



<b>EDUCATION</b>		
<b>4420.03 Special Education: Initial Evaluation, Reevaluation and Eligibility Determination</b>	<b>Effective</b>	<b>01/31/2019</b>
	<b>Replaces</b>	<b>4420.03</b>
	<b>Dated</b>	<b>07/30/2008</b>

The Arizona Department of Juvenile Corrections (ADJC) shall ensure that a full individual initial evaluation shall be conducted by the PEA Designee before the initial provision of special education and related services to a student with a disability in accordance with §§34 CFR 300.300-300.311.

The Director of Special Education and the School Psychologist shall specify explicitly in the official notification to any parent that an initial evaluation may be conducted and that the parent has the option to consent or refuse the initial evaluation. This initial evaluation will be conducted within 60 days after receiving parent consent. The evaluation must consist of procedures to determine if the student is a student with a disability under §§300.8, 300.301 and ARS §15-761-765 and to determine the educational needs of the student.

The School Psychologist, the Director of Special Education, for a three year re-evaluation of a Special Education student, the IEP Team, and with other qualified professionals shall review existing evaluation data and collect additional data, if necessary and use the results of the evaluation to determine a category of eligibility and the continuing need for special education and related services [34 CFR §§300.8, 300.306, ARS §15-766].

The Director of Special Education and/or the School Psychologist shall not conduct a re-evaluation of any student more than once a year, unless the parent and the agency otherwise agree, and at least every three years pursuant to §§300.532, 300.534-300.536,(15-766).

**AUTHORITY**

<b>Arizona Revised Statutes (A.R.S.)</b>	
<a href="#">41-2804</a>	Duties and Powers of Director
<a href="#">15-761</a>	Definitions
<a href="#">15-763.01</a>	Surrogate parent; notification; appointment
<a href="#">15-764 (A)(5)</a>	Powers and duties of the school district governing board or county school superintendent
<a href="#">15-765</a>	Special Education in rehabilitation, corrective or other state and county supported institutions, facilities or homes
<a href="#">15-766</a>	Evaluation of child for placement in special education program; due process hearing procedures
<a href="#">15-828 (F-G)</a>	Birth certificate; school records; exception
<a href="#">15-1181</a>	Definitions
<b>Code of Federal Regulations</b>	
<a href="#">34 CFR 300</a>	Education
<b>Arizona Administrative Code (AAC)</b>	

## DEFINITIONS

1. **Consent** means:
  - a. The student is fully informed of all information relevant to the activity for which consent is sought, in his or her native language or other mode of communication;
  - b. The student understands and agrees in writing to the activity for which consent is sought;
  - c. The consent describes the activity;
  - d. The consent lists the records (if any) that will be released and to whom;
  - e. The student understands that the consent is voluntary and may be revoked at any time;
  - f. If a student revokes consent, that the revocation is not retroactive, meaning that the revocation does not negate an action that has occurred after the consent was given and before the consent was revoked [§ 300.500(b)(1)];
  - g. Student consent for initial evaluation will not be construed as consent for initial placement [§ 300.505(2)].
2. **Evaluation** - means procedures used pursuant to §§ 300.530-300.536 to determine whether a student has a disability and the nature and extent of the special education and related services that the student needs [§ 300.500(b)].
3. **Parent:**
  - a. **General.** As used in this part, the term parent means:
    - i. A natural or adoptive parent of a child;
    - ii. A guardian but not the state if the child is a ward of the State;
    - iii. A person acting in the place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare); or
    - iv. A surrogate parent who has been appointed pursuant to §300.515.
  - b. **Foster parent.** Unless state law prohibits a foster parent from acting as a parent, a State may allow a foster parent to act as a parent under Part B of the IDEA if:
    - i. The natural parents' authority to make educational decisions on the child's behalf has been extinguished under State law; and
    - ii. The foster parent:
      - (1) Has an ongoing, long-term parental relationship with the child;
      - (2) Is willing to make the educational decisions required of parents under the IDEA; and
      - (3) Has no interest that would conflict with the interests of the child.

