

## Evaluation 2014-2015

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### **MN Rule 3525.2710 Subp. 6**

- Subp. 6. Evaluation report. An evaluation report must be completed and delivered to the pupil's parents within the specified evaluation timeline. At a minimum, the evaluation report must include:
  - A. a summary of all evaluation results;
  - B. documentation of whether the pupil has a particular category of disability or, in the case of a reevaluation, whether the pupil continues to have such a disability;

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## 3525.2710 Continued

- C. the pupil's present levels of performance and educational needs that derive from the disability;
- D. whether the child needs special education and related services or, in the case of a reevaluation, whether the pupil continues to need special education and related services; and
- E. whether any additions or modifications to the special education and related services are needed to enable the pupil to meet the measurable annual goals set out in the pupil's IEP and to participate, as appropriate, in the general curriculum

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## General Requirements

- When you have completed an evaluation and want to add testing for another area, such as Developmental Adapted Physical Education (DAPE), you cannot do an addendum to the old report and just add the new information in an attachment.
- There needs to be one comprehensive evaluation report incorporating all information.

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## **Evaluation Materials and Procedures**

- As part of an initial evaluation (if appropriate) and as part of any reevaluation, the IEP Team and other qualified professionals, as appropriate, must review existing evaluation data on the child.
  - 34 C.F.R. § 300.305(a)(1).

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## **Evaluation Materials and Procedures**

- A variety of assessment tools and strategies are used to gather relevant functional, developmental, and academic information about the child, including information provided by the parent.
  - 34 C.F.R. § 300.304(b)(1).

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## **Evaluation Materials and Procedures**

- 34 C.F.R. § 300.304(b)(2) states “the public agency must not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.”

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## **Evaluation Materials and Procedures**

- Assessments and other evaluation materials used to assess a child are selected and administered as not to be discriminatory on a racial or cultural basis.
  - 34 C.F.R. § 300.304(c)(1)(i).

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## Evaluation Materials and Procedures

- Assessments and other evaluation materials used to assess a child are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to provide or administer.
  - 34 C.F.R. § 300.304(c)(1)(ii).

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## Question 2:

- **Is an evaluation to determine continuing eligibility considered a reevaluation for a child who is turning seven, has already been determined to be a child with a disability, and is currently receiving special education and related services under the developmental delay criteria?**
- **Answer:** Yes. A child who is already determined to be a child with a disability and is receiving special education and related services by meeting developmental delay criteria is a child who has been fully evaluated under Part B of the IDEA. Eligibility under the developmental delay category is limited to children from three through six years of age. Therefore, a district must conduct an evaluation to determine whether a child continues to have a disability under another disability category prior to the child's seventh birthday. This subsequent evaluation is a reevaluation but requires a child to meet initial eligibility criteria for one of the other 12 disability categories.
- **Authority:** 34 C.F.R. § 300.303; 34 C.F.R. § 300.305; 71 Fed. Reg. 46640 (Aug. 14, 2006).

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## **Evaluation Materials and Procedures**

- Assessments and other evaluation materials used to assess a child are used for the purposes for which the assessments or measures are valid and reliable.
  - 34 C.F.R. § 300.304(c)(1)(iii).

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## **Evaluation Materials and Procedures**

- Assessments and other evaluation materials used to assess a child are administered by trained and knowledgeable personnel.
  - 34 C.F.R. § 300.304(c)(1)(iv).

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## Evaluation Materials and Procedures

- The evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.
  - 34 C.F.R. § 300.304(c)(6).

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## Evaluation Report (ER)

- As part of an initial evaluation (if appropriate) and as part of any reevaluation, the IEP Team and other qualified professionals, as appropriate, must review existing evaluation data on the child including-- **Evaluations and information provided by the parents of the child.**
  - 34 C.F.R. § 300.305(a)(1)(i).
- At a minimum an evaluation report must include: a summary of all evaluation results.
  - Minn. R. 3525.2710, subp. 6A.

