

## SPECIAL EDUCATION EVALUATIONS

August 2021

Before a child can begin receiving special education services, the child must be evaluated to determine if the child is eligible for these services. The evaluation helps determine if the child has a disability and needs special education services. The evaluation is also important to identify changes to instruction, services, and supports the child needs to succeed.

### Special Considerations

**Time Period for Evaluation:** The timelines for a school to complete an evaluation did not change during the COVID-19 pandemic. The testing and collection of information for evaluations also remained the same, including interviews, review of your child’s history, and testing. However, many evaluations that were done virtually did not follow standard, and possibly valid, measures for testing. If you believe that your child’s evaluation was not completed correctly due to limitations created by the COVID-19 pandemic, you may request a second evaluation or an Independent Educational Evaluation (IEE). Refer to this fact sheet for more information about the IEE. Your child also may be entitled to compensatory education – make-up services – for the time when the evaluation was not done correctly.

**Right to Compensatory Education:** Many school districts did not complete evaluations within the required 60 days for students suspected of having disabilities. This timeline was not waived during the period of school closures. If your child’s school took more than 60 days to finish the evaluation, and your child was found to be eligible for services, your child may be entitled to compensatory education – make-up services – for the time when the evaluation should have been completed.

## INITIAL EVALUATION

### HOW DO I REQUEST AN EVALUATION?

If you think that your child may need special education services, you can request an evaluation using the following steps:

- Write an email or letter asking that your child be evaluated;
- Include the date, your child’s full name, your name, the reasons why your child needs an evaluation, and your contact information;
- Send the email or letter to your child’s teacher, the special education director, the principal, the superintendent, or a counselor. You may also send an email copying all these individuals;

- Keep a copy of the email or letter for yourself. The date of this communication is important;
- Read a sample letter at the end of this fact sheet.

After you send the letter or email, the school must provide a **Permission to Evaluate (PTE) - Consent Form** and make it “readily available” for you to sign.<sup>1</sup> [Click here for a sample copy of this form](#). This form will explain reasons for the evaluation, any records or reports the school will use, and the types of tests that the school will do. ***Check with the school if you have not received the PTE-Consent Form within 10 days. The school can only begin the evaluation after you sign the PTE-Consent Form.***<sup>2</sup>

You can also ask for an evaluation orally from a teacher or administrator. The school is required to give you the PTE-Consent Form within 10 days.<sup>3</sup> However, we strongly suggest that you **ask in writing for the evaluation** so that you have a record of the date you requested the evaluation.

The PTE-Consent Form for an initial evaluation should always come with a “Procedural Safeguards Notice” that explains your rights. [Click here for a sample Procedural Safeguards Notice](#).

If your school refuses to provide the PTE-Consent Form, you should request an explanation of the school’s refusal to provide the PTE-Consent Form. Ask the school to give you a [Notice of Recommended Educational Placement or Prior Written Notice \(NOREP/PWN\)](#) form that explains the school’s reasons for refusing to provide the Permission to Evaluate form and conduct the requested evaluation. ***You have the right to challenge any refusal to evaluate your child.***

### **CAN ANYONE ELSE REQUEST AN EVALUATION FOR MY CHILD?**

Yes. A school can request to evaluate your child if school staff think that your child might need special education services. The school has an obligation to identify a child who may need services. This is called “child find.”<sup>4</sup> The school also must ensure that families understand their child’s right to special education and a parent’s important role in the process.<sup>5</sup> If the school wants to evaluate your child for the first time, they must send you a PTE-Consent Form.<sup>6</sup>

### **WHAT IF I DO NOT WANT THE SCHOOL TO EVALUATE MY CHILD?**

Generally, it is your decision whether your child is evaluated.<sup>7</sup> Some special situations allow the school to evaluate a child against the wishes of the parent. If it wishes to do this, the school must request a hearing and get permission from a hearing officer.<sup>8</sup> Additionally, you may lose the right to make this decision if your child is in the custody of the Children and Youth system. In that situation, a Family Court judge can give someone else the right to agree to an initial evaluation.<sup>9</sup>

