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GUIDELINES: REQUESTS FOR EVALUATIONS FOR ADMISSION TO COLLEGE PROGRAMS OR FOR SSI BENEFITS

We receive questions from our clients on a regular basis about districts' responsibility to evaluate a student for the purpose of establishing accommodations for the College Board testing, entitlement to special programs in post-secondary and college settings, or because testing is required to determine whether the child is eligible for SSI (Social Security Income) benefits. Our advice is that districts must do evaluations only when these evaluations are related to a district's obligation to provide a free and appropriate public education to a student. Under state and federal special education law there is no explicit obligation to conduct a evaluations to establish eligibility for College Board accommodations, to support a student's application for accommodations in a post-secondary educational setting, or at the request of a college as part of an admissions process.

However, when parents request an evaluation for reasons related to post-secondary planning and programming, the transition services component of a student's IEP is implicated. "Transition services means aa coordinated set of activities for a child with a disability that is designed to be within a results-oriented process that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, intgrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation." 34 C.F.R. §300.43(a)(1). Accordingly, evaluations of the kind described in the first paragraph, may be appropriate if the request for an evaluation is made for the purposes of transition planning. Should an evaluation request be made for purposes of transition planning, a district should review the request on a case-by-case basis, considering what the district has done in the area of transition planning and the reason for the evaluation request.

If a district decides to deny parents' request to evaluate a student for reasons unrelated to a district's obligation to provide FAPE to a student, at least one special education appeals panel indicated that districts need to do more than simply issue notice denying the parents' request. *In re the Educational Assignment of Hugh B.*, Special Education Appeals Panel No. 880 (PDE 1999). In *Hugh B.*, the Panel addressed a parent's request for testing suggested by a private school, which the student attended at parental expense, and concluded that such non-school program related requests for evaluation must be considered by the student's IEP team, consistent with Section 1414 (c) of the IDEA. (citation is to IDEA 1997; citation to IDEA 2004 is Section 1415(d)(2)(A).) If the district denies a request for an evaluation for non-school programming, a NOREP must be provided to the parents along with procedural safeguards. If the parent of a student who has not yet been identified as eligible requests non-school related testing, you should similarly follow the above-described process, because Section 1415 (d) of IDEA 2004 provides that the process be done as part of an initial evaluation (if appropriate) and as part of any reevaluation.

Clients who have questions regarding issues discussed in this article, or any education law matter, should feel free to call us at 215-345-9111.