

The IEP Process: Referral is the First Step

An IEP, or Individualized Education Program, provides special education and related services to a child with a qualifying disability. IEPs are governed by the federal law, the Individuals with Disabilities Education Act (IDEA).

Making a Referral

To start the process for determining if a child qualifies for an IEP, someone needs to make a request in writing. The request is called a referral. The referral can come from a parent, legal guardian, teacher, principal, vice-principal, guidance counselor, teacher's assistant, or any other school employee who has information about how the child is functioning at school.

If the parent is making the referral, it should be in writing, such as in a letter or an email. The parent should send the referral to the child's principal and teacher, and the school district's Exceptional Children's Director. If your district does not have an Exceptional Children's Director, you can send it to the Superintendent instead. To find the name and contact information for the Exceptional Children's Director, call the Superintendent's office or look on the school district website. Some school districts list that information under "special education," while others call it "exceptional children."

The referral should include a reason – why the child needs help. This means you must describe the problems the child is having with school. The referral also should discuss, at least briefly, the child's strengths and needs. If the child has been diagnosed with a disability by someone outside of the school system, such as a private doctor or psychologist, you could include that information, too.

Referrals for IEPs are discussed in the NC Policies Governing Services for Children with Disabilities, beginning at NC 1503-2.1. A copy of the policies about the referral process appear at the end of this document.

A sample referral letter is included at the end of this document. You will notice that the sample includes a specific request that the child be evaluated under IDEA, to make clear that the request is for an evaluation for an IEP, and not for a 504 Plan or other accommodation plan.

The 90-day Timeline

As soon as the parent submits the referral letter for an IEP to the principal, by law, a 90-day timeline starts. The school system has 90 days—calendar days, not school days—to act on the referral. This means that by the 90th calendar day after the parent submits the written referral, the school must have:

- 1) evaluated the child,
- 2) had an IEP meeting that includes the parents to determine if the child is eligible for an IEP, and if the child is determined eligible for an IEP,
- 3) written the IEP.

The 90-day timeline cannot be extended, even if the school and parents want to extend it.

Sometimes school employees think that the 90-day timeline starts when the parent signs the paperwork giving permission for the school to begin evaluating, or testing, the child. That's not correct. IDEA specifically states that the timeline starts when the written referral is made, and the referral is the written request by letter or email for evaluation, not the consent for evaluation.

The 90-day timeline applies even in summer and during breaks from school, like school holidays. For example, if a referral letter or email is sent to the principal on June 1, the eligibility process, the three steps of evaluation, eligibility, and IEP, must be completed by August 29th—90 days from June 1st. This is because the definition of “day” in the policies is calendar days, not school or business days. A copy of Policy NC 1500-2.7 with this definition is included at the end of this document.

After submitting a referral, it is a good idea to follow up with a phone call to the principal or Exceptional Children's Director after a few days to make sure the school has begun the referral process, since the 90-day timeline begins as soon as the referral is sent to the school.

Additional Resources

For additional information about the IEP referral process and eligibility for an IEP, see the publication on our website, *Parents Together*, at www.disabilityrightsnc.org, the website for the Exceptional Children's Assistance Center, <http://www.ecac-parentcenter.org/>, and the Wrightslaw website, www.wrightslaw.com.

Sample Letter from Parent Asking School to Evaluate Child for an IEP

Date [very important to include the date!]

Principal _____

_____ School

School Address

Name of Town, NC Zip Code

[or principal's email address if sending by email]

Exceptional Children's Director _____

_____ County Schools

Superintendent's Office Address

Name of Town, NC Zip Code

[or EC Director's address if sending by email]

Regarding Request for Evaluation for IEP under IDEA for

Student's Name

Dear Principal _____ and EC Director _____:

I am writing about my child _____ who is in the ____ grade at your school.

_____ 's date of birth is _____.

_____ is having significant trouble in school with _____. _____ needs help with _____.

I believe that my child may have a disability. I am requesting that the school evaluate my child for an IEP under IDEA.

I understand that the school has 90 calendar days from the date of this letter to evaluate my child, and if my child is found eligible, to create my child's IEP. I understand that as the parent I am a member of the IEP team and will be involved in making decisions about my child's IEP.

I also understand that the IEP team will need to meet soon so that we can complete the Special Education Referral and Informed Consent for Evaluation forms. Please call me at _____ or email me at _____ to set the meeting time.

Thank you for your time.

Sincerely,

Parent's Name

Excerpts from NC Policies Governing Services for Children with Disabilities for IEP Referrals

NC 1500-2.7 Day; Business Day; School Day

(a) Day means calendar day unless otherwise indicated as a business day or school day.

(b) Business day means Monday through Friday, except for Federal and State holidays.

(c) (1) School day means any day, including a partial day, that children are in attendance at school for instructional purposes. (2) School day has the same meaning for all children in school, including children with and without disabilities. (Authority: 20 U.S.C. 1221e-3; 34 CFR 300-11)

NC 1503-2.1 Referral

When a public agency, as defined at NC 1500-2.27 or **parent suspects that a child may be a child with a disability, he/she shall provide in writing the reason for referral, addressing the specific presenting concerns and the child's current strengths and needs. This referral shall be given to the principal of the school, the child's teacher or other school professional, or the Superintendent or other appointed official of the LEA.** For preschool children with disabilities, the referral may also be given to the person designated as the person in charge of services for preschool children with disabilities.

NC 1503-2.2 Initial Evaluations

(a) General. Each LEA must conduct a full and individual initial evaluation (including progress monitoring data) in accordance with NC 1503-2.4 through NC 1503-2.7 before the initial provision of special education and related services to a child with a disability under these Policies.

(b) Request for initial evaluation or determination of eligibility. Consistent with the consent requirements in NC 1503-1, either a parent of a child, or an LEA may initiate a request for an initial evaluation to determine if the child is a child with a disability. Upon an oral request for an initial evaluation from a parent, the LEA shall provide assistance, as needed, in completing a written referral.

(c) Timeline for initial referral.

(1) Evaluations must be conducted, eligibility determined, and for an eligible child, the IEP developed, and placement completed within 90 days of receipt of a written referral; and

(2) The IEP Team must determine-- (i) If the child is a child with a disability under NC 1500-2.4; and (ii) The educational needs of the child.

(d) Exception. The timeframe described in paragraph (c)(1) does not apply to an LEA if--

(1) The parent of a child repeatedly fails or refuses to produce the child for the evaluation;

(2) The parent of a child repeatedly fails or refuses to respond to a request for consent for the evaluation; or

(3) A child enrolls in a school of another LEA after the 90 day timeline has begun, and prior to determination by the child's previous LEA as to whether the child is a child with a disability under NC 1500-2.4.

(e) The exception in paragraph (d)(3) of this section applies only if the subsequent LEA is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent LEA agree to a specific time when the evaluation will be completed.

(Authority: 20 U.S.C. 1414(a); 34 CFR 300.301)

Disability Rights North Carolina is a 501(c)(3) nonprofit organization headquartered in Raleigh. It is a federally mandated protection and advocacy system with funding from the U.S. Department of Health and Human Services, the U.S. Department of Education, and the Social Security Administration.

Its team of attorneys, advocates, paralegals and support staff provide advocacy and legal services at no charge for people with disabilities across North Carolina to protect them from discrimination on the basis of their disability. All people with disabilities living in North Carolina are eligible to receive assistance from Disability Rights NC.

Contact us for assistance or to request this information in an alternate format.

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