The Special Education Process

Eligibility

Making the determination of eligibility

When a student is not eligible

Disagreement

Evaluation

Consent

Timelines

Reevaluation

When No Additional Data Needed

When Additional Data Needed

Individualized Education Program

Eligibility

Parent(s) (and adult student, when applicable) are provided with written notice of a meeting to determine student eligibility for special education and related services and, if eligible, develop an Individualized Education Program (IEP). A copy of the Parental Rights in Special Education (PRISE) document should accompany the notice.

The participants of the eligibility meeting include:

- Parent;
- A teacher who is knowledgeable about the student's educational performance or district's programs;
- The student where appropriate;
- At least one child study team member who participated in the evaluation;
- The case manager;
- Other appropriate individuals at the discretion of the parent or school district;
- For an initial eligibility meeting, certified school personnel referring the student as potentially disabled, or the school principal or designee if they choose to participate.

Making the determination of eligibility

A student shall not be determined eligible if the determinant factor is due to a lack of instruction in reading or math, or limited English proficiency.

A student shall be determined eligible and classified "eligible for special education and related services" when:

- The student has one or more disabilities defined in 6A:14 - 3.5(c)1 - 13
- The disability adversely affects the student's educational performance; and
- The student is in need of special education and related services

When a student is not eligible

Within 15 calendar days of the meeting, parent (and adult student, when applicable) will be provided with:

- Written notice of the determination that the student is ineligible for special education and related services;
- A copy of the short procedural safeguards statement; and
- A copy of the evaluation report(s) and determination of (in)eligibility, given to the parent (adult student, when applicable)

Disagreement

The parent (adult student, when applicable) may disagree with the determination by requesting mediation or a due process hearing or an independent educational evaluation.
**Evaluation**

Planning for evaluation can be done at a referral meeting or at a separate meeting designed exclusively for that purpose. The parent(s) and/or the adult student, along with the professionals present, decide the nature and scope of the evaluation based on the review of the data. They also decide who will conduct the evaluations.

The participants at this meeting are:
- parent(s) and/or adult student;
- child study team;
- regular education teacher;
- related services providers, as necessary.

Within 15 calendar days of the meeting, the parent(s) (and adult student, when applicable) are provided with written notice which includes the following:
- the evaluations that are warranted;
- the nature and scope of the evaluations;
- identify the student as potentially disabled and protected under the safeguards of special education;
- request and/or confirm consent from the parent (when the student is an adult student, consent is obtained from the adult student);
- a copy of the short procedural safeguards statement;
- copies of the special education rules (NJAC 6A:14) and the due process hearing according to 2.3(b).

**Consent**

Parent(s) (adult students, when applicable) must be given the opportunity to consider the proposed initial evaluation for up to 15 calendar days before providing consent. The parent (adult student, when applicable) may provide consent sooner.

If the parent (adult student, when applicable) has not provided consent within 15 calendar days and the district and the parent have not agreed to other action, the district shall request a due process hearing according to 2.3(b).

**Timelines**

When consent for initial evaluation is granted, the evaluation shall be conducted without delay.

When evaluations are to take place with specialists outside the district, the parent(s) shall make the appointment with the specialists. The Office of Pupil Services will arrange payment.

After consent for initial evaluation has been received, the evaluation, determination of eligibility for services, and if eligible, the development and implementation of the Individualized Education Program are completed within 90 calendar days.
Reevaluation

Within three years of a previous classification, a multi-disciplinary reevaluation shall be completed to determine whether the student continues to be a student with a disability and meets the requirements to be eligible for services.

Reevaluation shall be conducted sooner if conditions warrant or if the student’s parents or teacher requests the re-evaluation.

When a reevaluation is conducted sooner at the request of the parent or teacher, or because conditions warrant, the reevaluation shall be completed without undue delay.

The parent (and adult student, when applicable) will be provided written notice of the meeting to review data and determine the nature and scope of the reevaluation. The letter of notice will include Parental Rights In Special Education (PRISE).