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## **ER- Summary**

### **Sample of Compliance**

- The summary at the end of the report addresses all areas evaluated (intellectual, academic, social/emotional/behavioral, communication, etc.) This comprehensive summary draws information from multiple measures for each area evaluated and informs present level and educational need statements.

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## **Evaluation Report (ER)**

- At a minimum an evaluation report must include: the pupil's Present Levels of Performance and educational needs that derive from the disability.
  - Minn. R. 3525.2710, subp. 6C.

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## **ER-Present Levels and Needs**

### **Points of Clarification**

- The Present Levels of Performance must incorporate current assessment results, information on current academic and functional performance in the classroom, and input from those working with the student to get a complete and current picture of that student.
- The Present Levels of Performance must include more than a list of assessment results and scores.
- Additional sources of Present Levels of Performance information include observations, work samples, curriculum-based measures, informal procedures, and progress on current goals and objectives.

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## **ER-Present Levels and Needs**

### **Points of Clarification**

- Educational need statements should address skills and/or behaviors that need improvement in order for the child to participate and progress in the general curriculum.
- Educational needs must be related to the disability and must indicate a need for specialized instruction or direct services

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## Evaluation Report (ER)

- An Evaluation Report must include: documentation of whether the pupil has a particular category of disability or, in the case of a reevaluation, whether the pupil continues to have such a disability.
  - Minn. R. 3525.2710, subp. 6B.

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## Evaluation Report (ER)

- An Evaluation Report must include: whether the child needs special education and related services or, in the case of a reevaluation, whether the pupil continues to need special education and related services.
  - Minn. R. 3525.2710, subp. 6D.

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### Question 3:

- **Is an evaluation to determine transition needs considered a reevaluation for a child who is in Grade 9, has already been determined to be a child with a disability, and is currently receiving special education and related services?**
- **Answer:** Yes. A district must conduct an evaluation to determine transition needs during Grade 9 for a child continuing to receive special education and related services. This evaluation is a reevaluation. In addition to the requirements for all reevaluations, it must also include at least two age appropriate transition assessments.

• **Authority:** Minn. Stat. § 125A.08 (b)(1); 34 C.F.R. § 300.303; and 34 C.F.R. § 300.320(b).

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### Evaluation Report (ER)

- An Evaluation Report must include: whether any additions or modifications to the special education and related services are needed to enable the pupil to meet the measurable annual goals set out in the pupil's IEP and to participate, as appropriate, in the general curriculum.
  - Minn. R. 3525.2710, subp. 6E.

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## ER-Additions or Modifications Sample of Compliance

- Patrick will need the use of a word processor to complete lengthy written assignments. The IEP team will also need to determine the best method by which to reinforce multiple-step instructions for Patrick due to his significant deficits in sequencing oral information.

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## Question 5:

- **(a) Is an evaluation to determine whether the child's disability category has changed considered a reevaluation?**
- **(b) Is an evaluation to determine whether a child qualifies under an additional disability category, commonly referred to as a "secondary disability," considered a reevaluation?**
- **Answer:** Yes to both questions. There is no requirement to identify a child as eligible under more than one disability category, but there is also no prohibition on such dual identification as long as the child meets categorical eligibility criteria under Minnesota rules. Additionally, federal regulations acknowledge that a child may have multiple disabilities. The term "secondary disability" does not exist in federal or state special education law. This subsequent evaluation is a reevaluation that requires a child to meet initial eligibility criteria for any new disability category.
- **Authority:** 34 C.F.R. § 300.8(a)(1); 304 C.F.R. § 300.304(c)(6); Minn. Stat. § 125A.01; Minn. R. 3525.0200; and Minn. R. 3525.2710, subps. 4(A)(2), 6(B).

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## **ER-Graduated or Aged Out**

- For a child whose eligibility terminates due to graduation from secondary school with a regular diploma, 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.
  - 34 C.F.R. § 300.305(e)(3).

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## **ER-Graduated or Aged Out**

- For a child whose eligibility terminates due to exceeding the age of eligibility for Free Appropriate Public Education (FAPE) under State law, 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.
- 34 C.F.R. § 300.305(e)(3).

