

# Trends in Special Education

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LEGAL TOPICS AND IEP COMPLIANCE THEMES IN CSI  
CHARTER SCHOOLS

# Top Legal Issues for 2021-22

- I. Identifying and addressing learning loss
- II. Requests for evaluation
- III. Lack of MTSS documentation for eligibility determinations for SLD and SED
- IV. Documentation of services

# Common Trends for IEP Compliance Errors

- I. Timelines
- II. Consent for Evaluation
- III. Notice of Meeting
- IV. Evaluators, Providers, Participants and Signatures
- V. Evaluations
- VI. Prior Written Notice
- VII. Inconsistencies in what is requested, evaluated, reported, and addressed in the IEP

# Timelines

## Evaluations

- Initial Evaluations **60** Calendar Days from Receipt of Consent
- Initial IEP up to additional **30** days from Initial Eligibility (90 days total)
- Re-evaluations-at least every **3** years. No specific guidance around number of days after receiving consent to reevaluate

## IEPs

Every **365** days

## Discipline

**10** days of suspension or removal constitutes a change of placement. This triggers need for Manifestation Determination Review (MDR)

## Progress Reports

Same frequency as general education progress reporting. Typically, this is quarterly. Report on progress toward IEP goals.

# Evaluators, Providers and Participants

## **Consent for Evaluation form.**

Those areas identified for evaluation, i.e., academic, social emotional, intellectual, communication, motor, should trigger an evaluation from all qualified professionals

## **Notice of Meeting (NOM)**

- Special Education Teacher or SLP
- Parent, Student 15 or older
- Classroom Teacher
- Special Education Director Designee (you can sign as Sped Teacher and Sped Director Designee)

*Must include all evaluators and service providers identified in IEP*

***Must provide written NOM form every time the meeting is rescheduled!***

# Evaluators, Providers and Participants

## Excusal Form

Those invited that cannot attend must complete excusal form and must provide parent information. Excusals should not be for schedule issues but due to illness, emergencies, etc.

## Participant's Page

is an indication of who attended and participated in meeting. Must have person represent **Special Education Director Designee**. Can sign in two places, special education teacher and designee. When CSI coordinator is present, that person is the designee. Person vouches for the resources in the IEP.

## Eligibility Determination Checklist

Those involved in the evaluation should be a part of the eligibility determination, particularly if specific to their area of expertise.

# Signatures

## **Parent consent**

Consent for Evaluation

Consent for Initial Provision of Special Education

## **Parent Participation** (documents participation)

Participant's pages

Acknowledgement of receiving procedural safeguards

## **Other Participants** (documents participation)

## **Maintaining Documentation**

E-signatures

hand signatures

Participation for virtual meetings

# Evaluations

**Assess all areas** and use all procedures outlined in Consent for Evaluation Form

- Be sure to gain adequate input from parent and service providers prior to completing consent for evaluation form.
- Often, teachers find out well into the evaluation period that other areas need to be assessed. There should be no surprises at the IEP meeting regarding potential disabilities or needs for services.

**The school is proposing the following:**

**[300.503(b)(2)]**

To evaluate your child for special education eligibility. [300.300(a)]

To reevaluate your child for special education eligibility. [300.300c]

**Areas to be evaluated:**

***Social Emotional Assessment  
Speech/Language Assessment  
Educational Assessments  
Classroom Observation  
Parent Interview  
Health History***



# Evaluations

**Classroom Observations** are required for many of the areas of eligibility determination

- Specific Learning Disability
- Serious Emotional Disability
- Autism
- Other Health Impaired: ADHD

# Prior Written Notice

A Prior Written Notice form addressing all 5 areas must be provided in anytime the school proposes an action or refuses a request made by the parent. The PWN tells the parent what the IEP proposes or what the team refuses to do as the result of a parent request.

Understand what the components of the PWN are and the 'why' it is used. Extremely important document. Read/watch CSI presentations on PWNs.

## **Examples of PWNs include:**

- Notice of Meeting
- Consent for Evaluation form
- Consent for Initial Provision of Special Education Services
- PWN following every IEP meeting
- PWN given to the parent when parent makes a request for which the school refuses.