The participants in a reevaluation meeting shall include the Individualized Education Program (IEP) team who will determine the nature and scope of the reevaluation. The IEP team includes:

- the parent;
- at least one child study team member who can interpret the instructional implications of the evaluation results;
- at least one general education teacher if the student is in the general education classroom or may participate in the general education classroom;
- the regular education teacher shall be knowledgeable about the student’s educational performance or the district’s programs.
- at least one special education teacher, or where appropriate, at least one special education provider;
- The special education teacher or special education provider shall be knowledgeable about the student’s educational performance or the district’s programs.
- the case manager;
- a representative of the district board of education who:
  - is qualified to provide or supervise the provision of the specially designed instruction to meet the unique needs of the student with disabilities;
  - is knowledgeable about the general education curriculum;
  - is knowledgeable about the availability of resources of the district board of education; and
  - may be the child study team member or other appropriate personnel including the special education administrator or principal;
- at the discretion of the parent or school district, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate; and
- the student as appropriate.

At the meeting, the IEP team shall review existing data and decide if additional tests and procedures should be administered to determine:

- whether the student continues to have a disability;
- the present levels of performance and educational needs of the student;
- whether the student needs special education and related services; and
- whether any additions or modifications to the special education and related services are needed to enable the student with disabilities to meet annual goals set in the IEP and to participate, as appropriate, in the general education curriculum.
When No Additional Data Needed
When the IEP team determines no additional data are needed, within 15 calendar days of the meeting, the parent (and adult student) is provided with:

- written notice of the determinations:
  - additional data are not warranted;
  - continued eligibility or ineligibility (de-classification);
- a copy of the short procedural safeguard statement; and
- a statement regarding the right of the parent (adult student, when applicable) to request an assessment to determine if the student continues to be a student with a disability.

When Additional Data Needed
When the IEP team determines that additional data are needed, within 15 calendar days of the meeting, the parent (and adult student) is provided with:

- written notice of the determinations and proposed actions:
  - additional data are not warranted to determine if the student continues to be a student with a disability;
  - the nature and scope of the proposed reevaluation including which child study team members and/or specialists will conduct assessments:
- a copy of the short procedural safeguard statement; and
- a request for written consent from parent (when the student is an adult student, consent is obtained form the adult student).

If the parent (adult student, when applicable) refuses to provide consent within 15 calendar days, and the district and parent (adult student when applicable) have not agreed to other action, the district shall request a due process hearing according to NJAC 6A:14-2.3(b).

If the parent (adult student, when applicable) failed to respond to the request for consent for re-evaluation, the district board of education can proceed with reevaluation if it can demonstrate that it had taken reasonable measures to obtain such consent.
Individualized Education Program

After a student is found eligible for special education and related services, an Individualized Education Program (IEP) must be developed. The meeting to develop this plan can be combined with the eligibility meeting or may take place as a separate meeting.

The parent (and adult student, when applicable) will receive written notice of the meeting.

The participants at this meeting are:

- at least one regular education teacher, if the student is or may be participating in the regular education classroom;

  *The regular education teacher shall be knowledgeable about the student’s educational performance or the district’s programs.*

- at least one special education teacher, or where appropriate, at least one special education provider;

  *The special education teacher/provider shall be knowledgeable about the student’s educational performance or the district’s programs.*

- at least one child study team member who can interpret the instructional implications of the evaluation results;

- the case manager;

- a representative of the district who:
  - is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of the students with disabilities;
  - is knowledgeable about the general education curriculum;
  - is knowledgeable about the availability of resources of the district; and
  - may be the child study team member or other appropriate personnel including the special education administrator or principal;

- at the discretion of the parent or school district, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate;

- the student where appropriate; and

- if a purpose of the meeting is to consider transition services, the student with educational disabilities and a representative of any other agency that is likely to be responsible for providing or paying for transition services shall be invited to the IEP meeting.

A draft of the IEP being considered may be provided to the parent before the IEP meeting to assist in focusing the conversation at the meeting. However, all elements of the IEP are open to discussion and subject to change as the IEP team deems appropriate.

Within 15 calendar days of the meeting, the parent(s) (and the adult student, when applicable) are provided a written copy of the IEP or a written document that includes:

- eligibility;
- proposed individualized education program;
- proposed educational placement;
- a copy of the short procedural safeguards statement.

The parent (adult student, when applicable) may consider the determination of eligibility and the proposed program for up to 15 calendar days.

Written consent from the parents (when the student is an adult student, consent is obtained from the adult student) is required to implement the initial IEP. Written consent is not required thereafter.

After 15 calendar days of a non-initial IEP meeting, the student is considered “Eligible for Special Education and Related Services” if the parent (adult student, when applicable) did not disagree by requesting mediation or due process hearing.

When parental consent is granted, the IEP is implemented as soon as possible following the IEP meeting.