

281—41.305 (256B,34CFR300) Additional requirements for evaluations and reevaluations.

41.305(1) *Review of existing evaluation data.* As part of an initial evaluation, if appropriate, and as part of any reevaluation under this chapter, the IEP team and other qualified professionals, as appropriate, must:

- a. Review existing evaluation data on the child, including:
 - (1) Evaluations and information provided by the parents of the child;
 - (2) Current classroom-based, local, or state assessments, and classroom-based observations; and
 - (3) Observations by teachers and related services providers; and

b. On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine:

- (1) Whether the child is a child with a disability, as defined in this chapter, and the educational needs of the child or, in the case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child;
- (2) The present levels of academic achievement and related developmental needs of the child;
- (3) Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and
- (4) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum.

41.305(2) *Conduct of review.* The group described in subrule 41.305(1) may conduct its review without a meeting.

41.305(3) *Source of data.* The public agency must administer such assessments and other evaluation measures as may be needed to produce the data identified under subrule 41.305(1).

41.305(4) *Requirements if additional data are not needed.*

a. If the IEP team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability or to determine the child's educational needs, the public agency must notify the child's parents of:

- (1) The determination and the reasons for the determination; and
- (2) The right of the parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs.

b. The public agency is not required to conduct the assessment described in 41.305(4) "a"(2) unless requested to do so by the child's parents.

41.305(5) *Evaluations before change in eligibility.*

a. Except as provided in 41.305(5) "b," a public agency must evaluate a child with a disability in accordance with these rules before determining that the child is no longer a child with a disability.

b. The evaluation described in 41.305(5) "a" is not required before the termination of a child's eligibility under this chapter due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under state law.

c. For a child whose eligibility terminates under circumstances described in 41.305(5) "b," 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.

41.305(6) *At no cost to parent.* Evaluations or reevaluations under this chapter, including any outside consultations or evaluations, shall be at no cost to the parent. AEAs or LEAs may access a parent's private insurance or public benefits or insurance, however, provided that a parent gives informed consent consistent with rule 281—41.9(256B,34CFR300) and subrules 41.154(4) and 41.154(5).