# The Consistent Thread

Consent for Eval

Eval/Report

Present Levels

Accom, Goals

Services

There needs to be a consistent thread between what evaluations were requested, the evaluation procedures/tests administered and should be described and detailed in the evaluation report.

Present Levels should summarize data from the report as well as new updated data in all areas of concern. Use an outline to cover all areas.

Accommodations/Modifications should address the identified concerns in the Present Levels

# Consent to Evaluation Thread

## Consent to Evaluation/Report/Present Levels

The school is proposing the following:  
[300.503(b)(2)]

- To evaluate your child for special education eligibility. [300.300(a)]
- To reevaluate your child for special education eligibility. [300.300c]

Areas to be evaluated:

- Social Emotional Assessment*
- Speech/Language Assessment*
- Educational Assessments*
- Classroom Observation*
- Parent Interview*
- Health History*

Eligibility Report-201E

Last Name	First Name	Middle Name	State Student ID	Date of Birth	Date
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
<b>EVALUATION REPORT</b>					
<b>Assessment Strategy or Tool:</b>			<b>Administered By:</b>		<b>Date Completed:</b>
Goldman-Fristoe Test of Articulation 3			[REDACTED] Speech/Language Pathologist		11/2/2020
Oral Peripheral Examination			[REDACTED] Speech/Language Pathologist		11/2/2020
Clinical Evaluation of Language Fundamentals 5 (CELF 5)			[REDACTED] Speech/Language Pathologist		11/16/2020
Teacher input form for Speech/Oral Language - informal			[REDACTED]		11/16/2020
DIBELS (Dynamic Indicator of Basic Early Literacy Skills)			[REDACTED]		9/23/2020
Kaufman Test of Educational Achievement-3			[REDACTED]		11/19/2020
Social Developmental History, parent interview			[REDACTED] School Psychologist		12/1/2020
Health History Summary			[REDACTED] School Nurse		12/1/2020
Curriculum Based Measurements			[REDACTED] Special Education Teacher		12/1/2020
MAPS (Measure of Academic Progress)			[REDACTED] Third Grade Teacher		12/15/2019
Remote classroom observation			[REDACTED] Special Education Teacher		12/2/2020
<b>Date Evaluation was completed: 12/1/2020</b>					
<b>Document information from a variety of sources including data in all areas related to the student's suspected disability.</b>					
(No Assessment Scores and/or information from other Plans were selected)					
The following areas were assessed or reviewed to determine Rilee's continued eligibility for Special Education services:					
<ol style="list-style-type: none"> <li>1) Classroom Teacher Report</li> <li>2) Speech/Language Evaluation</li> <li>3) DIBELS (Dynamic Indicators of Beginning Early Literacy Skills)</li> <li>4) Kaufman Test of Educational Achievement-3rd edition</li> <li>5) Curriculum Based Measures</li> <li>6) MAPS scores (Measures of Academic Progress)</li> <li>7) Remote learning classroom observation</li> <li>8) Social Developmental History</li> <li>9) Health History Summary</li> </ol>					

# Consent to Evaluation Thread Needs-Goals-Accommodations-Services

**Student Needs and Impact of Disability**  
 How does the student's disability affect his/her involvement and progress in the general curriculum and participation in appropriate activities? For students of transition age, how does the student's disability affect his/her attainment of the postsecondary goals?  
 (IDEA 300.324(c)(1) for names of parent, (IDEA 300.324(c)(2)(i) for commission needs; (IDEA 300.322(a)(1)(6) for how the child's disability affects the child's involvement and progress in the general curriculum and participation in appropriate activities)  
 She needs to develop strategies to improve reading comprehension skills. In addition, she needs to learn basic multiplication math facts in order to efficiently solve multiplication problems. She also needs support developing strategies to deal with academic frustrations.

