

MASTERING THE MAZE

The Special Education Process



Process 2: Reevaluation to Determine Continued Eligibility

Alabama State Department of Education
Office of Learning Support
Special Education Service
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Alabama State Department of Education, Michael Sentance, J.D., LL.M., State Superintendent of Education

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ACRONYMS

AAA	Alabama Alternate Assessment
AAC	<i>Alabama Administrative Code</i>
ABA	Applied Behavior Analysis
ADA	<i>Americans with Disabilities Act</i>
ADD	Attention Deficit Disorder
ADHD	Attention Deficit Hyperactivity Disorder
ADRS	Alabama Department of Rehabilitation Services
AEIS	Alabama's Early Intervention System
ALSDE	Alabama State Department of Education
AMSI	Alabama Middle School Initiative
AMSTI	Alabama Math, Science and Technology Initiative
APR	Annual Performance Report
ARFI	Alabama Reading First Initiative
ARI	Alabama Reading Initiative
AT	Assistive Technology
AUT	Autism
BCBA	Board Certified Behavior Analyst
BIP	Behavioral Intervention Plan
CCRS	College and Career Ready Standards
CRS	Children Rehabilitation Services
CEIS	Coordinated Early Intervening Services
DB	Deaf-Blindness
DD	Developmental Delay
DIBELS	Dynamic Indicators of Basic Early Literacy Skills
DPH	Due Process Hearing
ED	Emotional Disability
eGAP	Electronic Grant Application Process
EI	Early Intervention
EL	English Learners
ELPP	Early Learning Progress
ESA	Educational Service Agency

ACRONYMS

ESY	Extended School Year
FAPE	Free Appropriate Public Education
FBA	Functional Behavioral Assessment
HI	Hearing Impairment
IAES	Interim Alternative Educational Setting
ID	Intellectual Disability
IDEA	<i>Individuals with Disabilities Education Act</i>
IEE	Independent Educational Evaluation
IEP	Individualized Education Program
IFSP	Individual Family Service Plan
LEA	Local Education Agency
LEP	Limited English Proficiency
LRE	Least Restrictive Environment
MD	Multiple Disabilities
MDR	Manifestation Determination Review
OHI	Other Health Impairment
OI	Orthopedic Impairment
O&M	Orientation and Mobility
OSEP	Office of Special Education Program
OT	Occupational Therapy/Therapist
PBS	Positive Behavioral Supports
PST	Problem Solving Team
PT	Physical Therapy/Therapist
RIC	Regional Inservice Center
SBMH	School Based Mental Health
SEA	State Education Agency
SES	Special Education Services
SETS	Special Education Tracking System
SLD	Specific Learning Disability
SLI	Speech or Language Impairment
SLP	Speech Language Pathologist

ACRONYMS

SPP	State Performance Plan
SPDG	State Personnel Development Grant
SSR	Student Services Review
TA	Technical Assistance
TBI	Traumatic Brain Injury
UCP	United Cerebral Palsy
VI	Visual Impairment
VRS	Vocational Rehabilitation Services

AAC pages 525-526 (3) (a-i)

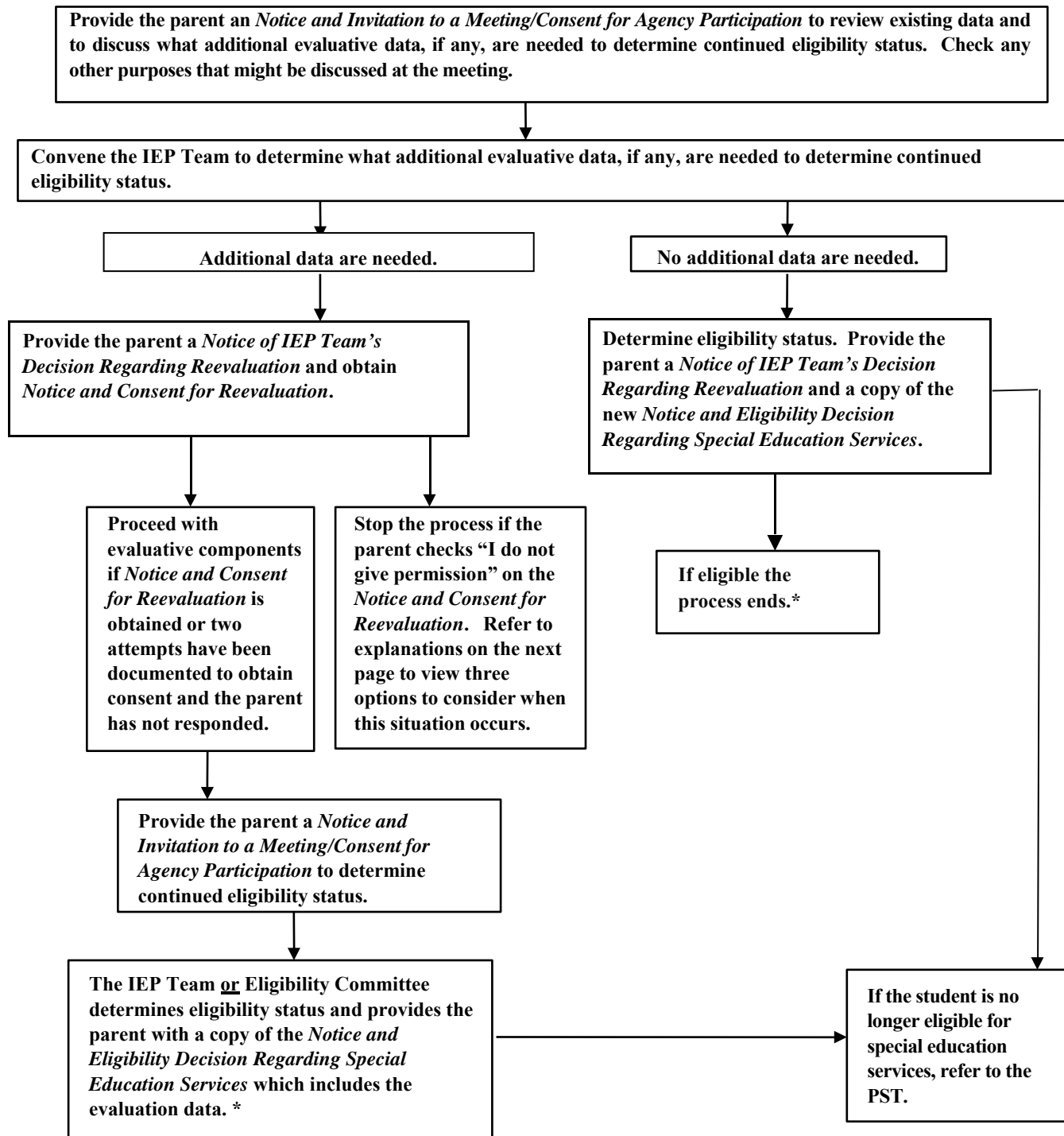
The **IEP Team** is composed of the following:

1. **The parent of the student with a disability.**
2. **Not less than one regular education teacher of the student** if the student is or may be participating in the regular education environment. The regular education teacher must, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of appropriate positive behavioral interventions and supports and other strategies for the student and the determination of supplementary aids and services, program modifications, and supports for school personnel.
3. **Not less than one special education teacher of the student** or, where appropriate, not less than one special education provider of the student.
4. ***A representative of the public agency** who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities; is knowledgeable about the general education curriculum; is knowledgeable about the availability of resources of the public agency; and has the authority to commit agency resources and be able to ensure that IEP services will be provided. A public agency may designate a public agency member of the IEP Team to also serve as the agency representative, if the criteria for serving as a public agency representative are met.
5. ***An individual who can interpret the instructional implications of evaluation results**, who may be a member of the IEP Team that is described in this section of required members of an IEP Team.
6. **At the discretion of the parent or the agency**, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate. The determination of the knowledge or special expertise of any individual is made by the party (parents or public agency) who invites the individual to be a member of the IEP Team.
7. **Whenever appropriate, the student with a disability.**
8. **Career/Technical Education Representative.** A representative of career/technical education must be included as a member of the IEP Team for those children with disabilities who have been referred for, or are currently receiving career/ technical education. The IEP of each secondary child with a disability must show any career/technical education program involvement, as well as needed accommodations and/or modifications made in the program.
9. **Secondary Transition Services Participants.** In addition to the participants specified above, if a purpose of the meeting is the consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals, the public agency must invite the student and, with the consent of the parent or a student who has reached the age of majority, a representative of any other agency that is likely to be responsible for providing or paying for transition services. If the student does not attend the IEP Team meeting, the public agency must take other steps to ensure that the student's preferences and interests are considered.
10. **Early Intervention Representatives.** In the case of a child who was previously served under Part C/Early Intervention (EI), an invitation to the initial IEP Team meeting must, at the request of the parent, be sent to the EI service coordinator or other representatives of the EI system to assist with the smooth transition of services.

*If an IEP Team Member is serving in two positions at a meeting (e.g., special education teacher is also serving as someone who can interpret the instructional implications of the evaluation results) he/she should sign his/her name by each position he/she is representing.

Process Chart 2

REEVALUATION TO DETERMINE CONTINUED ELIGIBILITY



*If the IEP Team needs to revise the IEP, go to the process with where the current IEP is and amend as appropriate.

PROCESS CHART 2

REEVALUATION TO DETERMINE CONTINUED ELIGIBILITY

Things to Remember When Going Through This Process

REMEMBER:

1. A reevaluation of a student must occur at least once every three years unless the parent or student (age 19 and older) and the public agency agree that a reevaluation is not necessary. To determine the three-year due date, use the signature date on the *Notice and Eligibility Decision Regarding Special Education Services*.
2. The two attempts documented on the *Notice and Invitation to a Meeting/Consent for Agency Participation* cannot be used as the two attempts to obtain *Notice and Consent for Reevaluation*.
3. If the parent or student (age 19 and older) fails to respond to a request to provide consent for the reevaluation, the public agency may proceed with the evaluation as long as it has made two documented attempts.
4. If the parent or student (age 19 and older) refuses to provide consent for the reevaluation, the IEP Team has three options:
 - The IEP Team may request that the parent or student (age 19 and older) participate in a conference to discuss his/her decision.
 - The IEP Team may reconsider whether or not the additional evaluative data are absolutely necessary in order to make a decision regarding continued eligibility.
 - The public agency may ask for mediation from the ALSDE or the public agency may initiate a due process hearing in order to have an impartial hearing officer to order a reevaluation to be administered over the parent's or student's (age 19 and older) objection but is not required to do so. The public agency does not violate its child find or evaluation obligations if it declines to pursue the evaluation.

Note: If a parent of a student who is home schooled or placed in a private school by the parent at his/her own expense does not provide consent for the reevaluation, or the parent fails to respond to a request to provide consent, the public agency may not use the mediation and/or due process override procedures and the public agency is not required to consider the student as eligible for services.

5. A new eligibility report must be completed each time the student is reevaluated for continued eligibility.

Annotate Process

Student Name: _____ **SSID:** _____ **Date of Birth:** _____

Name of Process: _____ **Process Create Date:** _____

All entries should have the entry date and the name of the person making the note.

Example: First Last name-xx/xx/xx- Notes

RECORD OF ACCESS TO STUDENT RECORDS

STUDENT'S NAME: _____

It is the policy of the Board of Education, in accordance with IDEA, to provide procedural safeguards that protect the individual confidentiality of all student records. The Board of Education authorizes the following categories of persons to review any personally identifiable data relating to students with disabilities:

CATEGORIES OF PERSONS AUTHORIZED TO REVIEW DATA

1. Parents
2. Student
3. State Department of Education Representatives
4. Federal Education Agency Representatives
5. Local Education Agency Representatives*
6. Other State Agency Representatives*

* Limited to those representatives who have a legitimate educational interest in the student's special education program.

Signature of Person Reviewing Record	Category 1-6	Reason for Review	Date of Review
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			

RECORD OF ACCESS TO STUDENT RECORDS

Guide for using the Record of Access to Student Records

Purpose(s) of this form:

- To document the name of the person reviewing the record, the reason for the review, and the date of the review.

When to use this form:

- When a request is made for access to and disclosure of a special education student's records.

Things to remember when completing this form:

- The special education records are confidential and must be kept in a secure location.
- Each special education student record must contain a *Record of Access to Student Records* form.
- The parent may inspect and review all educational records relating to identification, evaluation, educational placement, and provision of FAPE of his/her child that are collected, maintained, or used by the education agency.
- After providing written authorization to the education agency, the parent may have a representative review his/her child's records under the same access rights afforded to him/her.
- The local education agency is responsible for maintaining a log of each request for access to and disclosure of special education records.
- The parent, the student's teacher, and local education agency representatives are not required to sign each and every time the file is reviewed.
- If the records of a student contain information on more than one student, the parent or eligible student may inspect and review or be informed of only the specific information about that student.

What happens next:

- The education agency must retain a copy of the student's records containing personally identifiable information for a period of five (5) years after the termination of the special education program for which they were used.
- At the end of the five-year retention period, special education records may be destroyed. To meet the notice requirement regarding the destruction of records, the education agency must inform the parent and student (that has reached the age of majority). This may be in the form of a public notice or in a letter to the parent and student (age 19 and older). Notice must include the years of the records that will be destroyed and the date of destruction.
- The education agency is not prohibited from retaining records indefinitely as long as confidentiality is ensured.

AAC pages 543-562

SPECIAL EDUCATION RIGHTS
UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

To _____ Date Provided _____

You are receiving a copy of *Special Education Rights* (procedural safeguards) for the following reason(s):

- | | |
|--|--|
| <input type="checkbox"/> Required annual copy | <input type="checkbox"/> Parental request |
| <input type="checkbox"/> Initial referral/Parental request for evaluation | <input type="checkbox"/> 1 st State complaint filed |
| <input type="checkbox"/> Disciplinary action resulting in change of placement. | <input type="checkbox"/> 1 st Request for due process hearing |

If you have questions or need further assistance in understanding these rights, please contact:

_____ at _____
 Name Telephone Number

Federal and state laws create specific rights for those eligible for SES. A copy of those rights must be given to parents only one time a year, except that a copy must also be given to the parents upon initial referral or parental request for evaluation, upon the first state complaint in a school year and upon the first request for a due process hearing in a school year, when a decision is made to the disciplinary action that constitutes a change of placement, and upon request by a parent. The following is an explanation of those rights. If you would like a further explanation of any of these rights, you may contact the individual named above; your school principal; the special education coordinator in your school system; or your superintendent of schools. If you want another copy of your rights, have any questions, or wish to arrange a conference, please contact the individual named above.

