

STATE BOARD OF EDUCATION
STATE DEPARTMENT OF EDUCATION
DIVISION OF SPECIAL EDUCATION SERVICES
ADMINISTRATIVE CODE

CHAPTER 290-8-9
SPECIAL EDUCATION SERVICES

290-8-9-.03 Disability Definitions, Criteria, And Minimum
Required Evaluative Components.

Each public agency must develop and implement procedures to identify and evaluate children suspected of having a disability that adversely affects their educational performance and who, as a result, may need special education (specially designed instruction) and related services. The evaluations listed in this rule are the required minimum evaluations to be administered prior to determining initial eligibility for special education services. Professional judgment should be used to determine if the results of any of the required evaluations are reliable sources of information or if other assessment data may prove to be more accurate indicators of the child's level of functioning. The IEP Team may determine, on a case-by-case basis, that other evaluations are needed. Vision and hearing screenings (traditional or functional, as appropriate) must be the first evaluations conducted for all children suspected of having a disability, unless otherwise indicated.

(1) Autism.

(a) Definition. Autism means a developmental disability that significantly affects verbal and nonverbal communication and social interaction generally evident before age three (3) that adversely affects educational performance. This includes other pervasive developmental disorders. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or changes in daily routines, and unusual responses to sensory experiences. Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disability, as defined in these rules. A child who manifests the characteristics of autism after age three (3) could be identified as having autism if the criteria herein are satisfied.

(b) Criteria.

1. Evidence that vision/hearing screening results are satisfactory prior to proceeding with evaluations.

2. Score on a rating scale (normed for the appropriate diagnostic group) indicating the presence of an autism spectrum disorder.

3. Medical, clinical, psychiatric, or school psychologist evaluation, or an assessment by a qualified person (e.g., psychometrist) trained in the area of autism evaluation.

4. Evidence that communication/language skills and/or social skills adversely affect educational performance.

5. Evidence of current characteristics/behaviors typical of an autism spectrum disorder.

(c) Minimum Evaluative Components.

1. Vision/hearing screening.

2. A normed rating scale that is used to document the presence of an autism spectrum disorder.

3. Comprehensive evaluation and report to be completed by a medical doctor, clinical psychiatrist, school psychologist or other qualified person (i.e., psychometrist) trained in the area of autism evaluation.

4. Communication/language evaluation and a behavior rating scale and/or an adaptive behavior rating scale. Additional performance measures may include developmental, intellectual, achievement (individual or group), motor, criterion-referenced tests, curriculum-based assessments, work samples, portfolios, observation.

5. Observation in both a structured and an unstructured school environment or natural setting and a structured interview with the parent/primary caregiver for all students in Grades K-12. An observation in a natural setting and a structured interview with the parents/primary caregiver for all preschool aged children.

(2) **Deaf-Blindness.**

(a) Definition. Deaf-Blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

(b) Criteria.

1. Audiological data indicating that the individual has a hearing impairment.
2. Optometric and/or ophthalmic data indicating that the individual has a visual impairment.
3. Evidence of severe communication needs and evidence of severe educational needs related to the functional use of hearing and vision.

(c) Minimum Evaluative Components.

1. Audiological evaluation.
2. Optometric/Ophthalmic evaluation.
3. Performance measures such as developmental scores, diagnostic test(s), observations, communication evaluations, orientation and mobility assessments that document how the impairment adversely affects the educational performance of the child.

(3) **Developmental Delay.**

(a) Definition. Developmental Delay means a delay that adversely affects daily life and/or educational performance in one or more of the following developmental areas:

1. Adaptive,
2. Cognitive,
3. Communication,
4. Social or emotional, and/or,
5. Physical, and results in the need for special education and related services. A child may become eligible for this area of disability on his or her third birthday. A child identified with a developmental delay must be reevaluated prior to his or her ninth birthday to determine continued eligibility for special education services. At age nine, a child can no longer be eligible in the area of developmental delay and must be eligible in another area of disability in order to continue special education services. If a child turns nine during the school year and is eligible for an area of disability, that child may continue to receive special education services in his or her current

program for the remainder of that school year. A child who turns nine during the school year and is not eligible for another area of disability will be served in general education programs for the remainder of the school year.

(b) Criteria.

1. Evidence that vision/hearing screening results are satisfactory prior to proceeding with evaluations.

2. The standard score in one developmental domain must be at least two standard deviations below the mean (70 or below) on a standardized, norm-referenced instrument; or the standard scores on two or more developmental domains must be at least one and a half standard deviations below the mean (77 or below) on a standardized, norm-referenced instrument.

