Legal Framework: Review of Existing Evaluation Data
Category: Evaluation

“The phrase, ‘qualified professionals, as appropriate’ is used to provide flexibility for public agencies to include other professionals who may not be a part of the child’s [individualized education program] IEP Team in the group that determines if additional data are needed to make an eligibility determination and determine the child’s educational needs. We believe that public agencies should have flexibility in determining how to define ‘qualified professionals’ and we do not believe a definition should be included in the regulations.” 71 Fed. Reg. 46644 (August 14, 2006).

“Under Part B, evaluations of all children, including homeless children, are subject to the requirements of 34 CFR §§ 300.304 and 300.305. . . . The additional requirements for review of existing evaluation data on the child in 34 CFR § 300.305 also are applicable to initial evaluations, if determined appropriate, and any reevaluations conducted under Part B.” OSERS Questions and Answers on Special Education and Homelessness (February 2008).

“Based on the review of existing evaluation data, and input from the child's parents, the IEP Team and other qualified professionals, as appropriate, must determine whether additional data are needed to determine whether the child continues to be a child with a disability, and the educational needs of the child; the present levels of academic achievement and related developmental needs of the child; whether the child continues to need special education; and whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum. 34 CFR §300.305(a)(2). If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, and to determine the child's educational needs, the public agency must notify the child's parents of: (i) that determination and the reasons for the determination; and (ii) the right of the parents to request an assessment to determine whether the child continues to be a child with a disability, and to determine the child's educational needs. 34 CFR §300.305(d)(1). Under these circumstances, the public agency is not required to conduct an assessment unless requested to do so by the child's parents. 34 CFR §300.305(d)(2). If the parents do not request an assessment, then the review of existing data may constitute the reevaluation.” OSEP Letter to Anonymous (February 6, 2007).

“Under 34 CFR §300.304, any initial evaluation or reevaluation must use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about the child, including information provided by the parent, that may assist in determining whether the child is a child with a disability under 34 CFR §300.8 and the content of the child’s IEP. In addition, the public agency may not use any single measure or assessment as the sole criterion for determining whether the child is a child with a disability and for determining an appropriate educational program for the child.” OSEP Letter to Copenhaver (October 19, 2007).

“The evaluation requirements at 34 CFR § 300.305 describe the review of existing evaluation data and a review of information gathered through an [response to intervention] RTI process would be part of that data if the child being evaluated had participated in an RTI process or model.” OSEP Letter to Zirkel (January 6, 2011).
“As part of the review of existing evaluation data on the child, if the child's parent chooses to provide evaluations and information in accordance with 34 CFR § 300.305(a)(1)(i), these would be included in the information that is considered in determining whether the child has a disability and the educational needs of the child.” OSEP Letter to Matsui (May 10, 2007).

“Based on these evaluation requirements, we believe that only in limited circumstances could a public agency conduct an initial evaluation only through review of existing data on the child, and that, in most instances, review of existing evaluation data on the child generally would be insufficient for a team to determine whether a child qualifies as a child with a disability and the nature and extent of the child’s educational needs.” OSEP Letter to Copenhaver (October 19, 2007).

“If a parent who revoked consent for special education and related services later requests that his or her child be re-enrolled in special education, an [local educational agency] LEA must treat this request as a request for an initial evaluation under § 300.301 (rather than a reevaluation under § 300.303). However, depending on the data available, a new evaluation may not always be required. An initial evaluation, under § 300.305, requires a review of existing evaluation data that includes classroom based, local, or State assessments, and classroom based observations by teachers and related services providers. On the basis of that review and input from the child’s parents, the IEP Team and other qualified professionals must identify what additional data, if any, are needed to determine whether the child is a child with a disability, as defined in § 300.8, and the educational needs of the child. Therefore, a public agency may not always have to expend resources on a ‘new’ initial evaluation.” 73 Fed. Reg. 73015 (December 1, 2008).

“[T]he review of existing data is part of the reevaluation process. . . . The reevaluation commences with the review of existing data. . . . [T]he public agency is not required to obtain parental consent before reviewing existing data as part of an evaluation or a reevaluation.” OSEP Letter to Anonymous (February 6, 2007).

