Q&A: Pre-Referral Interventions

The Minnesota Department of Education Division of Compliance and Assistance has developed this document to address questions raised by parents and school districts regarding the use of pre-referral interventions as part of the child find process. 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 response to your specific legal question.

Question 1: What is a school district’s responsibility in identifying children who are suspected of having a disability?

Answer: Each school district must develop a system to identify students with disabilities, beginning at birth, who attend public or nonpublic school and school age children who are not attending school. This system is commonly referred to as “child find.” Each district’s child find system must be documented in the district’s total special education system (TSES) plan. The Minnesota Department of Education periodically reviews each school district’s TSES plan for compliance. The child find system should include the process for receiving referrals from parents, physicians, private and public programs, and health and human services agencies.

Authority: Minn. R. 3525.0750; Minn. R. 3525.1100, subp. 2.

Question 2: What is a pre-referral intervention, and how is it used in the child find process?

Answer: A pre-referral intervention is a scientific research-based instructional strategy, alternative, or intervention to address a student’s academic or behavioral needs in the general education classroom. The classroom teacher is responsible to implement the intervention.

Before a school district refers a student for a special education evaluation, the district must conduct at least two research-based pre-referral interventions and the classroom teacher is responsible for collecting ongoing data and documenting the results. The special education evaluation team can waive the pre-referral requirement as set forth in the answers to Questions 4 and 5 below.

Authority: Minn. Stat. § 125A.56, Subd. 1(a).

Question 3: Who is involved in developing the pre-referral interventions?

Answer: Each school district develops its own child find procedures for referring a student who is suspected of having a disability. The group of persons who discuss a teacher’s and/or parent’s concerns and develop the pre-referral interventions is often called a child study team. The child study team is comprised of general education and special education staff. The team may invite the parent to discuss the student’s needs and obtain parental input in developing the pre-referral interventions.
Question 4: Can the district waive the pre-referral requirement if it believes the student’s need for a special education evaluation is urgent?

Answer: If information gathered by the evaluation team, which may include a parent’s request for an evaluation, results in the determination that an evaluation is urgent, then the pre-referral interventions may be waived.

Authority: Minn. Stat. § 121A.56(a).

Question 5: What if a parent asks that pre-referral interventions be waived and that the district proceed with a special education evaluation to determine special education eligibility?

Answer: If the district, through the child study team process or some other child find process, has explained the purpose of the pre-referral interventions and the parent still wishes to waive them so the evaluation is not delayed, the school district may not use the pre-referral intervention requirement to deny a student’s right to a special education evaluation. The district’s options would be to either proceed with the special education evaluation without implementing the pre-referral interventions or provide the parent with a prior written notice explaining its refusal to evaluate the student. The district must also provide the parent with a procedural safeguard notice upon initial referral or parent request for evaluation.

Authority: Minn. Stat. § 125A.56, Subd. 1(a); 34 C.F.R. § 300.301(a)(b); 71 Fed. Reg. 46,636 (2006); 34 C.F.R. § 300.503(a); 34 C.F.R. § 300.504(a).

Question 6: May the district waive the pre-referral intervention requirement if a child is nine years of age or older when a referral is made for a potential articulation problem?

Answer: When a child is nine years of age or older, the criteria are different from that of a younger child for determining whether a child has an articulation disorder. At age nine or older, a standardized test score is not needed. Instead, part of the criteria used for eligibility determination requires documentation based on two, three-minute speech samples of at least one sound consistently in error. Two pre-referral interventions are needed, unless the evaluation team determines that the need for an evaluation is urgent and waives the pre-referral requirement, or the parent requests that the district proceed with the evaluation.

Authority: Minn. R. § 3525.1343, subp. 3(3); Minn. Stat. § 125A.56.