**Goal #1**  
 For transition IEPs, annual goals MUST link directly to postsecondary goals.  
 (Identified School) Year (Year)

**Area of Need:**  
 Academics-Reading  
**Measurable Goal:** (IDEA 300.320(a)(2)(i))  
 By 12/02/2021, she will make inferences from a grade level text with 80% accuracy on two out of three assignments or assessments.  
**Objective (if needed):**

**Area of Need:**  
 Academics-Math  
**Measurable Goal:** (IDEA 300.320(a)(2)(i))  
 By 12/02/2021, she will demonstrate mastery of multiplication facts to 10 using strategies such as skip counting, repeated addition, and the commutative property of multiplication as demonstrated by solving 30 mixed multiplication facts (0-10s) problems in 5 minutes with 80% accuracy in 5 out of 4 opportunities as measured by teacher records of timed tests.  
**Objective (if needed):**

**Area of Need:**  
 Behavior  
**Measurable Goal:** (IDEA 300.320(a)(2)(i))  
 By 12/02/2021, she will make math corrections without complaining, asking for assistance if needed, in 4 out of 5 times as measured by teacher observation and recording.  
**Objective (if needed):**

**ACCOMMODATIONS AND MODIFICATIONS**  
**Accommodations**  
 What kinds of accommodations (if any) are necessary to ensure the general curriculum and/or appropriate activities remain effective and progress? (IDEA 300.324(a)(1)-(3) or (IDEA 300.320(a)(2)(i))  
 Extended time when given a test as needed  
 Oral presentation on assignments if text or teacher's directions  
 Provide scaffolded instructions when presented with a novel math-step problem-solving strategy  
 Provide visual cues when needed (e.g., check list, self-talk)  
 Extra time to make herself understood, if needed  
 Opportunity to ask when she is stuck  
 Use of behavior contract to develop appropriate work habits  
**Modifications**  
 What modifications to the general education curriculum, if any, need to be made to ensure the child to be involved in and make progress in the general education curriculum?  
 NA

SPECIAL EDUCATION AND RELATED SERVICES IN THE LEAST RESTRICTIVE ENVIRONMENT										
Specialized Instruction Area and/or Related Services (IDEA 300.320(a)(4))	Service Provider (Fully qualified staff (IDEA 300.18 & ECEA 3.04))	Start Date (IDEA 300.320(a)(7))	End Date (IDEA 300.320(a)(7))	Frequency of Special Education/Related Services (IDEA 300.320(a)(7))						
				Direct			Indirect			
				Per Day	Per Week	Per Month	Per Day	Per Week	Per Month	
Academics - Reading	Teacher, Special Education (202)	12/2/2020	12/2/2021		0.50					0.50
Academics - Math	Teacher, Special Education (202)	12/2/2020	12/2/2021		0.50					0.50
Behavior	Teacher, Special Education (202)	12/2/2020	12/2/2021		0.50					0.50
Behavior	Counselor (211)	12/2/2020	12/2/2021			1.00				
Total Amount of Time				0.00	1.50	1.00	0.00	0.00		1.50

# Consent to Evaluation Thread

## NOM-Participants-Eligibility

### NOTICE OF MEETING

Dear: [REDACTED]

In order to discuss the educational needs of the student named above, you are invited to a conference scheduled for:  
 Date: 12/2/2020 Time: 1:30pm

Location: This meeting will be held via computer on the Zoom app due to the Corona virus. Room: zoom invitation attached

[300.322(b)(1)(i) purpose, time, location]

The purpose of this meeting:

Eligibility for special education: to discuss appropriate evaluation data to determine whether your child is eligible for special education services. If eligible, an individual education program (IEP) will be developed.

Initial  
 Three Year Evaluation  
 Special Evaluation

IEP: to review and update your child's present level of functioning, needs, goals and objectives, and to develop a plan to provide special education and related services.

Initial IEP  
 Annual Review  
 Amendment to IEP dated: \_\_\_\_\_  
 Other: Triennial IEP Review

Transition: to consider post-school goals and transition services for your child. The student and any identified agencies will be invited (see attached) to any meeting if the purpose of the meeting is to consider transition services needs or needed transition services.

