

PRACTICAL GUIDELINES AND ANALYSIS:

Evaluations and Reevaluations

The evaluation process is a critical component of the special education process. The evaluation is the key to detecting the existence of a student's disability or disabilities, and it sets the parameters for the course of special education and related services that will follow if the student is determined to be eligible. The information and data derived from evaluations essentially drive the entire IEP process by informing the IEP team of the nature and extent of the student's disability, the student's cognitive abilities, and the student's achievement levels. Armed with this information, the IEP team can then develop appropriate goals and objectives, determine the appropriate level and nature of special education and related services, and provide the student with FAPE.

A. Initial Evaluation

1. Referral to Special Education

The special education referral is the initial step of the special education process. Any student who resides within the public agency/school district (including students who attend private schools located within the school district) and who needs or is believed to need special education or related services in order to receive a free and appropriate public education may be referred for an evaluation as a result of a building level referral through RtI or the referral process.

IMPORTANT: A special education referral must be clearly distinguished from a building level RtI referral or a referral for screening, both of which are general education processes. (See, Chapter A, Child Find Procedures & Early Intervening Services (RtI).)

A referral may be made when a parent or representative of the public agency believes that the student has or may have a disability that would cause the student to be eligible for special education services. (See, Appendix A, Special Education Referral and Notice and Consent for Initial Evaluation forms.)

IMPORTANT: If a parent or teacher expresses concern that a student may be eligible and the public agency does not act, the agency may later be unable to discipline that student, even for a serious violation.

The special education referral process is initiated in one of two ways, triggering the 60-day timeline for completing the initial evaluation:

- (a) The parent(s) is informed of the referral as a result of the building level RtI process and the parent provides *written consent* to conduct the initial evaluation; or
- (b) The request for initial evaluation is received from the parent and the parent provides *written consent* to conduct the initial evaluation.

(See, Appendix A, Notice and Consent for Initial Evaluation form.)

2. Review existing data

Once a referral is received, the building special education team (BSET) must review the referral and existing information regarding the student. Based on the review, the BSET will determine the appropriateness of the referral.

If the team determines the referral is not appropriate, it must provide prior written notice stating the refusal to initiate the evaluation process. If the BSET determines the referral is appropriate, then the BSET and parent(s) must meet and review the existing data to determine whether additional evaluation data are needed.

At an agreed-upon place and time, the BSET will meet to review existing evaluation data, including formal and informal information from a variety of sources:

- (a) Evaluations and other information provided by the child's parents, including any private or independent evaluation information that may be available;
- (b) Classroom assessments and observations
- (c) Information provided by teachers and service providers, including anecdotal records, the results of interventions and supports, accommodations and modifications; and
- (d) Cumulative records (attendance, discipline records, report cards, achievement scores, transcript, health records).

3. Determine what, if any, additional data are needed

Through the review of existing data, including the nature of the child's problems prompting the referral, the BSET will be able to identify the child's suspected areas of disability. The nature and scope of the additional data that may be needed will be determined by which disabilities are suspected and the specific eligibility requirements for each of those disability categories. Thus, the team reviews the eligibility documents defining the suspected disabilities, considers whether the evidence required for a suspected disability is available, and determines what additional information may be needed. (See, Appendix C, Evaluation Planning Documents.)

Because the evaluation is targeted, it is essential that teams prepare to respond to all questions on the form for a suspected disability category. Specifically, the additional data should help the team to answer the following questions:

- (a) What is the student's level of educational performance including student's strength/skills and needs?

- (b) Does the measurable information demonstrate that the disability is adversely affecting the student's education?
- (c) What are the specific special education instruction and related services, including supplementary aids and services the student may need in order to participate, as appropriate, in the general curriculum and to improve educational performance?

PRACTICE TIP: The federal regulations allow the review of existing information to be conducted without a meeting, but it is best practice for the review to occur in a meeting so that the team may have notes in the IEP (see, Chapter E, IEPs) recording its discussion of the necessary evaluative information so that the scope of the evaluative information is clear. Further, the team should not limit the evaluator's professional discretion to select appropriate instruments and evaluation procedures, but rather should pose questions requesting the information that the team needs in order to program effectively for the student.