**Note:** Agreeing to an evaluation is not the same as agreeing to special education services. An IEP must be created before services can start. If you do not approve the IEP, the school cannot start

special education services.<sup>10</sup>

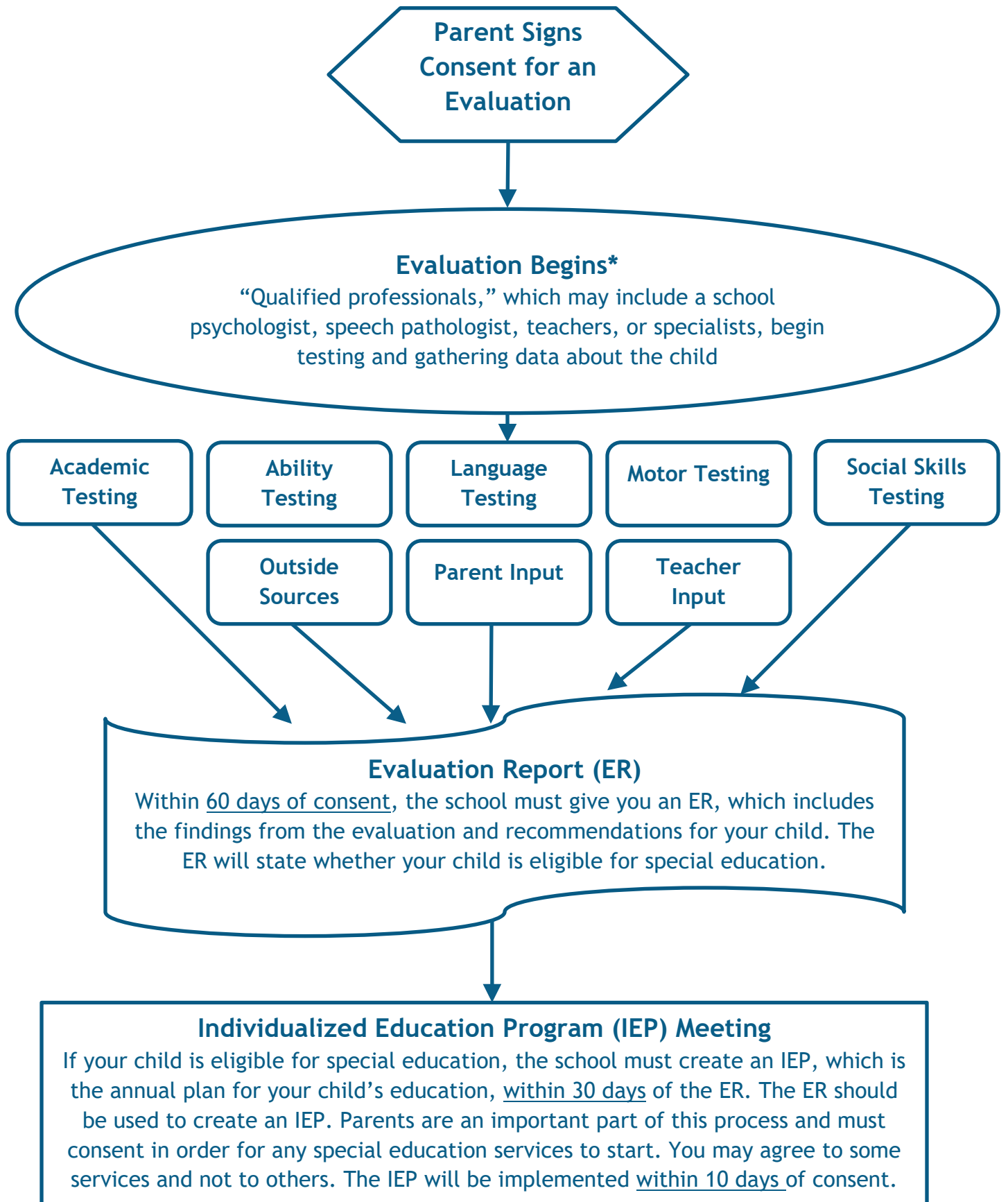
### WHAT IF THE SCHOOL REFUSES TO EVALUATE MY CHILD?

