



## **Parent Right to Request Evaluation for Special Education Services at Any Time**

Parents who are aware their child is having a difficult time understanding school work or learning the material might wonder if the child has a Specific Learning Disability (SLD).

The term *specific learning disability* is a general term that describes certain kinds of learning problems. Because learning disabilities cannot be seen, SLD is sometimes called the ‘hidden disability’ and often goes undetected. Specific learning disabilities are caused by a difference in the brain that affects how information is received, processed, or communicated and affects each person differently. A learning disability can cause a person to have trouble learning and using certain skills, including reading, writing, listening, speaking, reasoning, and doing math. Some children with SLD may have a difficult time making friends and some may have problems with muscle/motor coordination.

It is important for parents and advocates to know and understand their rights under the Individuals with Disabilities Education Act (IDEA), the federal special education law. One of the most important is the right to request an evaluation from the school district to determine if their child has a disability and whether the child is eligible for special education and related services.

The IDEA regulations state that the parent has the right to ask for an evaluation to determine if the child is a child with a disability under the IDEA (IDEA Regulations, Sec. 300.301). The U.S. Department of Education clarifies this right in the comments to the regulations (IDEA Regulations, 2006):

*"We will add (new language) to ensure...parents of a child suspected of having an SLD are notified about the State's policies regarding ...their (parents) right to request an evaluation at any time. If parents request an evaluation and provide consent, the timeframe for evaluation begins and the information required in 300.309(b) must be collected (if it does not already exist) before the end of that period."*

*Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities, Federal Register, Vol. 71, No. 156, August 14, 2006, Page 46658.*

These statements express the Department’s intent regarding implementation of the law. In other words, these comments are directions to state departments of education and local school districts regarding what they must do to comply with the law.

**Question:** What is the meaning of the statement “and the information required in 300.309(b) must be collected (if it does not already exist) before the end of that period?”

**Answer:** This statement refers to information collected by the school district during a multi-tiered intervention process, often referred to as Response to Intervention (RTI). State departments of education may require local school districts to use an RTI process to help children who are having a hard time learning grade level material. RTI gives students who are struggling to learn additional academic support before the school district determines if these children should be referred for a comprehensive special education evaluation. (For more information on RTI, please see the LDA Information Sheet on RTI and the LDA Position Statement on RTI at [www.ldaamerica.org](http://www.ldaamerica.org).)

**Question:** How long might my child receive interventions under an RTI process?

**Answer:** There are no time lines in the IDEA regarding how long children should receive these interventions. The first tier interventions are used with the entire class (universal interventions), while more intensive interventions are targeted and the number of weeks to complete the interventions may vary widely.

However, regardless of where the child is in an RTI process, the IDEA regulations give parents the right to request an evaluation for special education services at any time. The law also says that information from an RTI process must be collected before the end of the timeframe set in place by the date of the parent's letter requesting a special education evaluation.

**Question:** Within how many days after the parent gives consent to evaluate the child must the school district complete an evaluation for special education services?

**Answer:** The IDEA sets a timeframe of 60 days. However, each state may choose to set its own timeframe. For example, in North Carolina the time frame is 90 days from the time the school district receives the parent's written request. In Florida the timeframe is 60 working days. Check with the Division of Special Education in your state department of education to find out the timeline for your state.

**What parents need to know:** If, after evaluating your child, the school says the child is not eligible for special education services, you have other rights. If you disagree with the evaluation, you may be entitled to an independent evaluation at the school district's expense. Most important, you should know that your child may indeed have a learning disability even if the school district says otherwise, and there are other ways to get services your child may need. For more information on learning disabilities and how to obtain appropriate services, please contact the Learning Disabilities Association of America (LDA), contact info is below.

The Learning Disabilities Association of America recommends parents follow these suggestions for referring their child for a special education evaluation:

1. Put your request for an evaluation in writing and send a copy to your principal and school district's Director or Coordinator of Special Education. The letter can be as simple as this:

"Dear (name of Director or Coordinator of Special Education):

My child (first and last name) is having difficult time learning. I am requesting that (name of your child's school) give (child's name) a comprehensive evaluation that includes an IQ test or some other test of cognitive abilities for determination of a possible learning disability.

The (number of days) -day timeline required by (name your state) will begin when you receive this letter which is being sent by Certified Mail with Signed Receipt that will be returned to me. If Sally is in a school RTI process, I am sure that the information collected during those interventions will be completed and a meeting date will be set before the (#) -day timeline ends, as required by federal law. My signature on this letter gives my consent for Sally's evaluation to begin. I look forward to hearing from you.

Many thanks,  
Your Signature  
Your Name, address, and phone number"

2. One week later call the principal to get the name of the teacher or other school staff person that will be in charge of processing your request and ensuring that timelines are in place.

**For other advocacy information, please contact LDA:** Toll free 1-888-300-6710 or [www.ldaamerica.org](http://www.ldaamerica.org)

Prepared by LDA Education/Transition Committee and LDA Public Policy/Advocacy Committee  
February 2010

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