**Section 108.90 Identification, evaluation and education of recipients**

a) Each facility shall develop and implement procedures for creating public awareness of the facility's programs and for advising the public of the rights of recipients.

1) All such procedures shall assure that information regarding programs and the rights of recipients is made available in the community in phrases which will be understandable to parents, regardless of ethnic or cultural background or hearing or visual abilities.

2) Procedures developed by the facility to create public awareness of programs, and for advising the public of the rights of recipients shall include, but not be limited to:

A) Annual notification to all parents of recipients regarding the special education programs and services available in or through the facility and of their right to receive, on request, a copy of this Part.

B) An annual dissemination of information to the community served by the facility regarding the program and services available in or through the facility and the rights of recipients.

b) After admission, the multi-disciplinary team shall perform the educational diagnosis and evaluation in accordance with subsections (e) and (g) of this Section so that the educational component of the individual treatment or habilitation plan can be developed in accordance with the time frames in the definition of the individual treatment or habilitation plan in Section 108.10. The educational component shall be developed in accordance with subsection (n).

c) Parents of the recipient must be notified, in writing, when the facility proposes to initiate or change the educational identification, evaluation or placement of a recipient.

1) The notice shall be:

A) Written in language understandable to the general public, and

B) Written in the native language of the parent or provided in another mode of communication used by the parent, unless it is clearly not feasible to do so, such as when the parents' native language is not a written language or is one in which the dialect is not commonly known to an interpreter of that language.

C) If the language or other mode of communication of the parent is not a written language, the facility shall insure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication; that the parent understands the content of the notice, and that there is written evidence on file that these requirements have been met.

2) The notice shall contain:

A) A full explanation of all the procedural safeguards regarding education available to parents, including the availability, on request, of a list of free or low cost legal and other relevant services available locally to assist parents in initiating an impartial due process hearing regarding educational issues.

B) A description of the educational action proposed or refused by the facility, an explanation of why that facility proposed or refused to take the action, and a description of any options that the facility considered and the reasons why those options were rejected.

C) A description of each educational evaluation procedure, test, record, or report that the facility used as a basis for the proposal or refusal.

D) A description of any other factors which are relevant to that facility's proposal or refusal, and

E) Inclusion of parental consent for evaluation and placement into a program.

d) When a recipient is given an evaluation, the facility shall be responsible for determining the recipient's language and cultural background.

1) Determination shall be made by determining the language(s) spoken in the recipient's home and the language(s) used most comfortably and frequently by the recipient.

2) Determination of the recipient's mode of communication shall be made by assessing the extent to which the recipient uses expressive language and the use he or she makes of other modes of communication (e.g., gestures, signing, unstructured sounds) as a substitute for expressive language.

3) The recipient's language use pattern, proficiency in English, mode of communication and cultural background shall be noted in the recipient's individual treatment or habilitation plan.

e) The recipient shall be given an educational evaluation.

1) For the recipient who requires temporary hospitalization estimated to last 90 days or less, a respite services evaluation shall be conducted, and an individual habilitation plan developed. This evaluation shall include, but not be limited to:

A) Evaluation of the physical health impairment by a physician, for diagnostic and evaluation purposes;

B) Estimation by the physician of the time the recipient will require respite services; and

C) A review of the recipient's current educational status and academic needs.

2) The individual education plan from the recipient's former school becomes the working individual plan for the respite admission.

3) A comprehensive evaluation shall be conducted for all other recipients. This evaluation shall include, but not be limited to:

A) An interview with the recipient;

B) Consultation with the recipient's parents;

C) A social developmental study, including an assessment of the recipient's adaptive behavior and cultural background;

D) A report regarding the recipient's medical history and current health status;

E) A vision and hearing screening, completed at the time of the evaluation or within the previous six months;

F) A review of the recipient's academic history and current educational functioning;

G) An educational evaluation of the recipient's learning processes and level of educational achievement; and

H) A psychological evaluation.

4) If a psychologist has not provided the evaluation on which admission was based, the recipient shall be evaluated by the psychologist as part of the comprehensive evaluation.

A) The psychologist shall conduct direct personal observation of the recipient and shall administer such tests as the individual's situation requires; shall review the tests administered by school district personnel and/or the results of recent externally administered evaluations, and analysis of the learning environment and learning processes; and shall participate in the multi-disciplinary conference and such other procedures as deemed necessary.

B) An appropriate medical examination by a physician shall be obtained for all recipients and the expense borne by the Department. Nothing herein shall be construed to require any recipient to undergo any physical examination or medical treatment whose parents object thereto on the grounds that such examination or treatment conflicts with his or her religious beliefs, pursuant to the provisions of Sections 2-102 (b), 2-107, 2-110 and 2-111 of the Code.