4. Parental notice and consent to evaluate

Prior to conducting any evaluation, the agency must provide **notice** to the parents describing the evaluation the agency proposes to conduct, consistent with the IDEA's prior written notice requirement, including:

- (a) An explanation of why the agency is seeking to evaluate the child;
- (b) A description of each evaluation procedure (*i.e.*, cognitive evaluation, achievement evaluation, social/emotional assessment, etc.);
- (c) The parents' procedural safeguards, including sources for the parents to contact to understand the notice.

For an initial evaluation, the public agency must obtain **written parental consent** to evaluate. For parental consent to be proper and valid:

- (a) The parent(s) must be fully informed of all information relevant to the evaluation for which consent is sought, in their native language or other mode of communication;
- (b) The parent(s) understand and agree **in writing** to the evaluation, and the consent describes the evaluation and lists any records that will be released and to whom (*e.g.*, education records to be released to a psychologist to review as part of his/her assessment); and
- (c) The parent(s) understand that the consent is **voluntary** and may be revoked at any time (though any revocation cannot operate retroactively to negate an action that occurred after the consent was given but before it was revoked)

(See, Appendix A, Notice and Consent for Initial Evaluation form.)

5. Evaluation requirements

(a) The importance of the “multis”

The IDEA regulations emphasize over and over the requirement to use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about the child. No one single measure of assessment may be used as the sole criterion for determining whether a child is a child with a disability.

The prevailing literature and studies regarding educational evaluations provides that the most reliable evaluations are those that draw information from multiple testing instruments, multiple sources, multiple settings, and multiple time frames. In other words, best practice is for an evaluation to be based upon a number of reliable, scientifically sound testing instruments; observations of the child by parents, teachers, related service providers and professional evaluators; observations of the child in the settings including the classroom, school, social or unstructured time, relevant individual therapies, or other settings as determined by the IEP team; and observations by various individuals and in these various settings over a period of time (rather than a single observation). The more comprehensive the information, the greater the likelihood that the evaluation will provide an accurate and reliable account of the child’s needs and abilities.

NOTE: A reevaluation need not be as extensive as the initial evaluation through which eligibility is determined. Reevaluations must include review of data, but additional assessments may be limited (including to a single measure) as determined by the IEP team, so long as the team agrees that only limited information is necessary to appropriately determine the student’s eligibility and special education needs. (See, FAQ in this chapter re. “upon consideration of reevaluation,” and Appendix A, Notice of Reevaluation form.)

In addition to providing more accurate information for the IEP team to develop an appropriate IEP, this comprehensiveness and completeness of information is also crucial in the event that a dispute or litigation arises between the family and the agency. A hearing officer or judge is far likelier to give greater weight and credence to an evaluation based upon multiple sources, settings, and time frames than an evaluation based upon a single individual’s observations on a single day in a single evaluative session.

(b) The use of scientifically sound, up-to-date testing instruments, in a manner designed to yield accurate, appropriate information

Another essential requirement for evaluations is that they utilize technically sound, scientifically valid testing instruments, and that the tests are administered appropriately. This means:

- using, to the extent possible, the most recent version of a particular testing instrument;
- administering the test in a manner consistent with the test producer's instructions;
- making sure that the individual administering the test is knowledgeable, trained and qualified to do so;
- making sure that the test is the right one for the child, *i.e.*, don't assess a 3-year-old with a test that has only been normed for a 5-16 year-old population;
- making sure that the test is the right one to yield the information sought by the IEP team;
- making sure that same test hasn't been administered to the child within a time frame that would invalidate the results;
- making sure that the test taking conditions are optimum, *i.e.*, the room is quiet, the child is well-rested and nourished, etc.; and
- selecting and administering assessments to children with impaired sensory, manual or speaking skills in such a way that the results will reflect the child's aptitude or achievement level, rather than the sensory impairment.

(c) The assessment of the child in all areas of suspected disability

Obviously, an easy way to get in hot water is for a Multidisciplinary Team (M-Team) to determine that a child is suspected to be disabled in a particular area, but then the evaluations fail to include assessments related to that area of suspected disability. Once the M-Team determines the suspected areas of disability, it should carefully review the State's eligibility criteria for those suspected areas and make sure that the evaluations will provide sufficient information to apply and determine those eligibility requirements.

