

SECTION 614
EVALUATIONS, ELIGIBILITY DETERMINATIONS,
INDIVIDUALIZED EDUCATION PLANS, AND EDUCATIONAL PLACEMENTS

SECTION	IDEA 2004 LAWS	SUMMARY
REEVALUATION		
614(a)(2)(A)(B)	<p>(2) REEVALUATIONS.</p> <p>(A) IN GENERAL.--A local educational agency shall ensure that a reevaluation of each child with a disability is conducted in accordance with subsections (b) and (c)</p> <p style="padding-left: 20px;">(i) if the local educational agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or</p> <p style="padding-left: 20px;">(ii) if the child's parents or teacher requests a reevaluation.</p> <p>(B) LIMITATION.--A reevaluation conducted under subparagraph (A) shall occur</p> <p style="padding-left: 20px;">(i) not more frequently than once a year, unless the parent and the local educational agency agree otherwise; and</p> <p style="padding-left: 20px;">(ii) at least once every 3 years, unless the parent and the local educational agency agree that a reevaluation is unnecessary.</p>	<p><u>REEVALUATIONS</u></p> <ul style="list-style-type: none"> · Grounds for reevaluation have expanded from “if conditions warrant” to if the district determines that the educational or related services needs, including academic achievement and functional performance, of the student warrant a reevaluation. Section 614(a)(2)(A)(i). · Limitation— Not more frequently than once a year, unless the parent and the district agree otherwise. Section 614(a)(2)(B)(i). · Three-year reevaluation not required when the parent and the district agree that the reevaluation is unnecessary. Section 614(a)(2)(B)(ii).
EVALUATION PROCEDURES		
614(b)(1)(2)(3)	<p>(b) EVALUATION PROCEDURES</p> <p>(1) NOTICE.--The local educational agency shall provide notice to the parents of a child with a disability, in accordance with subsections (b)(3), (b)(4), and (c) of section 615, that describes any evaluation procedures such agency proposes to conduct.</p> <p>(2) CONDUCT OF EVALUATION.--In conducting the evaluation, the local educational agency shall</p> <p style="padding-left: 20px;">(A) use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent, that may assist in determining</p> <p style="padding-left: 40px;">(i) whether the child is a child with a disability; and</p> <p style="padding-left: 40px;">(ii) the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general education curriculum, or, for preschool children, to participate in appropriate activities;</p> <p style="padding-left: 20px;">(B) not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and</p> <p style="padding-left: 20px;">(C) use technically sound instruments that may assess the relative contribution of cognitive</p>	<p><u>EVALUATION PROCEDURES</u></p> <ul style="list-style-type: none"> · Added “academic” to relevant functional and developmental information. Section 614(b)(2)(A). · Changed “tests” to “assessments”. Section 614(b)(2)(B).

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	<p>and behavioral factors, in addition to physical or developmental factors.</p> <p>(3) ADDITIONAL REQUIREMENTS.--Each local educational agency shall ensure that</p> <p>(A) assessments and other evaluation materials used to assess a child under this section</p> <p>(i) are selected and administered so as not to be discriminatory on a racial or cultural basis;</p> <p>(ii) are provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer;</p> <p>(iii) are used for purposes for which the assessments or measures are valid and reliable;</p> <p>(iv) are administered by trained and knowledgeable personnel; and</p> <p>(v) are administered in accordance with any instructions provided by the producer of such assessments;</p> <p>(B) the child is assessed in all areas of suspected disability;</p> <p>(C) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided; and</p> <p>(D) assessments of children with disabilities who transfer from 1 school district to another school district in the same academic year are coordinated with such children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.</p>	<ul style="list-style-type: none"> · Changed “child’s native language or other mode of communication” to “the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally”. · Assessments must be provided and administered in such a manner “unless it is not feasible to do so”. Section 614(b)(3)(A)(ii). · New directive ensuring coordination from one school district to the next when a student transfers in order for prompt completion of assessments. Assessments of students with disabilities who transfer from one school district to another in the same academic year are coordinated with such students’ prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations. Section 614(b)(3)(D).
DETERMINATION OF ELIGIBILITY		
<p>614(b)(4)(5)</p>	<p>(4) DETERMINATION OF ELIGIBILITY AND EDUCATIONAL NEED.--Upon completion of the administration of assessments and other evaluation measures -</p> <p>(A) the determination of whether the child is a child with a disability as defined in section 602(3) and the educational needs of the child shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and</p> <p>(B) a copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent.</p> <p>(5) SPECIAL RULE FOR ELIGIBILITY DETERMINATION.--In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is</p> <p>(A) lack of appropriate instruction in reading, including in the essential components of reading instruction (as defined in section 1208(3) of the Elementary and Secondary Education Act of 1965);</p> <p>(B) lack of instruction in math; or</p> <p>(C) limited English proficiency.</p>	<p><u>DETERMINATION OF ELIGIBILITY AND EDUCATIONAL NEED</u></p> <ul style="list-style-type: none"> · Changed “tests” to “assessments”; Changed “materials” to “measures”. Section 614(b)(4). · Eligibility determination—a student is not eligible “if the determinant factor is...lack of appropriate instruction in reading, including in the essential components of reading instruction (as defined in section 1208(3) of the Elementary and Secondary Education Act of 1965); lack of instruction in math; or limited English proficiency.” Section 614(b)(5)(A).
ADDITIONAL REQUIREMENTS FOR EVALUATION AND REEVALUATIONS		
<p>614(c)(1), (2), (3), (4) & (5)</p>	<p>(c) ADDITIONAL REQUIREMENTS FOR EVALUATION AND REEVALUATIONS</p> <p>(1) REVIEW OF EXISTING EVALUATION DATA.--As part of an initial evaluation (if appropriate) and</p>	<p><u>REVIEW OF EXISTING EVALUATION DATA PROCESS</u></p>

