Q&A: Reevaluations under Part B of the Individuals with Disabilities Education Act (IDEA)

The Minnesota Department of Education (MDE), Division of Compliance and Assistance, has developed this document to provide technical assistance to parents and school districts that have questions regarding reevaluations and functional behavioral assessments (FBAs). The intention of this document is to provide helpful, general information to the public. It does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information below should not be relied upon as a comprehensive or definitive rendition of applicable state and federal law.

The term “district” as used in this document includes all public school districts that are considered a local educational agency as defined in the federal regulations at 34 C.F.R. § 300.28, including public special education districts and public charter schools.

The term “parent” as used in this document encompasses all individuals listed in the definition of parent in the federal regulations at 34 C.F.R. § 300.30, including a biological or adoptive parent, legal guardian, person with whom the child lives and who is acting in the place in the parent, or when applicable, a foster parent, surrogate parent appointed in accordance with the Individuals with Disabilities Education Act (IDEA), or an adult student who has reached the age of majority.

Question 1: What is the difference between an initial special education evaluation and a reevaluation?

Answer: An initial evaluation is the first complete assessment to determine if a student has a disability under the IDEA and the nature and extent of special education and related services the student needs. An initial evaluation may also occur if a student with a disability moves into Minnesota from another state and an evaluation is needed to determine the student’s eligibility for special education and related services under Minnesota criteria. In general, once a student has been fully evaluated, a decision has been rendered that a student is eligible for special education services, and the required services have been determined, any subsequent evaluation of a student would constitute a reevaluation.

Authority: 34 C.F.R. §§ 300.8, 300.15, 300.301(a) and (c), 300.303, 300.323(f); Minn. R. 3525.2710, subp. 1; 71 Fed. Reg. 46640 (Aug. 14, 2006); See also Questions and Answers on Individualized Education Programs (IEPs), Evaluations, and Reevaluations, 111 LRP 63322 (OSERS Sept. 2011).

Question 2: What is the process for conducting a reevaluation?
**Answer:** The reevaluation process begins with a review of existing evaluation data about the student. Based on that review and input from the student’s parent(s), the individualized education program (IEP) team must identify what additional data, if any, are needed to determine whether the student continues to have a disability and continues to need special education and related services. The team must also identify what data is needed to determine the student’s present levels of academic achievement and related developmental needs and what data is needed to determine whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the student’s IEP and to participate, as appropriate, in the general education curriculum.

After its review of existing data, the district must propose, in prior written notice provided to the student’s parent(s), to conduct the assessments and other evaluation measures needed to produce the additional data identified by the team.

The district must proceed with the reevaluation after it receives informed parental consent, or after 14 calendar days if the parent does not respond. If the parent objects to the district conducting a reevaluation, the district may not conduct the reevaluation until it obtains informed parental consent and may not use the consent override procedures to pursue a reevaluation.

If the IEP team determines that no additional data are needed to determine whether the student continues to be a child with a disability, and to determine the student’s educational needs, the district must notify the student’s parent(s) of that determination and the reasons for the determination. The district must also notify the student’s parent(s) of their right to request an assessment to determine whether the student continues to be a child with a disability and to determine the student’s educational needs. If the student’s parent requests an assessment, the district must conduct one. If the student’s parent does not request additional assessments, the review of existing data constitutes the reevaluation.

An evaluation report must be completed and delivered to the student’s parent(s) within the specified evaluation timeline, which in Minnesota is 30 school days from the date the district receives parental permission to conduct the reevaluation or the expiration of the 14-calendar day parental response time. If the reevaluation consists only of a review of existing data, the evaluation timeline commences after the district notifies the student’s parent(s) of their right to request additional assessments and the student’s parent does not request additional assessments.

