

<p>Welcome to the Virginia Department of Education’s <i>Back to Basics: Eligibility</i> module. This module is focused on promoting a better understanding of how students are evaluated then identified for special education services under the Individuals with Disabilities Education Act (IDEA). This module was created to assist school personnel who work with students with disabilities, which means it is for EVERYONE who works at a school.</p>
<p>Please note that there is a quiz at the end of each module that will allow you to test your knowledge.</p>
<p>If teachers, parents, and school staff suspect that a student may have a disability, a referral for evaluation for special education should occur.</p>
<p>When a school division would like to determine if a child is or continues to be a child with a disability, this is called an eligibility decision.</p>
<p>Eligibility encompasses initial eligibility, triennials, reevaluations, and possible dismissals from special education.</p>
<p>Reevaluations shall be conducted if the school determines a need or if the parent or teacher requests it, at least once every three years.</p>
<p>A referral for evaluation may come from a teacher, parent, a team at the child’s school, or even when the child fails one of the standard screenings given to all children and there is a suspicion of a disability. A referral can be made in writing, orally, or by electronic communication. The referral must be documented and included in the student’s education record.</p>
<p>That official referral starts a ticking clock of 65 <u>business</u> days for the school division to complete the evaluation and to make an eligibility decision.</p>
<p>It is possible that the school may decide not to evaluate the student if they do not suspect a disability. If this happens, the process stops, and IDEA’s procedural safeguards require that the parent get a prior written notice document explaining why. We will discuss this document in a later module.</p>
<p>During the 65 business days, the school’s special education eligibility team will be very busy gathering information about the student. The team has some required members, but others may be asked to join.</p> <ul style="list-style-type: none"><li>• Parents;</li><li>• Special Education Administrator;</li><li>• School Personnel from Disciplines Providing Assessments;</li><li>• Special Education Teacher;</li><li>• Child’s Regular Education Teacher; and</li><li>• Person Qualified to Conduct Diagnostic Exams.</li></ul>
<p>A team receives a referral and reviews it to determine whether an evaluation for special education is warranted. If the team suspects a disability, the next step is a review of existing data and determine if any additional data is needed. Sometimes, the review of existing data provides sufficient information for an eligibility decision.</p>
<p>When the team asks for additional data on a student who is suspected of having a disability, they may obtain informed parental consent. When a parent gives consent, they are not agreeing to place the child in special education; they are permitting the team to conduct the requested evaluations.</p>
<p>If the parent does not consent to the evaluation, the team must make its eligibility decision based on the existing data.</p>
<p>So, assuming that the parent consented to the evaluation, what guides the team now? What are they looking for? Special education laws and regulations answers these questions for us.</p> <ul style="list-style-type: none"><li>• The presence of an impairment.</li><li>• Adverse impact of educational performance, and</li><li>• The need for specially designed instruction, and any specific criteria from Virginia regulations.</li></ul>

Once the team gathers all requested data, they are ready to make the determination. They will use multiple sources of information because: *No single measure or assessment is used as the sole criterion for determining whether a child is a child with disability.*

Here are some examples of existing data that might be considered:

- Evaluations and information provided by the parent(s);
- Current classroom-based data, assessments, and observations;
- Screening and response to intervention (Rtl) data;
- Grades;
- Progress notes;
- Historical information, and many other sources of data.

In our scenario, the parent provided consent to gather additional data. The evaluators will select assessments and other tools that provide the most complete picture of the student's educational strengths and needs. The team might choose formal assessments like these.

- Standardized and Norm-referenced tests;
- Criterion-referenced measures;
- Dynamic assessments;
- Development scales;
- Play-based assessments;
- Observations.

They might also use informal assessments like dynamic assessment, observations, rating scales and parent teacher input. Whatever the team chooses, they must make sure that the assessment is correct for the purpose. Tests and tools should be diagnostically accurate. It must measure what it purports to measure (validity) and it must yield consistent results (reliability).

Additionally, IDEA requires that the assessment be non-discriminatory. It must be administered in the student's native language and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally.

Evaluators must ensure that materials and assessment procedures used measure the extent to which a child has a disability, rather than measuring English language skills. Furthermore, assessments and other materials must be selected and administered to not discriminate based on race or culture. (VDOE, 2018)

The law also states that the evaluators must be trained to administer the assessment in accordance with the instructions stated by the producer.

The evaluation reports must be made available no later than two business days before the team meets to determine eligibility. A written copy of the reports must be provided to the parent prior to or at the meeting where the eligibility group reviews the evaluation reports or immediately following the meeting, but no later than ten days after the meeting.

The data are in! With the 65 business-day clock ticking, the team must now gather to make an important decision for the child. Is this child eligible for the special education and related services under IDEA?

With the importance of this determination to the child in mind and the weight of the law on their shoulders, the team will revisit the criteria for specific disability categories. Let us take each criteria apart.

- The presence of an impairment;
- Adverse impact on educational performance;
- The need for specially designed instruction; and
- and any specific criteria from Virginia regulations.

For each of the 14 disability categories, data must show that:

<ul style="list-style-type: none"><li>• it is not caused by lack of instruction in reading or math;</li><li>• it is not caused primarily by limited English proficiency;</li><li>• it is not caused by lack of high-quality instruction;</li><li>• it is not caused primarily by environmental, cultural, or economic disadvantage</li></ul>
Adverse impact on educational performance means that the child is affected in school, whether the impact is academic, social, functional, or emotional/behavioral.
Medical diagnosis: what happens if the child’s doctor or other medical professional has decided that the child has a disability? The team must consider this information, but a diagnosis alone is not sufficient to make an eligibility determination under the multi-factored assessment process in IDEA.
The team must also determine that the child needs specially designed instruction. Teams should consider what data sources will assist them in documenting this eligibility criteria requirement. The team must also meet any additional criteria from the Virginia regulations. All of this must be carefully and appropriately documented.
Sufficient Data: One last thought: the team must be aware of the seriousness of identifying a child as disabled and be very careful not to make an eligibility determination without sufficient data.
It’s time! With documentation, the team makes its decision. The team’s goal is a consensus based on the data. If any member of the team disagrees, that person will write a “member statement” that is attached to the decision. The parent receives the team’s decision in a prior written notice document that explains the factors involved in the decision and addresses any concerns that the parent identified.
If the child is found not eligible the team is required to provide recommendations to the child’s teachers and others working to help the student so that instructional strategies may be developed.
If the child is eligible under one or more disability categories. Prior written notice will be accompanied with a form requesting the parent to consent to identification as a child with a disability. If the parent does not want their child identified as having a disability they may refuse to consent to the identification. If this happens, the child may not receive services.
If the parent consents to the identification of one or more disabilities it is time to develop an individualized education program (IEP) for the child. This is another team activity with another regulatory timeline—that allows 30 <u>calendar</u> days to complete. In this period, an IEP team will meet and decide which special education and related services the child will need to meet his or her IEP goals. The development of the IEP is discussed in another module.
Thank you for watching! Need more information? See the VDOE’s <a href="#">Evaluation and Eligibility for Special Education and Related Services: Guidance Document</a> More questions? Please contact the Office of Dispute Resolution and Administrative Services at (804) 225-2013.