The school must give you the written notice – the NOREP/PWN – explaining the decision not to test your child or the decision that your child does not qualify for special education.<sup>11</sup> If this happens, you can fight the decision by asking for mediation, filing a complaint with the Bureau of Special Education Appeals, or requesting a special education hearing. You can learn more about these steps in ELC’s [Resolving Special Education Disagreements](#) fact sheet. If the school has violated a clear legal rule, including the 60-day timeline for conducting an evaluation or reevaluation, you can file a complaint with the Pennsylvania Department of Education’s Bureau of Special Education (BSE).<sup>12</sup> [Click here for more information on how to file a complaint.](#)

If your child turns out to be eligible for special education services after the evaluation is conducted, and the child had to wait to get those services because the school did not do the evaluation or failed to complete the evaluation within the required 60-day time frame, you should request compensatory education services (make-up services) for every hour of every day that your child failed to receive a free, appropriate public education. These services are intended to help your child catch up or compensate for the time the child failed to receive special education services.

### WHAT HAPPENS AFTER I SUBMIT A CONSENT TO AN EVALUATION FORM AND THE SCHOOL AGREES TO CONDUCT THE EVALUATION?

The diagram on the following page outlines the process that must be followed under federal and state law for conducting an evaluation.



\* This evaluation must be administered in the child's native language or other mode of communication “unless it is clearly not feasible to so...” 23 CFR 300.304 (c)(ii).

## HOW DOES THE EVALUTION TEAM DECIDE IF MY CHILD GETS AN IEP?

The Evaluation Team will answer two questions:

1. *Does your child have a disability?*

The law lists 13 different types of disabilities that qualify a child for special education services.<sup>13</sup> A medical diagnosis of a disability (such as ADHD) does not automatically make the child eligible for special education. A child cannot qualify for special education if their learning problem is caused by something other than a disability. For example, a child may be struggling because the child has not had proper instruction in reading or math.<sup>14</sup>

2. *Because of that disability, does your child need specially designed instruction and related services?*

The Evaluation Team will consider whether your child needs “specially designed instruction” (SDI) – instruction that is not part of the typical curriculum – because of a disability. You should think about what your child needs to learn and what changes would help your child learn that are not a part of the typical curriculum.

If the answer to both questions is YES, then your child will qualify for special education and an IEP.

## IMPORTANT POINTS ABOUT SPECIAL EDUCATION EVALUATIONS

There are several important points that you should know if you are seeking an evaluation for your child:

- The school cannot tell you that it is putting your child on a waitlist for an evaluation. The timelines are requirements. When you request an evaluation, the school has two options: 1) give you a PTE-Consent Form to sign consent for the evaluation; OR 2) give you written notice about why an evaluation is not necessary.<sup>15</sup> You can agree to extend the timelines.
- The evaluation is free. You cannot be asked to pay for any part of the evaluation.<sup>16</sup>
- The evaluation must be done in your child’s native language or the language that will lead to the most accurate results. The evaluation also must consider your child’s cultural background so that the testing will not be racially or culturally biased.<sup>17</sup>
- No one test can determine whether a child has a disability or needs special education.<sup>18</sup>