The following will be attending the meeting, either in person or by alternate means of participation, such as telephone or video conference: [300.322(b)(1)(i) whom in attendance]

<input type="checkbox"/> Student	<input checked="" type="checkbox"/> General Education Teacher
<input checked="" type="checkbox"/> Parent(s)/Guardian/ESP	<input checked="" type="checkbox"/> Special Education Teacher/Provider
<input checked="" type="checkbox"/> Special Education Director or Designee	<input checked="" type="checkbox"/> A Speech/Language Specialist
<input type="checkbox"/> Principal of Your Child's School/Building Designee	<input type="checkbox"/> An Occupational and/or Physical Therapist
<input checked="" type="checkbox"/> A School Psychologist	<input checked="" type="checkbox"/> A School Nurse
<input type="checkbox"/> A School Social Worker	<input type="checkbox"/> An Audiologist
<input type="checkbox"/> A School Based Mental Health Provider	<input type="checkbox"/> Adult Service Agency Representative(s)
<input type="checkbox"/> A Person Knowledgeable about Second Language	<input type="checkbox"/> A Child Find Coordinator

Other(s): \*Erasal Form Completed

As an integral part of the IEP team, we look forward to your attendance and participation in this meeting. You may invite other people that you believe will be helpful to you. If the scheduled time and place is not convenient and/or alternate means of participation are not acceptable, please contact me immediately so that we can arrange a mutually agreeable time and location for the meeting.

[REDACTED], Speech/Language Pathologist, [REDACTED]

Name/Title/Phone

### PROCEDURAL SAFEGUARDS

I have been provided the special education procedural safeguards in my native language or other mode of communication.

Yes  No

Parent/Guardian/ESP Signature [IDEA 300.504(a)] (Required or Optional as Defined by Administrative Unit) \_\_\_\_\_ Date \_\_\_\_\_

### PARTICIPANTS

The following participants attended the meeting:

	Name of Attendee	Signature of Attendee
Student	<u>[REDACTED]</u>	_____
Student's Parent/Guardian/ESP	<u>[REDACTED] by Zoom</u>	_____
Student's Parent/Guardian/ESP	<u>[REDACTED]</u>	_____
Special Educ. Director/Designee	<u>[REDACTED], Dean of Students/ SPED Designee by Zoom</u>	_____
General Ed. Teacher	<u>[REDACTED] by Zoom</u>	_____
Special Education Teacher/Provider	<u>[REDACTED], Special Education Teacher by Zoom</u>	_____

The following persons were also in attendance at the meeting:  
 Name, Title, and Area/Agency Represented

[REDACTED], Speech/Language Pathologist by Zoom

[REDACTED], School Nurse by Zoom

Specific Learning Disability-2018

Last Name	First Name	Middle Name	State Student ID	Date of Birth	Sex
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

The State's policies regarding the amount/nature of student performance data collected and general education services provided

Strategies for increasing the student's rate of learning

Results of repeated assessments of student's progress

The right to request an evaluation

The team has considered that the learning problems in the area(s) indicated above in the criteria section:

Are  are not Primarily the result of Intellectual Disability

Are  are not Primarily the result of a Serious Emotional Disability

Are  are not Primarily the result of a Visual Impairment, including Blindness

Are  are not Primarily the result of a Hearing Impairment, including Deafness

Are  are not Primarily the result of a Orthopedic Impairment

Are  are not Primarily the result of Cultural Factors

Are  are not Primarily the result of Environmental or Economic Disadvantage

All boxes above must be checked "are not" for an eligibility determination in the area of SLD: IDEA 300.306(a)(3)

Yes  No The student has a disability as defined in the State Rules for the Administration of the Exceptional Children's Educational Act and is eligible for Special Education.

Name and Title of Multidisciplinary Team Members IDEA 34 C.F.R. 300.306(a)(1); ECEA 4.02(6)(b)

	Agree	Disagree	Initials
Student (req. if age 15+):	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Parent:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Teacher/Specialist:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Others:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
[REDACTED] (by Zoom)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
[REDACTED] Special Education Teacher (by Zoom)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
[REDACTED] Speech Language Pathologist (by Zoom)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
[REDACTED] School Nurse (by Zoom)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
[REDACTED] Dean of Students (by Zoom)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
[REDACTED] 4th grade teacher (by Zoom)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

A copy of the evaluation report(s) and the eligibility statement has been provided to the parent(s). IDEA 34 C.F.R. 300.306(a)(2)  
 Dissenting opinion attached if any team members disagree with eligibility determination IDEA 34 C.F.R. 300.311(b)