

Eligibility: Determining Whether a Child is Eligible for Special Education Services

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September 12,
2013

When is a child's eligibility for special education and related services determined?

In most states the eligibility of a child for special education and related services is considered when a child has arrived at the Tier 3 level of RTI (Response to Intervention). When a child has been in Tier 2 for a pre-determined amount of time and an evaluation is given, then a meeting is called to determine eligibility for special education services. Who makes the decision about whether a child is eligible for special education and related services?



The parent of the child and a team of qualified professionals must determine whether the child is a child with a disability and in need of special education and related services.

(The determination of whether a child suspected of having a specific learning disability is a child with a disability, must be made by the child's parents and a team of qualified professionals which must include the child's regular teacher; or a regular classroom teacher qualified to teach a child of his or her age if the child does not have a regular teacher; or, for a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and at least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.)

What must the team consider in determining eligibility?

In interpreting evaluation data for the purpose of determining if a child is a child with a disability and in need of special education, each public agency is to draw upon information from a variety of sources, including aptitude and achievement tests (but not restricted to

these results), parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.

Are there additional procedures for evaluating children and determining the existence of a specific learning disability?

Yes. IDEA includes the following additional procedures when evaluating and determining the existence of a specific learning disability:

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1. A team may determine that a child has a specific learning disability if:
 - The child does not achieve commensurate with his or her age and ability levels in one or more of the areas listed below, if provided with learning experiences appropriate for the child's age and ability levels; and
 - The child has a severe discrepancy between achievement and intellectual ability in one or more of the following areas: Oral expression; listening comprehension; written expression; basic reading skill; reading comprehension; mathematics calculation; mathematics reasoning, and/or a presented portfolio, and/or teacher reports on daily work which shows academic performance is not in an acceptable range and the learning processing disability can be seen or it was stated.
2. The team may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of:
 - A visual, hearing, or motor impairment;
 - intellectual disabilities;
 - Emotional disturbance; or
 - Environmental, cultural or economic disadvantage.
3. Observation:
 - At least one team member other than the child's regular teacher shall 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 shall observe the child in an environment appropriate for a child of that age.
4. Written report For a child suspected of having a specific learning disability, the documentation of the team's determination of eligibility must include a statement of:
 - Whether the child has a specific learning disability.
 - The basis for making the determination.
 - The relevant behavior noted during the observation of the child.
 - The relationship of that behavior to the child's academic functioning.
 - The educationally relevant medical findings, if any.
 - Whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services.
 - The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.

Each team member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusions.

What are the two components that must be present in order for a child to be eligible for special education and related services?

In order for a child to be declared eligible for special education and related services it must be determined that the child is a “child with a disability” and is in need of special education and related services.

How does the law define a “child with a disability?”

The term “a child with a disability” means:

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 - A child evaluated according to IDEA as having intellectual disabilities, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, serious emotional disturbance (referred to in IDEA as emotional disturbance), an orthopedic impairment, autism, traumatic brain injury, another health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and
 - Who, by reason thereof, needs special education and related services.

Is there a non-categorical designation of a child with a disability in addition to the above categories?

At the discretion of the State and Local Education Agencies, a “child with a disability,” **aged three through nine**, may include a child who is experiencing **developmental delays**, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development, and who, by reason thereof, needs special education and related services.

What does IDEA require when determining eligibility for special education and related services based on “developmental delay?”

When determining eligibility for special education and related services based on “developmental delay” rather than a specific category, IDEA requires the following:

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- If the state decides to allow eligibility based on developmental delay, local districts will be able to choose whether or not they wish to follow suit. If the state does not adopt the developmental delay category, local districts may not use the category for establishing eligibility for special education and related services.
- *States may not require local districts to adopt and use the term “developmental delay” for any of its students.*
- States that adopt the developmental delay category may apply it to children aged three through nine or a subset of that age range, e.g. aged three through five
- States and local districts who choose to use the developmental delay category may also use one or more of the specific categories.
- States may adopt a common definition of developmental delay for its programs under IDEA, Parts B and C.
- If a local district uses the developmental delay category, it must conform to the state’s definition of developmental delay and the age range adopted by the state.

What are possible implications for students with learning disabilities when they are identified as having a developmental delay?

The use of a “developmental delay” category to determine whether a child is eligible for special education and related services could make it possible to identify some children early before they experience failure in school and fall behind their peers. Many children with learning disabilities show delays in one or more of the areas specified. There is, however, some concern that children with learning disabilities will be included in the “developmental delay” category without identifying the specific processing disorder/s present and, thus the specific intervention strategies needed will not be provided. **Parents should ensure that:**

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- Assessment tools and strategies used gather relevant functional and developmental information.
- Tests and other evaluation materials used include those tailored to assess specific areas of educational need.
- Assessment tools and strategies provide relevant information that directly assists persons in determining the education needs of the child.

Since States and Local Education Agencies are not mandated to follow a certain course, but

can make a choice regarding whether to use “developmental delay” for children aged three to nine, parents need to determine the eligibility criteria used by their State and Local Education Agencies. Contact special education administrators at the State Department of Education or the local school district for this information.

Are there other non-categorical designations?

Some states have expanded the non-categorical age past the “developmental delay” age span (3 through 9 years) to include students birth through twenty-one years of age. If states use a designation instead of categorical disabilities, certain guidelines must be followed. While the state determines the criteria for eligibility, the team must provide a comprehensive evaluation of the child that could determine a disability as defined by IDEA.