3. Scores obtained according to the requirements in 2. of this section must be validated by supporting evaluations in the same identified area(s) of delay. If the standard score on the first instrument yields a delay of at least two standard deviations (70 or below) in one or more domains, then at least one domain must be validated (70 or below) by another norm-referenced or criterion-referenced instrument. If the standard score on the first instrument yields a delay of at least one and a half standard deviations (77 or below) in two or more domains, at least two of the domains must be validated (77 or below) by another norm-referenced or criterion-referenced instrument. When using a criterion-referenced instrument that does not yield standard scores, age equivalent scores may be used to determine the percent of delay and must be converted to standard scores. The score must be at least a 30% delay (two standard deviations below the mean) in one domain or a 25% delay (one and a half standard deviations below the mean) in two or more domains.

4. Evidence that the developmental delay adversely affects the child's performance in age-appropriate activities must be documented.

(c) Minimum Evaluative Components.

1. Vision/hearing screening.

2. A standardized, norm-referenced instrument(s) that evaluates all five developmental domains.

3. An additional standardized, norm-referenced instrument(s) or a criterion-referenced instrument that supports the one or two identified areas of delay from the first instrument according to the requirements.

4. Evidence of adverse effect.

(i) A family interview documenting strengths, needs, and concerns.

(ii) An observation of the child in an age-appropriate environment.

(d) Public agencies may identify children in another disability area instead of using the area of developmental delay. However, if a public agency chooses to use the term developmental delay, which may only be used for ages 3-9, the agency must use the criteria above.

(4) **Emotional Disability.**

(a) Definition. Emotional Disability means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

1. An inability to learn that cannot be explained by intellectual, sensory, or health factors;

2. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

3. Inappropriate types of behavior or feelings under normal circumstances;

4. A general pervasive mood of unhappiness or depression; or

5. A tendency to develop physical symptoms or fears associated with personal or school problems. Emotional disability includes schizophrenia. The term does not include children who are socially maladjusted, unless it is determined that they have an emotional disability as defined herein.

(b) Criteria.

1. Evidence that vision/hearing screening results are satisfactory prior to proceeding with evaluations.

2. Evidence that the problem is not due to intellectual, sensory, or health factors.
 3. Standard scores (total or composite) on two out of three of the same norm-referenced behavior rating scale must be at least two standard deviations above or below the mean (70, depending on the rating scale). Ratings from three or more scales will be obtained from at least three independent raters, one of whom may be the parent or the child through a self-report.
 4. Evidence that the emotional disability adversely affects the child's academic performance and/or social/emotional functioning in the school environment.
 5. Evidence that the emotional disability is exhibited over a long period of time (typically six months) and to a marked degree, and that the child's educational performance is adversely affected.
 6. Observational data that documents the emotional disability in two or more educational settings.
- (c) Minimum Evaluative Components.
1. Vision/hearing screening.
 2. Individual intellectual evaluation.
 3. Administration of three of the same norm-referenced behavior rating scale by three or more independent raters who have had knowledge of the child for at least six weeks. One of the raters may be the parent or the child. If a self-report is used, it must be a version of the same behavior rating scale.
 4. Individual educational achievement evaluation and a statement of how the impairment adversely affects the child's academic performance and/or the child's social/emotional functioning .
 5. Documentation that the emotional disability is exhibited over a long period of time (typically six months) to a marked degree that adversely affects educational performance. Documentation must include teacher, parent and/or child interview(s); documentation of environmental, socio-cultural, and/or ethnic information (e.g., Environmental, Cultural and Economic Concerns checklist); and at least one of the following:

(i) Observation of the child in an educational environment other than the required observation.

(ii) Counselor reports.

(iii) Language evaluation.

(iv) Anecdotal records from classroom teacher(s) or other LEA personnel.

(v) Documentation may also include at least one of the following, if available:

(I) Clinical psychological/psychiatric reports.

(II) School psychologist reports.

(III) Medical reports.

6. Observation by a qualified professional in two or more educational settings (one structured setting and one unstructured setting).

(d) Reevaluation for continued eligibility in the area of emotional disability. At the first reevaluation, if the IEP Team determines that additional data are needed and after conducting the assessments, the student no longer meets all criteria for emotional disability, the IEP Team must choose one of the following options:

1. Based on existing evaluation data and/or additional data gathered, and documentation that student's behavior does not adversely affect educational performance, the IEP Team must determine that the student is no longer eligible for special education services in the area of emotional disability.