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## **Graduated or Aged Out Points of Clarification**

- This is often referred to as a Summary of Performance (SOP).
  - The intent of the SOP is for information to go with the student to post-secondary education or employment opportunities and to serve as a guide for future educators and employers on how to best work with the student.

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## **ER-Graduated or Aged Out**

- There is no required form or format for a SOP but all required content must be present.
- The summary of the academic achievement and functional performance would be similar to a Present Level of Academic Achievement and Functional Performance (PLAAFP) on an IEP. It must include more than a report of test scores, grades or transcript information.

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## **Graduated or Aged Out**

### **Sample of Compliance**

- Summary of academic and functional performance:
  - Jim has met all graduation requirements and will receive his diploma 6/7/12. He is currently reading at a 7<sup>th</sup> grade level according to the Woodcock-Johnson Test of Achievement. He struggles with fluency and comprehension. He also has difficulty with spelling and grammar. He has strong math skills and strong problem solving skills. He enjoys hands-on activities

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## **Graduated or Aged Out**

### **Points of Clarification**

- SOP recommendations are designed to provide future educators or employers, who are unfamiliar with the student, with suggested tools and strategies that have been found to be successful in working with the student.
- SOP recommendations are NOT asking what the district is going to do to help the student reach their post-secondary goals.

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## Graduated or Aged Out Sample of Compliance

- Summary of recommendations:
  - Jim would like to be a mechanic. He has completed an application to the technical college and has met with the disability coordinator at the school. To be successful in this program, Jim will continue to need support with tasks involving reading and writing. Having access to books on tape has helped Jim in the past with fluency and comprehension of reading assignments. Also having access to a computer with spelling and grammar check programs will help him with any written assignments. He has done well in the past with hands-on class activities and it is believed that he will continue to do well with these types of activities. He has strong self-advocacy skills and knows when to seek assistance. This should be reinforced to ensure continued success.

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## SLD Written Report

- Team must must must sign the SLD report and indicate agreement!

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## Functional Behavioral Assessment

- "Functional behavioral assessment" or "FBA" means a process for gathering information to maximize the efficiency of behavioral supports. An FBA includes a description of problem behaviors and the identification of events, times, and situations that predict the occurrence and nonoccurrence of the behavior. An FBA also identifies the antecedents, consequences, and reinforcers that maintain the behavior, the possible functions of the behavior, and possible positive alternative behaviors. An FBA includes a variety of data collection methods and sources that facilitate the development of hypotheses and summary statements regarding behavioral patterns.
  - Minn. R. 3525.0210, subp. 22.

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## Functional Behavioral Assessment

- A child with a disability who is removed from the child's current placement for 10 school days in the same school year must receive, as appropriate, an FBA and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.
  - If as part of a manifestation determination the IEP Team determines that behavior was a manifestation of the disability, the IEP Team must conduct an FBA, unless the district had conducted an FBA before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child.

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## Question 6:

- **Would a functional behavioral assessment (FBA) be considered a reevaluation for a child who has already been determined to be a child with a disability and is currently receiving special education and related services?**
- **Answer:** Yes. FBAs must be conducted in accordance with federal and state evaluation procedures. If a child has already been determined eligible for special education services, any subsequent FBA conducted for an individual child is considered a reevaluation.
- A district may conduct an FBA to evaluate an individual child to assist in determining the nature and extent of special education and related services. A district may also conduct an FBA to develop or modify a behavioral intervention plan in a child's IEP. In addition, a district may conduct an FBA to determine whether the positive behavioral interventions and supports set forth in a child's IEP will be effective in enabling the child to make progress toward the IEP goals and objectives.
- **Authority:** Letter to Christiansen, 48 IDELR 161, 107 LRP 45740, OSEP, (Feb. 9, 2007); Letter to Anonymous, 59 IDELR 14, 112 LRP 23125, OSEP, (April 9, 2012); 34 C.F.R. § 300.15; 34 C.F.R. § 300.305(a); See also, 34 C.F.R. § 300.300(c).