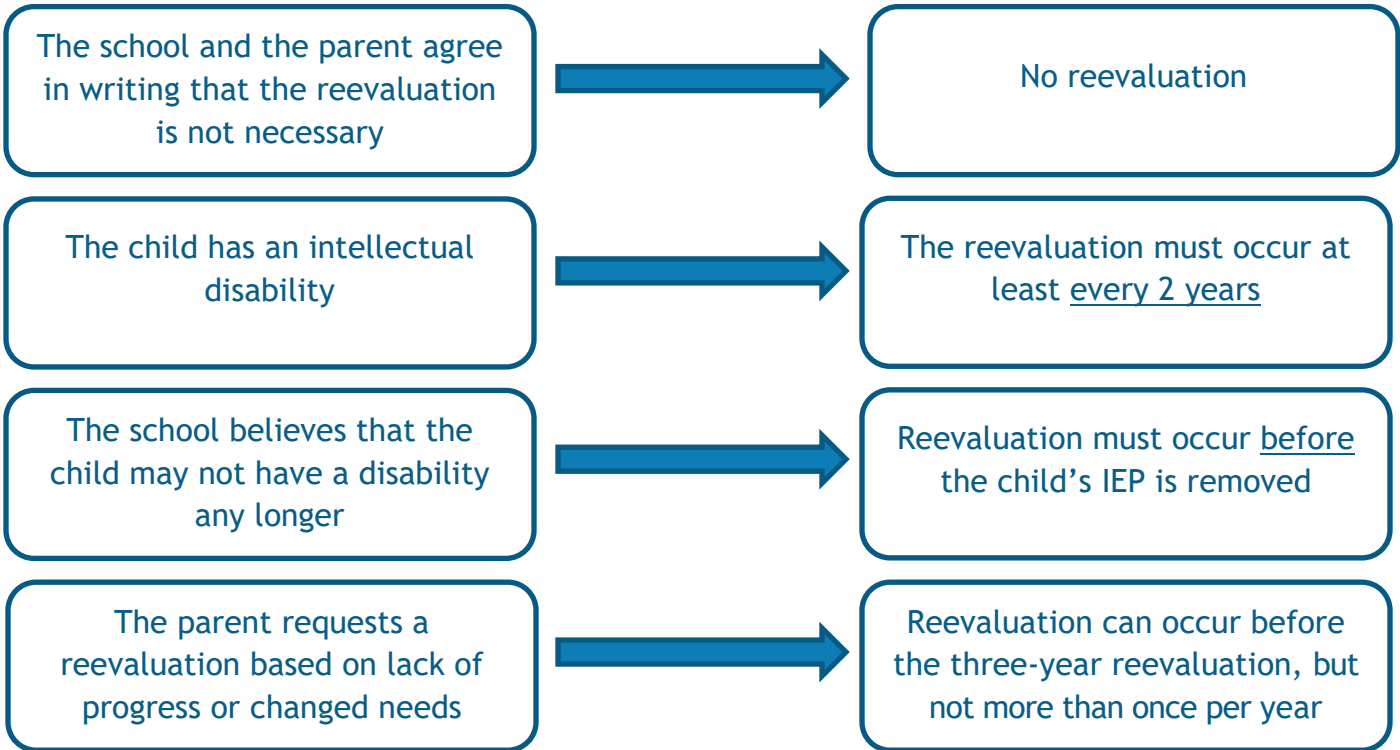
## WHAT IF MY CHILD MOVES TO ANOTHER DISTRICT BEFORE THE INITIAL EVALUATION IS DONE?

The same timelines still apply. A school may not have more than 60 calendar days to finish the evaluation if the child moves into a new school district before the initial evaluation is done.<sup>19</sup> However, the school can get more time if you agree and the school is working to get it done quickly.<sup>20</sup> The new and old schools must coordinate testing to evaluate the child as soon as possible.<sup>21</sup> Your child’s records should be shared quickly between the schools. In some cases, a new school may request additional time to repeat some tests, using its own team of professionals. The school must obtain your consent to extend the deadline for completing the evaluation.

## REEVALUATION

### ONCE MY CHILD HAS AN IEP, WHEN MUST MY CHILD BE REEVALUATED?

Every child who receives special education must be reevaluated every 3 years UNLESS