PRIOR WRITTEN NOTICE

Your education agency must provide you with prior written notice within a reasonable time before it proposes or refuses to initiate or change the identification, evaluation, educational placement, or the provision of a free appropriate public education (FAPE). The notice must include a full explanation of all of the procedural safeguards available to you; a description of the action proposed or refused by the education agency; an explanation of why your education agency proposes or refuses to take the action; a description of other options considered by the Individualized Education Program (IEP) Team and the reasons why those options were rejected; a description of each evaluation procedure, assessment, record, or report the education agency used as a basis for the proposal or refusal; a description of any other factors which are relevant to the education agency's proposal or refusal; sources to contact to obtain assistance in understanding the rights for special education; a statement indicating that you have protection under the procedural safeguards; and if the notice sent to you is not the first referral for evaluation, the way by which you may obtain a copy of the procedural safeguards. The written notice must be understandable to the general public and provided in your native language or other mode of communication, unless it is clearly not feasible to do so. If your native language or other mode of communication is not a written language, your education agency must take steps to ensure that the notice is translated orally or by other means to you in your native language or other mode of communication; that you understand the content of the notice; that you are provided sources to contact to obtain assistance in understanding the information; and that there is written evidence that these requirements have been met. If your education agency offers parents the choice of receiving documents by e-mail, you may choose to receive prior written notice by e-mail. Written notice must be provided to you when your child graduates from high school with a regular diploma or exits because he or she has exceeded the age of eligibility for a free appropriate public education.

PARENTAL CONSENT

Your education agency must obtain your informed written consent before conducting an initial evaluation, before the initial provision of special education and related services, or before obtaining additional data as part of a reevaluation. Your consent to an initial evaluation must not be construed as consent for initial provision of special education services and related services. The education agency may but is not required to use the state procedures for mediation and due process hearings to determine whether initial evaluations or reevaluations may be conducted when you have refused informed written consent. If the hearing officer upholds your education agency, the education agency may evaluate subject to your rights to appeal the decision and the child must remain in the current educational placement awaiting the decision of the appeal unless you and the education agency agree otherwise. If the parent of a child refuses to give consent to the initial provision of special education and related services, or fails to respond to a request for consent, the education agency shall not provide special education and related services to the child by utilizing due process hearing or mediation procedures. In this instance, the education agency will not be considered to be in violation of the requirement to make available a free appropriate public education to the child and is not required to convene an IEP Team meeting or develop an IEP for the child. The same applies if, subsequent to the initial provision of special education and related services, the parent revokes consent in writing and the public agency provides prior written notice before ceasing services. If the parent revokes consent in writing after the initial provision of services, the public agency is not required to amend the child's education record to remove any references to the child's receipt of special education and related services because of the revocation of consent.

Your education agency must obtain your informed consent before it reevaluates your child unless your education agency can demonstrate that it took reasonable steps to obtain your consent for your child's reevaluation and you did not respond. If you refuse to consent to your child's reevaluation, the education agency may, but is not required, pursue your child's reevaluation by using the mediation and/or due process hearing procedures to seek to override your refusal to consent to your child's reevaluation. As with initial evaluations, your education agency does not violate its obligations under Part B of the *Individual with Disabilities Education Act* (IDEA) if it declines to pursue the reevaluation in this manner. However, if after at least two attempts to obtain your consent for reevaluation you have not responded, the education agency may proceed with the reevaluation. Your consent is not required before your education agency may review existing data as part of your child's evaluation or a reevaluation, or give your child a test or other evaluation that is given to all children unless, before that test or evaluation, consent is required from all parents of all children. An education agency may not use a parent's refusal to consent to one service or activity regarding initial evaluation for special education services to deny the parent or child any other service, benefit, or activity offered by the education agency for all children, except as required by this part. If you are the parent of a child who is home schooled or placed in a private school at your own expense, and you do not provide your informed written consent for your child's initial evaluation or your child's reevaluation, or you fail to respond to a request to provide your informed written consent, the education agency shall not use its consent override procedures and it is not required to consider your child as eligible to receive equitable services. Your informed written consent or the informed written consent of an eligible child who has reached the age of majority (age 19) must be obtained prior to an IEP Team meeting before representatives of participating agencies who may be responsible for providing or paying for transition services may be invited to the IEP Team meeting.

TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY

When a child with a disability reaches the age of majority under state law (age 19) that applies to all children (except for a child with a disability who has been determined to be incompetent under state law) the education agency must provide any notice required by this part to both the child and the parents; and all rights accorded to parents under Part B of the IDEA transfer to the child; all rights accorded to parents under Part B of the IDEA transfer to children who are incarcerated in an adult or juvenile state or local correctional institution; and whenever the rights have been transferred, the agency must notify the child and the parents of the transfer of rights.

INDEPENDENT EDUCATIONAL EVALUATION

You have the right to an independent educational evaluation at public expense if you disagree with an evaluation obtained by your education agency. However, your education agency may request a due process hearing to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, you still have the right to an independent educational evaluation, but not at public expense. If you obtain an independent educational evaluation at private expense, the results of the evaluation must be considered by your education agency (if it meets agency criteria) in any decision made with respect to the provision of a free appropriate public education and may be presented as evidence at a due process hearing. If a due process hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation will not be at your expense. Each education agency shall provide you, on request, information about where an independent educational evaluation may be obtained and the criteria for the independent educational evaluation. Whenever an independent educational evaluation is at public expense, the standards under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the standards that the education agency uses when it conducts an evaluation. A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.

DIFFERENCE BETWEEN STATE COMPLAINT AND DUE PROCESS HEARING PROCEDURES

The regulations for Part B of IDEA set forth separate procedures for state complaints and for due process hearings. As explained below, any individual or organization may file a state complaint alleging a violation of any Part B requirement by an education agency, the ALSDE, or any other public agency. Only you or an education agency may file a due process hearing request on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation, or educational placement of a child with a disability, or the provision of a free appropriate public education to the child. While staff of the ALSDE generally must resolve a state complaint within a 60 calendar day timeline, unless the timeline is properly extended, an impartial due process hearing officer must hear a due process hearing (if not resolved through a resolution meeting or through mediation) and issue a written decision within 45 calendar days after the end of the resolution period, unless the hearing officer grants a specific extension of the timeline at your request or the education agency's request.

STATE COMPLAINT PROCEDURES

Any individual or organization has a right to file a signed written complaint alleging that a school system has violated the IDEA or 34 CFR Part 300 and the facts on which the statement is based; to present allegation(s) that occurred not more than one year prior to the date that the complaint is received; to submit additional information either orally or in writing about the allegations in the complaint; to a written decision within 60 calendar days that addresses each allegation in the complaint and contains findings of fact and conclusions and the reasons for the final decision; to an extension of the time limit only if exceptional circumstances exist with respect to a particular complaint; and to procedures for effective implementation of the final decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve compliance. It is permissible for the timeline to be extended if the parent and the education agency agree to extend the timeline in order to participate in mediation to resolve the state complaint. The education agency will respond to the complaint allegations, at the discretion of the education agency, a proposal to resolve the complaint. An independent onsite investigation will occur as determined appropriate by the ALSDE, Special Education Services (SES) Section.

If requested, the ALSDE, Special Education Services, will provide you with a sample form for filing a state complaint.

You are not required to use the sample form, however your complaint must include: (1) A statement that a public agency has violated a requirement of Part B of the IDEA or of this part; (2) The facts on which the statement is based; (3) The signature and contact information for the complainant; and (4) If alleging violations with respect to a specific child: (a) The name and address of the residence of the child; (b) The name of the school the child is attending; (c) In the case of a homeless child or youth (within the meaning

of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a (2)), available contact information for the child, and the name of the school the child is attending; (d) A description of the nature of the problem of the child, including facts relating to the problem; and (e) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

A party filing a complaint must send it to the SES section of the ALSDE. The party filing the complaint must forward a copy of the complaint to the LEA or public agency serving the child at the same time the party files the complaint with the ALSDE. If after reviewing the complaint, the SES determines that it includes all of the required information and is signed, the 60-day timeline begins on the workday that the SES received the complaint. A signature requirement is the same that a person would use for any other legal document such as a bank check or signing a contract. Exceptions may be made for persons without the ability to sign their name.

If a written complaint is received that is also the subject of a due process hearing or contains multiple issues of which one or more are part of that hearing, the state must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved using the time limit and procedures required. If an issue raised in a complaint filed under this section has previously been decided in a due process hearing involving the same parties the due process hearing decision is binding on that issue; and the SEA must inform the complainant to that effect. A complaint alleging a public agency's failure to implement a due process hearing decision must be resolved by the SEA.

STATE MEDIATION PROCEDURES

You have the right to participate in mediation to resolve disagreements under IDEA with an education agency, whether or not you have requested a due process hearing or have filed a state complaint. The voluntary mediation will be scheduled by the ALSDE at no cost to you. A qualified impartial mediator trained in effective mediation techniques and selected by rotation will be provided and each mediation session will be scheduled in a timely manner and held in a location convenient to the parties in the dispute. The ALSDE must have a list of qualified mediators, and the mediators must be knowledgeable of the laws and regulations relating to special education and related services. The mediators may not be employees of the ALSDE or the education agency involved in the education or care of your child and must not have a personal or professional conflict of interest. You may participate without denial or delay of any other rights. If an agreement is reached, a legally binding written agreement that is signed by the parent and a representative of the education agency that has the authority to bind the education agency will state the resolution. All parties sign a confidentiality pledge prior to the beginning of the mediation process to assure confidentiality of mediation discussions and assurance that discussions may not be used as evidence in any later due process hearings or civil proceedings. The mediation agreement is enforceable in any state court of competent jurisdiction or in a district court of the United States. The education agency may develop procedures that offer an opportunity to meet with a disinterested party at a time and location convenient to you if you have chosen not to participate in mediation. The benefits of mediation will be explained by the disinterested party to encourage the use of mediation.

DUE PROCESS HEARING PROCEDURES

You may request a due process hearing regarding the education agency's proposal or refusal to initiate or change the identification, evaluation, educational placement, or the provision of a free appropriate public education. If you request a hearing, you or your attorney must provide a copy of the written request (that must be kept confidential) to the other party and to the ALSDE. If requested, the ALSDE, Special Education Services section, will provide you with a sample form for requesting a due process hearing.

You are not required to use the sample form; however, your request must include: (1) The name of the child; (2) The address of the residence of the child or available contact information in the case of a homeless child; (3) The name of the school the child is attending; (4) A description of the nature of the problem including facts relating to the problem that occurred within two years of the date the parent or the education agency knew or should have known about the alleged action that is the basis for the hearing request; and (5) A proposed resolution of the problem to the extent known and available to you

at the time you requested the hearing. The timeline shall not apply to a parent if the parent was prevented from requesting the hearing due to specific misrepresentations by the education agency that it had resolved the problem forming the basis of the written request; or the education agency's withholding of information from the parent that was required under this part to be provided to the parent. You or the education agency may not have a due process hearing until you (or your attorney), or the education agency, files a due process hearing request that includes all of the information listed above.

If after receiving the due process hearing request the SES Section determines that it includes all of the required information and is signed, the due process hearing will be initiated and the timeline begins on the workday received. A signature requirement is the same that a person would use for any other legal document such as a bank check or signing a contract. Exceptions may be made for persons without the ability to sign their name.

The party requesting the hearing shall not be allowed to raise issues at the hearing that were not raised in the written request for a hearing unless the other party agrees otherwise.

The education agency must inform you of any free or low-cost legal and other relevant services available in the area if you request the information or if you or the education agency requests a hearing.

In order for a due process hearing to go forward, the request must be considered sufficient. The due process request will be considered sufficient (to have met the content requirements above) unless the party receiving the due process complaint (you or the education agency) notifies the hearing officer and the other party in writing, within 15 calendar days of receiving the complaint, that the receiving party believes that the due process complaint does not meet the requirements listed above. Within five calendar days of receiving the notification that the receiving party (you or the education agency) considers a due process request insufficient, the hearing officer must decide if the due process request meets the content requirements, and notify you and the education agency in writing immediately.

You or the education agency may make changes to the hearing request only if the other party approves of the changes in writing and is given the chance to resolve the due process request through a resolution meeting, or no later than five days before the due process hearing begins, the hearing officer grants permission for the changes. If the complaining party makes changes to the due process request, the timelines for the resolution meeting and the time period for resolution start again on the date the amended request is filed.

Within ten calendar days of receiving a copy of your request for a hearing, the education agency will provide you written notice addressing the concerns of the request for hearing, if it has not previously done so. The response must include an explanation of why the education agency proposed or refused to take the action raised in the due process request, a description of other options that the child's IEP Team considered and the reasons why those options were rejected, a description of each evaluation procedure, assessment, record, or report the education agency used as the basis for the proposed or refused action, and a description of the other factors that are relevant to the educational agency's proposed or refused action. However, providing this information does not prevent the education agency from asserting that the due process request was insufficient.

If the education agency files the due process hearing request, you must, within ten calendar days of receiving the request, send the education agency a response that specifically addresses the issues in the complaint.

Prior to the opportunity for a hearing, the education agency, within 15 calendar days of receiving the parents' request for a hearing, will convene a meeting with the parents and the relevant member or members of the IEP Team (as determined by the education agency and the parent), including a member who has decision-making authority on behalf of the education agency, and who have specific knowledge of the facts identified in the written request for a hearing. The education agency may not include an attorney of the education agency if an attorney does not accompany the parent. The purpose of the meeting is for the parents of the child to discuss their hearing issues and the facts that form the basis of the hearing request.

The education agency is then provided the opportunity to resolve the hearing issues unless the parents and the education agency agree in writing to waive such meeting or agree to use the mediation process. If a resolution is reached at the resolution meeting or mediation, the parties shall execute a legally binding agreement that is signed by both the parent and a representative of the education agency who has the authority to bind the education agency. This agreement is enforceable in any state court of competent jurisdiction or in a district court of the United States. If the parties execute such an agreement, a party may void such agreement within three business days of the agreement's execution. If the education agency has not resolved the hearing issues to the satisfaction of the parents within 30 days of the receipt of the written request for a hearing, the hearing may occur and all the applicable timelines for a hearing will commence. A final hearing decision will be reached within 45 calendar days after the hearing timeline commences (i.e., after the 30-day timeline to resolve the issues has expired) unless the hearing officer grants a specific extension at the request of either party. A copy of the decision is mailed to each of the parties.