6. Timelines

The initial evaluation must be conducted **within 60 calendar days of receiving parental consent** for the evaluation. The 60-day timeline does not apply if the parents repeatedly fail or refuse to produce the child for the evaluation, or if, after the initial referral for evaluation but prior to the completion of the initial evaluation process, the child enrolls in another school district.

*IMPORTANT: The 60-day timeline continues to run even if school is not in session. Summer vacation is **not** a reprieve.*

After an initial evaluation, a team meeting must be held within a “reasonable period of time” to determine if the child has a disability and is eligible for special education. Similarly, after a triennial or any other reevaluation, a team meeting must be held within a reasonable period to determine if the child continues to be eligible for special education and/or to identify the child’s special education and related service needs.

While there is no specific legal timeline required for completing a reevaluation, CDE monitoring requirements mandate that a triennial evaluation be completed by the due date. For this reason, consent for reevaluation needs to be signed with enough time to complete the evaluation before the triennial date. To comply with the law, the evaluation report must include a completion date no later than the three-year-to-the-day triennial due date, even if the IEP meeting occurs later.

IMPORTANT: Make sure that the parental consent for reevaluation is provided to and signed by the parents with enough time to complete the evaluation before the triennial due date.

B. Reevaluations

(See, Appendix A, Notice of Reevaluation).

A child with a disability must be reevaluated if:

- the child’s educational or related service needs or insufficient progress warrant reevaluation, including by improved academic achievement or functional performance or insufficient progress; OR
- the child’s parent or teacher requests a reevaluation.

A reevaluation **may not occur more than once per year** without the agreement of the parents and the public agency, but **must occur at least once every three years**, unless the parents and the public agency agree that a reevaluation is unnecessary.

For the most part, the requirements for initial evaluations and reevaluations are the same, with a few exceptions:

- Both initial evaluations and reevaluations require notice to the parents; only initial evaluations require parental consent. In the event of a reevaluation, the public agency should attempt to secure **consent**, but if the parent does not respond the agency may assume consent and proceed with the evaluation. If the parents expressly refuse to consent to either an initial evaluation or a reevaluation, the agency may not proceed

with the evaluation. The public agency would have to “override” the lack of parental consent by requesting a due process hearing and obtaining the requisite consent from a hearing officer. The agency should document its efforts to contact the parents and obtain consent by keeping copies of correspondence, including a log indicating when correspondence was mailed, faxed or e-mailed, maintaining telephone logs, or documenting in the child’s file if and when requests and consent forms were provided to the parents in person.

- For an initial evaluation, the public agency must conduct a “full and individual” evaluation before the initial provision of special education and related services to a child with a disability.
- In a reevaluation, at the evaluation planning meeting or IEP meeting after reviewing existing data, the team may determine that no additional data is needed to determine whether the child continues to be a child with a disability, or the child’s educational needs. In that event, the team must:
 - Notify the parents of that determination, and the reasons for that determination; and
 - Notify the parents of their right to request an additional assessment

(See, Appendix A, Notice and Consent for Reevaluation form.)

If the parents do not request an assessment, then the review of existing data may constitute the reevaluation, including for a triennial evaluation. See, *Letter to Anonymous*, 48 IDELR 136 (OSEP 2007).

C. Evaluations before a change in eligibility or significant change of placement

The public agency must reevaluate a child with a disability before a significant change of placement or changes in eligibility, including exiting eligibility and addition or deletion of related service(s).

The exception to this rule is that the evaluation is not required if the termination of the child’s eligibility is due to graduating from high school with a regular diploma or because the child “ages out” (*i.e.*, exceeds the age eligibility for FAPE under State law). For a child graduating or aging out, however, the agency must provide the student with prior written notice and a summary of the student’s academic achievement and functional performance, including recommendations on how to assist the child in meeting postsecondary goals.

D. Evaluation Reports

Public agencies have various practices, with some including evaluation reports in IEPs and some developing free-standing ones. The essential focus of the report is to provide the data

derived from the assessments and to explain that data in a way that the MDT/IEP team can understand. While each evaluator is responsible for ensuring the information is properly and timely recorded, the case manager is ultimately responsible for ensuring the evaluation report is completed.