**Authority:** 34 C.F.R. §§ 300.300(c) and (d)(1), 300.304, 300.305, and 300.503; Minn. Stat. § 125A.091, subds. 3a and 5; Minn. R. 3525.2710, subps. 3-5; Minn. R. 3525.3600; and 71 Fed. Reg. 46629-46637 (Aug. 14, 2006). See also Letter to Anonymous, 48 IDELR 136, 107 LRP 45732 (OSEP Feb. 6, 2007).

**Question 3:** What constitutes existing evaluation data?

**Answer:** Under federal law and regulation, existing evaluation data includes the following:

- Evaluations and information provided by the student’s parents;
- Current classroom-based, local, or State assessments, and classroom-based observations; and
- Observations by teachers and related services providers.
Regarding whether an observation constitutes existing evaluation data or a new evaluation procedure requiring parental consent, federal guidance has distinguished between observations and assessments of a classroom or school as a whole, such as “an assessment given to all students as part of a daily classroom management routine,” and an observation or assessment of an individual student “to determine whether the student has a disability and to determine the nature and extent of the special education and related services that the student needs.” The federal guidance clarified that the latter type of observation or assessment that “focus[es] on the educational and behavioral needs of an individual child . . . would be considered an initial evaluation or reevaluation, in accordance with 34 C.F.R. § 300.15” and requires parental consent, consistent with 34 C.F.R. § 300.300(a) and (c). Observations that may constitute existing evaluation data could be observations for the purpose of gathering progress data on the student’s progress toward IEP goals, in accordance with the progress measurement methods listed in the student’s IEP.

**Authority:** 34 C.F.R. §§ 300.15, 300.300 (a) and (c), 300.302, and 300.305; Letter to Gallo, 61 IDELR 173 (OSEP April 2, 2013).

**Question 4:** When is a reevaluation required?

**Answer:** In general, a reevaluation must be conducted if the student’s parent or teacher requests a reevaluation or if the district determines a reevaluation is warranted based on the student’s educational or related services needs, including the student’s improved academic achievement and functional performance. A reevaluation may not occur more than once a year, unless the parent and district agree otherwise, and must occur at least once every three years, unless the parent and the district agree that a reevaluation is unnecessary. The parent and the district may agree that a reevaluation is unnecessary before the review of existing evaluation data. While there is no specific requirement regarding documenting such an agreement, for special education monitoring purposes, districts are encouraged to include an explanation in the student’s special education file when a triennial reevaluation is agreed to be unnecessary.

A district must conduct a comprehensive reevaluation in all areas related to the suspected disability before determining that a student is no longer a child with a disability.

A reevaluation is not required before the termination of a student’s eligibility due to graduation from high school with a regular diploma, or due to exceeding the age eligibility for a free appropriate public education (FAPE). For a student whose eligibility terminates due to graduation or age, the district must provide the student with a summary of the student's academic achievement and functional performance, which shall include recommendations on how to assist the student in meeting the child's postsecondary goals.

**Authority:** 34 C.F.R. §§ 300.303 and 300.304-300.311; Minn. R. 3525.2710, subp. 4E; Letter to Anonymous, 48 IDELR 136, 107 LRP 45732 (OSEP Feb. 6, 2007).

**Question 5:** Must all reevaluations include a comprehensive evaluation report?

**Answer:** Yes. A comprehensive evaluation report must be completed and provided to the student’s parent(s) within the evaluation timeline, even if the reevaluation consists only of a review of existing data.
At a minimum, the evaluation report must include a summary of all evaluation results (or the existing data reviewed and any input from the student’s parent), documentation of whether the student continues to have a disability, the student’s present levels of performance and educational needs that derive from the disability, whether the student continues to need special education and related services, and whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the student’s IEP and to participate, as appropriate, in the general curriculum.

If the parent(s) and the district agree that a reevaluation is unnecessary, the district does not need to complete an evaluation report.

**Authority:** Minn. R. 3525.2710, subp. 6 and 34 C.F.R. § 300.306(a)(2). See also 34 C.F.R. §§ 300.15, 300.300, 300.303, 300.305 and 76.731.