## PROCEDURES

1. **Parental Consent: [34 CFR §300.300]**
  - a. The **PUBLIC EDUCATION AGENCY DESIGNEE (PEA DESIGNEE)** shall:
    - i. Propose to conduct an initial evaluation to determine if a student qualifies as a student with a disability, after reviewing existing data with the parents/guardians and providing prior written notice, will obtain informed written consent from the parent/guardian of the student before collecting any additional data;
    - ii. Require parental consent for the evaluation but, it shall not be construed as consent for the initial provision of special education and related services;
    - iii. Ensure that reasonable efforts are made to obtain the informed written consent from the parent/guardian for any initial evaluation;
    - iv. For initial evaluations only, obtain a certified surrogate from ADE to act in lieu of the parent if:

- (a) Despite reasonable efforts to do so, they cannot discover the whereabouts of the parent/guardian of the student;
      - (b) The rights of the parent/guardian of the student have been terminated by the court; or
      - (c) The rights of the parent/guardian to make educational decisions have been subrogated by a judge and consent for an initial evaluation has been given by an individual surrogate appointed by the judge to represent the student.
    - v. Obtain informed consent from the parent/guardian of the student before the initial provision of special education and related services to the student, and must make reasonable efforts to obtain consent;
    - vi. If a parent/guardian refuses consent for the initial provision of special education and related services, **ADJC** may **not** seek consent through due process hearing procedures:
      - (1) **PEA DESIGNEE:**
        - (a) Will not be considered to be in violation to provide FAPE; and
        - (b) Is not required to convene an IEP team meeting or develop an IEP for the student.
  - b. The **PEA DESIGNEE** shall obtain informed consent prior to conducting any reevaluation of the student with a disability:
    - i. If the parent refuses consent, the **PEA DESIGNEE** may utilize due process hearing procedures to seek consent but does not violate its obligation if it declines to pursue the evaluation or reevaluation;
    - ii. The informed parental consent for reevaluation need not be obtained if it can demonstrate that:
      - (1) It made reasonable efforts to obtain such consent and has documented those attempts; and
      - (2) The student's parent/guardian failed to respond.
    - iii. Parent consent is not required before:
      - (1) Reviewing the existing data as part of an evaluation or reevaluation; or
      - (2) Administering a test or other evaluation that is administered to all students, unless consent is required of parent/guardians of all the students prior to administration.
2. The **PEA DESIGNEE** shall not use a parent/guardian's refusal to consent to one service or activity under this section to deny the parent/guardian or student any other service, benefit, or activity of the PEA DESIGNEE, except as required by this part. **Initial Evaluation: [34 CFR §300.301]**
  - a. Consistent with consent requirements 300.300 either **THE PARENT/GUARDIAN OF THE STUDENT OR THE PEA DESIGNEE** may initiate a request for an initial evaluation to determine if a student is a student with a disability;
  - b. The **PEA DESIGNEE** shall ensure the initial evaluation will be completed within 60 days of receiving parental consent, unless:
    - i. The parent/guardian and the PEA designee agree that it is in the best interest of the student to extend the timeline to complete the evaluation for an additional 30 days; or
    - ii. The student enrolls in the PEA designee from another PEA designee, after the parent/guardian has provided consent and before the determination of eligibility by the other school district; or
    - iii. The parent/guardian of a student with a disability repeatedly fails or refuses to make the child available for evaluation.
  - c. The **PEA DESIGNEE** shall ensure that all initial evaluations contain procedures to determine if the student is a student with a disability and to determine the educational needs of the student.
3. **Reevaluation (Parental Consent): [34 CFR §300.303]**

- a. The **PEA DESIGNEE** shall obtain informed consent, before conducting any reevaluation of a student with a disability; and
  - b. If the parent/guardian refuses consent, the **PEA DESIGNEE** may utilize due process hearing procedures to seek consent except as long as ADJC does not violate its obligation, if it declines to pursue the evaluation or reevaluation;
  - c. The informed parental consent for reevaluation need not be obtained by the **DIRECTOR OF SPECIAL EDUCATION OR THE EDUCATION PRINCIPAL**, if s/he can demonstrate that:
    - i. Reasonable efforts to obtain such consent and documented those attempts; and
    - ii. The student's parent/guardian failed to respond.
4. **Reevaluation:[34 CFR §300.303]**
- a. The **PEA DESIGNEE** shall conduct a reevaluation of a student with a disability if:
    - i. S/he determines that there are educational or related service needs including improved academic achievement;
    - ii. Functional performance of the student warrants a re-evaluation; or
    - iii. The student's parent/guardian or teacher requests a reevaluation.
  - b. The **PEA DESIGNEE** :
    - i. Shall **not** conduct a reevaluation more than once a year unless the PEA designee and the parent/guardian agree otherwise; and/or
    - ii. Shall conduct a reevaluation every three years, unless the PEA designee and the parent/guardian agree that it is unnecessary.
5. **Evaluation Procedures:[34 CFR §300.304]**
- a. The **PEA DESIGNEE** shall provide prior written notice to the parent/guardian of the student who has, or who is suspected of having a disability that describes the evaluation procedures that the agency proposes to conduct;
  - b. In conducting an evaluation or reevaluation, the **PEA DESIGNEE** shall:
    - i. Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent/guardian, in order to determine:
      - (1) Whether the student is a student with a disability; and
      - (2) Information related to enabling the child to be involved in and progress in the general education curriculum.
    - ii. **Not** use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability and for determining an appropriate educational program for the student; and
    - iii. Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors.
  - c. The **PEA DESIGNEE** shall use a variety of assessment tools and strategies that:
    - i. Are selected and administered not to be discriminatory on a racial or cultural basis;
    - ii. Are administered in the student's native language or other mode of communication in a form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally unless it is clearly not feasible to do so;
    - iii. Are used for the purpose for which the assessments or measures are valid and reliable;
    - iv. Are administered in accordance with the instructions provided by the assessment publisher;
    - v. Are selected and administered, so as to ensure that if administered to a student with impaired sensory, manual or speaking skills, the assessment results accurately reflect the student's aptitude or achievement level;
    - vi. Reflect the student's impairments, whatever other facts the tests purports to measure (unless those skills are the factors being measured);

