

Child Find In Minnesota

A Fact Sheet from the Minnesota Disability Law Center

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Introduction

The beginning of the school year presents new students, challenges, and responsibilities. One of these responsibilities is to locate, identify and evaluate children who may need special education services. This responsibility, called “Child Find,” not only exists at the beginning of the school year, but also is an ongoing one.

A comprehensive understanding of child find includes knowledge of: the three main initial triggers to child find responsibilities; development and review of pre-referral interventions; initial evaluation procedures; and IEP development steps, of which are reviewed in this report.

Child Find from Start to Finish:

Main Triggers, Pre-Referral Activities, Evaluation and IEP Development

Child find is a shorthand description of a public school’s obligation to locate, identify and evaluate children who might need special education services. Schools have a responsibility to develop systems and processes to find children who reside within the district, attend private schools within the district (regardless of their district of residence), and who are homeless or migrants.¹ A school district must, in its Total Special Education System plan (TSES) have some type of communication with parents, physicians, private and public programs, and health and human services agencies in the district to fulfill this obligation.²

Importantly, if a student, who may be eligible for special education services, attends a non-public school within the boundaries of a public school district, but lives in another district, both public school districts have some responsibilities to identify and locate the student.³ Even though the student is attending a non-public school, federal and state law require the public school district to at least offer special education services to the student.⁴ The district in which the student attends the non-public school has the child

find responsibilities, but the district in which the student lives is responsible for excess program costs.⁵ Charter schools, which do not have “boundaries” are responsible to monitor students within the charter school.

There are three ways: school district suspicion, parent request, and placement in a care and treatment facility within the district.

School District Suspicion

First, school districts have an independent obligation to locate students who may be eligible for special education. While child find obligations are prominent at the beginning of the year when students enter the district, the child find obligation is an ongoing one in order to ensure that students who enter the district or who demonstrate academic and performance changes during the school year are located and evaluated. The child find obligation exists when a district suspects a child has a disability; but what does this mean?

Although there was a Minnesota Rule that required districts to conduct an evaluation “when a student’s “academic, behavioral, emotional, social, physical, communication, or functional skill acquisition in the present educational placement warranted,” this rule was repealed in 2001.⁶ Current federal and state laws do not specifically state when suspicion exists.

There are certain events that appear to trigger parent concerns and district child find obligations. These include: sudden changes at school in grades, behavior, and attendance; a new doctor’s diagnosis; a major behavioral incident; a student entering a new district; and a student failing statewide tests, thus calling graduation into question. It is also important to keep comprehensive records for a student.

The suspicion standard is also very important when a student is disciplined, but not yet evaluated for special education services. If a student faces discipline and the district either had or was deemed to have knowledge⁷ of the student’s potential need for special education services, the student is entitled to all protections (e.g. manifestation determinations, notice, limits on suspension and expulsion, etc.) that students with identified disabilities have.⁸

Parent Requests

Second, the child find responsibilities are triggered by parent requests for special education evaluation. As there is no legally required form for parent requests, districts may be responsible for responding to either verbal or written requests. Districts must either agree to the request and start the evaluation process or provide written notice of refusal.⁹

Neither federal nor state law state by when a district must respond to a parent’s request for an evaluation. The Office of Special Education Programs has noted that the

determination of what constitutes a reasonable amount of time for the District to respond may be made on a “case-by-case basis.”¹⁰

If a district does not think a special education evaluation is warranted and wants to give pre-referral interventions a try first, this is fine, but the district still must provide notice of refusal to the parent’s request for evaluation. In other words, a parent’s request for evaluation does not disappear if they agree to pre-referral interventions. The notice of refusal certainly can include a statement about the provision of pre-referral interventions.