**Question 6:** Must a reevaluation address each component of the Minnesota criteria for the student’s disability area, including observations?

**Answer:** No. When a district conducts a reevaluation of a student, the student’s IEP team must review existing evaluation data and input from the student’s parent(s) to identify what additional data, if any, is needed to determine whether the student continues to have the identified disability and whether the student continues to need special education and related services. The reevaluation must also determine the student’s present levels of academic achievement and related developmental needs, and determine whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP and to participate, as appropriate, in the general education curriculum.

In some cases additional assessments and evaluation measures (including observations) are necessary to gather the information described above, but if the existing evaluation data is sufficient, the IEP team may determine that additional assessments are unnecessary.

**Authority:** 34 C.F.R. § 300.305(a).

**Question 7:** Is a functional behavioral assessment (FBA) considered a reevaluation?

**Answer:** Not necessarily. Beginning July 1, 2020, a district may, through prior written notice to the student’s parent, propose to conduct a FBA as a stand-alone assessment without conducting a comprehensive evaluation or reevaluation of the student. For example, a district may propose to conduct an FBA to develop or modify a behavior intervention plan (BIP) for a student or to determine whether the positive behavioral interventions and supports and other strategies, to address behavior set forth in a student’s IEP or BIP will be effective in enabling the student to make progress toward the IEP goals and objectives.

After receiving prior written notice proposing an FBA, the student’s parent or guardian may request that a school district conduct a comprehensive evaluation. If a student’s parent or guardian requests a comprehensive
evaluation, the district would then conduct an FBA as part of that evaluation to assist in determining the nature and extent of the student’s need for special education and related services.

**Authority:** Minn. Stat. § 125A.08(d); 34 C.F.R. §§ 300.15, 300.300(c) and (d)(1), 300.302 and 300.305(a); Minn. R. 3525.0210, subp. 22.

**Question 8:** Is an assessment to determine postsecondary transition needs considered a reevaluation?

**Answer:** For a student currently receiving special education and related services, a district must conduct a comprehensive evaluation to determine transition needs during grade nine. This evaluation is a reevaluation. In addition to the requirements for all reevaluations, it must also include at least two age-appropriate transition assessments.

If a district also conducts competency-based transition assessments, administered to all transition-aged students (whether or not the student has a disability) on a yearly basis, in order to develop postsecondary goals and personal learning plans under Minnesota Statute § 120B.125, that transition assessment would not be considered a reevaluation. In this case, the purpose of the transition assessment is not to determine whether the student has or continues to have a disability, or the nature and extent of the special education and related services the student needs, but rather only to develop appropriate postsecondary goals for students with and without disabilities. In addition, if the student’s IEP meets the personal learning plan components under Minnesota Statute § 120B.125, the student’s IEP satisfies the postsecondary transition planning requirement for all students, and no additional transition plan or personal learning plan is needed.

**Authority:** 34 C.F.R. §§ 300.15, 300.300, 300.303, and 300.320(b); Minn. Stat. §§ 125A.08(b)(1) and 120B.125; Minn. R. 3525.0210, subp. 48, and 3525.2900. See also Letter to Olex, 74 IDELR 22, 119 LRP 8445 (OSEP Feb. 22, 2019).

**Question 9:** When a student has already been determined to be a child with a disability and is currently receiving special education and related services, is an evaluation to determine additional needs not identified in the most recent evaluation considered a reevaluation?

**Answer:** Yes. If a district or parent suspects that a student has additional needs that were not identified in the most recent evaluation, the district must either propose to conduct an evaluation or explain its refusal to do so in prior written notice. The evaluation must identify all of the student’s special education and related service needs, whether or not commonly linked to the disability category in which the student has been classified. This evaluation is a reevaluation. If a reevaluation of the student has been conducted within the past calendar year, the district must also obtain the student’s parent(s) agreement that a reevaluation may occur more than once a year.