Except where you and the education agency have both agreed to waive the resolution process or to use mediation, failure of the parent to participate in the resolution meeting will delay the timelines for the resolution process and the due process hearing until the parent's agree to participate in a meeting. If after making reasonable efforts and documenting such efforts, the education agency is not able to obtain the parent's participation in the resolution meeting, the education agency may, at the end of the 30 calendar day resolution period, request that a hearing officer dismiss your due process request. Documentation of such efforts must include a record of the education agency's attempts to arrange a mutually agreed upon time and place, such as detailed records of telephone calls made or attempted and the results of those calls; copies of correspondence sent and any responses received; and detailed records of visits made to the home or place of employment and the results of those visits. If the education agency fails to hold the resolution meeting within 15 calendar days of receiving notice of the parent's due process request or fails to participate in the resolution meeting, the parent may ask a hearing officer to order that the 45 calendar day due process hearing timeline begin.

If the parent and the education agency agree in writing to waive the resolution meeting, then the 45 calendar day timeline for the due process hearing starts the next day. After the start of mediation or the resolution meeting and before the end of the 30 calendar day resolution period, if the parent and the education agency agree in writing that no agreement is possible, then the 45 calendar day timeline for the due process hearing starts the next day. If the parent and the education agency agree to use the mediation process, at the end of the 30 calendar day resolution period both parties can agree in writing to continue the mediation until an agreement is reached. However, if either party withdraws from the mediation process, then the 45 calendar day timeline for the due process hearing starts the next day.

At a minimum a hearing officer must not be an employee of the state education agency or the local education agency that is involved in the education or care of the child or any person having a personal or professional interest that would conflict with his or her objectivity in the hearing. A person who otherwise qualifies to conduct a hearing is not an employee of the education agency solely because he or she is paid by the education agency to serve as a hearing officer. He or she must possess the knowledge and the ability to: understand the provisions of the IDEA, federal and state regulations pertaining to the IDEA, and legal interpretations by federal and state courts; conduct hearings in accordance with appropriate, standard legal practice; and render and write decisions in accordance with appropriate, standard legal practice.

Each education agency shall keep a list of the persons who serve as due process hearing officers. The list must include a statement of the qualifications of each of those persons.

Any party to a hearing has the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities except state law prohibits non-attorney representation; present evidence and confront, cross-examine, and compel the attendance of witnesses; prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing; obtain a written or electronic verbatim record of the hearing; and obtain written, or at the option of the parents, electronic findings of fact and decisions at no cost. In addition, you have the right to have the child present, open the hearing to the public, and have the hearing conducted at a time and place that is reasonably convenient to you at no cost. At least five business days prior to the hearing,

each party shall disclose to all other parties all evaluations completed by that date and the recommendations based on the offering party's evaluation that the party intends to use at the hearing. A hearing officer may prevent any party that fails to comply with this requirement from introducing the relevant evaluations or recommendations at the hearing without the consent of the other party.

CIVIL ACTION

The decision of the hearing officer is final except that any party aggrieved by the findings and decision made in a due process hearing has the right to bring a civil action in any state court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. An aggrieved party must file a notice of intent to file a civil action with all parties to the hearing within 30 calendar days upon receipt of the decision of the hearing officer. A civil action in a court of competent jurisdiction must be filed within 30 days of the filing of the notice of intent to file a civil action.

A hearing officer's decision on whether the child received a free appropriate public education must be based on substantive grounds. In matters alleging a procedural violation, a hearing officer may find that the child did not receive free appropriate public education only if the procedural inadequacies interfered with the child's right to free appropriate public education, significantly interfered with the parent's opportunity to participate in the decision-making process regarding the provision of free appropriate public education to the child, or caused a deprivation of an educational benefit.

None of the provisions described above can be interpreted to prevent a hearing officer from ordering an education agency to comply with the procedural safeguards requirements.

Nothing in this part should be interpreted to prevent the parent from submitting a separate due process hearing request on an issue separate from a due process request already filed.

CHILD'S STATUS DURING PROCEEDINGS

During the pendency of the resolution period, a due process hearing, or judicial proceeding, unless you and the state or your education agency agree otherwise, the child must remain in his or her current educational placement. If the hearing officer agrees with the parent that a change of placement is appropriate, that placement must be treated as an agreement between the state and the parent.

If the hearing involves an application for initial admission to public school, the child, with parental consent, must be placed in the public school until the completion of all the proceedings. If the hearing involves an application for initial services under Part B from a child transitioning from Part C to Part B and is no longer eligible for Part C services because the child turned three, the education agency is not required to provide the Part C services that the child was receiving. If the child is found eligible for special education and related services under Part B, and the parent consents to the initial provision of special education and related services, then the educational agency must provide those special education and related services that are not in dispute. However, if a parent requests a due process hearing regarding a disciplinary action, placement remains in the alternative education setting pending the decision of the hearing officer or until the expiration of the time period unless the parent and the education agency agree otherwise. A request for expedited hearing for discipline matters must occur within 20 school days of the date the hearing is requested, and the hearing officer must make a determination within ten school days after the hearing.

State Enforcement Mechanisms. For enforcement of a written agreement reached as a result of mediation or a resolution meeting, the State Education Agency (SEA) will allow other state enforcement mechanisms to seek enforcement of that agreement, provided that use of those mechanisms is not mandatory and does not delay or deny a party the right to seek enforcement of the written agreement in a state court of competent jurisdiction or in a district court of the United States.

AWARD OF ATTORNEYS' FEES

In any action or proceeding brought under Part B of the IDEA, the court may award reasonable attorneys' fees to a prevailing party who is the parent of a child with a disability; or to a prevailing party who is a state or local education agency against the attorney of a parent who files a hearing request or court case that is frivolous, unreasonable, or without foundation; or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or to a prevailing state or local education agency against the attorney of a parent, or against the parent if the parent's request or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or needlessly increase the cost of litigation. The fee shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished.

Attorneys' fees may not be awarded and related costs may not be reimbursed for services performed subsequent to the time of a written offer of settlement to the parent if the offer is made to the parent ten calendar days prior to the hearing; the offer is not accepted by the parent within ten calendar days; and hearing officer or court finds that the hearing decision obtained by the parents was not more favorable to the parents than the offer of settlement. Also, fees may not be awarded for attendance at any IEP Team meeting unless the meeting is convened as a result of the hearing officer's decision or court action. However, an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer. A resolution meeting is not considered an administrative hearing or court action for purposes of the attorney's fees provisions.

The amount of attorneys' fees awarded may be reduced if the parent or parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy; the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly prevailing rate in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience; the time spent and legal services furnished were excessive considering the nature of the action or proceedings; or the attorney representing the parent did not provide to the education agency the appropriate information in the due process hearing request. The preceding items will not apply in any action or proceeding if the court finds that the state or local education agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of these rules.

ACCESS TO RECORDS

Your education agency must permit you to inspect and review all education records of your child that are collected, maintained, or used by the participating agency under Part B of the IDEA. The participating agency must comply with a request without unnecessary delay and before any meeting regarding an individualized education program, or hearing relating to the identification, evaluation, educational placement, or provision of a free appropriate public education, or resolution session is conducted and in no case more than 45 days after the request has been made. Your right to inspect and review records includes your right to a response from the participating agency to reasonable requests for explanations and interpretations of the records; to have your representative inspect and review the records; and to request that the participating agency provide copies of the records containing the information if failure to provide those copies would effectively prevent you from exercising your right to inspect and review the records. The participating agency may not charge a fee to search for or to retrieve information under this part, but may charge a fee for copies of records which are made for you under this part if the fee does not effectively prevent you from exercising your right to inspect and review those records. The agency may presume that you have authority to inspect and review records unless the agency has been advised that you do not have the authority under applicable state law governing such matters as guardianship, or separation, and divorce. If any education record includes information on more than one child, you may review only the information relating to your situation or be informed of that specific information. The participating agency must provide you, on request, a list of the types and locations of education records collected, maintained, or used by the participating agency. The participating agency must keep a record of parties obtaining access to education records collected, maintained, or used (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to review the records.

RIGHTS FOR CHILDREN

Education agencies must afford to the child, rights of privacy similar to those afforded to parents regarding records taking into consideration the age of the child and type and severity of the disability. Although the rights of parents under the IDEA transfer to the child at the age of majority (age 19), the rights of parents regarding educational records under the *Family Educational Rights and Privacy Act* (FERPA) at 34 CFR Part 99 transfer to the child at age 18.

CONSENT FOR DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION

Your consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies. Except under the circumstances below, your consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of Part B of the IDEA.

Your consent or the consent of an eligible child who has reached the age of 19 must be obtained before personally identifiable information is released to officials of participating agencies responsible for providing or paying for transition services. Also, if your child is in or is going to go to a private school that is not located in the same LEA you reside in, your consent must be obtained before any personally identifiable information about your child is released between officials in the LEA where the private school is located and officials in the LEA where you reside.

AMENDMENT OF RECORDS AT PARENT'S REQUEST

If you believe that information in your child's education records collected, maintained, or used under Part B of the IDEA is inaccurate, misleading, or violates the privacy or other rights of the child, you may request that the education agency that maintains the information amend the information. The participating agency must decide whether to amend the information in accordance with your request within a reasonable period of time of receipt of the request. If the participating agency decides to refuse to amend the information in accordance with the request, it must inform you of the refusal and advise you of your right to a hearing. The participating agency shall, on request, provide an opportunity for a hearing, which complies with FERPA procedures, to challenge information in your child's education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights. If, as a result of the hearing, it is determined that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, the participating agency must amend the information accordingly and so inform you in writing. If, as a result of the hearing, it is determined that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights, the participating agency must inform you of the right to place in the records it maintains on your child, a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the participating agency. Any explanation placed in the records must be maintained by the participating agency as part of the record as long as the record or the contested portion is maintained by the participating agency. If the records or the contested portion are disclosed by the participating agency to any party, the explanation must also be disclosed to the party.

DESTRUCTION OF INFORMATION

You must be informed by the public agency when personally identifiable information collected, maintained, or used under Part B of the IDEA is no longer needed to provide education services to your child. The information must be destroyed at your request. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation. Information must be destroyed in a manner that maintains confidentiality.

CHILDREN WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOLS WHEN FREE APPROPRIATE PUBLIC EDUCATION IS AT ISSUE

Part B of the IDEA does not require an LEA to pay for the cost of education, including special education and related services, of your child with a disability at a private school or facility if the LEA made FAPE

available to your child and you choose to place the child in a private school or facility. However, the public agency where the private school is located must include your child in the population whose needs are addressed under the Part B provisions regarding children who have been placed by their parents in a private school. Disagreements between the parents and the public agency regarding the availability of a program appropriate for the child and the question of financial reimbursement, are subject to the due process procedures. If the parents of a child with a disability who previously received special education and related services under the authority of an public agency enroll the child in a private elementary or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment. The cost of reimbursement may be reduced or denied if at the most recent IEP meeting that the parents attended before removal of the child from the public agency, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or at least ten business days (including any holidays that occur on a business day) prior to the removal of the child from the public agency, the parents did not give written notice to the public agency that they were rejecting the offered placement; or prior to the parents' removal of the child, the public agency informed the parents of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or a judicial finding of unreasonableness with respect to actions taken by the parents is found. **EXCEPTION:** The cost of reimbursement shall not be reduced or denied for a parent's failure to provide such notice if the school prevented the parent from providing such notice, the parent had not received this document, or compliance with this requirement would likely result in physical harm to the child; and may in the discretion of a court or hearing officer not be reduced or denied for failure to provide such notice if the parent is not literate and cannot write in English; or compliance would likely result in serious emotional harm to the child.

DISCIPLINE

Authority of School Personnel. School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a child with a disability who violates a code of student conduct.

School personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement).

After a child with a disability has been removed from his or her current placement for ten school days in the same school year, during any subsequent days of removal the education agency must provide services to the child with a disability who is removed from the child's current placement. The child must continue to receive educational services, so as to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP, and receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

For disciplinary changes in placement that would exceed ten consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except that the child must continue to receive educational services. The educational services may be provided in an interim alternative setting.

An education agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for ten school days or less in that school year, if it provides services to a child without disabilities who is similarly removed.

After a child with a disability has been removed from his or her current placement for ten school days in the same school year, if the current removal is for not more than ten consecutive school days and is not a change of placement, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP. If the removal is a change of placement, the child's IEP Team determines appropriate services.

Change of Placement Because of Disciplinary Removals.

The child's IEP Team determines the interim alternative educational setting for services. For purposes of removals of a child with a disability from the child's current educational placement, a change of placement occurs if the removal is for more than ten consecutive school days, including partial school days of a half day or more, or the child has been subjected to a series of removals that constitute a pattern because the series of removals total more than ten school days in a school year, because the child's behavior is substantially similar to the child's behavior in previous incidents of misconduct that resulted in the series of removals, and because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another. The education agency (a minimum of an administrator and the student's special education teacher) determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceedings.

Notification. On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the education agency must notify the parents of that decision, and provide the parents with a copy of the *Special Education Rights*.

Manifestation Determination.

1. Within ten school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the education agency, the parent, and relevant members of the child's IEP Team (as determined by the parent and the education agency) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability, or if the conduct in question was the direct result of the education agency's failure to implement the IEP.
2. The conduct must be determined to be a manifestation of the child's disability if the education agency, the parent, and relevant members of the child's IEP Team determine that either condition is met.
3. If the education agency, the parent, and relevant members of the child's IEP Team determine that there was a failure to implement the IEP, the education agency must take immediate steps to remedy those deficiencies.

Determination that Behavior was a Manifestation. If the education agency, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team must:

1. Conduct a functional behavioral assessment, unless the education agency had conducted a functional behavioral assessment during the previous 18 months before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child, or
2. If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior, and
3. Return the child to the placement from which the child was removed, unless the parent and the education agency agree to a change of placement as part of the modification of the behavioral intervention plan.

Special Circumstances. School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child:

1. Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the Department of Education or an education agency,
2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at School, on school premises, or at a school function under the jurisdiction of the Department of Education or an education agency, or
3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the Department of Education or an education agency.

