

Parent Requests for Initial Evaluations

There have been frequent and persistent questions and concerns about the right of a parent to request an evaluation for special education services when the parent's child is participating in general education interventions. The Department hereby restates longstanding positions on this general issue.

1. Federal (34 C.F.R. § 300.226) and state (Iowa Admin. Code r. 281—41.312) law recognize the value of attempts to resolve educational difficulties prior to referral to special education. Since August 1995, the federal government has approved Iowa's rule for general education interventions.

2. Iowa's rule on general education interventions specifically provides that that a parent may request an evaluation "at any time." Iowa Admin. Code r. 281—41.312(4).

3. Not every parent request for an initial evaluation needs to be granted. A full initial evaluation is required only if a child is suspected of having a disability. If a public agency does not suspect a child of having a disability, the agency need not conduct an initial evaluation. *Letter to Williams*, 20 IDELR 1210 (OSEP 1993). In that case, the parent is entitled to a prior written notice, including an explanation of why the public agency refuses to conduct the evaluation. *Id.*; see Iowa Admin. Code r. 281—41.503.

4. If, at any time and for any reason, a public agency suspects a child of having a disability, the agency must seek consent to evaluate. According to the United States Department of Education,

it would generally not be acceptable for an LEA to wait several months to conduct an evaluation or to seek parental consent for an initial evaluation if the public agency suspects the child to be a child with a disability.

71 Fed. Reg. 46,637 (Aug. 14, 2006).

5. Several parents have been advised that their children would not be evaluated because their children had not completed a required number of days in general education interventions or had not progressed through a requisite number of "tiers" or "levels." This is inappropriate. The only relevant question is, "Is this child suspected of having a disability?" If the answer is "yes," parental consent for an initial evaluation must be requested, regardless of the amount of time in general education interventions or the number of layers, levels, or tiers in which the child has been involved. As stated by the United States Department of Education concerning pre-referral interventions, "the LEA cannot refuse to conduct the evaluation or delay the evaluation until the alternative strategies have been tried if the LEA suspects the child has a disability." *Letter to Anonymous*, 19 IDELR 498 (OSEP 1992).

Please feel free to contact the Department if you have questions about this policy clarification.