**Authority:** 34 C.F.R. §§ 300.303(b)(1), 300.304 through 300.306, and 300.503.
Question 10: Is an evaluation to determine whether the student’s disability category has changed, or whether a student qualifies under an additional disability category (commonly referred to as a “secondary disability”), considered a reevaluation?

Answer: Yes to both questions. There is no requirement to identify a student as eligible under more than one disability category, but there is also no prohibition on such dual identification as long as the student meets categorical eligibility criteria under Minnesota rules. Additionally, federal regulations acknowledge that a student may have multiple disabilities.

The term “secondary disability” does not exist in federal or state special education law. This subsequent evaluation is a reevaluation that requires a student to meet initial eligibility criteria for any new disability category.

Authority: 34 C.F.R. §§ 300.8(a)(1) and 300.304(c)(6); Minn. Stat. § 125A.02; and Minn. R. 3525.2710, subps. 4(A)(2), and 6(B).

Question 11: Is an evaluation to identify related services needs, including assistive technology needs, considered a reevaluation for a student who has already been determined to be a student with a disability and is currently receiving special education and related services?

Answer: Yes. If a district or parent suspects that a student has additional related services needs, including assistive technology needs that were not identified in the most recent evaluation, the district must conduct an evaluation to identify all of the student’s related services needs, whether or not commonly linked to the disability category in which the student has been classified. This evaluation is a reevaluation.

Authority: 34 C.F.R. §§ 300.15, 300.303(a)(1) and (2), 300.304(c) and 300.324(a)(2)(v); 71 Fed. Reg. 46640 (Aug. 14, 2006).

Question 12: Is an evaluation to determine continuing eligibility considered a reevaluation for a student who is turning seven, has already been determined to be a child with a disability, and is currently eligible for special education and related services under the developmental delay criteria?

Answer: Yes. A student who is already determined to be a child with a disability and is receiving special education and related services after meeting developmental delay criteria is a student who has been fully evaluated under Part B of the IDEA. Eligibility under the developmental delay category is limited to students from three through six years of age. Therefore, a district must conduct an evaluation to determine whether a student continues to have a disability under another disability category prior to the student’s seventh birthday. This subsequent evaluation is a reevaluation but requires a student to meet initial eligibility criteria for one of the other 12 disability categories.

Authority: 34 C.F.R. §§ 300.8(b), 300.303, and 300.305; Minn. Stat. § 125A.02, subd. 1a; Minn. R. 3525.1351; 71 Fed. Reg. 46640 (Aug. 14, 2006).
**Question 13:** If a student is discontinued from special education services, and the student later shows a need for a special education evaluation, is that evaluation considered a reevaluation?

**Answer:** A student who was discontinued from all special education services may be reinstated within 12 months without undergoing an evaluation, if data on the student's present levels of performance are available and an evaluation had been conducted within three years. This applies whether the student’s special education services were discontinued after a reevaluation and a determination of ineligibility or after the student’s parent(s) revoked consent in writing for the continued provision of special education and related services.

If more than 12 months have elapsed since the student’s special education and related services were discontinued, the district would need to conduct an initial evaluation to determine whether the student is a child with a disability under Minnesota criteria and the nature and extent of special education and related services the student currently needs.

**Authority:** Minn. R. 3525.3100; 34 C.F.R. § 300.300(b)(4).

**Question 14:** If a student enrolls in a district and has previously been determined eligible for special education and related services using an alternative evaluation procedure, such as Students Needing Alternative Programming (SNAP), is a subsequent evaluation considered a reevaluation?

**Answer:** Yes. Subsequent evaluations of a student who has been determined eligible for special education and related services using an alternative evaluation procedure are reevaluations. The student must demonstrate a continuing need for services under the identified category that was reported to MDE through the Minnesota Automated Reporting Student System (MARSS).