The provision of formal notice of the district’s refusal to conduct an evaluation allows the parents to be adequately informed of the district’s decision and of their rights to challenge the refusal in a due process hearing.¹¹

Care and Treatment Screening

The third and least common trigger to a district’s child find obligation is if a regular education student is placed in a care and treatment facility (such as a hospital, treatment facility, etc) within the district. In that case, the district must not only begin providing regular education services immediately, it must conduct a screening to determine the student’s academic, social, and behavioral needs and, on the basis of that screening determine if any pre referral activities or a special education evaluation was warranted.¹²

The Next Step

If the district has met its initial Child Find obligations by having policies and procedures to determine if and when a child might be suspected of having special education needs, responding appropriately to parent requests, and by keeping track of students in care and treatment settings, the district may proceed to either agreeing to conduct pre-referral interventions (which is covered in the next section) or to conducting the initial evaluation (covered in the following section).

Pre-Referral Interventions

Overall, pre-referral interventions are defined as regular education strategies, alternatives or interventions that are designed to assist the student in school before resorting to special education services.¹³ These pre-referral interventions might include Section 504 accommodation plans, tutoring, support services, Title I services, or a wide variety of extra regular education techniques to help the student succeed. Relevant law requires a school district to conduct and document at least two pre-referral interventions before initiating a special education evaluation, unless the district’s assessment team waives this requirement because of an “urgent” need for evaluation. Importantly, where a parent requests an evaluation and agrees to pre-referral interventions prior to the evaluation, the district must still provide the parents a notice of refusal to evaluate.

It is also crucial to understand that pre-referral interventions can not be used to purposefully or practically deny or delay the parent’s and student’s rights to have a special education evaluation (or to receive notice of the district’s refusal to evaluate).

Evaluation

If an evaluation is warranted or a district agrees to a parent request for a special education evaluation, the district must provide notice to the parents of the evaluation, describe the evaluation in a plan presented to the parents, and obtain parental consent prior to starting the evaluation. Once parent consent is received, the district must complete the evaluation within 30 days¹⁴ and must provide a copy of the final evaluation report to the parents within that same 30 day period.¹⁵ The evaluation must follow all requirements concerning non-discrimination, comprehensiveness, adequacy, and proper procedures and personnel.¹⁶

Once the evaluation is complete and the parents are provided a copy of the evaluation report, a meeting to develop an IEP after the determination of initial eligibility “must be conducted within 30-days.”¹⁷ Further, the Student’s IEP must be implemented “as soon as possible” following this IEP meeting.¹⁸

Pitfalls and Consequences

In the Child Find process, there are several recurring pitfalls:

- Having comprehensive procedures to catch students who demonstrate sudden or continual changes in a number of areas including academics, attendance, behavior, medical condition, and placements in correctional or care and treatment facilities.
- Responding effectively to “triggering” conditions such as sudden changes at school in grades, behavior, and attendance; a new doctor’s diagnosis; a major behavioral incident; a student entering a new district; and a student failing statewide tests, thus calling graduation into question.
- Complying with evaluation and meeting timelines in the initial evaluation process. Delays of months in responding to evaluation requests or completing evaluations will likely be determined unreasonable.
- Providing formal written notice of a refusal to evaluate to parents who have requested an evaluation.
- Monitoring the success of pre-referral interventions and not using them as a substitute for providing notice of refusal or of initiating a special education evaluation.

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¹ School districts must have procedures and policies to ensure that all children with disabilities residing in their district, including Indian, homeless or transient children and children in private schools, are identified, located, and evaluated. *See* 34 C.F.R. § 300.111; 34 C.F.R. § 300.131; 34 C.F.R. § 300.712; Minn. R. 3525.0750.

The child find requirement applies to “children who are suspected of being a child with a disability ... in need of special education, even though they are advancing from grade to grade.” 34 C.F.R. § 300.111 (c) (1).

