

## **Title 6. Education**

### **Chapter I. Division of Elementary and Secondary Education**

#### **Subchapter E. Special Education**

#### **Part 130. Procedural Requirements and Program Standards**

##### **Subpart 7. Reevaluation**

###### **6 CAR § 130-701. General.**

(a)(1) Each public agency must ensure that:

(A) The IEP of a child with a disability is reviewed in accordance with 34 C.F.R. §§ 300.320 – 300.324 and 6 CAR § 130-801 et seq.; and

(B) A reevaluation of each child, in accordance with 34 C.F.R. §§ 300.304 – 300.311 and 6 CAR § 130-601 et seq., and 6 CAR § 130-701 et seq., is conducted if the:

(i) Public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or

(ii) Child's parent or teacher requests a reevaluation.

(2) In accordance with 34 C.F.R. § 300.303(b) the reevaluation must occur at least once every three (3) years unless the parent and the public agency agree that a reevaluation is unnecessary.

(3) A reevaluation may occur not more than once a year unless the parent and the public agency agree otherwise.

(b) Subject to 34 C.F.R. § 300.300(c)(2) and 6 CAR § 130-906, informed parent consent must be obtained in accordance with 34 C.F.R. § 300.300(a)(1) before conducting any reevaluation of a child with a disability.

(c) Parental consent is not required before reviewing existing data as part of an evaluation or a reevaluation.

###### **6 CAR § 130-702. Refusal.**

(a) If the parent of a child with a disability refuses to consent to the reevaluation, the public agency may, but is not required to, pursue that evaluation by using the consent override procedures under 6 CAR § 130-1001 et seq., and 34 C.F.R. §§ 300.507 – 300.516, if appropriate, except to the extent inconsistent with other state laws relating to parental consent.

(b) The public agency does not violate its obligation under 34 C.F.R. §§ 300.111 and 300.301 – 300.311 if it declines to pursue the evaluation or reevaluation.

**6 CAR § 130-703. Failure to respond to request for reevaluation.**

(a) Informed parental consent need not be obtained for reevaluation if the public agency can demonstrate that:

- (1) It has made reasonable efforts to obtain that consent; and
- (2) The child’s parent has failed to respond.

(b) To meet the reasonable efforts requirement in subsection (a) of this section, the public agency must use procedures consistent with those in 6 CAR § 130-806(d) and 34 C.F.R. § 300.322(a) and (c).

**6 CAR § 130-704. Review of existing evaluation data.**

As part of any reevaluation under this part, the IEP team and other qualified professionals, as appropriate, must:

- (1) Review existing evaluation data on the child, including:
  - (A) Evaluations and information provided by the parents of the child;
  - (B) Current classroom-based local or state assessments and classroom-based observations; and
  - (C) Observations by teachers and related service providers;
- (2) On the basis of that review and input from the child’s parents, identify what additional data, if any, are needed to determine:
  - (A) Whether the child continues to have a disability as described in 34 C.F.R. § 300.8 and 6 CAR §§ 130-208 and 130-609;

(B) Whether the child continues to need special education and related services;

(C) The present levels of academic achievement and related developmental needs of the child; and

(D) Whether any additions or modifications to the special education and related services are needed to enable the child to:

(i) Meet the measurable annual goals set out in the IEP of the child; and

(ii) Participate, as appropriate, in the general curriculum; and

(3) The results of any reevaluations are addressed by the child's IEP team in revising the child's IEP, as appropriate.

**6 CAR § 130-705. Change in eligibility.**

(a) Except as provided in 34 C.F.R. § 300.305(e)(2), a public agency must evaluate a child with a disability in accordance with 34 C.F.R. §§ 300.304 – 300.311 before determining that the child is no longer a child with a disability.

(b) The evaluation described in 34 C.F.R. § 300.305(e)(1) is not required before the termination of a child's eligibility under 34 C.F.R. § 300.305(e)(1) due to:

(1) Graduation from secondary school with a regular diploma; or

(2) Exceeding the age eligibility for free appropriate public education under state law.

(c) For a child whose eligibility terminates under circumstances described in 34 C.F.R. § 300.305(e)(2), a public agency must 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.