The evaluation report should:

- Document sources of information and assessment methods used, results obtained and date(s) the assessment(s) was administered; and,
- Analyze raw evaluation data or completed questionnaires and interpret the results, including the student's strengths, needs, and implications for instruction;
 - Use language that is educationally relevant, succinct, and readily understood by educational staff and parents. Examples:
 - o (Student) has difficulty with auditory memory, such as remembering directions 10 minutes after the teacher gives instructions
 - o (Student) has difficulty with transitions and may become distracted or forget what to do when moving from one activity to another.

IMPORTANT: Even though evaluation reports are included on an IEP system form and will inform the development of qualifying students' IEPs, evaluation reports should not include recommendations about eligibility for special education or placement options. The Multidisciplinary or IEP team, not individual evaluators, is the only appropriate entity to make those decisions at the conclusion of the eligibility meeting where evaluation results are shared, interpreted and discussed.

As with any document presented outside of a meeting, the document should be clearly marked "DRAFT" and the team should incorporate necessary revisions before finalizing the document at a meeting. To avoid predetermination arguments, the report should not indicate areas of eligibility or service recommendations.

PRACTICE TIP: Especially when the results of the evaluation may be hard for the parents to deal with, it is best practice for the evaluator to offer to meet with the family in advance to discuss the report.

FREQUENTLY ASKED QUESTIONS

How much time does the agency have to complete evaluations?

The initial evaluation must be conducted within 60 calendar days of receiving parental consent for the evaluation. The 60-day timeline does not apply if the parents repeatedly fail

or refuse to produce the child for the evaluation, or if, after the initial referral for evaluation but prior to the completion of the initial evaluation process, the child enrolls in another school district.

Unlike initial evaluations, the law does not include specific timelines for the completion of reevaluations, so they should be done within a “reasonable” time after receiving consent. For monitoring purposes, CDE requires that triennial evaluations be completed by the listed due date, i.e., within three calendar years to the day of the completion of the prior triennial evaluation. Consent needs to be signed early enough to complete the evaluation.

What happens if a parent refuses to consent to a requested evaluation?

If a parent refuses to consent to an evaluation, the person obtaining consent should request the parent to check “no” on the consent form and to sign the form. If the parent declines to do so, then the person obtaining consent should mark “no” on the form, write in “The parent verbally declined to provide consent for evaluation,” and put the date and their own initials on the form.

If the parent asks for time to consider the request and then does not respond, the case manager should send at least one follow-up letter with an additional copy of the consent and request a response. If the parent does not respond and the request is for an *initial* evaluation, the case manager should send another follow-up letter to the parent and notify the lead administrator so the agency can consider using mediation or due process to secure initial consent. If the parent does not respond and the request is for a *reevaluation*, the case manager should send another follow-up letter including a copy of the Notice of Reevaluation form, which indicates that if the parents do not respond, the agency will assume consent and proceed with the reevaluation. Prior to proceeding without consent on a reevaluation, the case manager should make and document at least one effort to contact the parent by telephone. If the parent actually objects to reevaluation, rather than just not responding, the public agency *cannot* proceed.

If the parents deny consent to reevaluate but the team believes that the student cannot be adequately served without an evaluation, or, in the case of a triennial re-evaluation, the re-evaluation is necessary to establish continued eligibility under IDEA, the case manager or principal should contact the lead administrator. In some cases, the public agency may choose to initiate mediation or a due process hearing request in an effort to secure consent.

How does a parent’s revocation of consent for evaluation impact an evaluation that has already started?

If a parent revokes consent for evaluation, the case manager/evaluator should attach the revocation to the consent form or document the parent’s oral statements on the student’s consent form, in either case specifically noting the date and time the revocation was received and including the case manager/evaluator’s own initials. From the moment of revocation, no further evaluation may be conducted, but the team may still consider the information collected prior to the revocation and should meet, if necessary, to consider eligibility or review and revise the IEP in light of the information available.

How should the agency document failure to cooperate with an evaluation?

If a parent repeatedly fails to produce a student for evaluation, the evaluator should send written, follow-up correspondence summarizing the public agency’s attempts to evaluate the student and indicating the public agency’s ongoing willingness to conduct the evaluation. For example, an evaluator could send a letter stating, “As you recall, [name of agency] requested consent for an evaluation on [date]. We scheduled evaluation sessions on [dates],

but you did not bring your student to the agreed-upon location. We remain ready, willing and able to assess your student as requested by the IEP team. Please contact me at [phone number, email] to set a time for this important evaluation.”

