way that the child can best answer. This is called non-discriminatory testing.

When the evaluation is completed, the parent is invited to an ARC meeting to discuss the results of the evaluation.

## **Step 3: Eligibility**

When determining eligibility for a disability, the ARC must include someone knowledgeable about the evaluation procedures and results. The ARC will use the full and individual evaluation results to

determine if the child has a disability. The ARC will use the evaluation results to determine if the disability adversely affects (has a negative impact on) the educational performance of the child to the extent that the child needs specially designed instruction and related services in order to receive a free appropriate public education.

If the ARC, using the results of the evaluation decides the child is not eligible for specially designed instruction and related services, the parent is given a written explanation (conference summary) of the decision. If the ARC decides the child is eligible for specially designed instruction and related services, the parent also receives a written explanation (conference summary) and the ARC develops a written Individual Education Program (IEP) for the child. If the child is eligible, the parent must provide written permission for their child to receive services. Conversely, if a child is eligible for services and a parent refuses to give permission for the school to provide specially designed instruction, they must do so in writing.

#### **Step 4: Individual Education Program (IEP) Planning**

After the ARC has decided that the child has an educational disability and needs specially designed instruction and related services, the ARC develops a written Individual Education

Program (IEP) for the child. The IEP must be aligned with the needs based on the pre-referral interventions, referral, and eligibility category.

The ARC may review the evaluation material, determine eligibility, develop the IEP, and determine where the child will receive services at one meeting. Sometimes it's necessary to have a separate meeting to develop and plan the IEP and determine placement. In these cases, the IEP must be developed no later than 30 calendar days after the ARC meeting when eligibility is determined.

An IEP is written especially for the child. The IEP is a written, individualized plan of action describing the specially designed instruction and related services needed to meet the individual needs of the child. The IEP tells about the child's needs and includes the services that will be provided to meet those needs.

Federal and state laws and regulations say the IEP must include information about:

- What the child can and cannot do in the areas of: academic performance; communication status; social emotional status; health, vision, hearing, and motor abilities; general intelligence; and transition to postsecondary environments; and functional vision and learning media.
- What the child is going to be working on during the coming year (measurable annual goals and benchmarks or objectives)
- What the school is going to do to make sure the child receives what is needed - specially designed instruction, supplemental aides and services, and program modifications
- How much of the school day the child will be in classes and activities with children who have disabilities

- When services will start and how long they will last
- How the school will find out if the child is or is not making progress and how this will be measured
- When the school is going to check on the child's progress

### **Step 5: Placement**

After the IEP is written, the ARC will decide where the services will be provided. This is called placement. The child has a right to receive instruction and to take part in school activities in the least restrictive environment (LRE). This means that, as much as possible, the child has a right to be with children who do not have educational disabilities.

The ARC will consider what the least restrictive environment for the child based on the child's IEP. Remember, the least restrictive environment is not the same for every child. The key questions in determining the least restrictive environment are:

- What does the IEP say the child needs?
- Where can the child receive what the IEP says he or she needs?
- Where can the child receive what the IEP says and be with other children who do not have educational disabilities?

The ARC must always consider regular education classes in a regular school as the first option for placement. Where the child receives services depends on the kind of support the child needs. The school district must obtain written permission (consent) from the parent or guardian before the child receives the IEP's services.

### **Step 6: IEP Implementation and Progress Monitoring**

Once the parent or guardian has given permission for placement, the child will begin to receive the specially designed instruction and related services based on the IEP. The implementers of the IEP are responsible for providing instructional activities to help the child achieve the goals of the IEP. Implementers are also responsible for keeping records on how the child is doing during the year. These records are used to make decisions at the annual ARC review meeting. These records show that services were provided and how the child did.

### **Step 7: Review**

Federal and state regulations require the ARC to review the child's IEP within one calendar year of the date of the ARC meeting when the current IEP was completed. This review is called the annual review. Even though an ARC meeting must be held at least once a year to review the child's IEP and placement, a review may be requested by the parent or any member of the ARC at any time.

At the annual review, the ARC reviews the child's IEP and records kept by school staff and service providers to decide if goals have been met. The ARC also decides if the child still needs specially

designed instruction and related services. If services are still needed, the ARC develops a revised IEP and decides where services will be provided. The ARC provides the parent or guardian with a written summary (conference summary) of all the decisions made at the ARC meeting.

**Step 8: Re-evaluation**

Regulations also require the school district to re-evaluate the child on or before the third anniversary of the meeting when the ARC determined the child eligible. This review is the triennial review. The ARC must meet with the parent or guardian to plan for this re-evaluation. Written permission is again obtained from the parent or guardian.