Definitions. For purposes of this section, the following definitions apply:

1. Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).
2. Illegal drug means a controlled substance, but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.
3. Serious bodily injury has the meaning given the term "serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.
4. Weapon has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

Appeal. The parent of a child with a disability who disagrees with any decision regarding disciplinary placement or the manifestation determination, or an LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may appeal the decision by requesting a due process hearing.

Authority of Hearing Officer. A hearing officer hears and makes a determination regarding an appeal under this section. In making the determination, the hearing officer may return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of disciplinary requirements, or that the child's behavior was a manifestation of the child's disability, or order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others. The procedures may be repeated, if the education agency believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

Expedited Due Process Hearing. Whenever a hearing is requested, the parents or the education agency involved in the dispute must have an opportunity for a due process hearing.

1. The Department of Education is responsible for arranging the expedited due process hearing due to disciplinary action, which must occur within 20 school days of the date the hearing request is filed. The hearing officer must make a determination within ten school days after the hearing.
2. Unless the parents and education agency agree in writing to waive the resolution meeting, or agree to use the mediation process, a resolution meeting must occur within seven calendar days of receiving notice of the due process hearing request, and
3. The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 calendar days of the receipt of the due process hearing request.
4. The decisions on expedited due process hearings are appealable.

Placement During Appeals. When an appeal has been made by either the parent or the educational agency, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period, whichever occurs first, unless the parent and education agency agree otherwise.

Protections for Children Not Determined Eligible for Special Education and Related Services.

A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in this part if the education agency had knowledge, as specified below, that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

A public agency must be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred if:

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

Exception. A public agency would not be deemed to have knowledge if the parent of the child has not allowed an evaluation of the child, or has refused services under this part, or the child has been evaluated and determined to not be a child with a disability under this part.

Conditions that Apply if No Basis of Knowledge.

1. If a public agency does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engage in comparable behaviors.
2. If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner. Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.
3. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the education agency and information provided by the parents, the education agency must provide special education and related services in accordance with this part.

Referral to and Action by Law Enforcement and Judicial Authorities.

Nothing in this part prohibits an agency from reporting an alleged crime committed by a child with a disability to appropriate authorities or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and state law to crimes committed by a child with a disability.

Whenever law enforcement or judicial authorities are contacted by a public agency personnel reporting an alleged crime committed by a child with a disability, the IEP Team must, within two weeks of the child's return to school setting:

1. If a public agency does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engage in comparable behaviors. Conduct a functional behavioral assessment unless the LEA has conducted a functional behavioral assessment during the previous 18 months before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child, or
2. If the behavioral intervention plan already has been developed, review the behavioral intervention and modify it, as necessary, to address the behavior.

Transmittal of Records.

1. An agency reporting an alleged crime committed by a child with a disability must ensure that education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.
2. An agency reporting an alleged crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the FERPA.

SPECIAL EDUCATION RIGHTS UNDER THE IDEA

Purpose(s) of this form:

- To fully inform the parent or student (age 19 and older) of his/her rights.

When to use this form:

- The parent or student (age 19 and older) must be given a copy of the rights.
- When a student is initially referred for an evaluation or when the parent requests an evaluation.
- Upon receipt of the first state complaint in a school year.
- Upon receipt of the first due process hearing request in a school year.
- Not later than the date on which the decision is made to take disciplinary action resulting in a change of placement.
- Upon request by the parent.
- At least once a year (the ALSDE is requesting that LEAs provide a copy of the *Special Education Rights* at the annual IEP Team meeting and document the date provided on the signature page of the IEP).

NOTE: LEAs are no longer required to provide a copy of *Special Education Rights* with each notice.

Things to remember when completing this form:

- Take time to explain these rights to the parent so that they make an informed decision
- Explain the rights that apply at the time of the meeting.

NOTICE AND INVITATION TO A MEETING / CONSENT FOR AGENCY PARTICIPATION

To: _____ Date Notice Sent: _____

Name of Parent or Guardian

This notice is to invite you to a meeting for student _____, DOB _____ to be held:

Meeting Date: _____ Time: _____ Location: _____

The purpose of this meeting is to:

- ☐ Determine if Referral requires Evaluation (Provide Special Education Rights)
- ☐ Discuss the Need for Additional Data Collection
- ☐ Determine Initial or Continued Eligibility
- ☐ Develop an Initial IEP
- ☐ Develop an Annual IEP or Revise the current IEP
- ☐ Conduct an Annual Review of the current IEP
- ☐ Discuss Transition / Postsecondary Services
- ☐ Conduct Manifestation Determination
- ☐ Develop Functional Behavioral Assessment Plan
- ☐ Develop/Revise/Discuss Behavioral Intervention Plan
- ☐ Conduct a Resolution Session
- ☐ Other Reason to meet: _____

The following people will be invited to meet with us:

- ☐ Local Education Agency (LEA) Representative
- ☐ Someone Who Can Interpret the Instructional Implications of the Evaluation Results
- ☐ General Education Teacher
- ☐ Special Education Teacher
- ☐ Parent
- ☐ Student notified on _____ via _____

- ☐ Career / Technical Representative
- ☐ Agency Representative(s) for Transition (with parental consent / student age 19)
- Agency Name(s): _____

Agency notified via: _____

on _____

- ☐ Other: _____
- ☐ Other: _____

Because your input is important to us, we encourage you to make every effort to attend this meeting. If you would like to participate by phone, please call the person below to make arrangements. You may bring other people whom you feel will be helpful to you in this process. If your child is transitioning from Early Intervention, you may request that an invitation be sent to the Early Intervention Program for the *initial* IEP Team meeting.

If you require notice and an explanation of your rights in your native language, the LEA/agency will accommodate you to ensure your understanding. You are fully protected under the rights addressed in your copy of the *Special Education Rights* document. If you want another copy of your rights, have any questions, wish to arrange a conference, or need additional accommodations please contact:

_____ at _____ or _____

Contact Name Telephone number Email me

FOR SCHOOL PERSONNEL - Documented attempts to contact parent/student (age 19) for the IEP Team meeting.Results of 1st Attempt: _____2nd Attempt Date: _____ Action / Result: _____**PARENT – STUDENT (Age 19 or older)****Please check one of the following boxes, sign, date, and return this form to the contact (above) before:** _____

- ☐ I **WILL** be able to meet with you on the scheduled date and time.
- ☐ I will **NOT** be able to meet on the scheduled date and time, but would like to reschedule, please contact me at _____
- ☐ I will **NOT** be able to attend the meeting. The meeting may proceed without me.

Please **check one** of the following boxes if agency(s) were invited (see if checked above):

- ☐ I **Give** consent for the representative(s) from the other transition agency(s) to attend the meeting.
(Excluding the following agency(s): _____)
- ☐ I **DO NOT** give consent for representative(s) from the other transition agency(s) to attend the meeting.

Signature of Parent or Student (Age 19) _____ **Date** _____

NOTICE AND INVITATION TO A MEETING / CONSENT FOR AGENCY PARTICIPATION

Purpose(s) of this form:

- To inform the parent and student (age 19 and older) of the purpose(s) of the IEP Team meeting and provide the parent or student (age 19 and older) with an opportunity to attend, participate by phone, etc.
- To document that the parent or student (age 19 and older) has been invited to an IEP Team meeting within a time frame that allows the parent or student (age 19 and older) time to respond and reschedule if necessary.
- To provide documentation that all required persons were invited to the meeting, including the student at age 16 and older. Students who will be age 16 during the implementation of the IEP must be invited to the IEP Team meeting even if they are age 15 at the time of the IEP Team meeting.
- To verify that the parent or student (age 19 and older) has received an invitation in their native language.
- To document attempts to contact the parent or student (age 19 and older) regarding the meeting.
- To inform the parent or student (age 19 and older) who to call to make arrangements if they would like to participate in the meeting by phone.
- To inform the parent of the right to have a representative from Part C attend the initial IEP Team meeting for a child transitioning from EI to preschool. The parent is responsible for informing the public agency that they want a representative from EI to be invited.
- To document consent of the parent or student (age 19 and older) to include or exclude other agency representatives who may be responsible for providing or paying for transition services if one of the purposes of the meeting is to consider transition services.
- To document an annual review of the current IEP.
- To document that the parent has been invited to the annual review meeting

When to use this form:

- Send this form to the parent or student (age 19 and older) every time an IEP Team meeting is scheduled.
- Purposes of meetings:
 - Determine if Referral requires Evaluation
 - Discuss the Need for Additional Data Collection
 - Determine Initial or Continued Eligibility
 - Develop Initial IEP
 - Review/Revise IEP
 - Annual Review/Develop Annual IEP
 - Discuss Transition/Postsecondary Services
 - Conduct Manifestation Determination
 - Develop Functional Behavioral Assessment Plan
 - Develop/Revise Behavioral Intervention Plan
 - Conduct a Resolution Session

Things to remember when completing this form:

- The date, time, and location of the meeting should be documented at the top of the page.
- Check all possible purposes of the meeting before sending the invitation. Purpose(s) of the meeting for which the parent or student (age 19 and older) have not been provided in the invitation may not be addressed unless the parent or student (age 19 and older) is in attendance and agrees to discuss the unchecked item(s). If this occurs it should be documented.
- Invite all IEP Team members required for the purpose(s) of the meeting.
- If the parent or student (age 19 and older) requests to participate by phone, ask the parent or student (age 19 and older) to check **I WILL BE ABLE TO MEET WITH YOU**. Ensure that you have the number where the parent or student (age 19 and older) can be reached at the scheduled time of the meeting.
- Include a copy of the *Special Education Rights* if the purpose of the meeting is to determine if the referral requires an evaluation.
- Type the name of the person signing as the education agency official in the space provided when completing the form in SETS.

NOTICE AND INVITATION TO A MEETING / CONSENT FOR AGENCY PARTICIPATION (Continued)

- Record the date that the invitation was sent to the parent and student (age 19 and older) and the results. If there is no response (or if the response is to reschedule the meeting) after the first invitation is sent, a second contact must be made and the date of the contact recorded on this form. The action and results of the second contact must be documented.
- **Agency representatives for transition who may be providing or paying for transition services may be invited to the IEP meeting but cannot attend without consent from the parent student (age 19 and older).**

What happens next:

- If the parent or student (age 19 and older) checks “I **WILL** be able to meet with you on the scheduled date and time,” no further action is required with this form. If the parent or student (age 19 and older) checks this option, but does not attend the meeting or is not available by phone as scheduled, the meeting may be held with the other required IEP Team members.
- If the parent or student (age 19 and older) checks “I **WILL NOT** be able to meet on the scheduled date and time, but would like to reschedule, please contact me at _____,” document this in the **Results** space and reschedule the meeting at mutually agreed upon time and place.
- If the parent or student (age 19 and older) checks “I **WILL NOT** be able to attend the meeting. The meeting may proceed without me,” hold the meeting as scheduled with the other required IEP Team members.
- If the parent or student (age 19 and older) does not respond to two attempts (first and second notice) the public agency may conduct the meeting. The first invitation must be sent/given to the parent or student (age 19 and older) and may be followed up with a phone call, e-mail, etc. A second invitation if needed should be sent/given to the parent or student in an attempt to schedule the meeting and may be followed up with a phone call, e-mail, etc.
- If the parent or student (age 19 and older) checks, “I **Give Consent** for the representative from the other transition agency(s) to attend the meeting,” the public agency should invite the transition agency representatives to attend the meeting. If the parent or student (age 19 and older) checks this option but the transition agency representatives do not attend the meeting as scheduled, the meeting may be held with the other required IEP Team members
- If the parent or student (age 19 and older) excludes transition agency(s) the public agency may not include the transition agency representatives in the meeting.
- If the parent or student (age 19 and older) checks “I **DO NOT** give consent for representatives from the other transition agency(s) to attend the meeting,” the transition agency representative may not be invited to attend the meeting.
- If the parent or student (age 19 and older) does not respond to two attempts (first and second invitation) regarding consent for transition agency representatives to attend the meeting the public agency may conduct the meeting but must not invite the agency representatives for transition.
- If the purpose of the meeting was to determine if the referral requires evaluation and the referral is accepted, the parent or student (age 19 and older) must sign the *Notice and Consent for Initial Evaluation* before any evaluation(s) may be conducted.

Note: The date the public agency receives a signed *Notice and Consent for Initial Evaluation* begins the 60 calendar day timeline to complete the initial evaluation.

- If the purpose of the meeting was to determine initial or continued eligibility, a copy of the *Notice and Eligibility Decision Regarding Special Education Services* must be provided to the parent and student (age 19 and older).
- If the purpose of the meeting was to discuss reevaluation, the parent and student (age 19 and older) must also be provided a copy of the *Notice of IEP Team’s Decision Regarding Reevaluation*. If additional data collection/evaluation(s) are required, the parent or student (age 19 and older) must then sign the *Notice and Consent for Reevaluation* form unless two attempts to gain consent with no response can be documented.

NOTICE AND INVITATION TO A MEETING / CONSENT FOR AGENCY PARTICIPATION

(Continued)

- If the purpose of the meeting was to develop the initial IEP, the parent or student (age 19 and older), must receive an invitation to the meeting using the *Notice and Invitation to a Meeting/Consent for Agency Participation*. The first invitation must be sent/given to the parent or student (age 19 and older) and may be followed up with a phone call, e- mail, etc. A second invitation if needed should be sent/given to the parent or student in an attempt to schedule the meeting and may be followed up with a phone call, e-mail, etc.
- If the purpose of the meeting was to conduct the annual review of the current IEP, the IEP Team must schedule an annual review meeting, but may not rewrite the IEP at that time. A meeting must be held by the annual review date to review the current IEP that will not expire until the TO date.
- If the purpose of the meeting was to develop/review//revise the IEP, the IEP Team will create the annual IEP, review or revise the current IEP. The parent or student (age 19 and older), must receive an invitation to the meeting using the *Notice and Invitation to a Meeting/Consent for Agency Participation*.
- If the purpose of the meeting was to discuss transition/postsecondary services, the student age 16 and older must receive an invitation to the IEP Team meeting. In the state of Alabama, transition must be addressed for students entering ninth grade.
- If the purpose of the meeting was to conduct a manifestation determination, the LEA, parent and relevant team members of the IEP Team (as determined by the parent and the LEA) must meet within 10 days to review all relevant information regarding the student's behavior and to determine whether the behavior in question is or is not a manifestation of the student's disability.
- If the purpose of the meeting is to Develop/Revise/Discuss Behavioral Intervention Plan, the required IEP Team members must meet to determine the problem behavior, develop positive behavioral supports, strategies, and interventions to reduce occurring behaviors. The IEP Team can meet to discuss and or revise the behavior intervention plan as appropriate.
- If the purpose of the meeting was to conduct a resolution session, the LEA must convene a meeting with the parent and the relevant member or members of the IEP Team who have specific knowledge or facts identified in the due process hearing request. The purpose of the meeting is for the parents of the child to discuss the due process hearing request and the facts that form the basis of the request so that the LEA has the opportunity to resolve the issue.