Is consent necessary before administering a simple achievement test or other simple instrument (like the Brigance)?

Parental consent is necessary before the public agency assesses a child to determine if the child has a disability/continues to have a disability or to determine the nature and extent of special education and related services to be provided to the child. This means that any individualized measure administered to a child to determine eligibility or the nature and extent of special education and related services, *including measures administered to develop baseline data for goals and objectives*, constitutes an evaluation to which the parental consent requirements apply. Generally, it is preferable to use less formal measures to assess progress rather than using a standard measure. Only if the parent(s) and team clearly agree and an evaluator determines it would be valid should an IEP note a standard measure will be used for progress and longer-range consent signed. In addition, it would be good to remind the parent shortly before acting on consent, e.g., via an email: “I’ll be testing (student) next week for purposes of preparing (his/her) progress under the IEP.”

Must the public agency rely on a private evaluation provided by the parents?

No, the public agency must consider all information provided by a parent, including any private evaluations, but is not required to rely on the private evaluations. The agency should give private evaluations “due weight.” For example, if the evaluator is well known and thought to be thorough and professional, the team would consider the evaluation carefully. The team could also obtain a release for permission to speak with the evaluator to discuss any questions or concerns.

IMPORTANT: The public agency may always request an evaluation by an evaluator of its choosing.

Who decides what evaluations need to be conducted?

In order to comply with the legal requirement that “the IEP team and other qualified professionals” with input from the child’s parents determine the need for additional evaluative data, the public agency may decide that a *Multidisciplinary Team* (for a student not yet found eligible) or an *IEP team* (for already eligible students) convene to determine the assessment information needed. If parents are unable to attend the meeting, it is appropriate for the case manager or evaluator to contact the parents by phone or in writing to gain the parents’ input. In cases where the public agency and family agree, the evaluation planning may occur without a meeting. The eligibility or IEP team will need to meet to consider the evaluation information and make compliant educational decisions.

What if, in response to the public agency’s request for consent to evaluate, the parents attempt to limit the scope of the evaluation by agreeing only to test certain areas of eligibility, or agreeing only to certain testing instruments or tests by certain evaluators?

The federal courts have firmly and clearly established that public agencies have the right to conduct appropriate evaluations by evaluators of their own choosing. They are not bound by parents’ efforts to limit the scope or conduct of the evaluation by agreeing to some parts of the evaluation but not others, or by agreeing to the evaluation, but only with certain conditions. A conditional or limited consent is effectively no consent at all.

The qualified evaluator should exercise professional discretion to determine if the conditions requested by the parent would invalidate the evaluation or otherwise be too onerous or limiting for the evaluation to be effective and comprehensive.

A public agency faced with such a dispute over its right to evaluate a child should determine whether to complete the parts of the evaluation over which there is not disagreement or as to which no conditions have been imposed. Regarding the remainder of the evaluation, the agency should try to work with the parents (or parents’ advocate) to obtain the requisite consent, but if unconditional consent cannot be obtained, the agency may determine that it cannot adequately serve the student without the evaluation it seeks, and may choose to use mediation or secure a due process hearing to enforce its unequivocal right to evaluate. Regardless, the M-Team should meet and decide if sufficient data exists to establish eligibility. If not, the team should restate the evaluation request and then find the student ineligible if no new information is forthcoming.

What does “upon consideration of reevaluation” mean?

“Upon consideration of reevaluation” means, at a minimum, the IEP team reviews the existing information (from the IEP and other sources) about a student and discusses whether the team needs any additional information in order to determine: the student’s eligibility, present levels of academic achievement and related developmental needs; the nature and extent of the student’s special education and related services needs; and any additions or modifications to the special education and related services necessary to enable the child to meet the IEP goals and participate, as appropriate, in the general education curriculum. If the team, including the parents, believes additional information is necessary, then the reevaluation must include the collection of that information. If the team determines that no additional data is required, then the public agency must provide prior written notice to the parents of this determination and the parents’ right to request an assessment if they believe one is necessary. For either decision, the Notice of Reevaluation form should be completed.