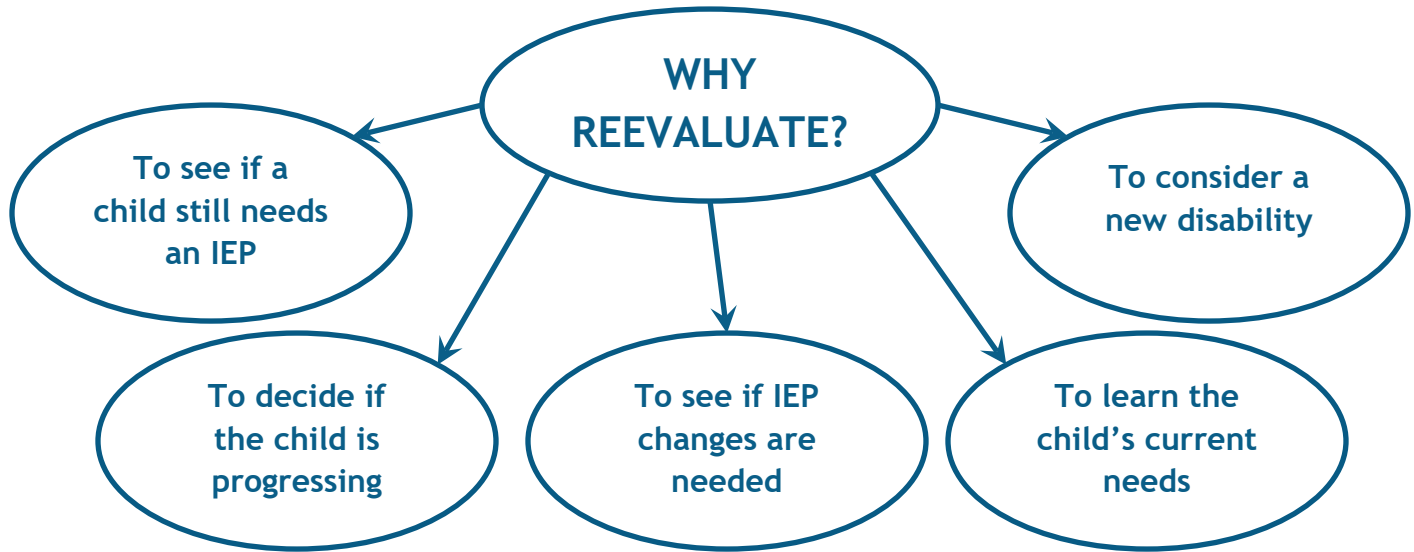
Think carefully before you agree to pass on (“waive”) your child’s three-year reevaluation. Three years is a long time in the life of a child. Even if the child’s disability has not changed, their needs, strengths, weaknesses, and behavior may have changed. Such changes show that the child’s IEP should be revised using more recent information.

The school also does not have to reevaluate the child if the child will no longer be eligible for special education due to graduation or age.<sup>22</sup> In Pennsylvania, students can continue to receive special education until the school term in which the student turns 21.<sup>23</sup> At that point, the school district must instead give the student a written summary of academic achievement and functional performance, as well as recommendations for how the child can achieve their postsecondary goals.<sup>24</sup>

If your child plans to enter college or a technical/vocational program, a recent evaluation will help inform a “Section 504 Accommodations Plan” that identifies accommodations and services your child may need in postsecondary programs (e.g., extended time for tests). Your child’s right to an IEP and special education services does not apply to these programs.

## WHAT MUST A REEVALUATION DECIDE AND HOW?

There are many purposes for a reevaluation:



The reevaluation process begins with a review of information about the child by the IEP team. This could include PSSA scores, report cards, and progress monitoring reports. The team must decide what additional information, including testing, interviews, and work samples, is needed for the reevaluation.<sup>25</sup> You can also request specific testing if you have concerns regarding whether or not your child may have a new disability or is making progress, or to inform transition planning for children age 14 and older.<sup>26</sup> Once this information is collected, the team will produce a Reevaluation Report.

Click [here](#) for a sample annotated Reevaluation Report from the Pennsylvania Department of Education.

## WHAT IF THE SCHOOL REFUSES TO EVALUATE MY CHILD OR WE DISAGREE ABOUT THE EVALUATION?

The school must give you a NOREP, a written notice explaining the decision not to test your child or the decision about whether your child qualifies for special education.<sup>27</sup> If you disagree with the school's testing and evaluation, you can request an "*Independent Educational Evaluation*" or *IEE*.<sup>28</sup> This is an evaluation conducted by a qualified examiner, such as a certified school psychologist who is not employed by the school. While a school district is not required to pay for an IEE, many districts do this to ensure that a child receives the services they need and to resolve a dispute.

You can also challenge the school's decision in several different ways: by asking for mediation, filing a complaint with the Bureau of Special Education Appeals, or requesting a special education hearing. You can learn more about these steps in our [fact sheet](#) on resolving special education disagreements.

If the school has violated a clear legal rule, such as the timeline for conducting an evaluation or reevaluation, you can file a complaint with the Pennsylvania Department of Education's Bureau of Special Education (BSE).<sup>29</sup> [Click here for more information on how to file a complaint.](#)

If your child turns out to be eligible for special education services and the child had to wait to get those services because the school did not do the evaluation within the required time or determined the child was not eligible, you should ask for compensatory education (make-up services) to help your child catch up for the time the child was deprived of services.

The Education Law Center-PA (ELC) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, community engagement, and policy advocacy, ELC advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, English learners, LGBTQ students, and children experiencing homelessness.