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## Functional Behavioral Assessment

- An FBA includes a description of **problem behaviors**.
  - Minn. R. 3525.0210, subp. 22.
  - The “problem behavior” or “target behavior” must be clearly defined.
  - The behavior must be something observable and measureable.

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## Sample of Compliance

- Ethan disrupts classroom activities by talking out in class, both during lecture and work times. He speaks loudly and uses inappropriate language. When redirected by teachers he talks back and argues, often saying “Make me” when teachers ask him to get out his materials or follow along with class activities.

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## Functional Behavioral Assessment

- FBA includes the identification of **events, times, and situations** that predict the occurrence and nonoccurrence of the behavior.
- Minn. R. 3525.0210, subp. 22 .

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## Sample of Compliance

- Ethan is most disruptive during academic class times, especially during read aloud and independent writing activities. These classes are in the morning. He does well in the afternoon and during group activities when he can work with a partner.

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## Functional Behavioral Assessment

- A FBA also identifies the **antecedents, consequences, and reinforcers** that maintain behavior.
  - Minn. R. 3525.0210, subp. 22.
- The aim is to identify what is leading up to the behavior and what is maintaining the behavior in order to prevent the negative behaviors from continuing

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## **Antecedents, Consequences, and Reinforcers**

### Points of Clarification

- The antecedents can be similar to the events, times, and situations in which the behavior occurs.
  - What is the student doing?
  - What is being asked of the student?
  - Where is the student?
  - What is immediately preceding the behavior?
  - What sets off the behavior?
  - What makes the behavior happen?
  - Who else is involved?

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## **Functional Behavioral Assessment**

- Consequences and reinforcers are those things that follow the behavior.
- Consequences would be negative results that would hopefully discourage the behavior.
- Reinforcers would be those things that either deliberately or inadvertently encourages the behavior.

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## Sample of Compliance

- Ethan's disruptive behavior occurs mainly in the mornings during his language arts time. He refuses to do his work. He is temporarily reinforced by not having to complete his assignment individually. Consequences of his behavior include sending him to the principal's office or the resource room.

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## Functional Behavioral Assessment

- An FBA includes the possible **functions of the behavior**.
  - Minn. R. 3525.0210, subp. 22.
  - Sample of Compliance:
  - Ethan refuses to do his independent language arts assignments and will argue with his teacher until he is removed from the class. Ethan is avoiding his assignments because he is reading below grade level and struggles with completing assignments independently.

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## Functional Behavioral Assessment

- An FBA includes possible positive **alternative behaviors**.
  - Minn. R. 3525.0210, subp. 22.

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## Functional Behavioral Assessment

- Positive alternative behaviors can be prompted or supported by:
  - antecedent and setting-event modifications
  - teaching alternative skills
  - consequence interventions
  - lifestyle interventions

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## **Functional Behavioral Assessment**

- Questions to consider may be:
  - What are ways to change the context to make the problem behavior unnecessary?
  - What are ways to prevent the behavior?
  - What can be done to increase expected behaviors or to teach a replacement behavior?
  - What should happen when a problem behavior occurs?
  - What should happen when desired or replacement behavior occurs?

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## **Alternative Behaviors Sample of Compliance**

- Ethan could be assigned a partner to work with during his language arts class. Since Ethan works well with peers, his partner could help him get started on his assignments. When struggling, Ethan can be allowed to request to go to the resource room to complete his assignments and get support from the special education teacher. Ethan could also be given modified assignments that are more at his level, to avoid frustration and build success.

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## Functional Behavioral Assessment

- An FBA includes a **variety of data** collection methods and sources that facilitate the development of hypotheses and summary statements regarding behavioral patterns.
  - Minn. R. 3525.0210, subp. 22.