What is a “special evaluation?”

A “special evaluation” is a term commonly used in Colorado for those reevaluations done when the team is considering a change of placement or otherwise needs additional evaluative information prior to the student’s triennial due date. In special evaluations, the team must

ensure that it reviews existing data, considers all areas of concern, and has sufficient evaluative data to determine the student's eligibility, present levels of academic achievement and related developmental needs, the nature and extent of the student's special education and related services needs, and any additions or modifications to the special education and related services necessary to enable the child to meet the IEP goals and participate, as appropriate, in the general education curriculum. CDE regards a special evaluation not to be a triennial evaluation and does not allow a public agency to reset the triennial due date.

Must an evaluation be delayed if a child has not had a recent or has not passed hearing and vision screening?

State law requires that all children in kindergarten, first, second, third, fifth, seventh and ninth grades (or children in comparable age groups), receive sight and hearing testing during the school year. Neither Colorado statutes nor the ECEA rules mandate any particular timeline with regard to standard sight and hearing testing and special education testing. Of course, it is essential to ensure that a student can adequately hear and see to ensure that the student is not subject to unnecessary evaluation and that evaluation results are valid.

What if a student needs but doesn't have glasses or a hearing aid?

Public agencies and evaluators must be cognizant of a student's vision or hearing needs, where such needs can affect a student's performance on an evaluation or assessment instrument. For example, if a student requires glasses or a hearing aid but does not possess them, the results on a cognitive or achievement test may reflect the student's visual or auditory difficulties rather than the student's level of cognition or achievement. An evaluator may need to modify his or her evaluation to ensure that the results are accurate and not implicated by vision or hearing issues.

Further, as a general rule, the IDEA does not require public agencies to provide devices such as eyeglasses, hearing aids, or similar personally prescribed items as assistive technology devices (particularly where, in the case of an initial evaluation, the student has not yet been determined eligible for services). As a matter of good practice, however, if screening reveals that a student requires glasses or a hearing aid, but the parents are unable (or unwilling) to provide them for the student, a higher-level administrator, social worker or public agency that might be able to help the student procure the necessary prosthetic equipment should be contacted. If the device is the key to FAPE, the public agency will have to provide it.

How are evaluations addressed for students already receiving special education services and experiencing additional difficulties?

Generally, any time a student with a disability is experiencing difficulties, it is appropriate for the agency to convene an IEP meeting and discuss the need for new information. If a psychological evaluation is being considered, the school psychologist should be invited. The

team should use Appendix A's Notice of Reevaluation form if it is determined that additional evaluations are necessary. (See, Appendix A, Notice of Reevaluation.)

What is the purpose of an FBA?

In 2000, CDE published the Guidebook for Determining the Eligibility of Students with SIED. As excerpted from the Guidebook, pp. 39-40, the responsible committee explained the importance of functional assessment and outcome analysis this way:

Functional assessment and outcome analysis involves careful examination of the functions or outcomes of undesirable behaviors as they occur within a specific context. The foundation of approaches such as functional assessment and outcome analysis is that all behavior is adaptive, purposeful, and functional (Macht, 1990). Undesirable behaviors occur because they "work" for the person. Behaviors that don't work do not remain in the behavioral repertoire of the person.

Functional Analysis is founded on the belief that repeated behaviors serve a function for the individual. According to this theory, behaviors serve two broad functions: to obtain something desirable, or to avoid something undesirable. (Oneill, et al. 1990) Functional assessment is the process used to determine what these functions may be and how behavior planning can respond appropriately. Oneill, et al. (1990) identifies a 4-step process for functional assessment:

Step 1: Functional Analysis Interview. Step one involves interviewing 1-2 people who have daily contact with the child (i.e. teacher or parent) and the child, if appropriate. This process should yield a description of the undesirable behavior, identification of physical and environmental factors that may predict the occurrence of the undesirable behavior, and a set of hypotheses for what the functions of the undesirable behavior may be.

Step 2: Direct Observation. Step two involves engaging in the direct observation of the undesired behaviors identified. Behaviors are to be observed in their natural setting. The potential functions of behavior, possible ecological factors interacting with the behavior, and the frequency, intensity, and duration of the behaviors are all critical to ascertain.