5) Other specialized evaluations appropriate to the nature of the recipients' problems shall be provided for all recipients. When specialized evaluation procedures not usually provided by the facility are required to provide a better understanding of the recipient's educational or educationally-related problems, the facility recommending such evaluation procedures shall be responsible for locating and using appropriate local and/or state resources. Consideration shall be given to resources of other state agencies or third party payers. The recipient may not be prohibited from receiving a special education program or service because the recipient is financially or otherwise unable to obtain specialized evaluation procedures.

6) If the parent disagrees with an educational evaluation completed by the facility, the facility shall inform the parents of the opportunity to obtain an independent evaluation at public expense.

A) In such cases, the facility may initiate an impartial due process hearing prior to such independent evaluation to demonstrate that the facility's evaluation is appropriate.

B) If the final decision is that the facility's evaluation is appropriate, the parent shall have the right to an independent evaluation, but not at public expense.

f) If all requirements for educational evaluation cannot be fulfilled, due to lack of parental involvement, religious convictions of the family, or the inability of the recipient to participate in an evaluation procedure, the facility shall note the missing component(s) in the recipient's individual treatment or habilitation plan.

g) Each educational evaluation shall be conducted so as to assure that it is linguistically, culturally, racially, and sexually non-discriminatory.

1) The language(s) used to evaluate a recipient shall be consistent with the recipient's language pattern. If the language use pattern involves two or more languages, the recipient shall be evaluated using each of the languages used by the recipient.

2) Psychological evaluation of a recipient shall be performed by a clinical or certified school psychologist who has demonstrated competencies in, and knowledge of, the language and culture of the recipient. The facility, having exhausted all other alternatives and not securing the services of a clinical or certified school psychologist who has demonstrated competencies in, and knowledge of, the language and culture of the recipient, the psychologist regularly employed by the facility shall conduct assessment procedures which do not depend on language, or use the services of an interpreter. Any educational programming resulting from such alternative procedures shall be reviewed at least every 30 days until the recipient acquires a predominately English language use pattern which will assure that a psychological evaluation given by a clinical or certified school psychologist will not be discriminatory.

3) Tests given to a recipient whose primary language is other than English shall be relevant, to the maximum extent possible, to his or her culture.

4) If the recipient's receptive and/or expressive communication skills are impaired due to hearing and/or language deficits, the examiners shall use instruments and procedures which do not stress spoken language and one of the following:

A) Visual communication techniques in addition to auditory techniques;

B) An interpreter to assist the evaluating personnel with testing.

5) Each facility shall insure that testing and evaluation material and procedures used for educational evaluation be selected and administered so as not to be racially or culturally discriminatory.

6) Each facility shall insure that:

A) Tests and other evaluation materials are provided and administered in the recipient's native language or other mode of communication, unless it is clearly not feasible to do so; have been validated for the specific purpose for which they are used, and are administered by a clinical or certified school psychologist in conformance with the instructions provided by their producer.

B) Tests and other educational evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.

C) When tests are administered to a recipient with impaired sensory, motor or communication skills, tests shall be selected and administered to insure that the results accurately reflect the recipient's aptitude or achievement level rather than reflecting the recipient's impaired sensory, motor or communication skills except when those skills are the factors which the test(s) purports to measure.

D) No single procedure is used as the sole criterion for determining an appropriate educational program for a recipient.

E) The educational evaluation is made by a multi-disciplinary team, including at least one teacher or other specialist with knowledge in the area of the suspected disability.

F) The recipient is assessed in all areas related to the suspected disability, including, when appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performances, communicative status, and motor abilities.

h) In those instances in which a recipient has been evaluated by a clinical or certified school psychologist outside the facility, that evaluation shall be considered and may be used in determining educational programming.

i) Upon completion of a respite service educational evaluation and program, the recipient will resume his or her educational programming consistent with the recipient's regular placement. A report regarding respite recommendations and all recommendations upon which they were based shall be placed in the recipient's education record and shared, with the sending agency or school district, with appropriate consents, in accordance with the Act.

j) Upon completion of a comprehensive educational evaluation, one or more conferences shall be convened for the purpose of formulating educational program and service options, and developing the educational component of the individual treatment or habilitation plan. This may be the conference at which the individual treatment or habilitation plan as required by Sections 3-209 and 4-309 of the Code is developed. If not, an additional meeting is to be held to develop the educational component of the individual treatment or habilitation plan.

