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160-4-7-.07 EVALUATIONS AND ELIGIBILITY DETERMINATIONS.

(1) REQUIREMENTS.

(a) Each local school system/state operated program (LSS/SOP) shall ensure that evaluation procedures are established and implemented that meet requirements of this rule.

(b) Once a student is referred to special education from the Student Support Team (SST) or other appropriate source, the evaluation and placement process shall be completed without undue delay and in accordance with an Individualized Education Program (IEP) in the following time frames:

1. In the 2000 – 2001 school year: Within 75 calendar days from receipt of parent's(s')/guardian's(s')/ surrogate's(s') consent for initial evaluation to the development of the IEP. The winter and spring holiday period, when students are not in attendance for at least five consecutive days, shall not be counted toward the 75 calendar day timeline. During the summer vacation period, a 100 calendar day timeline will be in effect beginning 30 calendar days prior to the last school day of the local school calendar. If extenuating circumstances, e.g., illness, unusual evaluation needs, revocation of parent's(s')/guardian's(s') /surrogate's(s') consent for evaluation, affect this time line, the LSS/SOP shall document the exceptions.

2. In the 2001 – 2002 school year and thereafter: Within 60 calendar days from receipt of parent's(s')/guardian's(s')/ surrogate's(s') consent for initial evaluation to the development of the IEP. The winter and spring holiday period, when students are not in attendance for at least five consecutive days, shall not be counted toward the 60 calendar day timeline. During the summer vacation period, a 90 calendar day timeline will be in effect beginning 30 calendar days prior to the last school day of the local school calendar. If extenuating circumstances, e.g., illness, unusual evaluation needs, revocation of parent's(s')/guardian's(s') /surrogate's(s') consent for evaluation, affect this time line, the LSS/SOP shall document the exceptions.

(c) Psychoeducational assessment of students referred because of learning and/or behavior problems is the responsibility of a qualified psychological examiner. A comprehensive evaluation, including psychological testing and clinical assessment, shall be required for diagnosis and special education program planning for students with disabilities who exhibit intellectual disabilities, autism, specific learning disabilities and/or emotional and behavioral disorders.

1. Qualified Psychological Examiner Requirements.

(i) Initial evaluation results used for special education eligibility consideration, if not provided by school psychologists with a valid S-5 (or higher) certificate in school psychology, shall be from one of the following:

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(I) A psychologist licensed by the Georgia Board of Examiners of Psychologists and having training and experience in school psychology or child clinical psychology.

(II) A full-time graduate student in an approved, properly supervised school psychology or child clinical psychology training program internship/practicum who has completed a minimum of one year of approved appropriate graduate training.

(III) A Georgia Merit System employee who has a classification rating of psychologist, senior psychologist, or psychology program specialist.

(2) EVALUATIONS AND RE-EVALUATIONS.

(a) Initial evaluations.

1. Each LSS/SOP shall conduct a full and individual initial evaluation before the initial provision of special education and related services to a student with a disability under this rule. [refer to 34 CFR 300.531]

2. Parent's(s')/guardian's(s')/surrogate's(s') consent.

(i) The LSS proposing to conduct an initial evaluation to determine if the student qualifies as a student with a disability shall obtain an informed consent from the parent(s)/guardian(s)/surrogate(s) of such student before the evaluation is conducted as described in Rule 160-4-7-.05 Procedural Safeguards.

(ii) If the parent(s)/guardian(s)/surrogate(s) of such student refuse consent for the evaluation, the LSS/SOP may continue to pursue an evaluation by utilizing the mediation and impartial due process hearing procedures.

(b) Re-evaluation.

1. A LSS shall, at least once every three years, ensure that a re-evaluation of each student with a disability is conducted if conditions warrant a re-evaluation, or if the student's parent(s)/guardian(s)/ surrogate(s) or teacher request a re-evaluation.

2. Each LSS/SOP shall obtain informed parent's(s')/guardian's(s')/surrogate's(s') consent prior to conducting any assessment for the purpose of re-evaluation of a student with a disability as described in Rule 160-4-7-.05 Procedural Safeguards/Parents' Rights, except that such informed parent's(s')/guardian's(s')/surrogate's(s') consent need not be obtained if the LSS can demonstrate that it has taken reasonable measures to obtain such consent and the student's parent(s)/guardian(s)/surrogate(s) has failed to respond.