2. Based on existing data and/or additional data gathered, the IEP Team may determine that the student continues to be eligible in the area of emotional disability based on the student's continued need for intensive support. The IEP Team must include on the eligibility report a written description of all behavioral strategies/interventions that are currently in place for the student. The IEP Team may determine that the student continues to be eligible for special education services in the area of emotional disability based on existing data and/or additional data gathered even though all criteria are not met (including scores two standard deviations above or below the mean, depending on the instrument,

on two out of three behavior rating scales). The IEP Team may use this option only once at reevaluation. At the next reevaluation for continued eligibility, the IEP Team may not determine the student eligible for emotional disability unless all criteria are met (including scores two standard deviations above or below the mean, depending on the instrument, on two out of three behavior rating scales).

(5) **Hearing Impairment.**

(a) Definition. Hearing Impairment means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance. This term includes both deaf and hard-of-hearing.

(b) Criteria.

1. Evidence that vision screening results are satisfactory prior to proceeding with evaluations.
2. Audiological data indicating that the child has a hearing impairment.
3. Evidence that the educational performance is adversely affected by the disability.

(c) Minimum Evaluative Components.

1. Vision screening.
2. Audiological evaluation.
3. Performance measures such as group or individual intelligence scores, individual/group education achievement and/or diagnostic test(s), classroom observation, review of child's existing records (i.e. attendance, health).

(6) **Intellectual Disability.**

(a) Definition. Mental Retardation means significantly subaverage general intellectual functioning existing concurrently with significant limitations in adaptive behavior and manifested during the developmental period that adversely affects the child's educational performance.

(b) Criteria.

1. Evidence that vision/hearing screening results are satisfactory prior to proceeding with evaluations.

2. Total or full-scale intelligence quotient must be at least two standard deviations below the mean (70 or below).

3. Adaptive behavior scales.

(i) Total score on at least one adaptive behavior scale must be at least two standard deviations below the mean (70 or below). A school version of an adaptive behavior scale is required to be completed. The public agency must make reasonable efforts to obtain a home version of the adaptive behavior scale. If a home version is not obtained, a second school version is required. The school version(s) and the home version of the adaptive behavior scale must be conducted using the same instrument. The home version of the adaptive behavior scale can be completed by the parent through a home visit, parent/teacher conference, telephone interview, or other mutually agreed upon arrangement. It is the responsibility of the public agency to ensure that the parent receives the assistance needed to complete the adaptive behavior scale. The public agency must make at least two attempts to have the parent complete the home version of the adaptive behavior scale within the sixty (60) days of receiving parental consent for initial evaluation and document such attempts on the eligibility report. However, the absence of a home version of the adaptive behavior scale must not delay the eligibility determination timeline.

(ii) For students with individual intellectual scores in the significant cognitive disability range (55 and below), the total score on at least one adaptive behavior scale must be at least 1.5 standard deviations below the mean (77 or below). As in 3(i) above, a school version of an adaptive behavior scale is required and reasonable efforts to obtain a home version must be made.

4. Evidence that the disability adversely affects educational performance. (Note: Achievement scores at least one standard deviation below the mean should confirm and validate the intellectual functioning and adaptive behavior scales).

5. Determination of any environmental, cultural, language, or economic differences that might mask the student's true abilities. If at least one concern is noted, the team must consider administering a non-traditional intelligence test.

(c) Minimum Evaluative Components.

1. Vision/hearing screening.
2. Individual intellectual evaluation.
3. Individual adaptive behavior evaluation (Note: School and home versions must be conducted using the same instrument).
4. Individual educational achievement evaluation (Note: Screening instruments may not be used to determine eligibility).
5. Environmental, cultural, language, and economic information.

(d) Exception to the current rule. Minority students in the seventh grade and older in the 2000-2001 school year and who were identified prior to July 1, 1999, will continue to be reevaluated under the criteria in this exception rule. Non-minority students in the fourth grade and older in the 2000-2001 school year and who were identified prior to July 1, 1999, will continue to be reevaluated under the criteria in this exception rule. However, if a qualified team, including the parent, deems it appropriate to use the criteria in the current rule, they may do so, but written justification for this action must be documented in the eligibility report.

1. Definition. Intellectual Disability means significantly subaverage general intellectual functioning resulting in or associated with concurrent impairments in adaptive behavior and manifested during the developmental period that adversely affects the student's educational performance. Students classified as having intellectual disability must have a total or full-scale intelligence quotient of seventy (70) or below and deficits in overall adaptive behavior.

2. Evaluations Required.

- (i) Vision and hearing screening.
- (ii) Adaptive behavior scale.
- (iii) Individual educational achievement and/or diagnostic test(s).
- (iv) Individual intellectual evaluation.

(v) Professional judgment should be used to determine if the results of any of the above evaluations are reliable sources of information, or if other assessment data (e.g. developmental scales, systematic observation) may prove to be a more accurate indicator of the student's level of functioning.