- vii. Assess the student in all areas related to the suspected disability, including, if appropriate:
  - (1) Health, vision, and hearing;
  - (2) Social and emotional status, general intelligence, academic performance, communicative status, adaptive behavior and motor abilities; and
  - (3) The need for assistive technology.
- viii. Are sufficiently comprehensive to identify all of the student's special education and related service(s) needs, whether or not those needs are commonly associated with the student's disability; and
- ix. Provide relevant information that directly assists in determining the needs of the student.
- d. The **PEA DESIGNEE** shall ensure evaluations of students who transfer to or from another public school in the same school year are coordinated with the prior and subsequent schools, in order to expedite the completion of a full evaluation.

6. **Additional Evaluation Requirements:[34 CFR §300.305]**

- a. As part of an initial evaluation (if appropriate), and as part of any reevaluation, **THE INDIVIDUALIZED EVALUATION PROGRAM (IEP) TEAMS AND OTHER QUALIFIED PROFESSIONALS** as appropriate shall review existing evaluation data on the student including:
  - i. Evaluations and information provided by the parent/guardian;
  - ii. Current classroom-based, local and state-wide assessment; and
  - iii. Classroom-based observations by teachers and related service providers.
- b. On the basis of that review and input from the student's parent/guardians, the **PEA DESIGNEE/IEP TEAMS** shall identify what additional data, if any, are needed to determine whether:
  - i. The student is or continues to be a student with a disability, and if so, what the educational needs of the student are;
  - ii. The present levels of academic achievement and related developmental needs of the student; and
  - iii. The student needs special education and related services to enable the student to meet measurable annual IEP goals and to participate, as appropriate, in the general education curriculum.
- c. The **IEP TEAM** may conduct the review without a meeting;
- d. If additional data:
  - i. Is needed, the **PEA DESIGNEE** shall administer the assessments required to obtain the additional data;
- e. If additional data:
  - i. Is not needed to determine whether the student continues to be a student with a disability and/or to determine the student's educational needs, the **PEA DESIGNEE** shall notify the parents of:
    - (1) The determination and reasons for the determination;
    - (2) The right of the parents to request an assessment to determine whether the student continues to be a student with a disability; and
    - (3) The determination of the student's educational needs.
- f. The **PEA DESIGNEE** shall:
  - i. Evaluate a student before determining that the student is no longer a student with a disability, except when the termination is due to graduation with a regular high school diploma; or
  - ii. When the student's eligibility terminates because of graduation or reaching age 22, provide a summary of the student's:
    - (1) Academic achievement and functional performance; and
    - (2) Recommendations on how to assist the student in meeting his/her postsecondary goals.