All notices must be sent to the parent even after the rights have transferred to the student at age 19. The notice and invitation must be sent to the parent or the student (age 19 and older) whichever one has IDEA decision making rights.

NOTICE OF IEP TEAM'S DECISION REGARDING REEVALUATION

STUDENT'S NAME: _____

IEP TEAM REEVALUATION DECISION

☐ **ADDITIONAL DATA** are needed.

AAC pages 503-504

☐ To appropriately determine eligibility status.

☐ To determine if changes need to be made to the IEP.

☐ **NO ADDITIONAL DATA** are needed.

☐ Existing data is sufficient for the IEP Team to determine eligibility status. (Requires the completion of a new *Notice and Eligibility Decision Regarding Special Education Services* form.)

☐ The current IEP meets the student's needs at this time.

☐ The current IEP needs to be revised

BASIS FOR DECISION

EVALUATION PROCEDURES, ASSESSMENTS, RECORDS, AND/OR REPORTS USED TO MAKE DECISION

<input type="checkbox"/> Vision	<input type="checkbox"/> Observation	<input type="checkbox"/> Interview	<input type="checkbox"/> Medical Records
<input type="checkbox"/> Hearing	<input type="checkbox"/> Speech	<input type="checkbox"/> Developmental Scales	<input type="checkbox"/> Other Agency Information
<input type="checkbox"/> Intellectual	<input type="checkbox"/> Language	<input type="checkbox"/> Work Samples	<input type="checkbox"/> State Assessments
<input type="checkbox"/> Achievement	<input type="checkbox"/> Motor	<input type="checkbox"/> Discipline Records	<input type="checkbox"/> Other _____
<input type="checkbox"/> Behavior	<input type="checkbox"/> Grades	<input type="checkbox"/> Attendance Reports	<input type="checkbox"/> Other _____

DESCRIPTION OF OTHER OPTIONS CONSIDERED AND WHY THE OPTIONS WERE REJECTED

THE FOLLOWING PEOPLE ATTENDED AND PARTICIPATED IN THE IEP MEETING

POSITION	IEP TEAM MEMBERS' SIGNATURE	DATE
Parent _____	_____	_____
Parent _____	AAC page 525 (3)(a-1)	_____
General Education Teacher _____	_____	_____
Special Education Teacher _____	_____	_____
LEA Representative _____	_____	_____
Someone Who Can Interpret The Instructional Implications Of The Evaluation Results _____	_____	_____
Student _____	_____	_____
Career/Technical Education Representative _____	_____	_____
Other Agency Representative _____	_____	_____

INFORMATION FROM PEOPLE NOT IN ATTENDANCE

POSITION	NAME	DATE
_____	_____	_____
_____	_____	_____

My signature below verifies that if you require notice and an explanation of your rights in your native language, the LEA/agency has accommodated you to ensure your understanding. You are fully protected under the rights addressed in your copy of the *Special Education Rights* document. If you want another copy of your rights, have any questions, or wish to arrange a conference, please contact:

at _____

(Name)

(Telephone)

Date Provided/Sent: _____

NOTICE OF IEP TEAM'S DECISION REGARDING REEVALUATION

Purpose(s) of this form:

- To document whether additional data/no additional data are needed to determine the eligibility and/or IEP status.
- To document that the parent and student (age 19 and older) have been informed of the IEP Team's decision regarding reevaluation.

When to use this form:

- When the IEP Team makes a decision that additional/no additional data are needed to determine continued eligibility.
- When the IEP Team makes a decision that additional/no additional data are needed to revise/maintain current services on the IEP.

Things to remember when completing this form:

IEP TEAM REEVALUATION DECISION

- **Additional data are needed.** This decision means that sufficient data are **not** currently available to ensure that the student continues to be eligible for special education services and/or that additional data are necessary to determine if changes need to be made to the IEP.
- **No additional data are needed.** This decision means that existing data (tests, scores, reports, work samples, parent information, observational data, etc.) are sufficient to support continued eligibility in a disability area, to determine that the student is ineligible for special education services, and/or to maintain or revise the current IEP. The IEP Team completes this form and provides a copy of the form to the parent along with a copy of a new *Notice and Eligibility Decision Regarding Special Education Services* if reevaluation for continued eligibility is being discussed.

BASIS FOR DECISION

- **Must be completed to reflect the data used to determine whether additional/no additional data were needed.**

DO NOT LEAVE BLANK

Examples of responses if additional data are needed:

- The IEP Team determined that a new evaluation of cognitive ability is needed to obtain a current indication of the student's intellectual performance. Previous evaluations are inconsistent.
- The IEP Team determined that the student has made significant progress and may no longer need specially designed instruction. The IEP Team is requesting a current evaluation.
- The IEP Team determined that the student may be in need of physical therapy and is proposing an evaluation by a physical therapist.
- The student currently receives services in the area of speech or language impairment and the IEP Team suspects the student may have a reading problem and is proposing a formal reading assessment at this time.

Examples of responses if no additional data are needed:

- After reviewing previous eligibility reports, educational data, eligibility determinations, and current educational evaluation data, the IEP Team has determined that the student continues to have a significant disability that has an adverse effect on his/her educational performance.
- The IEP Team has reviewed all existing data (previous eligibility reports, curriculum based assessments, grades, etc.) and has determined that he/she continues to be in need of specially designed instruction.
- The IEP Team has reviewed the IEP and has determined the IEP is currently appropriate to provide educational benefit.
- The IEP Team has existing evaluation data that documents a need for the IEP to be revised.

NOTICE OF IEP TEAM'S DECISION REGARDING REEVALUATION

(continued)

EVALUATION PROCEDURES, ASSESSMENTS, RECORDS, AND/OR REPORTS USED TO MAKE DECISION

- Check the type of evaluation information that the IEP Team used in making the decision. The IEP Team must have supporting data for any area checked.

DESCRIPTION OF OTHER OPTIONS CONSIDERED AND WHY THEY WERE REJECTED

Examples of responses:

- The IEP Team considered evaluating the student in the area of intelligence but determined that the three previous assessments were consistent and are accurate indicators of his/her functioning at this time.
- The IEP Team considered not evaluating the student and dismissing him/her from special education but wanted confirmation and therefore proposed a comprehensive evaluation.
- The IEP Team determined that more current behavior rating scales were needed for this student with Emotional Disability. The behavior rating scales were not significant. The IEP Team has decided to use the option of continued eligibility at this first reevaluation. The completion of a new *Notice and Eligibility Decision Regarding Special Education Services* form is required.
- The student qualifies for both SLD and SLI. The IEP Team has determined that SLD is the area of disability that has the most adverse effect at this time.

THE FOLLOWING PEOPLE ATTENDED AND PARTICIPATED IN THE IEP MEETING

- IEP Team members that participate in the meeting must sign this page.
- Type in the name of each IEP Team member on the individual signature lines when completing the form in SETS. If an IEP Team member is serving in two positions at the reevaluation meeting (e.g., special education teacher is also serving as someone who can interpret the instructional implications of the evaluation results), he/she should sign his/her name by each position he/she is representing. Maintain a printed copy with original signatures to be kept on file. If an IEP Team member participates by phone, state that on the signature line.

INFORMATION FROM PEOPLE NOT IN ATTENDANCE

- If information is submitted from someone unable to attend, that person's position, name, and date the information was received should be reported in the space provided.

What happens next:

If additional data are needed:

- The IEP Team obtains written consent from the parent or student (age 19 and older).
- Additional data are collected.
- At the eligibility meeting, a new *Notice and Eligibility Decision Regarding Special Education Services* form must be completed and a copy given/sent to the parent and student (age 19 and older).

If no additional data are needed and the parent or student (age 19 and older) is in agreement (to move forward or if appropriate prior notice was provided on the *Notice and Invitation to a Meeting/Consent for Agency Participation*):

- The IEP Team determines continued eligibility and/or develops the IEP.
- A new *Notice and Eligibility Decision Regarding Special Education Services* form must be completed if eligibility was being conducted.

The IEP Team must send the *Notice of IEP Team's Decision Regarding Reevaluation* and the new *Notice and Eligibility Decision Regarding Special Education Services* to the parent and student (age 19 and older).

NOTICE AND CONSENT FOR REEVALUATION

Student: _____

The IEP Team met to discuss a reevaluation of your child. After reviewing existing information they have determined that additional data is needed to determine continued eligibility for special education and related services and/or appropriate services.

The reevaluation will include new assessments in the following checked areas:

<input type="checkbox"/> Vision	<input type="checkbox"/> Observation	<input type="checkbox"/> Motor	_____
<input type="checkbox"/> Hearing	<input type="checkbox"/> Speech	<input type="checkbox"/> Other	_____
<input type="checkbox"/> Intellectual	<input type="checkbox"/> Language	<input type="checkbox"/> Other	_____
<input type="checkbox"/> Achievement	<input type="checkbox"/> Interview	<input type="checkbox"/> Other	_____
<input type="checkbox"/> Behavior	<input type="checkbox"/> Developmental Scales	<input type="checkbox"/> Other	_____

If you give consent, the reevaluation will be provided to you at no cost. If you fail to respond, the LEA/agency may proceed with the reevaluation after two documented attempts to obtain your consent. If you refuse consent, the LEA/agency may request a mediation and/or a due process hearing.

PLEASE CHECK ONE OF THE FOLLOWING BOXES, SIGN, AND DATE THE FORM.

☐ **I GIVE PERMISSION** for the reevaluation that has been proposed.

☐ **I DO NOT GIVE PERMISSION** for the reevaluation that has been proposed. Please explain.

Signature of Parent or Student (Age 19)

Date of Signature

My signature below verifies that if you require notice and an explanation of your rights in your native language, the LEA/agency has accommodated you to ensure your understanding. You are fully protected under the rights addressed in your copy of the *Special Education Rights* document. If you have information that can assist in this reevaluation, have questions regarding this reevaluation, wish to schedule a conference, or need another copy of your rights please contact:

Name: _____ at Telephone: _____

Please return this form to: Address _____

Signature of Education Agency Official _____

Date Provided/Sent _____

Results of 1st Attempt

2nd Attempt Date _____ Action _____

Results of 2nd Attempt:

Date Signed Consent Received by Public Agency _____

NOTICE AND CONSENT FOR REEVALUATION

Purpose(s) of this form:

- To obtain consent from the parent or student (age 19 and older) when the IEP Team has determined that additional data are required to:
- Determine continued eligibility status.
- Determine if changes need to be made to the IEP.

When to use this form:

- To obtain parent or student (age 19 and older) consent prior to obtaining any additional data to determine continued eligibility status or to determine if changes need to be made to the IEP.

Things to remember when completing this form:

- Type in the name of the parent or student (age 19 and older) on the signature line when completing the form in SETS. Type in the name of the person signing as the education agency official in the spaces provided when completing the form in SETS. Maintain a printed copy with original signatures to be kept on file.
- Complete the box at the bottom of the page documenting the education agency's attempt(s) to obtain consent. The two attempts documented on the *Notice and Invitation to a Meeting/Consent for Agency Participation* cannot be used as the two attempts to obtain *Notice and Consent for Reevaluation*.
- Document the date the signed consent was received by the public agency.
- A closure rule has been added in SETS so that either results of 1st and 2nd attempt must be completed when consent cannot be obtained OR Date signed Consent received by Public Agency must be completed. One or the other is required (two attempts with results or consent received), but not both.
- Consent is **not** required for assessments that the IEP Team determines appropriate at the IEP meeting for evaluating the goals (i.e., data collection, teacher/text tests, work samples, teacher observations, grades, and state assessments).

What happens next:

- If the parent or student (age 19 and older) checks **I GIVE PERMISSION** the education agency completes the evaluations.
- If the IEP Team makes two attempts to get parental or student (age 19 and older) consent and the parent or student (age 19 and older) does not respond, the evaluation may be completed. These two attempts may be documented under record review on the eligibility report.
- If the parent or student (age 19 and older) checks **I DO NOT GIVE PERMISSION** the education agency **may not** proceed with the evaluations. If the parent or student (age 19 and older) refuses to provide consent, the IEP Team has three options to consider:
 - The IEP Team may request that the parent or student (age 19 and older) participate in a conference to discuss his/her decision.
 - The IEP Team may determine that the additional evaluative data is not absolutely necessary in order to make changes to the IEP.
 - The public agency may ask for mediation from the ALSDE or the public agency may initiate a due process hearing in order to have an impartial hearing officer order an evaluation to be conducted over the parent or student's (age 19 and older) objections.

NOTICE OF PROPOSAL OR REFUSAL TO TAKE ACTION

The IEP Team has met to consider the following, regarding the educational program for:

STUDENT'S NAME: _____

- | | | | |
|--|---|------------------------------------|--------------------------------|
| <input type="checkbox"/> Identification | <input type="checkbox"/> Evaluation | <input type="checkbox"/> Placement | <input type="checkbox"/> Other |
| <input type="checkbox"/> LEA Response to DPH Request | <input type="checkbox"/> Provision of Free Appropriate Public Education | <input type="checkbox"/> | <input type="checkbox"/> Other |

DECISION REGARDING SPECIFIC ACTION PROPOSED OR REFUSED.

It has been decided that action will be taken by the local education agency.

Check one:

- [] The local education agency will take the proposed action immediately and without undue delay.
- [] The local education agency's proposed action will be taken in _____ calendar days to afford the parent a reasonable period of time to consider the proposed action.