(c) Determination of needed evaluation data.

1. As part of an initial evaluation (if appropriate) and as part of any re-evaluation under this section, a group that includes the individuals described in Rule 160-4-7-.09 Individualized Education Program and other qualified professionals, as appropriate, shall review existing evaluation data on the student, including evaluations and information provided by the parent(s)/guardian(s)/surrogate(s) of the student, current classroom-based assessments and observations, and teacher and related services providers' observations; and [refer to 34 CFR 300.533(a)(1)(i)(ii)(iii)]

2. On the basis of that review, and input from the student's parent(s)/guardian(s)/

surrogate(s), identify what additional data, if any, are needed to determine: [refer to 34 CFR 300.533(a)(2)]

(i) Whether the student has a particular category of disability, or, in case of a reevaluation of a student, whether the student continues to have such a disability; [refer to 34 CFR 300.533(a)(2)(i)]

(ii) The present levels of performance and educational needs of the student; [refer to 34 CFR 300.533(a)(2)(ii)]

(iii) Whether the student needs special education and related services, or in the case of a re-evaluation of a student, whether the student continues to need special education and related services; and [refer to 34 CFR 300.533(a)(2)(iii)]

(iv) 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 of the student and to participate, as appropriate, in the general curriculum. [refer to 34 CFR 300.533(a)(2)(iv)]

3. The group described in paragraph (c)1. and 2. above of this section may conduct its review without a meeting. [refer to 34 CFR 300.533(b)]

4. The LSS/SOP shall administer such tests and other evaluation materials as may be needed to produce the data identified by the group described in paragraph (c)1. and 2. above. [refer to 34 CFR 300.533(c)]

(d) Requirements if additional data are not needed.

1. If no additional data are needed to determine whether the student continues to be a student with a disability, the LSS/SOP:

(i) Shall notify the student's parent(s)/guardian(s)/surrogate(s) of that determination and the reasons for it; and notify the parent(s)/guardian(s)/surrogate(s) of the right to request an assessment to determine whether, for purposes of services under these rules, the student continues to be a student with a disability.

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(ii) Shall not be required to conduct such an assessment to determine whether the student continues to be a student with a disability unless requested by the student's parent(s)/guardian(s)/ surrogate(s). [refer to 34 CFR 300.533(d)]

(3) EVALUATION PROCEDURES.

(a) Notice.

1. The LSS shall provide notice to the parent(s)/guardian(s)/surrogate(s) of a student with a disability, in accordance with all notice requirements as described in Rule 160-4-7-.05 Procedural Safeguards/Parent Rights.

(b) Procedures.

1. In conducting the evaluation, the LSS shall:

(i) Prior to educational and/or psychological testing of a student for a suspected disability, conduct hearing and vision screening. If failure in either or both areas occurs, follow-up evaluation and correction, if necessary, shall occur before educational/psychological testing proceeds. If a sensory defect is determined by an appropriate medical professional to be uncorrectable, psychological and/or educational testing may proceed according to provisions in paragraph (3)(c)(vi).

- (I) Hearing and vision screening data shall be current for one calendar year from the day of the screening or follow-up evaluation/correction (if necessary).
 - (ii) Use a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent(s)/guardian(s)/surrogate(s), and information that may assist in determining whether the student is a student with a disability and the content of the student's individualized education program, including information related to enabling the student to be involved in and progress in the general curriculum, or, for preschool students, to participate in appropriate activities; [refer to 34 CFR 300.532(b)]
 - (iii) Not use any single procedure as the sole criterion for determining whether a student is a student with a disability or determining an appropriate educational program for the student; and [refer to 34 CFR 300.532(f)]
 - (iv) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. [refer to 34 CFR 300.532(i)]
 - (v) Assure materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than measuring the student's English language skills. [refer to 34 CFR 300.532(a)(2)]
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(c) Additional requirements.