ELC's publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC's Helpline for information and advice – visit [www.elc-pa.org/contact](http://www.elc-pa.org/contact) or call 215-238-6970 (Eastern or Central PA) or 412-258-2120 (Western PA) – or contact another attorney of your choice.

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<sup>1</sup> 22 Pa. Code § 14.123(c)

<sup>2</sup> 34 C.F.R. § 300.300(a)(1)(i)

<sup>3</sup> 22 Pa. Code 14.123(c)

<sup>4</sup> 34 C.F.R. § 300.111; 22 Pa. Code § 14.121

<sup>5</sup> 34 CFR § 300.322

<sup>6</sup> 34 C.F.R. § 300.300(a)(1)(iii)

<sup>7</sup> 34 C.F.R. § 300.300(a)(1)(i)

<sup>8</sup> 34 C.F.R. § 300.300(a)(3)(i)

<sup>9</sup> 34 C.F.R. § 300.300(a)(2)(iii)

<sup>10</sup> 34 C.F.R. § 300.300(b)(4)(ii)

<sup>11</sup> 34 C.F.R. § 300.503(b)

<sup>12</sup> 34 C.F.R. § 300.153

<sup>13</sup> 34 C.F.R. § 300.8

<sup>14</sup> 34 C.F.R. § 300.306(b)(1)

<sup>15</sup> 22 Pa. Code § 14.123(c)

<sup>16</sup> 34 C.F.R. § 300.17

<sup>17</sup> 34 C.F.R. § 300.304(c)(1)(i)

<sup>18</sup> 34 C.F.R. § 300.304(b)(2)

<sup>19</sup> 34 C.F.R. § 300.301(d)(2)

<sup>20</sup> 34 C.F.R. § 300.301(e)

<sup>21</sup> 34 C.F.R. § 300.323(g)(2)

<sup>22</sup> 34 C.F.R. § 300.305(e)(2)

<sup>23</sup> 22 Pa. Code § 12.1(a)

<sup>24</sup> 34 C.F.R. § 300.305(e)(3)

<sup>25</sup> 34 C.F.R. § 300.305(a)(2)

<sup>26</sup> 34 CFR § 300.43

<sup>27</sup> 34 C.F.R. § 300.503(b)

<sup>28</sup> 34 CFR § 300.502

<sup>29</sup> 34 C.F.R. § 300.153



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LETTER REQUESTING AN INITIAL SPECIAL EDUCATION EVALUATION

Parent's/Guardian's Name \_\_\_\_\_

Address \_\_\_\_\_

Contact Information \_\_\_\_\_

Principal's Name \_\_\_\_\_

School Name \_\_\_\_\_

School Address \_\_\_\_\_

Date: \_\_\_\_\_

*Re: Request for special education evaluation*

Dear Principal \_\_\_\_\_,

I am the parent of \_\_\_\_\_, whose birthdate is \_\_\_\_\_.

My child has not been doing well in school, and I am therefore requesting a comprehensive evaluation to determine whether my child needs special education services, and, if so, what services are needed.

I would like to participate with the school staff to decide what testing is needed and what information about my child should be collected. I'd also like to know when the testing (if any) will be done, and whether any meetings will be scheduled so that I can attend.

I understand that the evaluation must be completed, and a written report given to me, within **60 calendar days** (not including the summer months) of the school district's receipt of the Permission to Evaluate-Consent Form signed by me. I would like (check one):

- The school to send me a Permission to Evaluate-Consent Form to sign as soon as possible, but at most within 10 days, so that we can begin the process.
- To come to the school and sign the form immediately.

Should you have any questions or problems with this request, please contact me at the following number(s) \_\_\_\_\_ or by e-mail at \_\_\_\_\_. Thank you.

Sincerely,

Your Name \_\_\_\_\_

cc: Director of Special Education

*KEEP A COPY OF THIS LETTER FOR YOUR RECORDS. WE RECOMMEND THAT YOU EMAIL OR HAND-DELIVER THIS LETTER TO THE PRINCIPAL AND MAKE SURE SOMEONE SIGNS FOR IT, OR THAT YOU SEND IT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED. YOU SHOULD ALSO SEND A COPY OF IT TO YOUR SCHOOL DISTRICT'S OR CHARTER SCHOOL'S SPECIAL EDUCATION DIRECTOR.*