BASIS FOR DECISION(S)

DESCRIPTION OF OTHER OPTIONS CONSIDERED AND WHY THE OPTIONS WERE REJECTED

**THE FOLLOWING EVALUATION PROCEDURES, ASSESSMENTS, RECORDS,
AND/OR REPORTS WERE USED IN MAKING THE DECISION**

- | | | | | | | | |
|--------------------------|--------------|--------------------------|-------------|--------------------------|----------------------|--------------------------|--------------------------|
| <input type="checkbox"/> | Vision | <input type="checkbox"/> | Observation | <input type="checkbox"/> | Grades | <input type="checkbox"/> | Medical Records |
| <input type="checkbox"/> | Hearing | <input type="checkbox"/> | Speech | <input type="checkbox"/> | Developmental Scales | <input type="checkbox"/> | Other Agency Information |
| <input type="checkbox"/> | Intellectual | <input type="checkbox"/> | Language | <input type="checkbox"/> | Work Samples | <input type="checkbox"/> | State Assessments |
| <input type="checkbox"/> | Achievement | <input type="checkbox"/> | Motor | <input type="checkbox"/> | Discipline Records | <input type="checkbox"/> | Other |
| <input type="checkbox"/> | Behavior | <input type="checkbox"/> | Interview | <input type="checkbox"/> | Attendance Reports | <input type="checkbox"/> | Other |

My signature below verifies that if you require notice and an explanation of your rights in your native language, the LEA/agency has accommodated you to ensure your understanding. You are fully protected under the rights addressed in your copy of the *Special Education Rights* document. If you want another copy of your rights, have any questions, or wish to arrange a conference, please contact:

_____ at _____
(Name) (Telephone)

Signature of Education Agency Official

Date Provided/Sent:

NOTICE OF PROPOSAL OR REFUSAL TO TAKE ACTION

Purpose(s) of this form:

- To document that prior written notice has been provided to the parent each time the LEA proposes to, or refuses to, initiate or change the identification, evaluation, placement and/or provision of a free appropriate public education (FAPE) to a student with a disability.
- To document the IEP Team's decision **not** to accept a referral for an evaluation to determine eligibility for special education services.
- To document the IEP Team's decision not to provide the special education/related service an IEP Team member is requesting to be included in the IEP.
- To document the IEP Team's decision to change the placement of the student.
- To document that the student will not be returning to school the next school year because the student:
 - o Will be graduating from high school with the Alabama High School Diploma.
 - o Will be age 21 prior to August 1 of the next school year.
- To document that the parent and student have been notified that the student who has reached the age of majority (age 19) and is exiting school before age 21 and who has not earned the AHSD, still has the right to receive services to age 21.
- To document the LEA's response to a DPH request when the public agency did not provide a notice prior to the DPH request.
- To document minor changes on an IEP (i.e., misspelled words, grammatical errors). Check with your local special education coordinator for permission to use this process to make minor changes to the IEP.
- To document corrective actions after an internal/ALSDE monitoring review.
- To document that the parent or student (age 19 and older) has revoked consent for the provision of special education services.
- To document the new IEP being proposed.
- To document that an out-of-state IEP is being implemented until such time eligibility is determined in Alabama.
- To document the time frame in which action will be taken by the education agency regarding the stated decision.
- To document the IEP Team conducted an Annual Review Meeting.

When to use this form:

- To indicate when the stated action will be implemented by the education agency either immediately and without undue delay or a number of calendar days to afford the parent a reasonable period of time to consider the proposed action.
- To indicate to the parent and student (age 19 and older) when the public agency proposes to, or refuses to, initiate or change the identification, evaluation, placement, and/or the provision of a free appropriate public education.
- When the IEP Team has decided not to evaluate the student when the student is initially referred for an evaluation (check Identification and Evaluation).
- When the IEP Team refuses to provide a service requested by an IEP Team member (check Provision of Free Appropriate Public Education).
- When the IEP Team is proposing to change the placement of the student (check Placement and Provision of Free Appropriate Public Education).
- Whenever the IEP is amended and when an annual IEP is developed.
- To provide prior notice of the student exiting school because of graduating with the Alabama High School Diploma or reaching age 21 prior to August 1 (check Placement and Provision of Free Appropriate Public Education).
- To provide documentation to the parent and student who has reached the age of majority (age 19) that the student who is exiting school before age 21 and who has not earned the AHSD, still has the right to receive services to age 21.
- When the IEP Team conducts an annual review of the current IEP.

NOTICE OF PROPOSAL OR REFUSAL TO TAKE ACTION (continued)

- To give the completed form to the parent and student (age 19 and older) when a DPH request is received and this form has not been provided prior to the DPH request (check all that apply).
- To document minor changes on an IEP. Seek guidance from the local special education coordinator.
- To document minor corrections found during internal monitoring/ALSDE monitoring. Seek guidance from the local Special Education Coordinator. Examples are as follows:
 - A required evaluation was administered and considered by the IEP Team or Eligibility Committee, but was omitted from the eligibility report.
 - A copy of the eligibility report was not given or sent to the parent and student (age 19 and older).
 - A copy of the IEP was not given or sent to the parent and student (age 19 and older).
 - The date of birth was recorded incorrectly on the IEP.
- Do **not** use this form to request additional data collection/evaluation. For this request, the IEP Team must meet and document the decision on the *Notice of IEP Team's Decision Regarding Reevaluation*.

Things to remember when completing this form:

- Prior written notice must be provided in a timely manner. In the case of a proposal or refusal to take action this will allow the parent a reasonable time to fully consider the changes and respond to the action before it is implemented.
- Type the name of the person signing as the education agency official in the space provided when completing the form in SETS.

What happens next:

- If action is required by the public agency regarding the decision, the action will be taken in the specified number of calendar days unless the IEP Team and parent agree otherwise that the proposed action will take place immediately without undue delay.
- Even if the parent was in attendance at the meeting you still need to give/send prior written notice to the parent and student (age 19 and older) when the public agency proposes to, or refuses to, initiate or change the identification, evaluation, placement, and/or the provision of a free appropriate public education. This includes when the IEP is developed or reviewed annually and any time the IEP is amended.

VISION SCREENING FORM

Student's Name _____ School Year: _____

School _____ Grade _____

Initial Examiner _____ Date: _____

Screening Date: _____

	FAR	NEAR
Both Eyes	[] Pass [] Fail	[] Pass [] Fail
Right Eye	[] Pass [] Fail	[] Pass [] Fail
Left Eye	[] Pass [] Fail	[] Pass [] Fail

Examiner: _____

Instrument used: _____

Remarks:

- [] Within Normal Limits
 [] Needs Recheck
 [] With Glasses
 [] Needs Referral

Recheck Date: _____

	FAR	NEAR
Both Eyes	[] Pass [] Fail	[] Pass [] Fail
Right Eye	[] Pass [] Fail	[] Pass [] Fail
Left Eye	[] Pass [] Fail	[] Pass [] Fail

Examiner: _____

Instrument used: _____

Remarks:

- [] Within Normal Limits
 [] Needs Recheck
 [] With Glasses
 [] Needs Referral

Resolution of Problem: _____

If the child cannot be conditioned to traditional vision screening, a functional vision screener may be used.

Date: _____ [] Pass [] Fail Examiner: _____

Optional Form for Required Procedure/Evaluation

HEARING SCREENING FORM

Student's Name _____ School Year _____

School _____ Grade _____

Initial Examiner _____ Date _____

Hearing Criteria: Puretone Audiometry-Tympanometry. A student fails the screening test if he/she does not respond to any ~~one~~ tone (frequency) at 20db hearing level in either ear.

Screening Date: _____

		FREQUENCY HZ		
		1000	2000	4000
Right Ear	HL 20	<input type="checkbox"/> Pass	<input type="checkbox"/> Pass	<input type="checkbox"/> Pass
		<input type="checkbox"/> Fail	<input type="checkbox"/> Fail	<input type="checkbox"/> Fail
Left Ear	HL 20	<input type="checkbox"/> Pass	<input type="checkbox"/> Pass	<input type="checkbox"/> Pass
		<input type="checkbox"/> Fail	<input type="checkbox"/> Fail	<input type="checkbox"/> Fail

Examiner: _____
 Audiometer: _____
 Last Calibration Date: _____

Tympanometry: RE _____
 Tympanometry: LE _____

Remarks:

- ☐ Within Normal Limits
☐ Needs Rescreen (within two weeks)
☐ Needs Referral

Recheck Date: _____

		FREQUENCY HZ		
		1000	2000	4000
Right Ear	HL 20	<input type="checkbox"/> Pass	<input type="checkbox"/> Pass	<input type="checkbox"/> Pass
		<input type="checkbox"/> Fail	<input type="checkbox"/> Fail	<input type="checkbox"/> Fail
Left Ear	HL 20	<input type="checkbox"/> Pass	<input type="checkbox"/> Pass	<input type="checkbox"/> Pass
		<input type="checkbox"/> Fail	<input type="checkbox"/> Fail	<input type="checkbox"/> Fail

Examiner: _____
 Audiometer: _____
 Last Calibration Date: _____

Tympanometry: RE _____
 Tympanometry: LE _____

Remarks:

- ☐ Within Normal Limits
☐ Needs Rescreen (within two weeks)
☐ Needs Referral

Resolution of Problem: _____

If the child cannot be conditioned to pure-tone audiometry, an auditory response screener may be used.

Date: _____ ☐ Pass ☐ Fail Examiner: _____

Optional Form for Required Procedure/Evaluation

OBSERVATION FORM

STUDENT'S NAME _____ BIRTH DATE _____

SCHOOL _____ GRADE _____ DATE OF OBSERVATION _____

OBSERVER'S SIGNATURE _____

NAME OF OBSERVER _____ POSITION _____

TIME STARTED _____ TIME COMPLETED _____

[] Structured [] Unstructured (one required)

The observation **MUST** include activity/class and **MAY** include other items such as student's response, teacher's response, and peer response.

<p>Required Assessment for certain disability areas</p>

<p>If SLD is suspected a member of the group who determines eligibility must conduct the observation.</p>

<p>AAC page 516 5. (i) (ii)</p>

OBSERVATION FORM

(Optional form for required procedure/evaluation)

Purpose(s) of this form:

- To document in narrative form the actual observation of behavior/academic performance demonstrated by a student in a natural, age-appropriate, or educational environment.

When to use this form:

- This form may be used when a student is suspected of having a disability in the area of ED or SLD.
- This form may be used at reevaluation for any disability area if the IEP Team determines that additional data are needed.
- Do not use this form when observing a 3-5 year old being evaluated for preschool services.
Use the *Natural Environment Observation/ELPP Documentation*.

Things to remember when completing this form:

- All blanks on the top of the form must be filled in completely with the indicated information.
- The person completing the observation must sign as the observer.
- Type in the name of the observer on the signature line when completing the form in SETS.
- Indicate whether the observation is in a structured environment or unstructured environment by checking the appropriate box.
- Complete only one observation in one setting per form.
- The report must include the activity/class where the observation took place.
- Requirements for determining eligibility in the area of ED include observations in at least two educational environments. A third observation may be used as documentation that the emotional disability has been exhibited over a long period of time. The observation must be conducted by a qualified professional.
- Requirements for determining eligibility in the area of SLD include at least one observation of the student's academic performance in the regular classroom setting. The observation should be directed to the specific area(s) of the suspected learning disability. The observation must be conducted by at least one member of the IEP Team or Eligibility Committee (whichever group is responsible for determining whether a child has a Specific Learning Disability) unless, the IEP Team or Eligibility Committee chose to use an observation conducted prior to obtaining consent.
- Requirements for determining eligibility in the area of Autism include observation in both a structured and an unstructured school environment or natural setting and a structured interview with the parent/primary caregiver for all students in Grades K-12. For all preschool aged children, an observation in a natural setting and a structured interview with the parents/primary caregiver is required.

What happens next:

- Analyze the observation report and record what is relevant in determining eligibility on the *Notice and Eligibility Decision Regarding Special Education Services* form. Do not write "See Attached" on the eligibility report.

NOTICE AND ELIGIBILITY DECISION REGARDING SPECIAL EDUCATION SERVICES

STUDENT'S NAME: _____ **Date of Birth:** _____

Date this report was given or sent to parent (student at age 19) _____

Check One: ☐ **Initial Eligibility** ☐ **Reevaluation**

Area of Assessment: _____

Date: _____

Assessment: _____

Standard Scores (Total): _____

Other Scores: _____

Date: _____

Assessment: _____

Standard Scores (Total): _____

Other Scores: _____

Date: _____

Assessment: _____

Standard Scores (Total): _____

Other Scores: _____

Area of Assessment: _____

Date: _____

Assessment: _____

Standard Scores (Total): _____

Other Scores: _____

Date: _____

Assessment: _____

Standard Scores (Total): _____

Other Scores: _____

Date: _____

Assessment: _____

Standard Scores (Total): _____

Other Scores: _____

STUDENT'S NAME: _____ **Date of Birth:** _____

Area of Assessment: _____

Date: _____

Assessment: _____

Standard Scores (Total): _____

Other Scores: _____

Date: _____

Assessment: _____

Standard Scores (Total): _____

Other Scores: _____

Date: _____

Assessment: _____

Standard Scores (Total): _____

Other Scores: _____

Area of Assessment: _____

Date: _____

Assessment: _____

Standard Scores (Total): _____

Other Scores: _____

Date: _____

Assessment: _____

Standard Scores (Total): _____

Other Scores: _____

Date: _____

Assessment: _____

Standard Scores (Total): _____

Other Scores: _____

Final Completion Date of ALL Evaluations: _____

NOTICE AND ELIGIBILITY DECISION REGARDING SPECIAL EDUCATION SERVICES

Purpose(s) of this form:

- To document all assessments and results used in the evaluation/reevaluation process.
- To document that required assessment were administered as part of the initial evaluation for each area of suspected disability.
- To document that a copy of the eligibility report was given/sent to the parent and student (age 19 and older) at initial eligibility determination and each reevaluation for continued eligibility determination.

When to use this form:

- For initial eligibility, the form is completed after all assessments are conducted as part of the initial evaluation and all other relevant data are reviewed.
- For each reevaluation, the form is completed documenting all assessments conducted/considered and all other relevant data reviewed.

Things to remember when completing this form:

- You may use the annotate process to document each time a copy of this form is given/sent to the parent and student (age 19 and older).
- Check whether the form is being completed for initial eligibility or reevaluation.
- Document vision and hearing screening results under **Other Scores** within the appropriate area of assessment.
- List all assessment information, including reports provided by the parents or other agencies that will be used in determining eligibility.
- Include the name of the assessment **AND** the results.
- For observations, teacher checklists, medical reports, work samples, documentation of appropriate instruction, etc., provide a summary statement on the form under **Other Scores**.
- Document two attempts to obtain the home version of an adaptive behavior scale on the form under **Other Scores**.

Scores.