(7) **Multiple Disabilities.**

(a) Definition. Multiple Disabilities means concomitant impairments (such as intellectual disability-blindness, or intellectual disability-orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.

(b) Criteria. The child must meet all eligibility criteria for two or more areas of disabilities as defined in these rules. Eligibility criteria for the two or more areas of disabilities must be documented on the eligibility report.

(c) Minimum Evaluative Components. Refer to minimum evaluative components required under each area of disability.

(8) **Orthopedic Impairment.**

(a) Definition. Orthopedic Impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures). If a medical diagnosis is presented, the medical diagnosis alone is not enough to justify being identified in the area of orthopedic impairment. The impairment must adversely affect the educational performance of the child.

(b) Criteria.

1. Evidence that vision/hearing screening results are satisfactory prior to proceeding with evaluations.
2. Evidence of an orthopedic impairment.
3. Performance measures that document how the child's disability affects his or her involvement and progress in the general education curriculum or, for

preschool children how the disability affects the child's participation in age-appropriate activities.

4. A statement providing evidence that the orthopedic impairment adversely affects educational performance, and for initial evaluation for special education services only, evidence of interventions/accommodations that have been tried in regular education class(es) or the natural environment (for preschool children) but were deemed unsuccessful.

(c) Minimum Evaluative Components.

1. Vision/hearing screening.

2. Documentation of the orthopedic impairment (medical diagnosis/physician's statement).

3. Performance measures such as developmental scores, individual and/or group intelligence scores, individual and/or group educational achievement and/or diagnostic test(s) scores, classroom observations, motor assessments, criterion-referenced tests, curriculum-based assessments, review of child's existing records (i.e. attendance, health).

4. A statement of how the impairment adversely affects the educational performance of the child, and for initial evaluations for special education services only, documentation of interventions/accommodations must include a written description of all interventions/accommodations that have been tried in the regular education class(es) or the natural environment (for preschool children) but were deemed unsuccessful. Interventions/accommodations may be documented through teacher interview(s) that are specific to the child's disability, classroom observation(s) that are specific to the child's disability, health records, anecdotal records, therapy evaluations, and intervention strategies.

(9) **Other Health Impairment.**

(a) Definition. Other Health Impairment means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette Syndrome. If a medical

diagnosis is presented, the medical diagnosis alone is not enough to justify being identified in the area of other health impairment. The impairment must adversely affect the educational performance of the child.

(b) Criteria for Other Health Impairment.

1. Evidence that vision/hearing screening results are satisfactory prior to proceeding with evaluations.
2. Evidence of a health impairment.
3. Performance measures that document how the child's disability affects his or her involvement and progress in the general education curriculum, or for preschool children, how the disability affects the child's participation in age-appropriate activities.
4. A statement providing evidence that the health impairment adversely affects the educational performance of the child and, for initial evaluation for special education services only evidence of interventions/accommodations that have been tried in regular education class(es) or the natural environment (for preschool children) but were deemed unsuccessful.

(c) Minimum Evaluative Components for Other Health Impairment.

1. Vision/hearing screening.
2. Documentation of the health impairment (medical diagnosis/statement).
3. Performance measures such as developmental scores, individual and/or group intelligence scores, individual and/or group education achievement and/or diagnostic test(s) scores, classroom observations, motor assessments, criterion-referenced tests, curriculum-based assessments, review of child's existing records, (i.e. attendance, health).
4. A statement of how the impairment adversely affects the educational performance of the child and, for initial evaluations for special education services only, documentation of interventions/accommodations must include a written description of all interventions/accommodations that have been tried in the regular education class(es) or the natural environment (for preschool children) but were deemed unsuccessful. Interventions/ accommodations may be documented through teacher interview(s) that are

specific to the child's disability, classroom observation(s) that are specific to the child's disability, health records, anecdotal records, therapy evaluations, and intervention strategies.

(d) Criteria for Other Health Impairment - Attention Deficit Disorder (ADD) or Attention Deficit Hyperactivity Disorder (ADHD).

1. Evidence that vision/hearing screening results are satisfactory prior to proceeding with evaluations.
2. Evidence that the health impairment adversely affects the educational performance of the child.
3. Standard scores (total or composite) on two out of three of the same norm-referenced scale designed specifically to determine the presence of ADD or ADHD must be at least two standard deviations above or below the mean (70, depending on the rating scale). Ratings from three or more scales must be obtained from at least three independent raters, one of whom may be the parent.
4. For initial evaluations only, evidence of interventions/accommodations that have been tried in regular education class(s) or the natural environment (for preschool children) but were deemed unsuccessful.