1) Participants in the conference who formulate the educational component shall include:

A) Representatives of the recipient's local district of residence as determined by the local district;

B) The facility director, special education director, or unit educator who is qualified, in accordance with Section 108.40(j), to provide or supervise the provision of educational programming;

C) All those personnel involved in the educational evaluation of the recipient;

D) The parent;

E) Other persons, such as the recipient's personal physician, a counselor seen by the recipient, social worker or psychologist, having significant information regarding the recipient;

F) Those persons who may become responsible for providing the educational program or service to the recipient; and

G) The recipient, if mentally able to participate, and other individuals at the discretion of the parent.

2) The purpose of the above conference shall be to:

A) Establish a composite understanding of the recipient's learning characteristics, sensory and motor skills, and behaviors;

B) Determine appropriate educational programs and/or other services;

C) Determine the recipient's unique educational needs and the extent to which these needs can be met;

D) Determine the nature and degree of educational intervention which is needed and recommend corresponding facility programming and/or community placement which is appropriate and is as unrestrictive of interaction with non-handicapped recipients as possible.

k) Recommendations made at the multi-disciplinary conference shall be determined by a consensus of facility participants and the parent(s) and the recipient, if mentally able.

l) Recommendations for educational programming shall be based on the following:

1) The recipient shall be placed in the educational program which is appropriate to the recipient's needs and least restrictive of interaction with non-handicapped or less handicapped recipients.

2) The educational programming must be based on the recipient's individual education plan, consistent with the findings obtained from the comprehensive educational evaluation.

3) Consideration must be given to any potentially harmful effects on the recipient, on the quality of services which the recipient needs, or that which impedes the education of other recipients.

m) A written report of the results and recommendations of the multi-disciplinary conference shall be prepared and entered into the recipient's clinical record.

1) The conference report shall be dated and list the names of all those in attendance.

2) The facility shall keep on file a copy of the conference report, together with all documentation upon which it is based. The parents shall be informed of their rights to access the report, pursuant to Section 4 of the Act.

n) If the initial multi-disciplinary conference was held only for the purpose of formulating program and service options, an additional meeting must be held for the purpose of developing the educational component of the individual treatment of habilitation plan for the recipient. The meeting at which a recipient's educational component is developed must be held within 60 days after the admission of the recipient.

1) Parents of a recipient must be notified of any meeting to develop, review, or revise the educational component of a recipient's individual treatment or habilitation plan. The facility must take steps to insure that a recipient's parents are present at each meeting or are afforded the opportunity to participate, including:

A) Notifying parents of the meeting early enough to insure that they will have an opportunity to attend;

B) Scheduling the meeting at a mutually agreed on time and place; and

C) Indicating in the notice the purpose, time, and location of the meeting and who will be in attendance.

2) The following participants must be invited to the meeting to develop, review or revise the educational component of the individual treatment or habilitation plan:

A) A representative of the district of parental residence who is qualified to provide or supervise the provision of special education (e.g., the State-approved special education director or designee);

B) The recipient's teacher; and

C) One or both of the recipient's parents. If neither can attend, the facility shall use other methods to insure parent participation, including individual or conference telephone calls. A meeting may be conducted without a parent in attendance if the facility is unable to convince the parents that they should attend. In this case, the facility must have a record of its attempts to arrange a mutually agreed on time such as detailed records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parents and any response received, and detailed records of visits made at the parent's home or place of employment and the results of those visits.

D) The recipient if mentally able to participate; and

E) Other individuals at the discretion of the parent or facility.

3) Employee organization representatives may not attend without parental and facility consent.

4) The facility shall insure that a member of the evaluation team participates in the meeting or that some other person, who is knowledgeable about the procedures used with the recipient and who is familiar with the results of the evaluation, participates in the meeting, as well as an interpreter for the hearing impaired, if necessary.

o) Special education placement shall be made within four days after the recipient's educational component is developed in accordance with subsection (n) of this Section.

p) In addition to initial meetings, the educational status and continued special education placement of each recipient shall be reviewed at least annually in a conference attended by those professional persons working with the recipient, the parents, the recipient when mentally able to participate, the special education director or designee from the district of parental residence, who is a qualified professional, and other individuals at the discretion of the parent.

q) Notification to parents regarding continuation, change, re-evaluation, or termination of placement shall inform the parents of their right to object and of the procedures to be followed to make such an objection.

r) At least 10 days prior to any major change in the educational component of the recipient's individual treatment or habilitation plan, including those stated herein, the parents shall be given written notification of the proposed change, including the reasons for the change and a description of the proposed program.

1) If the parents request an impartial due process hearing regarding a proposed change in the educational placement of the recipient, the facility shall not change the placement until the matter is resolved.

2) If the parents agree to the proposed placement, then a meeting shall be held for the revision of the recipient's educational plan.

(Source: Amended at 15 Ill. Reg. 6122, effective April 15, 1991)