- Test scores must be reported as standard scores with a mean of 100 and a standard deviation of 15. If a test does not yield standard scores, you **must** convert the score by using the conversion tables/charts available on our Web page in the Assessment link. For example: If you use a T-score it should be documented under **Other Scores**.
- Total scores obtained for an achievement and IQ test must be documented under standard score on the eligibility report.
- If an assessment used as supporting documentation does not yield scores that can be converted to standard scores, enter results under **Other Scores**.
- For reevaluation, if parent consent is not obtained and two attempts are documented, an assessment area labeled record review can be created to document the attempts or attempts can be documented in the annotate process.
- The **Final Completion Date of ALL Evaluations** is the date used to determine if the initial evaluation was completed 60 calendar days from the date the public agency received the signed copy of the *Notice and Consent for Initial Evaluation*. Therefore, all assessments should be dated on or before the final completion date.
- If the form is amended provide the parent and student (age 19 and older) a *Notice of Proposal of Refusal to Take Action* form explaining the amendments made and attach to the *Notice and Eligibility Decision Regarding Special Education Services*.

STUDENT'S NAME: _____ Date of Birth: _____

SLD ONLY SECTION – For each option checked below, include documentation of a specific learning disability in the assessment section of this report and in the box below briefly summarize data supporting your selection(s).

☐ **Option 1: Response(s) to Intervention.**

☐ **Option 2: Pattern of strengths and weaknesses.**

Data summary for option 1 and/or option 2:

☐ **Option 3: Severe Discrepancy (SD) documentation.**

IQ score: _____

Predicted Achievement (PA) score: _____

**Obtained Achievement (OA) score(s)
determined one of two ways:**

One Achievement Test
ages) Total test score _____

OR

Two Composites OR Two Subtests _____

Scores from two different achievement tests that measure the same deficit skill area (i.e., Composite Reading scores from two different tests; Subtest Calculation scores from two different tests)

PA _____ - OA _____ = SD _____

PA _____ - OA _____ = SD _____

(SD must be 16 points
or greater for all

Severe discrepancy (SD) between ability and achievement: ☐ YES ☐ NO

Complete for all students suspected of SLD, regardless of option(s) chosen above.

1. For educationally relevant behaviors noted during the classroom observation(s) and educationally relevant medical findings (if any), please refer to page(s) ____ of this report.
2. Student behavior or difficulty that affects his/her academic functioning:

3. The following factors have been ruled out as the primary cause of the impairment (all must be considered and checked to qualify for SLD):

<input type="checkbox"/> Environmental/Cultural/Economic Concerns	<input type="checkbox"/> Visual/Hearing Disabilities
<input type="checkbox"/> Intellectual Disability	<input type="checkbox"/> Emotional Disability <input type="checkbox"/> Motor Disabilities

NOTICE AND ELIGIBILITY DECISION REGARDING SPECIAL EDUCATION SERVICES (SLD Section Only)

Purpose(s) of this page:

- To document each option used to determine eligibility for SLD.
- To document that appropriate procedures were used to determine eligibility for SLD.

Things to remember when completing this page:

- For all students *suspected* of having a SLD, the **SLD ONLY SECTION** must be completed in its entirety, using Option 1, Option 2, Option 3, or a combination of options.
- For Option 1, document all interventions that were used and the response or lack of response observed in the student's performance in the classroom. Include the amount of time the interventions were utilized.
- For Option 2, document patterns of strengths and weaknesses in performance, achievement, or both.
- For Option 3, document the scores used to determine a severe discrepancy.
- Complete all three items in the box at the bottom of the page whether using Option 1, Option 2, Option 3, or a combination of options. **THESE FACTORS MUST BE CONSIDERED and CHECKED AS BEING RULED OUT** as **the** primary cause of the impairment.
- In the **SLD Only Section**, select the option(s) that was considered when determining eligibility for SLD. Summarize any data used to determine eligibility under **Data summary for option 1 and/or option 2**. The summary should include assessment data considered strengths and those considered a weakness when using the Pattern of Strengths and Weaknesses option (option 2). Document assessment data used to make the determination.

STUDENT'S NAME: _____ Date of Birth: _____

E L I G I B I L I T Y D E C I S I O N**Complete for all students:**

Was a lack of appropriate instruction in math and/or reading, including the essential components of reading instruction (as defined in section 1208(3) of the Elementary and Secondary Education Act of 1965) or limited English proficiency the determining factor in the decision? (See documentation in this report.)

[] YES [] NO

[] YES [] NO Does the student meet AAC criteria for the suspected area(s) of disability?

[] YES [] NO Does the disability have an adverse affect on educational performance?

[] YES [] NO Does the student need specially designed instruction in order to access and participate in the general education curriculum?

ELIGIBLE: [] YES [] NO**AREA OF DISABILITY:** _____

If the selected area of disability is Multiple Disabilities, list at least two disability areas for which the student is eligible.

--	--	--

Explanation (if needed):

DESCRIPTION OF OTHER OPTIONS CONSIDERED AND WHY THEY WERE REJECTED

--

CHECK ONE: **Eligibility Committee** [] **IEP Team** []I **AGREE** with the conclusions written in this report.

Position	Signature	Date
Parent		
Parent		
General Education Teacher		
Special Education Teacher		
LEA Representative		
Someone Who Can Interpret The Instructional Implications Of The Evaluation Results		
Student		
Other		

I **DO NOT AGREE** with the conclusions written in this report. The attached statement represents my conclusions in this area.

Position	Signature	Date

My signature below verifies that if you require notice and an explanation of your rights in your native language, the LEA/agency has accommodated you to ensure your understanding. You are fully protected under the rights addressed in your copy of the *Special Education Rights* document. If you want another copy of your rights, have any questions, or wish to arrange a conference, please contact:

Name: _____ Telephone: _____

Signature of Education Agency Official

NOTICE AND ELIGIBILITY DECISION REGARDING SPECIAL EDUCATION SERVICES (Eligibility Decision)

Purpose(s) of this form:

- To document that the eligibility decision was determined based on the evaluation information.
- To indicate the student meets AAC criteria for the suspected area(s) of disability.
- To indicate an adverse effect on the student's educational performance.
- To indicate that the student requires specially designed instruction to access and participate in the general education curriculum.
- To document the eligibility decision and area of disability with an explanation (i.e., to document when one of the options for the first reevaluation for ED is being used).
- To document eligibility criteria for MD has been met in two or more areas and is documented in the eligibility report under Area of Disability.
- To document that lack of appropriate instruction in math or reading or limited English proficiency was/was not the determining factor(s) in the eligibility decision. This must also be documented on the eligibility report under Prong I.
- To document a description of other options considered. This section **must** be completed.
- To document whether an IEP Team or Eligibility Committee was used.
- To document that the required IEP Team or Eligibility Committee members attended and participated in a meeting to determine eligibility. The LEA plan specifies whether an IEP Team or Eligibility Committee is used to determine eligibility, so be sure you are implementing your plan accordingly.
- To document IEP Team or Eligibility Committee members agreement/disagreement with the eligibility decision.

Things to remember when completing this page:

- Under the section to **Complete for all students**, determine whether the lack of appropriate instruction in math or reading or the student's limited English proficiency was the determining factor in the eligibility decision. Check "yes" or "no" in the appropriate box. If the decision is that the student is eligible, the answer to the question should be **NO**. If **YES** is checked, the student should not be determined eligible because the lack of appropriate instruction in reading, math or LEP may not be the determining factor in the decision. Include data on the eligibility report to support this decision.
- Under the section to **Complete for all students**, the answer to each question should be **YES** if the student is determined to be eligible for special education services. Each definition in the AAC states that the student's disability must have an adverse affect on educational performance and that the student is in need of special education and related services. If **NO** is checked for any of the three questions, the student will not be eligible to receive special education services because the student does not meet the AAC criteria/the definition of a child with a disability in the federal regulations.
- Check the IEP Team's or Eligibility Committee's decision regarding eligibility.
- Indicate the area of disability. Do not list secondary disability areas.
- If the student is eligible for MD, specify the two or more disabilities in the Explanation section. The student must meet eligibility criteria in both or all disability areas.
- A description of other options that were considered **must be** listed with the reasons they were rejected.
- IEP Team or Eligibility Committee members that participate in the meeting must sign this page.
- If an IEP Team member or Eligibility Committee participant is serving in two positions at the eligibility meeting (e.g., special education teacher is also serving as someone who can interpret the instructional implications of the evaluation results) he/she should sign his/her name by each position he/she is representing.
- Each person attending the eligibility meeting must sign the last page either in the **I AGREE** or **I DO NOT AGREE** section.

**NOTICE AND ELIGIBILITY DECISION REGARDING
SPECIAL EDUCATION SERVICES
(Eligibility Decision Continued)**

- Type in the name of each IEP Team member or Eligibility Committee participant on the signature line when completing the form in SETS. Maintain a printed copy with original signatures on file.
- If a signature appears in the **I DO NOT AGREE** section, a statement should be attached to the eligibility report indicating why the person does not agree with the eligibility decision.
- The name of the contact person should be indicated at the bottom of the page as well as the signature of an agency official.

What happens next:

- If the student is eligible, the IEP Team must meet within 30 calendar days of the initial eligibility determination to develop the IEP.
- If a student is not eligible, refer the student to the PST.
- Provide parent a copy of the *NOTICE AND ELIGIBILITY DECISION REGARDING SPECIAL EDUCATION SERVICES* form regardless of the eligibility decision.

NOTICE OF REVOCATION OF CONSENT FOR CONTINUED PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES

Dear Parent:

It is our understanding that you no longer want your child, _____, to receive special education and related services.

By revoking consent for the continued provision of special education and related services, you must understand that the public agency:

1. May not continue to provide special education and related services to the child, but must provide prior written notice before ceasing the provision of special education and related services.
2. May not use the Mediation or Due Process procedures in order to obtain agreement or a ruling that the services may be provided to the child.
3. Will not be considered to be in violation of the requirement to make free appropriate public education available to the child because of the failure to provide the child with further special education and related services.
4. Is not required to convene an Individualized Education Program (IEP) Team meeting or develop an IEP for the child for further provision of special education and related services.
5. Will no longer provide services to your child as of the date the public agency provides written notice.
6. Is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.

If you have questions regarding this decision, your rights, or wish to schedule a conference, please contact:

Name: _____

Telephone: _____

Please return this form to: _____

Address: _____

My signature below verifies that if you require notice and an explanation of your rights in your native language, the LEA/agency has accommodated you to ensure your understanding. You are fully protected under the rights addressed in your copy of the *Special Education Rights* document. If you want another copy of your rights, have any questions, or wish to arrange a conference, please contact:

(Name)

(Telephone)

- ☐ Yes, I want to revoke my consent for the continued provision of special education services.
- ☐ No, after understanding the provisions above, I do not want to revoke my consent. I want my child to continue to receive special education and related services.

Signature of Parent

Date

Date Notice Received by Public Agency _____

AAC page 524 (d)(e)

AAC page 542 (3)(4)

Notice of Revocation of Consent for Continued Provision of Special Education and Related Services

Purpose(s) of the form:

- To document in writing the parent's or student's (age 19 and older) request to revoke consent for the continued provision of special education and related services.
- To inform the parent or student (age 19 and older) of the provisions that the public agency has to adhere to should a parent or student (age 19 and older) revoke consent for the continued provision of special education and related services.

When to use this form:

- This form is used when a parent requests that his/her child no longer receive special education and related services.
- A student (age 19 and older) may also request that he/she no longer receive special education and related services.

Things to remember:

- The revocation of services must be in writing.
- If the parent or student (age 19 and older) has checked no, "I do not want to revoke my consent" at the bottom of the form, the student must continue receiving special education and related services.
- Upon receipt of a signed copy of the *Notice of Revocation of Consent for Continued Provision of Special Education and Related Services* form indicating the parent or student (age 19 and older) does want to revoke consent, the public agency must provide/send a copy of the *Notice of Proposal or Refusal to Take Action* informing the parent and student (age 19 and older) that the student will no longer receive special education and related services at the request of the parent or student (age 19 and older).

What happens next:

- The public agency should discontinue all special education and related services.
- If a referral for an evaluation is made at a later date for this child, the evaluation will be an **initial** evaluation.

INITIAL OR REEVALUATION WRITTEN AGREEMENT(S) BETWEEN THE PARENT AND THE PUBLIC AGENCY

Student Name _____ Birth Date _____ SSID # _____
 Attending School _____ Case Manager _____

Authorized public agency staff have explained to the parent that he/she is not required to enter these agreements.

AAC page 500 (b)(2)

[] Waiver of 60 Day Timeline for the Completion of an Initial Evaluation of a Transfer Student

The 60 calendar day evaluation timeline for completing the initial evaluation does not apply if:

A public agency initiates an evaluation of the student; and the student moves to another public agency before the evaluation has been completed;

and the new public agency is promptly seeking information from the previous public agency and promptly completing the evaluation;

and the new public agency and you agree that the evaluation will be completed by a specific date.

I agree with the public agency that the initial evaluation will be completed by: _____

AAC page 504 (6)(c)

[] Three Year Reevaluation Currently Due on _____

I agree with the public agency that a three-year reevaluation is not necessary at this time.

The next reevaluation for continued eligibility determination is due on _____ .

Date Provided/Sent:

 Parent/Student (Age 19) Signature

 Date

 Authorized Public Agency Staff Signature

 Date

INITIAL OR REEVALUATION WRITTEN AGREEMENT(S) BETWEEN THE PARENT AND THE PUBLIC AGENCY

Purpose(s) of this form:

- To document in writing from the parent or student (age 19 and older) to waive the 60 day timeline for the completion of an initial evaluation for a transfer student and to agree to a specific date to complete the evaluation. AAC 290-8.9.02(1)(b) EXCEPTION: (1) (2)
- To document in writing from the parent or student (age 19 and older) that a three year reevaluation will not be conducted because the parent or student (age 19 and older) and the public agency agree it is not necessary.

When to use this form:

- To document waiving the 60 day timeline for the completion of an initial evaluation for a transfer student. See specifics under the AAC 290-8.9.02(1)(b) EXCEPTION: (1) (2)
- To document agreement between the public agency and the parent or student (age 19 and older) that a three year reevaluation is not necessary.

Things to remember when completing this form:

Initial Evaluation

- Specifics as to when a waiver of the 60 calendar day timeline may be used are listed in the AAC. This waiver does not apply unless the specific criteria are met.