(e) Minimum Evaluative Components for Other Health Impairment - ADD or ADHD.

1. Vision/hearing screening.
2. A statement of how the health impairment adversely affects the educational performance of the child and documentation of performance measures such as individual and/or group intelligence scores, individual and/or group education achievement and/or diagnostic test(s) scores, classroom observations, criterion-referenced tests, curriculum-based assessments, review of child's existing records, (i.e. attendance, health, discipline).
3. Administration of three of the same norm-referenced behavior rating scale, ADD or ADHD scale by three or more independent raters who have had knowledge of the child for at least six weeks. One of the raters may be the parent or the child. If a self-report is used, it must be a version of the same behavior rating scale, ADD or ADHD scale.

4. For initial evaluations for special education services only, documentation of interventions/ accommodations must include a written description of all interventions/ accommodations that have been tried in the regular education class(es) or the natural environment (for preschool children) but were deemed unsuccessful. Interventions/ accommodations may be documented through teacher interview(s) that are specific to the child's disability, classroom observation(s) that are specific to the child's disability, health records, anecdotal records, therapy evaluations, and intervention strategies.

(10) **Specific Learning Disability.**

(a) Definition. Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disability, or of environmental, cultural, or economic disadvantage.

(b) General.

1. When determining whether a child has a specific learning disability a public agency will not be required to take into consideration whether a child has a severe discrepancy between intellectual ability and achievement. A public agency may use a process based on the child's response to scientific, research-based intervention. A public agency may use other alternative research-based procedures for determining whether a child has a specific learning disability.

2. For children suspected of having a specific learning disability, the Eligibility Committee and/or IEP Team must also include:

(i) The child's regular education teacher, or

(ii) If the child does not have a regular education teacher, a regular education teacher qualified to teach a child of his or her age, or

(iii) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age, and

(iv) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

(c) Criteria.

1. Evidence that vision/hearing screening results are satisfactory prior to proceeding with evaluations.

2. A public agency may determine that a child has a specific learning disability if:

(i) The child does not achieve adequately for the child's age or meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or State-approved grade level standards: oral expression, listening comprehension, written expression, basic reading skills, reading fluency skills, reading comprehension, mathematics calculation, or mathematics problem solving.

(ii) The child does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in paragraph 2.(i) of this section when using a process based on the child's response to scientific, research-based intervention; or

(iii) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments.

3. The group determines that the existence of specific learning disability is not the result of a visual, hearing, or motor disability; intellectual disability; emotional disability; cultural factors; environmental or economic disadvantage or limited English proficiency.

4. Data to ensure that underachievement in a child suspected of having a specific learning disability is

not due to lack of appropriate instruction in reading or math.

5. The public agency must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.

6. Documentation of work samples in the area of suspected disability.

(d) Minimum Evaluative Components for Specific Learning Disability.

1. Vision/hearing screening.

2. Documentation of a specific learning disability:

(i) Documentation that the child does not achieve adequately for the child's age or meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or State-approved grade level standards: oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation, or mathematics problem solving. Public agencies that choose to use the predicted achievement model must use either the table provided by the State Department of Education, Special Education Services, or the predicted achievement tables as provided by test publishers. Obtained achievement scores must be greater than one standard deviation unit or at least 16 points below the predicted achievement score using instruments with a common metric (mean of 100 and standard deviation of 15). Documentation of the severe discrepancy must be included in the written report/eligibility determination. When using the predicted achievement model to calculate the severe discrepancy, administer:

(I) An age-appropriate norm-referenced individually administered intelligence test (full scale score).

(II) An age-appropriate, individually administered, standardized, norm-referenced achievement test to determine a student's

obtained achievement score(s) using one of the following two methods:

I. Using an obtained total test score from the administration of a test of achievement, or using an obtained test score from the administration of a test in the area of suspected disability (e.g., a test of reading, a test of math, a test of written expression, or a test of language).

II. Using obtained composite scores or subtest scores from the administration of two different achievement tests in the same area(s) of suspected disability and /or skill deficit;

(ii) Documentation that the child has participated in a process that assesses the child's response to scientific, research-based intervention including:

(I) The instructional strategies used and the student-centered data collected; and

(II) The documentation that the child's parents were notified about: I. The State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided; II. Strategies for increasing the child's rate of learning; and III. The parents' right to request an evaluation; or

(iii) Documentation of a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments.

3. Documentation that the existence of specific learning disability is not the result of a visual, hearing, or motor disability; intellectual disability; emotional disability; cultural factors; environmental or economic disadvantage or limited English proficiency must include but is not limited to adaptive behavior scale, behavior rating scale, environmental cultural economic concerns checklist.