² Minn. R. 3525.1100, Subpart 2 A. Child study procedures for the identification and evaluation of students or other persons suspected of having a disability beginning at birth that include a plan for receiving referrals from parents, physicians, private and public programs, and health and human services agencies. Subpart B. Method of providing the special education services for the identified pupils. The district shall have, as part of the district's TSES plan, a description of the full range of available educational service alternatives. The district's TSES plan shall include: (1) a description of the sites available at which services may occur. Sites describe the building or other location where special education occurs; and (2) a description of the available instruction and related services.

³ Minn. R. 3525.1100, Subpt. 2A.

⁴ Minn. Stat. §125A.18

⁵ Department Policy Letter, Students Enrolled in K-12 Nonpublic Schools Outside the Resident District, L225, November 7, 2001.

⁶ The District must conduct a special education evaluation when a student's “academic, behavioral, emotional, social, physical, communication, or functional skill acquisition in the present educational placement” warranted evaluation. *See* Minn. R. 3525.2750, subp. 1(A). (repealed)

⁷ Incidentally, it is this “deemed” knowledge standard that the complaint and hearing decisions use to determine child find violations regardless if the student is facing disciplinary consequences.

⁸ 34 CFR§300.534.

⁹ If the District refuses to conduct an initial special education evaluation, the District must comply with the procedural and content requirements in 34 C.F.R. § 300.503

¹⁰ *Letter to Saperstone*, 21 IDELR 1127, July 28, 1994.

¹¹ *See* 34 CFR § 300.507.

¹² Minnesota Rule 3525.2325, subpart 2 (B) states:

If a regular education student has not been identified as disabled or if the providing district cannot determine if a student has been identified as disabled:

(1) Regular education instruction must begin immediately upon enrollment in the education program.

(2) A screening must be conducted by education staff to determine the student's academic, social, and behavioral needs.

(3) Based on the documented results of the screening, a decision must be made about the need for prereferral interventions or an appropriate special education evaluation according to parts 3525.2550 and 3525.2710. It is not required that an appropriate evaluation be started unless it appears that it can be completed.

(4) During the student's placement, regular education instruction must be provided.

¹³ Minnesota Statute §125A.56

¹⁴ Minn. R. 3525.2550

¹⁵ Minn. R. 3525.2710, Subpart 6

¹⁶ The District must provide notice of the proposed evaluation to parents and must obtain prior informed consent of the parents prior to conducting the evaluation. Minn. R. 3525.2710, subpt. 1.

Districts may use mediation or due process procedures to pursue an initial evaluation if parents refuse consent. Minn. R. 3525.2710, subpt. 1.

Special education services cannot be provided prior to a full evaluation. Minn. R. 3525.2710, subpt. 1.

The evaluation must include a variety of evaluation tools, obtain information from parents, use technically sound instruments, and must not use any one evaluation tool as a sole criterion for determining eligibility. Minn. R. 3525.2710, subpt. 3B.

The evaluation must be administered in the student's native language, be administered in such a way to not be discriminatory, protect against identification because of limited English proficiency, review all areas of suspected disability, use appropriate testing methods conducted by appropriate personnel, and be sufficiently comprehensive. Minn. R. 3525.2710, subpt. 3C.

The IEP team and qualified personnel must review existing evaluation data, information from parents, classroom based information, and other staff observations, and determine, with parental input, what other information is needed to make an eligibility decision. Minn. R. 3525.2710, subpt. 4A.

Following the evaluation, eligibility determinations are made by qualified personnel and the parents, and a copy of the evaluation report must be given to the parents. Minn. R. 3525.2710, subpt. 3D.

The evaluation report must be given to parents within the "specified evaluation timeline" and must, at a minimum, include a summary of evaluation results, documentation of disability, present levels of performance and education needs stemming from the disability, state whether the student needs special education services (or continues to need services), and state whether any changes are needed to existing IEPs. Minn. R. 3525.2710, subpt. 6.

The evaluation process must be sufficient to address all of a student's needs whether or not commonly linked to the student's disability classification. Minn. R. 3525.2710, subpt. 3C (9).

¹⁷ 34 CFR §300.323 (c)

¹⁸ Id.