Step 3: Testing Hypotheses. Step three is usually only utilized in school settings when clear behavioral patterns are not observed in Step 2. At this step, practitioners present and change specific stimuli and settings to test hypotheses about the function of behavior. The purpose is to observe the student to see if any patterns of behavior exist when greater control is placed on the environment.

Step 4: Developing Positive Behavioral Intervention Plans. Step four involves planning for, and responding to, the student's needs and desires underlying the functions so that undesirable behaviors may be reduced, replaced or extinguished. Oneill, et al. (1990)

suggests that appropriate responses to behavior based upon a functional assessment may include:

- (a) structuring the environment to avoid setting off problem behaviors;
- (b) dealing with any medical/physical issues that impact behavior;
- (c) providing a rich schedule of preferred activities with positive outcomes; and
- (d) providing instruction and skills where deficits may occur.

A variety of formal and informal assessment tools are available to assist practitioners in completing a Functional Behavioral Assessment. (See Appendix C, Functional Assessment Tools, Purposes, and Uses (CDE)).

Outcome Analysis is very similar to functional analysis in that it also suggests that behavior reflects a purpose and function. Within Outcome Analysis, “behavior problems are diagnostic of the student’s goal or intent at any given point in time. We call this desired goal ‘behavioral intent.’ When students act, even demonstrating behaviors that we view as disordered, they act for a purpose. Behavioral intent refers to the purpose sought by the student as inferred from analyzing a series of overt behaviors in various situations.” (p. 33, Neel & Cessna). Outcome analysis involves the careful examination of a student’s behavioral intent. Wahler & Dumas (1986) identified several behavioral intents as summarized in the Table below.

Table: Possible Outcome Guide

Outcome	Description
Power/Control	When child’s outcome is the control of events and/or situations. Characterized by child acting to stay in situation and keep control.
Protection/Escape/Avoidance	When child’s outcome is to avoid a task, activity; escape a consequence; terminate or leave a situation.
Attention	When a child becomes the focus of a situation; draws attention to self; result is that the child puts himself/herself in the foreground of a situation; discriminates self from group for a period of time; distinguishing feature is “becoming the focus” as the end product of the behavior.
Acceptance/Affiliation	When a child connects/relates with others; mutuality of benefit is present.
Expression of Self	When a child develops a forum of expression; could be statements of needs or perceptions, or demonstration of skills and talents.
Gratification	When a child is self-rewarded or pleased; distinguishing characteristic is that reward is self-determined; others may play agent role.
Justice/Revenge	When a child settles a difference; provides restitution, or demonstrates contrition; settling the score.

Reference: Neel, R. S. and Cessna, K. K. (1993) *Behavioral Intent: Instructional Content for Students with Behavior Disorders*. In K. Cessna, (ed.), *Instructionally differentiated*

Programming: A needs based approach for students with behavior disorders. Denver: Colorado Department of Education.

Through the use of Functional Assessment or Outcome Analysis, appropriate behavioral plans can be designed for students with emotional disabilities. Practitioners and parents can adjust their responses to students so that undesired behavior is reduced, eliminated, and/or replaced with desirable behavior.

Is an observation an evaluation for which parental consent is necessary? What about an FBA (functional behavioral assessment)?

It depends upon the nature and scope of the observation or FBA, and the purpose for which it is used.

As a general rule, public agencies may bring in educational consultants or experts (either in-house or private contractors) to observe and assess teachers, classrooms, or programs, as part of a school- or program-wide effort to improve educational instruction or programs, or to develop new programs. For example, a public agency could hire experts in autism education to observe its autism teachers or autism program, to determine whether the teachers might benefit from additional training or as part of overall program development or improvement. Similarly, a public agency could use an FBA (or series of FBAs) to determine the efficacy of behavioral interventions to understand problem behaviors within a school as a whole, and to improve overall student behavior within a school. In such situations, the observations or FBAs, as part of an overall effort to improve or develop educational programming, would not be considered an individual evaluation that would trigger the IDEA's parental consent requirements.