4. Data that demonstrate that the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.

5. Observation.

(i) The group responsible for determining whether a child has a specific learning disability, must decide to:

(I) Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation; or

(II) Have at least one member of the group conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent is obtained.

(ii) In the case of a child of less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age.

6. Work samples in the area of difficulty.

(e) Specific documentation for the eligibility determination.

1. For a child suspected of having a specific learning disability, the documentation of the determination of eligibility must contain a statement of:

(i) Whether the child has a specific learning disability;

(ii) The basis for making the determination, including an assurance that the determination has been made in accordance with eligibility requirements;

(iii) The relevant behavior, if any, noted during the observation of the child and the relationship

of that behavior to the child's academic functioning;

(iv) The educationally relevant medical findings, if any;

(v) Whether the child does not achieve adequately for the child's age or to meet State-approved grade-level standards; and

(vi) Whether the child does not make sufficient progress to meet age or State-approved grade-level standards; or the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards or intellectual development;

(vii) The determination of the group concerning the effects of a visual, hearing, or motor disability; intellectual disability; emotional disability; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and

(viii) If the child has participated in a process that assesses the child's response to scientific, research-based intervention:

(I) The instructional strategies used and the student-centered data collected; and

(II) The documentation that the child's parents were notified about: I. The State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided; II. Strategies for increasing the child's rate of learning; and III. The parents' right to request an evaluation.

2. Each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

(f) Exception to the current rule. All children referred prior to July 1, 1998, and who have been identified as specific learning disabled using the simple standard score discrepancy criteria will continue to be reevaluated with this exceptions criteria until such time

as the child is no longer eligible for services. However, if a qualified team, including the parent, deems it appropriate to use the current criteria, they may do so, but written justification for this action must be documented in the eligibility report. The simple standard score discrepancy criteria are as follows:

1. Definition. Specific Learning Disabilities means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. Children with specific learning disabilities will demonstrate a severe discrepancy between intellectual ability and achievement in one or more of the following areas: basic reading skills, reading comprehension, mathematical calculation, mathematical reasoning, oral expression, listening comprehension, or written expression.

2. Eligibility Criteria. The eligibility team must consider a variety of criteria in the identification of children with specific learning disabilities. No single criterion or specific number of characteristics can be used in identifying children with specific learning disabilities. Rather, the age-appropriateness of observed behaviors and the frequency, intensity, and duration of a child's learning problems are critical in distinguishing specific learning disabilities from learning problems resulting from such factors as low motivation, underachievement, or inadequate instruction. The eligibility team must consider each of the following criteria in identifying children with specific learning disabilities. These criteria must be documented in the written report of the eligibility team.

(i) Appropriate Learning Opportunities. The eligibility team must determine that children have been provided appropriate learning opportunities commensurate with age and ability level. Prior to referral, efforts should be made in the regular school program to adapt or modify curriculum, materials, and/or instruction to accommodate the child for at least six weeks. These interventions might include, but are not limited to, changes in teaching methods, behavior management strategies, scheduling, grouping, seating arrangements, or consultation with providers of school psychological services. Documentation of prereferral intervention

strategies must be provided for the eligibility team. This should identify the interventions that were implemented and document that the child still failed to achieve. Documentation must be included in the written report of the eligibility team.

(ii) Intellectual Functioning. A total or full-scale score must be used. When school personnel suspect that the intellectual ability is not accurately reflected by an obtained total or full-scale IQ score, other measures or procedures that assess cognitive abilities may be used. This documentation must be included in the written report of the eligibility team.

(iii) Deficit in Achievement. When provided with appropriate learning opportunities, children with specific learning disabilities do not achieve commensurate with age and ability level. Their achievement in one or more of the following areas is below expectancy: basic reading skills, reading comprehension, mathematical calculation, mathematical reasoning, oral expression, listening comprehension, and/or written expression. Assessment of actual achievement must be based on the teacher referral, classroom observation, work samples, individually administered diagnostic tests, and other related information. This documentation must be included in the written report of the eligibility team.

(iv) Severe Discrepancy Between Intellectual Ability and Achievement. Children with specific learning disabilities usually exhibit a severe discrepancy between intellectual ability and achievement/diagnostic test standard scores. The standard score on the individual achievement/diagnostic test(s) must be at least one standard deviation unit below the child's intelligence quotient through ten years of age and must be at least one and a half standard deviation units below the child's intelligence quotient if the child is eleven years of age or older. This documentation must be included in the written report of the eligibility team.

(v) Exclusion of Other Primary Conditions. The area of specific learning disabilities does not include children whose learning problems are primarily the result of visual, hearing or motor disabilities; mental disabilities; emotional disability; or environmental, cultural or

economic disadvantage. This documentation must be included in the written report of the eligibility team.