7. **Determination of Eligibility: [34 CFR §300.306]**
- a. Upon completion of the evaluation process, the **PEA DESIGNEE** shall ensure a group of qualified professionals and the parent/guardian of the child determine:
    - i. If the student is a student with a disability under the Individuals with Disabilities Education Act (IDEA) and the Arizona state statutes;
      - (1) If so, what the education needs of the student are; and
      - (2) Shall provide, at no cost to the parent/guardian, a copy of the evaluation report and eligibility determination
  - b. Shall not determine a student to be a student with a disability if the primary factor for the determination is:
    - (1) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in 1208[3] of the ESEA as of December 9, 2015);
    - (2) Lack of appropriate instruction in math; or
    - (3) Limited English Proficiency.
    - ii. Shall:
      - (1) Determine the student's eligibility, including education needs, based on all of the information sources used in the evaluation process; and
      - (2) If the student is deemed eligible and in need of special education and related services, shall develop an IEP in accordance with [§§300.320-300.324].
8. **Additional Procedures for Identifying Children with Specific Learning Disabilities: [34 CFR §300.307]**
- a. The **PEA DESIGNEE** shall:
    - i. **Option 1:** Use the state-adopted criteria for determining whether a student has a specific learning disability through a process based on the student's response to scientific, research-based intervention in conformity with IDEA regulations [§§300.307-300.311];
    - ii. **Option 2:** Use a criteria for determining whether a student has a specific learning disability through the identification of a severe discrepancy between intellectual ability and achievement in conformity with IDEA Regulations [§§300.307-300.311]; and
    - iii. **Option 3:** Determine, on an individual student basis, the criteria for determining whether a student has a specific learning disability using one of the following criteria in conformity with [§§300.307-300.311]:
      - (1) The state-adopted criteria based on a student's response to scientific, research-based intervention; and
      - (2) The identification of a severe discrepancy between the intellectual ability and achievement.
9. **Additional Group Members: [34 CFR §300.308]**
- a. The **PEA DESIGNEE** shall ensure determination of whether a child suspected of having a specific learning disability, is a child with a disability which must be made by the child's parents and a team of qualified professionals that must include:
    - i. At least one of the student's regular teachers; or
    - ii. A Special Education Teacher;
    - iii. At least one person qualified to conduct individual diagnostic evaluations of students such as a School Psychologist;
    - iv. A person qualified to interpret educational data; and
    - v. A person who is designated as the public educational agencies representative.
10. **Determining the Existence of a Specific Learning Disability: [34 CFR §300.309]**
- a. A student may be determined to have a specific learning disability if:
    - i. The student does not achieve adequately for the student's age or to meet state approved grade level standards in one or more of the following areas, when provided

with learning experiences and instruction appropriate for the student's age or meet state approved grade level standards:

- (1) Oral expression;
  - (2) Listening comprehension;
  - (3) Written expression;
  - (4) Basic reading skills;
  - (5) Reading fluency skills;
  - (6) Reading comprehension;
  - (7) Mathematical calculation; and
  - (8) Mathematics problem solving.
- ii. The student does not make sufficient progress to meet age or state-approved grade level standards in one or more of the areas in (1)(a) when using a process based on the student's response to scientific, research based intervention; or
  - iii. The student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade level standards, or intellectual development that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments.
- b. The **PEA DESIGNEE** shall ensure:
- i. That the findings in this section are not primarily the result of:
    - (1) A visual, hearing, or motor disability;
    - (2) Intellectual Disability;
    - (3) Emotional disturbance;
    - (4) Cultural factors;
    - (5) Environmental or economic disadvantage; or
    - (6) Limited English proficiency.
  - ii. That the under achievement is not due to a lack of appropriate instruction in reading or math and consider:
    - (1) Data that demonstrates that before, or as part of, the referral process, the student was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
    - (2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the students' parent/guardian.
- c. The **PEA DESIGNEE** shall promptly request parent/guardian consent to evaluate if, before referral, the student has not made adequate progress after an appropriate period of time when provided instruction described in ii (1) and (2).

**11. Observation: [34 CFR §300.310]**

- a. The **PEA DESIGNEE** shall:
- i. Ensure that the student is observed in his/her learning environment, including the regular classroom setting, to document the student's academic performance and behavior in the areas of difficulty; and
  - ii. In the case of a student less than school age or out of school, observe the student in an environment appropriate for his/her age.

**12. Specific Documentation for the Eligibility Determination: [34 CFR §300.311]**

- a. The **PEA DESIGNEE** shall ensure that, for a student suspected of having a specific learning disability, the eligibility determination contains a statement of:
- i. Whether the student has a specific learning disability;
  - ii. The basis for making the determination, including an assurance the determination was made in accordance with IDEA;
  - iii. The relevant behavior, if any, noted during the observation and the relationship of that behavior to the student's academic functioning;
  - iv. The educationally relevant medical findings, if any;