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## Question 9:

- **Must all reevaluations (including, but not limited to, an evaluation to determine transition needs, an FBA, or an evaluation to determine assistive technology needs) be incorporated into a comprehensive evaluation report?**
- **Answer:** Yes. At a minimum, the evaluation report must include: a summary of all evaluation results; documentation of whether the child continues to have such a disability; the child's present levels of performance and educational needs that derive from the disability; whether the child continues to need special education and related services; and 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 child's IEP and to participate, as appropriate, in the general curriculum.
- **Authority:** Minn. R. 3525.2710, subp. 6. See also 34 C.F.R. § 300.303; 34 C.F.R. § 300.305 and 34 C.F.R. § 76.731.

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## Team Override Documentation

- The team may determine that a pupil is eligible for special instruction and related services because the pupil has a disability and needs special instruction even though the pupil does not meet the specific requirement in...(MN Rule categories). The team must include the documentation in the pupil's special education record according to items A, B, C, and D.
  - Minn. R. 3525.1354 subp. 1

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## Points of Clarification

- Team override requirements apply to all disability categories.
- If the student didn't meet eligibility criteria and the team didn't properly demonstrate eligibility through a team override, the student may not be eligible for Special Education.

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## Team Override Documentation

- The pupil's record must contain documents that explain why the standards and procedures used with the majority of pupils resulted in **invalid findings** for this pupil.
  - Minn. R. 3525.1354, subp. 1A.

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## Team Override Documentation

- The record must indicate what objective data were used to conclude that the pupil has a disability and is in need of special instruction and related services. These data include, for example, test scores, work products, self-reports, teacher comments, medical data, previous testing, observational data, ecological assessments, and other developmental data.
  - Minn. R. 3525.1354, subp. 1(B)

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## Team Override Documentation

- Because the eligibility decision is based on a synthesis of multiple data and not all data are equally valid, the team must indicate which data had the greatest relative importance for the eligibility decision.
  - Minn. R. 3525.1354, subp. 1(C)

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## Team Override Documentation Points of Clarification

- The team must document their justification as to why the assessments and procedures used on the majority of students produced invalid results and why the team *cannot get* valid results using typical standards and procedures.
- The team must document what specific data were used to make the eligibility determination.
- The team must indicate which data had the greatest relative importance for decision making.

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## Team Override Documentation

- The team override decision must be signed by the team members agreeing to the override decision.
- For those team members who disagree with the override decision, a statement of why they disagree and their signature must be included.
  - Minn. R. 3525.1354, subp. 1(D)

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## Points of Clarification

- Signatures are required for an override regardless of disability area.
- All team member signatures must be present for the override to be in compliance.
- A statement of disagreement does not need to be lengthy, but should include substantive evidence rather than just opinion.
- If more than one team member disagrees, they can write separate statements or a joint statement.

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## **Exit Procedures**

- A public agency must evaluate a child with a disability before determining that the child is no longer a child with a disability.
  - 34 C.F.R. § 300.305(e)(1).

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## **Exit Procedures Points of Clarification**

- An evaluation is required when dismissing a student from ALL special education and related services.
- These are cases in which you are determining that the child is no longer a student with a disability.

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## Exit Procedures

- However, there are a few cases in which an evaluation is not required prior to the termination of all special education services for that child. These are:
  - graduation from a secondary school with a diploma,
  - exceeding the age eligibility for FAPE under State law, or
  - when parents revoke consent for special education and related services.
- An evaluation is **not** required when:
  - dismissing from a related service (such as occupational therapy).
  - when dismissing from a secondary disability (such as speech and language services for a student also identified EBD).
  - when parents revoke consent for special education and related services.

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## Exit Procedures

- The evaluation does not need to involve new assessments; a review of records may be sufficient as long as there is enough current data to document:
  - the student's present levels of educational and functional performance,
  - the determination that the child is no longer a child with a disability, and
  - the student no longer needs special education and related services.

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## Additional Points of Clarification:

- An evaluation is ***not required*** when the child remains a child with a disability, yet the team decides to:
  - dismiss from a related service (such as occupational therapy).
  - dismiss from a secondary disability category (such as speech and language for a student also identified EBD).
  - A reduction in service would require a PWN and would usually be determined through the IEP team meeting process.

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