1. Each LSS shall ensure that:

- (i) Tests and other evaluation materials used to assess a student under this section: [refer to 34 CFR 300.532(a)(1)]
 - (I) Are selected and administered so as not to be discriminatory on a racial or cultural basis; and [refer to 34 CFR 300.532(a)(1)(i)]
 - (II) Are provided and administered in the student's native language or other mode of communication, unless it is clearly not feasible to do so; and [refer to 34 CFR 300.532(a)(1)(ii)]
- (ii) Any standardized tests that are given to the student:
 - (I) Have been validated for the specific purpose for which they are used; [refer to 34 CFR 300.532(c)(1)(i)]
 - (II) Are administered by trained and knowledgeable personnel; and [refer to 34 CFR 300.532(c)(1)(ii)]
 - (III) Are administered in accordance with any instructions provided by the producer of such tests; [refer to 34 CFR 300.532(c)(1)(ii)]
- (iii) The student is assessed in all areas of suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. [refer to 34 CFR 300.532(g)]
- (iv) Assessment tools and strategies are used which provide relevant information that directly assists persons in determining the educational needs of the student. [refer to 34 CFR 300.532(j)]
- (v) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient. [refer to 34 CFR 300.532(d)]
- (vi) Test selection and administration is such that, when a test is administered to a

student with impaired sensory, manual or speaking skills, the test results accurately reflect the student's aptitude or achievement level, or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual or speaking skills, except where those skills are the factors which the test purports to measure. [refer to 34 CFR 300.532(e)]

(vii) If evaluation data show the student is eligible for special education but does not require a special setting, the student shall not be placed outside the regular instructional setting. For preschool children ages three and four, consideration of placement shall include discussion of the least restrictive environment.

(viii) Deferred diagnosis may be used for children ages three- through five-years old who have not yet entered the school-age program. Certain conditions, such as a child's young age and limitations of assessment procedures, may hinder a diagnosis. In some instances, a diagnosis may be deferred for a maximum of 20 school days and no federal or state funds may be generated for the child during this period. Procedural due process is applicable during this short-term provision of service, including preliminary assessment, written documentation of professional judgment that warrants a deferred diagnosis and development of an individualized education program (IEP). After the assessment is completed, the child shall meet categorical or significant developmental delay criteria in order to be eligible to receive special education and related services.

(ix) If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions, i.e., the qualifications of the person administering the test, or the method of test administration must be included in the evaluation report. [refer to 34 CFR 300.532(c)(2)]

(x) In evaluating each student with a disability under this rule, the evaluation shall be sufficiently comprehensive to identify all of the student's special education and related services needs, whether or not commonly linked to the disability category in which the student has been classified. [refer to 34 CFR 300.532(h)]

(d) Determination of eligibility.

1. Upon completion of the administration of tests and other evaluation materials, the determination of whether the student is a student with a disability shall be made by a group of qualified professionals and the parent(s)/guardian(s)/surrogate(s) of the student; and [refer to 34 CFR 300.534(a)(1)]
2. A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent(s)/guardian(s)/surrogate(s). [refer to 34 CFR 300.534(a)(2)]
3. In making a determination of eligibility, a student shall not be determined to be a student with a disability if the determinant factor for that eligibility determination is lack of instruction in reading or math, limited English proficiency, or that the student does not meet the program area eligibility requirements under these rules. [refer to 34 CFR 300.534(b)(1)(i)(ii)]

(e) Evaluation before change in eligibility.

1. A LSS/SOP shall evaluate a student with a disability in accordance with this section before determining that the student is no longer a student with a disability. This evaluation is not required before the termination of a student's eligibility under these

rules due to graduation with a regular high school diploma or exceeding the age eligibility for a free appropriate public education under state law. [refer to 34 CFR 300.534(c)(1)]

(4) PLACEMENT PROCEDURES.

(a) In interpreting evaluation data for the purposes of determining if a student is a student with a disability under these rules and the educational needs of the student, each LSS/SOP shall: [refer to 34 CFR 300.535(a)]

1. Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and [refer to 34 CFR 300.535(a)(1)]
2. Ensure the information obtained from all of these sources is documented and carefully considered. [refer to 34 CFR 300.535(a)(2)]

(b) If a determination is made that a student has a disability and needs special education and related services, an IEP shall be developed for the student in accordance with IEP rules. [refer to 34 CFR 300.535(b)]

(c) The LSS/SOP may refer an eligible student with a disability to the Georgia School for the Deaf, Georgia Academy for the Blind, or the Atlanta Area School for the Deaf if determined appropriate for that student.

(5) This rule shall become effective July 1, 2000.

Authority O.C.G.A. § 20-2-152, 20-2-200, 20-2-240, 20-2-302.

Adopted: August 10, 2000 Effective: July 1, 2000