3. Evaluations Required.

(i) Vision and hearing screening.

(ii) Behavior rating scale.

(iii) Individual educational achievement and/or diagnostic test(s).

(iv) Individual intellectual evaluation.

(v) Environmental, cultural, and economic concerns checklist.

(vi) At least one team member other than the child's regular teacher must observe the child's academic performance in the regular classroom setting. In the case of a child of less than school age or out-of-school, a team member must observe the child in an environment appropriate for a child of that age.

(vii) Work samples.

(viii) Professional judgment should be used to determine if the results of any of the above evaluations are reliable sources of information, or if other assessment data (e.g. developmental scales, systematic observation) may prove to be a more accurate indicator of the child's level of functioning.

(11) **Speech or Language Impairment.**

(a) Definition. Speech or Language Impairment means a communication disorder in the area of articulation, voice, fluency, or language that adversely affects a child's educational performance.

(b) Criteria.

1. Articulation.

(i) Evidence that vision/hearing screening results are satisfactory prior to proceeding with evaluations.

(ii) Errors are primarily characterized by substitutions, distortions, additions, and

omissions. Phonological errors are in excess of developmental expectations and nondevelopmental processes may be noted. Errors are not stimulable. Connected speech may be unintelligible or may be intelligible only to familiar listeners or within known contexts.

(iii) Children who exhibit a tongue thrust are not eligible for speech/language services unless they also exhibit an associated articulation disorder. Speech/language services are not a required service for children who exhibit tongue thrust only.

(iv) A child does not meet the criteria for an articulation disorder if the sole assessed disability is an abnormal swallowing pattern.

(v) A child does not meet the criteria for an articulation disorder as a result of dialectal patterns or second language acquisition patterns.

2. Voice.

(i) Evidence that vision/hearing screening results are satisfactory prior to proceeding with evaluations.

(ii) The child's voice is abnormal in vocal quality, pitch, loudness, resonance and/or duration and is inappropriate for the child's age and gender. Deviance is noticeable and distracting to any listener. The disorder adversely affects communication.

(iii) The voice disorder is not the result of a temporary problem such as normal voice change, allergies, asthma, tonsils and/or adenoid removal or other such conditions.

3. Fluency.

(i) Evidence that vision/hearing screening results are satisfactory prior to proceeding with evaluations.

(ii) Abnormally dysfluent speech is observed during conversation and/or structured speaking tasks. Listeners are distracted by the child's dysfluent speech and distracting concomitant behaviors may be observed. The child may exhibit fear or avoidance of speaking.

(iii) The child's ability to communicate is adversely affected by the disorder. Developmental dysfluencies attributable to normal maturation patterns are not considered as a disability

4. Language.

(i) Evidence that vision/hearing screening results are satisfactory prior to proceeding with evaluations.

(ii) Syntactic, morphologic, semantic, and/or pragmatic errors are observed. The child's ability to comprehend or use spoken language is adversely affected.

(iii) A total language standard score or quotient of at least two standard deviations below the mean (70 or below) on a standardized comprehensive language test containing both receptive and expressive components must be obtained.

(iv) Dialectal differences or English as a second language is not considered a language disorder.

(c) Minimum Evaluative Components. Evaluations must be completed in the area of suspected disability as follows:

1. Articulation/Phonological Disorder.

(i) A minimum of one standardized or formal measure that assesses the child's articulation/phonological skills.

(ii) Written documentation of a stimulability assessment as part of the standardized or formal measure or as a separate assessment.

(iii) Written documentation of the impact of intelligibility on connected speech.

(iv) Written documentation of an examination of oral structures and functioning.

(v) The eligibility team must obtain written documentation from the child's teacher and/or caregiver that the child's articulation skills adversely affect his or her involvement and/or progress in the general education curriculum and/or environment.

(vi) A summary of all required evaluations must be included on the eligibility report.

2. Voice Disorder.

(i) A minimum of one formal measure that assesses the child's pitch, loudness, quality, inflection and resonance.

(ii) A written description of the child's voice patterns in a variety of tasks, in a minimum of two separate settings; one in the classroom and one in a non-structured environment that includes social/ peer interaction. Diagnostic observations should occur over a period of six weeks or less, if appropriate.

(iii) Medical evaluation by a physician, preferably an otorhinolaryngologist (ENT). Written documentation from the physician stating that the child is medically cleared to participate in voice therapy is required prior to the eligibility meeting. The public agency is responsible for the cost of the evaluation if no other means of payment is available.

(iv) The eligibility team must obtain written documentation from the child's teacher and/or caregiver that the voice disorder adversely affects his or her involvement and/or progress in the general education curriculum and/or environment.

