



NASET Q & A Corner

Issue #20

Questions and Answers About INITIAL REFERRALS

Once the Child Study Team has determined that a student has a suspected disability, the team will make a referral for a comprehensive assessment. This assessment will be used along with other information to help determine the nature and type of disability of the student if one exists. This issue of the *NASET Q & A Corner* will address questions relating to initial referrals for special education services.

What is a Referral for Special Education?

A referral is nothing more than a form starting the special education process in a formal manner usually initiated by the Child Study Team or the parent/guardian.

IDEA 2004 states:

- (a) **General.** Each public agency must conduct a full and individual initial evaluation, in accordance with Sec. Sec. 300.305 and 300.306, before the initial provision of special education and related services to a student with a disability under this part.
- (b) **Request for initial evaluation.** Consistent with the consent requirements in Sec. 300.300, either a parent/guardian of a student, or a public agency, may initiate a request for an initial evaluation to determine if the student is a student with a disability.
- (c) **Procedures for initial evaluation.** The initial evaluation— (1)(i) Must be conducted within 60 days of receiving parent/guardian consent for the evaluation; or (ii) If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and (2) Must consist of procedures— (i) To determine if the student is a student with a disability under Sec. 300.8; and (ii) To determine the educational needs of the student.
- (d) **Exception.** The timeframe described in paragraph (c)(1) of this section shall not apply to a public agency if— (1) The parent/guardian of a student repeatedly fails or refuses to produce the student for the evaluation; or (2) when the evaluation will be completed.) (i) A student enrolls in

a school served by the public agency after the relevant timeframe in paragraph (c)(1) of this section has begun, and prior to a determination by the student's previous public agency as to whether the student is a student with a disability under Sec. 300.8. (ii) The exception in paragraph (c)(2)(ii)(A) of this section applies only if the subsequent public agency is making sufficient progress to ensure a parent/guardian and subsequent public agency agree to a specific time prompt completion of the evaluation. (Authority: 20 U.S.C. 1414(a))

Who Can Make a Referral for Special Education?

A referral for evaluation and possible special education services is initiated by a written request by anyone of the following individuals:

- Student's parent/guardian and advocate or person in parent/guardian relationship
- A classroom teacher
- Any professional staff member of the public or private school district
- A judicial officer
- A student on their own behalf if they are 18 years of age or older, or an emancipated minor
- The Chief School Officer of the State or his designee responsible for welfare, education or health of students.

In What Form is This Referral Made?

A referral should be in written form and should be dated. This makes it official and gives the parent/guardian a start date since there are timelines involved. A referral from the parent/guardian should include the reason for the referral and any details describing the problems their student may be having. The same should hold true for a judicial officer and student referrals. It is important to be clear as to why the parent/guardians are referring their student.

A referral from a professional staff member, a physician or the commissioner of education should include documentation, as to why a possible disability exists, descriptions of attempts to remediate the student's behaviors or performance prior to the referral. All of the above is important especially what attempts have been made prior to the referral. Remember the district should try to keep the student in the mainstream and the documentation they provide at this step in the process should insure the parent/guardians and the student that they have done everything possible to circumvent the referral process.

Referrals can be sent either to the building administrator or to the IEP Committee chairperson. In either case, the referral should be shared with the other party as soon as possible. If the referral is not from the parent/guardians, the district must inform them in writing immediately that the student has been referred. The referral indicates that the person submitting the referring believes the student may have a disability that adversely affects educational performance. A referral to the IEP Committee does not necessarily mean that the student has a disability. It signals that the student is having learning difficulties and that the person making the referral is concerned that the problem may be due to a disability.

Is Parent/guardian Consent Necessary for an Evaluation for Special Education?

The district by law needs the parent/guardian's consent for an evaluation. A request for an evaluation should not be misinterpreted as an automatic decision that the student has a disability. When the district asks for the parent/guardian's consent, it is a means of assuring that the parent/guardian(s) have full knowledge of district's actions. They are involving the parent/guardian(s) in the decision making process which is part of due process. The parent/guardian will need to fully understand the reasons for an individual evaluation for special education.

The parent/guardian(s) have the right to request an informal conference if he or she has any questions about the purpose or type of evaluation proposed or if he or she does not want his or her student evaluated. This conference may be held with the committee chairperson, building principal or any other professional who will be part of the assessment team or the parent/guardian may even contact the Board of Education. The parent/guardian or the school may withdraw the IEP Committee referral within a specified period of time if the parent/guardian(s) and the referring party agree to another plan that better suits the student's needs. However, if agreement regarding the student's evaluation is not reached, due process options are available.

What is an Assessment Plan?

It should be noted here that when a student is referred for a comprehensive special education assessment an assessment plan or parent/guardian release for testing is required by law. This release can be obtained in several ways and at different points in the process depending on the school district's policy and procedures. For instance:

1. Some districts may send out a letter to the parent/guardian(s) indicating that his or her student has been referred for a comprehensive special education assessment by the CST. In this letter, the parent/guardian will be provided with an assessment plan outlining their rights (see the law at the beginning of this section) and asking them to sign and submit this assessment plan so that the team can begin the evaluation.
2. In some cases the CST may be able to have the parent/guardian sign this release when they meet with the parent/guardian to discuss the team's decision and the reasons for the decision to make a formal referral for a comprehensive special education referral. If this is the case then the CST will attach the permission for evaluation to the Initial Referral form for a comprehensive assessment.
3. In some cases, the parent/guardian assessment plan and release for evaluation may take part during an initial parent/guardian intake by a multidisciplinary team member who has asked the parent/guardian in to gather background data.

Does the Parent/guardian Have to Agree with the Referral for Special Education?

The answer here is no. The referral by the district is a legal suggestion that they must make if they suspect that a student has an educational disability. If the parent/guardian does not agree, the school will try to hold meetings, first with the CST, then with other administrators and finally with the IEP committee at which time the parent/guardian's concerns and possible areas of resolution will be discussed.