“The regulations regarding reevaluations at 34 CFR §300.303 clarify that a public agency is sometimes required to conduct a reevaluation even if there is no dispute regarding the child’s eligibility. . . . In some instances, additional data are not needed to determine whether any modifications to the child’s special education and related services are needed. However, that does not mean that the evaluation does not meet the definition of an ‘evaluation’ at 34 CFR §300.15.” OSEP Letter to Sarzynski (May 6, 2008).

“If a parent refuses to consent to a three-year reevaluation under 34 CFR § 300.303(b)(2), but requests that the public agency continue the provision of special education and related services to their child . . . If the public agency chooses not to pursue the reevaluation by using the consent override procedures described in 34 CFR § 300.300(a)(3), and the public agency believes, based on a review of existing evaluation data on the child, that the child does not continue to have a disability or does not continue to need special education and related services, the public agency may determine that it will not continue the provision of special education and related services to the child. If the public agency determines that it will not continue the provision of special education and related services to the child, the public agency must provide the parent with prior written notice of its proposal to discontinue the provision of [free appropriate public education] FAPE to the child consistent with 34 CFR § 300.503(a)(2), including the right of the parent to use the mediation procedures in 34 CFR § 300.506 or the due process procedures in 34 CFR §§ 300.507 through 300.516 if the parent disagrees with the public agency's decision to discontinue the provision of FAPE to the child.”
Through the implementation of the Boerne ISD policies and procedures as outlined in the **Legal Framework** for the Child-Centered Special Education Process, the Boerne ISD ensures that a review of existing evaluation data occurs as part of an initial evaluation if appropriate, and as part of any reevaluation in conformance with the Individuals with Disabilities Education Act (IDEA) and its accompanying federal regulations, state statutes and regulations.

**PERSONS RESPONSIBLE:** Campus Evaluation Team Members/Speech Language Pathologist

**BEGINNING OF THE SCHOOL YEAR**

- Each Campus Evaluation Team Member and Speech/Language Pathologist is responsible for compiling the list of students needing re-evaluation within the school year.

- The Campus Evaluation Team Member and Speech/Language Pathologist schedules a **Review of Existing Educational Data** meeting 60-90 days prior to the due date of the three-year re-evaluation date so that the evaluation can be completed within the timeline.

**DATA COLLECTION**

- The Campus Evaluation Team Member or Speech/Language Pathologist is responsible for collecting previous evaluations and information provided by the parents (English, Spanish), current classroom-based, local, and/or state assessments, classroom-based observations and related service providers, and health information provided by the school nurse.

- General education and/or special education personnel forms may be completed by multiple sources.

- Any personnel with relevant information concerning the student will be asked to complete, sign, and date the form.

- The person completing the form should address those competencies about which they have direct knowledge and/or observation.

- Information from parents should be sent home for completion by the parent(s)/guardian(s).

- The school nurse completes the health information form (all relevant health information should be addressed).

**REVIEW OF DATA**

- The Campus Evaluation Team Member or Speech/Language Pathologist convenes a REED (Review of Existing Evaluation Data) meeting to review the student's current eligibilities and current progress. With parent permission, this meeting can be conducted outside of an ARD meeting.

- Based on the available data, the determination of the need for a formal evaluation is made by the REED committee with the same membership as an ARD committee.
• If the decision is to formally evaluate, the parents will be asked to complete the information forms, sign the Notice and Consent for Evaluation.

• If the decision is to continue the current disability identification without any additional formal evaluation information, the Diagnostic Specialist or Speech/Language Pathologist will complete the REED document and it will become the new Full and Individual Evaluation Report. This information is placed in the student's special education eligibility folder.

• The parent/guardian's right to request a formal evaluation always overrides the committee's decision to continue the disability identification.

• The parent has the right to request a formal evaluation to determine whether the student continues to be a student with a disability.

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• If the decision is to continue the current disability identification without any additional formal evaluation information, the Diagnostic Specialist or Speech/Language Pathologist will complete the REED document and it will become the new Full and Individual Evaluation Report. The appropriate Documentation of Disability forms will be completed and attached. This information is placed in the student's special education eligibility folder.

• The Diagnostic Specialist or Speech/Language Pathologist will schedule an ARD/IEP committee meeting, at which time the Diagnostic Specialist or Speech/Language Pathologist will review the re-evaluation data.

• The FIE will need to be finalized by the FIE due date.