

John R. Kasich, Governor
Paolo DeMaria, Superintendent of Public Instruction

To: Special Education Directors
CC: Superintendents
From: Kim Monachino, Ed.D., Director of the Office for Exceptional Children
Date: November 2, 2018
Subject: Memo 2018-1: Observations as part of a three-year reevaluation for a student with a disability

The Ohio Department of Education has received several questions concerning the legal requirements of the evaluation team to conduct an observation during a reevaluation. These questions seem to be a result of incorrect language in Office for Exceptional Children Universal Support Materials and the online modules in the Learning Management System. These resources have been removed from the website and will be updated by the end of November.

To clarify, a new observation is not necessarily required for every reevaluation. According to the governing federal regulation on reevaluation, it is stated that,

“...as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must (1) review any **existing** evaluation data on the child **including** – (iii) observations by teachers and related services providers.”

Based on this language, the IEP team and qualified professionals are only required to consider data that already exists at the time of the reevaluation, including observations. As such, observations must be included on every planning form, either identified as “Sufficient Data Available” or “Additional Testing/Data Needed.”

New, formal observations continue to be required for the initial identification or reevaluation of a student with a suspected specific learning disability per 34 C.F.R. 300.310 or any preschool student per OAC 3301-51-11. For any reevaluation, any observational data that is available for the reevaluation must be current, relevant and aligned with the suspected disability. If it is not, a new observation is required.

Federal regulation 34 C.F.R. 300.305(a)(2) states there could be additional data necessary for the reevaluation: “On the basis of the review [of the factors in (a)(1)] and input from the child’s parents,” the IEP team and qualified professionals can determine what additional data, if any, are needed to determine whether that child remains a “child with a disability” per the definition in 34 C.F.R. 300.8 (see also OAC 3301-51-01). Therefore, there could be a situation in which a new observation would occur, but all factors outlined in 300.305 (stated above) must be met. The planning team should determine what data is to be collected and/or reviewed during the reevaluation process to determine if the child still qualifies for special education and/or related services.

If you have further questions or concerns, please contact the Office for Exceptional Children at exceptionalchildren@education.ohio.gov.