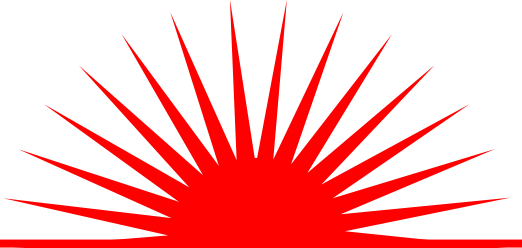




State of Arizona
Department of Education

Tom Horne
Superintendent of
Public Instruction

Special Education Monitoring Alert



August 2005

EVALUATION ISSUES

What's up with the review of existing data?

IDEA '97 established a new framework for conducting initial and reevaluations for special education eligibility. This framework is reinforced in IDEA '04. In addition to the long established requirements for initial and reevaluations, the statute and subsequent rules created a new procedure in §300.533 (§300.305 in the draft regulations for IDEA '04) that articulates specific procedures for a team of people (that looks a lot like an IEP team) to review existing information about a child BEFORE deciding to conduct specific tests or other assessment procedures.

ADE/ESS monitors for this very specific requirement and finds an agency out of compliance unless there is clear evidence in the evaluation report that a team reviewed all of the components identified in the federal regulations BEFORE deciding whether or not additional information – such as testing or observations – is necessary to determine eligibility and develop appropriate special education programming.

When do we get consent?

The USDOE Office of Special Education Programs (OSEP) has consistently held that parental consent is NOT required before having a conversation about what you already know about a child. The IDEA '04 draft regulations ((§300.300(d)(1)(i))) make it clear that “Parental consent is not required before reviewing existing data as part of an evaluation or reevaluation...”. This language is very helpful in meeting the timeline for completing an evaluation within 60 days of parental consent.

The ADE/ESS measures the 60 days from the date of consent to the date of eligibility determination. Therefore, if a parent signs consent before the review of existing data, the agency must complete the review of existing data and all subsequent assessments and eligibility determination within the 60 days of that signature.

Another factor to consider with regard to consent is the issue of “informed consent”. One of the purposes of the review of existing data is to minimize the testing requirements for students for whom a great deal of information is already known. One outcome of the review might be that the team knows enough and additional data collection is not necessary. However, the other option is that the team determines that it needs more information and determines what that additional information needs to be for that child. Only at this point is it possible to truly “inform” the parent about the assessment procedures, instruments, observations, etc. that will be conducted with their child.

In summary – Review existing data prior to determining the need for any testing and obtain parent consent only after deciding that additional information is necessary.