- v. Whether the student:
  - (1) Does not achieve adequately for his/her age;
  - (2) Does not meet state approved grade level standards consistent with (1)(a); and
  - (3) Does not make sufficient progress to meet age or state approved grade level standards consistent with (1)(b); or
  - (4) Exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state approved grade level standards or intellectual development consistent with (1)(c).
- vi. The determination of the group concerning the effects of visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environment or economic disadvantage; or limited English proficiency of the student's achievement level.
- b. The **PEA DESIGNEE** shall ensure that, if the student participated in a process that assessed the student's response to scientific, research based intervention, the determination must include:
  - i. The instructional strategies used and the student-centered data collected;
  - ii. Documentation that the student's parent/guardian was notified about the state of Arizona policies regarding the amount and nature of student performance that would be collected and the general education services that would be provided;
  - iii. Strategies for increasing the rate of learning; and
  - iv. The parent's/guardian's right to request an evaluation.
- c. The **PEA DESIGNEE** shall ensure that each group member(s) certifies in writing whether the report reflects their conclusion. If it does not, they shall submit a separate statement presenting their conclusions.

**13. Evaluation/Reevaluation: [AAC R7-2-401.E]**

- a. Each public education agency shall establish, implement, and make available to school-based personnel and parents within its boundaries of responsibility written procedures for the initial full and individual evaluation of students suspected of having a disability, and for the reevaluation of students previously identified as being eligible for special education;
- b. Procedures for the initial full and individual evaluation of children suspected of having a disability and for the reevaluation of students with disabilities shall meet the requirements of IDEA and its regulations, state statutes, and State Board of Education rules;
- c. The initial evaluation of a child being considered for special education, or the reevaluation per a parental request of a student already receiving special education services, shall be conducted within 60 calendar days from the public education agency's receipt of the parent's informed written consent and shall conclude with date of the multidisciplinary evaluation team (MET) determination of eligibility;
- d. If the parent requests the evaluation, the PEA must, within a reasonable amount of time not to exceed 15 school days from the date it receives a parent's written request for an evaluation, either begin the evaluation by reviewing existing data or provide prior written notice refusing to conduct the requested evaluation. The 60- day evaluation period shall commence upon the PEA's receipt of the parent's informed written consent;
- e. The 60-day evaluation period may be extended for an additional 30 days, provided it is in the best interest of the child and the parent and PEA agree in writing to such an extension. Neither the 60-day evaluation period nor any extension shall cause a reevaluation to exceed the timelines for a reevaluation within three years of the previous evaluation;
- f. The public education agency may accept current information about the student from another state, public agency, public education agency, or through an independent educational evaluation. In such instances, the multidisciplinary evaluation team shall be responsible for reviewing and approving or supplementing an evaluation to meet the requirements identified in subsections (E)(1) through (7);
- g. For the following disabilities, the full and individual initial evaluation shall include:
  - i. Emotional disability: verification of a disorder by a qualified professional.



- ii. Hearing impairment:
  - (1) An audiological evaluation by a qualified professional; and
  - (2) An evaluation of communication/language proficiency.
- iii. Other health impairment: verification of a health impairment by a qualified professional;
- iv. Specific learning disability: a determination of whether the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards, or intellectual development that meets the public education agency criteria through one of the following methods:
  - (1) A discrepancy between achievement and ability;
  - (2) The child's response to scientific, research-based interventions; or
  - (3) Other alternative research-based procedures.
- v. Orthopedic impairment: verification of the physical disability by a qualified professional;
- vi. Speech/language impairment: an evaluation by a qualified professional;
- vii. For students whose speech impairments appear to be limited to articulation, voice, or fluency problems, the written evaluation may be limited to:
  - (1) An audiometric screening within the past calendar year;
  - (2) A review of academic history and classroom functioning;
  - (3) An assessment of the speech problem by a speech therapist;
  - (4) An assessment of the student's functional communication skills;
  - (5) Traumatic brain injury: verification of the injury by a qualified professional; or
  - (6) Visual impairment: verification of a visual impairment by a qualified professional.
- h. The Department shall develop a list, subject to review and approval of the State Board of Education, of qualified professionals eligible to conduct the appropriate evaluations prescribed in subsection (E) (7); and
- i. The multidisciplinary evaluation team shall determine, in accordance with the IDEA and regulations, whether the requirements of subsections (E) (7(a) through (i) are required for a student's reevaluation.

**Signature Date**

01/29/2019

**Approved by**

Original Signature on File

Dr. Kim Eger, Education Superintendent

**Signature Date**

01/30/2019

**Approved by**

Original Signature on File

Jeff Hood, Director

**Effective Date**

01/31/2019

PERSON REQUESTING EVALUATION	REASON FOR REQUEST	DATE OF REQUEST	DATE PARENTS CONTACTED	DATE CONSENT RECEIVED	DATE OF EVALUATION	RESULT OF EVALUATION	NEXT IEP/504 MEETING