(v) A summary of all required evaluations must be included on the eligibility report.

3. Fluency Disorder.

(i) A minimum of one formal measure that assesses the child's dysfluency patterns.

(ii) A written description of the child's speaking patterns in more than one speaking task and in more than one setting.

(iii) Interviews with the child, teachers, and/or parent, documenting strengths and concerns regarding the fluency disorder.

(iv) The eligibility team must obtain written documentation from the child's teacher and/or caregiver that the fluency disorder adversely affects his or her involvement and/or progress in

the general education curriculum and/or environment.

(v) A summary of all required evaluations must be included on the eligibility report.

4. Language Disorder.

(i) A minimum of one standardized or formal comprehensive measure that assesses both receptive and expressive language skills must be administered. A child meets eligibility criteria when the total language standard score or quotient of at least two standard deviations below the mean (70 or below) on a standardized comprehensive language test containing both receptive and expressive components is obtained.

(ii) If the total language standard score does not meet the criteria of at least two standard deviations below the mean (70 or below) then a standard score at least two standard deviations below the mean (70 or below) in one area (receptive or expressive) of a comprehensive language test and a standard score or quotient at least two standard deviations below the mean (70 or below) on an assessment of a specific language component (semantics, syntax, morphology, processing, phonological awareness, or pragmatics) must be used. The assessment of a specific language component must be in the same area as the deficit score on the comprehensive language test (i.e. if the deficit area is in the receptive component, then a test designed to assess receptive skills should be administered). If the standard score or quotient on the second measure is at least two standard deviations below the mean (70 or below), then the child's language disorder meets eligibility criteria.

(iii) The eligibility team must obtain written documentation from the child's teacher and/or caregiver that the child's language impairment adversely affects his or her involvement and/or progress in the general education curriculum and/or environment.

(iv) A summary of all required evaluations in each specific area must be included on the eligibility report.

(12) **Traumatic Brain Injury.**

(a) Definition. Traumatic Brain Injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment or both, that adversely affects educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing, and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

(b) Criteria.

1. Evidence that vision/hearing screening results are satisfactory prior to proceeding with evaluations.
2. Documentation of a traumatic brain injury.
3. Evidence that the traumatic brain injury adversely affects educational performance.

(c) Minimum Evaluative Components. In emergency situations, professional judgment should be used to initially place the child.

1. Vision/hearing screening.
2. Medical/neurological evaluation.
3. Individual educational achievement evaluation to serve as initial post-trauma baseline measure.

(13) **Visual Impairment.**

(a) Definition. Visual Impairment means a visual impairment that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

(b) Criteria.

1. Evidence that hearing screening results are satisfactory prior to proceeding with evaluations.
2. Optometric/ophthalmic data indicating that the individual has a visual impairment.
3. Evidence of visual functioning that adversely affects educational performance as evaluated by a certified vision specialist.

(c) Minimum Evaluative Components.

1. Hearing screening.
2. Optometric and/or ophthalmic evaluation indicating that the individual has a visual impairment.
3. Documentation of educational problems that even after appropriate accommodations, the disability continues to affect educational performance. Educational problems may be assessed by a certified vision specialist through one or more of the following:
 - (i) A learning media assessment,
 - (ii) Functional vision assessment, and/or
 - (iii) An orientation and mobility evaluation.

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Statutory Authority: Code of Ala. 1975, Title 16, Chapter 39; 20 U.S.C. 1401(3)(A)(B), 34 CFR§300.

History: **Amended:** August 12, 1980. **Repealed:** April 10, 1986; New: April 10, 1986; effective May 30, 1986. December 13, 1990 deleted preschool caseloads from 290-080-090-.05(11) effective January 21, 1991. August 8, 1991 adopted 290-080-090-.05.48ER effective August 8, 1991. October 10, 1991 adopted ER as regular rule effective November 19, 1991. **Repealed:** June 10, 1993, New: June 10, 1993; effective August 1, 1993. **Amended:** Filed May 20, 1998; effective June 24, 1998. **Repealed and New Rule:** Filed September 9, 1999; effective October 14, 1999 (Ed. Note: This was rule was previously 290-080-090-.04). **Amended:** Filed December 14, 2000; effective January 18, 2001. **Amended:** Filed August 9, 2001; effective September 13, 2001. **Repealed and New Rule:** Filed August 11, 2005; effective September 15, 2005. **Repealed and New Rule:** Filed June 14, 2007; effective July 19, 2007. **Amended:** Filed August 4, 2008; effective September 8, 2008. **Amended:** Filed April 14, 2011; effective May 19, 2011.