Further, FBAs can also constitute a teaching methodology through which teachers make adjustments in their instructional style or methods based upon their every-day observations of what works or does not work for a particular student. Under such circumstances, where the FBA is simply part of effective teaching designed to address the exigencies of a student's situation, but where eligibility or the nature or extent of the student's special education as a whole are not at issue, the parental consent requirements generally would not be applicable. Similarly, preparation of daily data sheets to monitor a student's performance as part of severe needs behavior programs is not an individualized evaluation for eligibility purposes that would require consent for evaluation.

On the other hand, if an observation or FBA is used to evaluate an individual child to assist in determining whether the child is a child with a disability and the nature and extent of special education and related services that the child needs, it is considered an evaluation, and parental consent would be required consistent with the consent requirements for evaluations. If the FBA is conducted for individual evaluative purposes to develop or modify a behavioral intervention plan for a particular child, a parent who disagrees with the child's FBA would

have the right to request an independent educational evaluation at public expense (*See*, Chapter J, Dispute Resolution.)

It is currently unclear whether consent is necessary to complete a FBA as part of RtI. CDE includes FBAs in the Tier II interventions; Interventions for which there is no clear consent requirement. For now, it is imperative that schools communicate with parents about what is occurring in the RtI process so that parents have an opportunity to express any concerns, even if consent is not specifically required. If a student is being served through RtI and the team believes the student should move to a more intensive level of intervention, then it may be prudent to wait to complete the FBA until the parents have given consent for initial evaluation.

What kind of information should evaluators present to the M-Team for either eligibility or educational planning purposes?

All evaluators should incorporate their evaluative information into a written document. It is important to remember that, if the evaluation results are challenged, the courts would review the individual evaluator's information, either in the IEP or in a freestanding document, as the "evaluation report." Therefore, it is important the information be accurate and complete in answering the questions from the law, 34 C.F.R. § 300.305(a)(2). Evaluation reports should document sources of information and assessment methods used, results obtained, the dates the assessments were administered, and the date the evaluation was completed. Raw data should be analyzed and interpreted to identify the student's strengths, needs, and implications for instruction. Where possible, it is advisable to use language that is educationally relevant, succinct, free of jargon, and written in language that may be readily understood by educational staff and parents.

Importantly, evaluation reports should **not** include recommendations about eligibility for special education, specific disability classifications or placement options. Those are determinations to be made by the Multidisciplinary or IEP team, not individual evaluators.

Also, CDE prepares specific guideline documents for addressing different service and eligibility areas that practitioners should likely consult. These resources contain recommended best practices and tools. For example, CDE has published the Guidebook for Determining the Eligibility of Students with a Significant Identifiable Emotional Disability and the Colorado K-12 Speech or Language Impairment Guidelines. (See Appendix C). The SLI Guidelines contain extensive tools in the form of Communication Rating Scales, which are to be used as tools after an assessment of the student's communication abilities and after the evaluator has interpreted the assessment results. These scales are designed to capture assessment findings according to the intensity of those findings and to facilitate a determination of eligibility for a speech or language impairment (SLI) based on those assessment results.

Do parents get copies of evaluation reports?

Yes. Ideally, parents should get copies of evaluation reports in advance of the M-Team meeting at which eligibility or placement will be discussed. It is also good practice to provide the parents with copies of the evaluation reports far enough in advance of the meeting to allow parents to meet or confer with the evaluator to resolve any questions.

What if the team does not think that the student requires any testing?

If the IEP team determines that no additional testing or assessments are necessary, a reevaluation may consist of a review of existing documents and evaluations. In such a case, the public agency must provide the parents with prior written notice of the determination and the parents' right to request additional assessments, as embedded in Appendix A's Notice of Reevaluation form.

Are evaluations required to get testing accommodations?

Yes. Both the ACT and the SAT require students with disabilities seeking testing accommodations to provide documentation of evaluations and diagnoses demonstrating the need for the requested accommodations.

The ACT requires a diagnosis by a qualified professional and a current IEP or 504 plan showing that the requested accommodations are currently being provided in school. A student who fails to meet the ACT's accommodations requirements may apply for Colorado state-allowed accommodations. For more information, see: <http://www.act.org>.

The SAT requires a psychological evaluation dated within 3 years of applying for eligibility in order to document processing delays that may impact performance on the SAT. For more information, see: <http://www.etc.org>.