Reevaluation

- If the public agency and the parent or student (age 19 and older) have a written agreement not to conduct a three year reevaluation, the reevaluation process is not required.
- A public agency should not agree to not conducting a three year reevaluation if all required assessments have not been administered and/or the child does not meet current AAC criteria.
- According to the commentary to the federal regulations, OSEP states that the opportunity for a parent and the public agency to agree that a reevaluation is not necessary occurs before a reevaluation begins. OSEP goes on to say that a reevaluation begins with the review of existing data. OSEP believes that in reaching an agreement, the parent and the public agency will discuss advantages and disadvantages of conducting a reevaluation as well as what effect a reevaluation might have on the child's educational program. Therefore, if the LEA is considering this option, SES strongly suggests that this discussion take place at the very beginning of the meeting prior to discussing the reevaluation needs. If the parent and the public agency agree that a reevaluation is not necessary, the *INITIAL OR REEVALUATION WRITTEN AGREEMENT(S) BETWEEN THE PARENT AND THE PUBLIC AGENCY* form must be signed by both parties documenting agreement. A copy of the signed agreement along with a *Notice of Proposal or Refusal to Take Action* explaining the decision must be provided to the parent. If there is no agreement, the reevaluation process must be followed (i.e., *Notice of IEP Team's Decision Regarding Reevaluation; Notice and Consent for Reevaluation; Notice and Eligibility Decision Regarding Special Education Services*).
- Remember, the parent may request a reevaluation at any time.
- It is *not* appropriate to automatically state that this option will be used or limited to a specific group of students.
- The SES section heavily emphasizes that LEAs or public agencies use *extreme* caution if they choose to use this option.

What happens next:

A copy of the signed written agreement(s) between the parent or student (age 19 and older) and the public agency should be given to the parent or student (age 19 and older).

Process 2

Reevaluation to Determine Continued Eligibility

Frequently Asked Questions

ELIGIBILITY PROCESS

2-1. Who makes the eligibility decision?

There are two choices in team selection for making eligibility decisions. If the choice is the **Eligibility Committee**, it must be comprised of a group of qualified professionals including the parent. This will necessitate an additional meeting by the IEP Team to develop the IEP for an eligible student. If the **IEP Team** is used to determine eligibility and the student is determined eligible, that team may also develop the IEP at the same meeting if the *Notice and Invitation to a Meeting/Consent for Agency Participation* form informed the parent this might take place by checking it as a purpose of the meeting or if the parent is in attendance and in agreement to move forward. All purposes of the meeting must be documented.

2-2. How many assessments must be available to determine eligibility?

The IEP Team determines what evaluations the student will receive; however, at a minimum, the required evaluative components outlined in the AAC must be administered. The evaluation(s) must be sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been identified. Professional judgment should be used to determine if the results of any of the required evaluations are reliable sources of information or if other assessment data may prove to be more accurate indicators of the child's level of functioning. The IEP Team may determine, on a case by case basis, that other evaluations are needed.

2-3. What are the requirements for the eligibility determination of students suspected of having a specific learning disability?

When determining whether a child has a specific learning disability, a public agency is not required to take into consideration whether a child has a severe discrepancy between intellectual ability and achievement. A public agency may use a process based on the child's response to scientific, research-based intervention (RtI). A public agency may use other alternative research-based procedures for determining whether a child has a specific learning disability such as Patterns of Strengths and Weaknesses (PSW).

Refer to the AAC, 290-8-9.03(10) for all the requirements.

2-4. May a student who is eight years old be determined eligible for DD as an initial eligibility decision and/or as a reevaluation decision?

Yes. However, the IEP Team may want to consider another area of disability since the student can no longer be eligible for DD at age nine. A student determined eligible for DD at age eight would have to go through the reevaluation process prior to the ninth birthday to determine eligibility for another area of disability in special education.

2-5. Regarding eligibility determination, does the IEP Team/Eligibility Committee decision have to be unanimous?

No. However, any member stating that the report does not reflect his or her conclusions must submit a separate statement presenting his or her conclusions.

2-6. What is the process if there is dissension among the IEP Team/Eligibility Committee members regarding eligibility determination?

Eligibility determination is a team decision. Any member in disagreement may sign in the appropriate place on the eligibility report and attach a dissenting statement.

2-7. How does the public agency respond when a parent or teacher requests that a student be removed from special education?

- a. If the parent makes the request to remove the child from special education, the public agency must obtain a signed *Notice of Revocation of Consent for Continued Provision of Special Education and Related Services* form and provide notice to the parent before ceasing services.
- b. If a teacher makes the request for a student to be exited from special education, the request must be forwarded to the IEP Team for resolution. The IEP Team/Eligibility Committee must meet to consider eligibility or ineligibility for special education by following Process Chart 2. If it is determined that the student is no longer eligible for special education services, an eligibility report is completed and the student is exited from special education. However, if the IEP Team/Eligibility Committee finds that the student continues to be eligible for special education services, the student continues to receive special education and related services.

2-8. Are there eligibility exceptions to the transition requirements for incarcerated students in adult prisons?

Yes, transition services are not required if the incarcerated individual's eligibility for services will end, because of his/her age, prior to his/her release from prison based on consideration of his/her sentence and eligibility for early release.

2-9. Is it true that Multiple Disabilities is intended only for children who have severe and profound disabilities or can it mean merely those who qualify for two or more disability areas?

Multiple Disabilities means concomitant impairments (such as intellectual disability-blindness, or intellectual disability-orthopedic impairment), the combination of which causes such severe educational needs that cannot be accommodated in special education programs solely for one of the impairments.

2-10. Do we need to do a new eligibility report if we need to add something?

Yes, a new eligibility report must be completed each time the student is reevaluated for continued eligibility.

2-11. How do we document parent participation in a meeting if they participated by phone?

To document parent participation on hard copy forms and in SETS, on the parent signature line write, "parent participated by phone."

2-12. How do we document the parent chose to participate by phone, but at the time of meeting they did not answer the phone?

If the parent said they were going to participate in the meeting by phone and did not participate, document that the parent was unavailable by phone.

2-13. A child was determined eligible and the parent did not consent to services at the time. One year later, the parent wants services. What do we do?

The child is still an eligible child. If the parent wants services, reactivate the information in SETS, get a *Notice and Consent for Provision of Special Education Services* form signed and move forward with developing an appropriate IEP and document in the annotate process what occurred. If the child needs to be reevaluated, follow Process Chart 2, Reevaluation to Determine Continued Eligibility.

2-14. For a fluency or voice evaluation, should “Speech” be checked on the *Notice and Consent for Initial Evaluation* or on the *Notice and Consent for Reevaluation*?

No, the SDE suggests checking “Other” and writing “fluency assessment,” “voice assessment,” “or similar.”

2-15. A child was served in a public agency in Alabama. The child left and attended private school or was home schooled for a year or two. The child returned to a public agency. Is this an initial evaluation or a reevaluation?

If an evaluation is necessary, it would be a reevaluation unless the child had been determined ineligible; the parent revoked consent and then requested an evaluation at a later date; and/or the child moved out-of-state and returned to Alabama.

2-16. Does checking “Speech” on the *Notice and Consent for Initial Evaluation* or on the *Notice and Consent for Reevaluation* give the LEA permission to conduct assessments in each of the minimum evaluative components for articulation prescribed in the AAC?

Yes, the five evaluative components prescribed in the AAC and listed below are inherent in the assessment in the area of articulation. However, the entire IEP Team should be informed about and understand each component of the assessment.

1. Articulation/Phonological Disorder.

- (i) A minimum of one standardized or formal measure that assesses the child's articulation/phonological skills.
 - (ii) Written documentation of a stimulability assessment as part of the standardized or formal measure or as a separate assessment.
 - (iii) Written documentation of the impact of intelligibility on connected speech.
 - (iv) Written documentation of an examination of oral structures and functioning.
 - (v) The eligibility team must obtain written documentation from the child's teacher and/or caregiver that the child's articulation skills adversely affect his or her involvement and/or progress in the general education curriculum and/or environment.
- AAC 290-8-9.03(11)(c)1.(i-v)

2-17. How should an SLP document the results of a standardized articulation assessment?

The following criteria must be met for eligibility for SLI in the area of articulation from the AAC: “(ii) Errors are primarily characterized by substitutions, distortions, additions, and omissions. Phonological errors are in excess of developmental expectations and nondevelopmental processes may be noted. Errors are not stimuable. Connected speech may be unintelligible or may be intelligible only to familiar listeners or within known contexts.” (p. 520) In order to document the above requirement, **ALL** articulation errors apparent during the articulation evaluation should be listed specifically on the *Notice and Eligibility Decision Regarding Special Education Services*. Documentation of standard scores alone is **not sufficient** to provide required documentation.

2-18. A student with an exceptionality area other than SLI has been receiving speech-language services. The child continues to need other special education services, but the IEP Team determines that the child no longer requires speech-language services. What is the process to discontinue the speech-language services only?

Since the child has an exceptionality other than SLI, the IEP Team's decision should be data driven and should be documented on the Profile Page of the IEP. The IEP Team may make such a change at annual IEP meeting/review or through the Amendment Process (follow Process Chart 5 of *Mastering the Maze*). A *Notice of Proposal or Refusal to Take Action* should also be used to document such a changes in services.

- 2-19. Do we have to send the *Notice and Eligibility Decision Regarding Special Education Services* and the *Notice of Proposal or Refusal to Take Action* forms every time we make an eligibility determination?**

The *Notice and Eligibility Decision Regarding Special Education Services* form is sufficient if all sections are completed accurately. This form is a notice and, therefore, meets the notice requirements, including other options considered, etc.

REEVALUATION PROCESS

- 2-20. Must an IEP Team meeting be held for every student who is due for a reevaluation?**

Yes. The Special Education Services section recommends an IEP Team meeting even if the public agency is considering asking the parent to agree that a three-year reevaluation is not necessary.

- 2-21. What are the criteria for continued eligibility?**

The AAC outlines the required minimum evaluative components and eligibility criteria for each disability area. These criteria must be met at initial eligibility **as well as at each three-year reevaluation** to determine continued eligibility.

- 2-22. Is parental consent required for reevaluation?**

Parental consent is not required prior to the IEP Team convening to review existing data and to determine what additional data, if any, is necessary. Parents must be given the opportunity to attend the IEP Team meeting to determine what additional data is needed. If the IEP Team determines that additional data are needed in order to determine continued eligibility, parental consent must be obtained. If the parents do not respond to a request for consent for reevaluation, the public agency may proceed after reasonable efforts (at least two attempts) have been made and documented. The SES suggests these two attempts be documented on the eligibility report under record review. Parental consent is not necessary if additional data that needs to be obtained is for teacher and related service provider observations, ongoing classroom evaluations, or the administration of or review of the results of adapted or modified assessments that are administered to all children in a class, grade, or school and consent is not required for all.

- 2-23. Is it necessary to complete a new eligibility report when the IEP Team determines that additional data are needed in order to determine that a student continues to have a disability and continues to be in need of special education?**

Yes. A new eligibility report must be completed each time the student is reevaluated for continued eligibility.

- 2-24. Is it necessary to complete a new eligibility report if the IEP Team determines no additional data are needed in order to make an eligibility decision?**

Yes, as of May 19, 2011, a new eligibility report must be completed each time a student is reevaluated for continued eligibility.

- 2-25. What evaluation procedures are required for a student who is suspected of no longer having a disability?**

The reevaluation for continued eligibility process should be initiated. The IEP Team must convene to consider existing data and determine what additional data, if any, are needed to determine whether the student continues to have a disability and continues to be in need of special education and related services. A new eligibility report must be completed.

- 2-26. In the “student no longer eligible for services” date field in SETS, what date will go in that box?**

The date the Eligibility Committee or IEP Team met to determine that the student was no longer eligible for special education services.

2-27. What documentation is required when an IEP Team determines that a student no longer has a disability?

Process Chart 2, Reevaluation for Continued Eligibility, must be followed. When an IEP Team determines that a student no longer has a disability, an eligibility report must be completed with all existing data, as well as any updated and/or additional data. A copy of the eligibility report must be provided to the parents. The public agency must complete all sections of the eligibility report including a description of other options considered and the information used to make the decision. The eligibility report must document all required minimum evaluative components.

2-28. What happens if the IEP Team is unable to get parental consent to conduct a three-year reevaluation?

If the IEP Team makes two attempts to get parental consent and the parent does not respond, the IEP Team may proceed with the reevaluation, as long as the IEP Team notifies the parent of the decision. If the IEP Team gets a "no" from the parent, the IEP Team has the following options:

- a. The IEP Team may reconsider whether or not the additional data are absolutely necessary in order to make a decision regarding continued eligibility.
- b. The IEP Team may request that the parent participate in a conference to discuss his or her decision.
- c. The public agency may ask for mediation from the ALSDE or the agency may initiate a due process hearing in order to have an impartial hearing officer to order a reevaluation to be administered over the parents' objections. The public agency does not violate its child find obligations or evaluation obligations if it does not pursue mediation and/or a due process hearing.

2-29. What forms are required for the reevaluation process?

The following forms are required for the reevaluation process:

- Notice and Invitation to a Meeting/Consent for Agency Participation. This notice invites the parents to attend the IEP Team meeting. Indicate on the form that the purpose of the meeting is to determine if additional data are needed and, if appropriate, to determine continued eligibility.
- Notice of IEP Team's Decision Regarding Reevaluation. This notice informs parents of the IEP Team's decision regarding the need for additional data to determine continued eligibility.
- Notice and Consent for Reevaluation (if appropriate). This notice documents the parent's consent for reevaluation or two attempts to obtain the parent's consent is documented on the form.
- Notice and Eligibility Decision Regarding Special Education Services. This form documents the IEP Team's or Eligibility Committee's decision regarding continued eligibility. This form must be completed each time the student is reevaluated for continued eligibility.

2-30. Do we have to send the Notice and Eligibility Decision Regarding Special Education Services and the Notice of Proposal or Refusal to Take Action forms every time we make an eligibility determination?

The *Notice and Eligibility Decision Regarding Special Education Services* form is sufficient if all sections are completed accurately. This form is a notice and, therefore, meets the notice requirements, including other options considered, etc.

2-31. Do the same timelines apply to reevaluations as initial referrals?

No. Reevaluations must be conducted at least every three years to determine continued eligibility. Three years from the signature date of the last eligibility report is the date by which each three-year reevaluation must be completed.