

### § 300.301

### 34 CFR Ch. III (7–1–07 Edition)

State establishes and implements effective procedures to ensure that a parent's refusal to consent does not result in a failure to provide the child with FAPE.

(3) A public agency may not use a parent's refusal to consent to one service or activity under paragraphs (a) or (d)(2) of this section to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this part.

(4)(i) If a parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to provide consent, the public agency may not use the consent override procedures (described in paragraphs (a)(3) and (c)(1) of this section); and

(ii) The public agency is not required to consider the child as eligible for services under §§ 300.132 through 300.144.

(5) To meet the reasonable efforts requirement in paragraphs (a)(1)(iii), (a)(2)(i), (b)(2), and (c)(2)(i) of this section, the public agency must document its attempts to obtain parental consent using the procedures in § 300.322(d).

(Authority: 20 U.S.C. 1414(a)(1)(D) and 1414(c))

#### EVALUATIONS AND REEVALUATIONS

#### § 300.301 Initial evaluations.

(a) *General.* Each public agency must conduct a full and individual initial evaluation, in accordance with §§ 300.305 and 300.306, before the initial provision of special education and related services to a child with a disability under this part.

(b) *Request for initial evaluation.* Consistent with the consent requirements in § 300.300, either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

(c) *Procedures for initial evaluation.* The initial evaluation—

(1)(i) Must be conducted within 60 days of receiving parental consent for the evaluation; or

(ii) If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and

(2) Must consist of procedures—

(i) To determine if the child is a child with a disability under § 300.8; and

(ii) To determine the educational needs of the child.

(d) *Exception.* The timeframe described in paragraph (c)(1) of this section does not apply to a public agency if—

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

(2) A child enrolls in a school of another public agency after the relevant timeframe in paragraph (c)(1) of this section has begun, and prior to a determination by the child's previous public agency as to whether the child is a child with a disability under § 300.8.

(e) The exception in paragraph (d)(2) of this section applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed.

(Authority: 20 U.S.C. 1414(a))

#### § 300.302 Screening for instructional purposes is not evaluation.

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

(Authority: 20 U.S.C. 1414(a)(1)(E))

#### § 300.303 Reevaluations.

(a) *General.* A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with §§ 300.304 through 300.311—

(1) If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or

(2) If the child's parent or teacher requests a reevaluation.

(b) *Limitation.* A reevaluation conducted under paragraph (a) of this section—