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	<p>as part of any reevaluation under this section, the IEP Team and other qualified professionals, as appropriate, shall</p> <p>(A) review existing evaluation data on the child, including</p> <ul style="list-style-type: none"> (i) evaluations and information provided by the parents of the child; (ii) current classroom-based, local, or State assessments, and classroom-based observations; and (iii) observations by teachers and related services providers; and <p>(B) on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine</p> <ul style="list-style-type: none"> (i) whether the child is a child with a disability as defined in section 602(3), and the educational needs of the child, or, in case of a reevaluation of a child, whether the child continues to have such a disability and such educational needs; (ii) the present levels of academic achievement and related developmental needs of the child; (iii) whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and (iv) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general education curriculum. <p>(2) SOURCE OF DATA.--The local educational agency shall administer such assessments and other evaluation measures as may be needed to produce the data identified by the IEP Team under paragraph (1)(B).</p> <p>(3) PARENTAL CONSENT.--Each local educational agency shall obtain informed parental consent, in accordance with subsection (a)(1)(D), prior to conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if the local educational</p> <p>(4) REQUIREMENTS IF ADDITIONAL DATA ARE NOT NEEDED.--If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, the local educational agency</p> <p>(A) shall notify the child's parents of</p> <ul style="list-style-type: none"> (i) that determination and the reasons for the determination; and (ii) the right of such parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs; and <p>(B) shall not be required to conduct such an assessment unless requested to by the child's parents.</p> <p>(5) EVALUATIONS BEFORE CHANGE IN ELIGIBILITY IN GENERAL</p>	<ul style="list-style-type: none"> · Retained in the law with the added clarification that the IEP Team and other qualified professionals determine what additional data is needed to determine the educational needs of the student. Section 614(c). · Changed "performance and educational needs" to "academic achievement and related developmental needs". Section 614(c)(1)(B)(ii). · Changed "tests" to "assessments", as in 614(b). Section 614(c)(2).

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	<p>(A) Except as provided in subparagraph (B), a local educational agency shall evaluate a child with a disability in accordance with this section before determining that the child is no longer a child with a disability.</p> <p>(B) EXCEPTION</p> <p>(i) IN GENERAL The evaluation described in subparagraph (A) shall not be required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for a free appropriate public education under State law.</p> <p>(ii) SUMMARY OF PERFORMANCE.--For a child whose eligibility under this part terminates under circumstances described in clause (i), a local educational agency shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.</p>	<p><u>EVALUATION BEFORE CHANGE IN ELIGIBILITY</u></p> <ul style="list-style-type: none"> · Exception—adopted the federal regulatory exception that reevaluation is not required before termination of eligibility due to graduation with a regular diploma or due to exceeding the age of eligibility. Section 614(c)(5). <p><u>SUMMARY OF PERFORMANCE</u></p> <ul style="list-style-type: none"> · For a student whose eligibility under this part terminates under the above described circumstances, a district shall 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 student's postsecondary goals. Section 614(c)(5)(B)(ii).