

§300.7, or, in case of a reevaluation of a child, whether the child continues to have such a disability;

(ii) The present levels of performance and educational needs of the child;

(iii) Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and

(iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general curriculum.

(b) *Conduct of review.* The group described in paragraph (a) of this section may conduct its review without a meeting.

(c) *Need for additional data.* The public agency shall administer tests and other evaluation materials as may be needed to produce the data identified under paragraph (a) of this section.

(d) *Requirements if additional data are not needed.* (1) If the determination under paragraph (a) of this section is that no additional data are needed to determine whether the child continues to be a child with a disability, the public agency shall notify the child's parents—

(i) Of that determination and the reasons for it; and

(ii) Of the right of the parents to request an assessment to determine whether, for purposes of services under this part, the child continues to be a child with a disability.

(2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.

(Authority: 20 U.S.C. 1414(c)(1), (2) and (4))

**§ 300.534 Determination of eligibility.**

(a) Upon completing the administration of tests and other evaluation materials—

(1) A group of qualified professionals and the parent of the child must determine whether the child is a child with a disability, as defined in §300.7; and

(2) The public agency must provide a copy of the evaluation report and the

documentation of determination of eligibility to the parent.

(b) A child may not be determined to be eligible under this part if—

(1) The determinant factor for that eligibility determination is—

(i) Lack of instruction in reading or math; or

(ii) Limited English proficiency; and

(2) The child does not otherwise meet the eligibility criteria under §300.7(a).

(c)(1) A public agency must evaluate a child with a disability in accordance with §§300.532 and 300.533 before determining that the child is no longer a child with a disability.

(2) The evaluation described in paragraph (c)(1) of this section is not required before the termination of a student's eligibility under Part B of the Act due to graduation with a regular high school diploma, or exceeding the age eligibility for FAPE under State law.

(Authority: 20 U.S.C. 1414(b)(4) and (5), (c)(5))

**§ 300.535 Procedures for determining eligibility and placement.**

(a) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under §300.7, and the educational needs of the child, each public agency shall—

(1) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and

(2) Ensure that information obtained from all of these sources is documented and carefully considered.

(b) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with §§300.340–300.350.

(Authority: 20 U.S.C. 1412(a)(6), 1414(b)(4))

**§ 300.536 Reevaluation.**

Each public agency shall ensure—

(a) That the IEP of each child with a disability is reviewed in accordance with §§300.340–300.350; and

(b) That a reevaluation of each child, in accordance with §§300.532–300.535, is conducted if conditions warrant a reevaluation, or if the child's parent or

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teacher requests a reevaluation, but at least once every three years.

(Authority: 20 U.S.C. 1414(a)(2))

**ADDITIONAL PROCEDURES FOR EVALUATING CHILDREN WITH SPECIFIC LEARNING DISABILITIES**

**§ 300.540 Additional team members.**

The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in §300.7, must be made by the child's parents and a team of qualified professionals which must include—

- (a)(1) The child's regular teacher; or
- (2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or
- (3) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and

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

(Authority: Sec. 5(b), Pub. L. 94-142)

**§ 300.541 Criteria for determining the existence of a specific learning disability.**

(a) A team may determine that a child has a specific learning disability if—

- (1) The child does not achieve commensurate with his or her age and ability levels in one or more of the areas listed in paragraph (a)(2) of this section, if provided with learning experiences appropriate for the child's age and ability levels; and
- (2) The team finds that a child has a severe discrepancy between achievement and intellectual ability in one or more of the following areas:

- (i) Oral expression.
- (ii) Listening comprehension.
- (iii) Written expression.
- (iv) Basic reading skill.
- (v) Reading comprehension.
- (vi) Mathematics calculation.
- (vii) Mathematics reasoning.

(b) The team may not identify a child as having a specific learning disability if the severe discrepancy between abil-

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ity and achievement is primarily the result of—

- (1) A visual, hearing, or motor impairment;
- (2) Mental retardation;
- (3) Emotional disturbance; or
- (4) Environmental, cultural or economic disadvantage.

(Authority: Sec. 5(b), Pub. L. 94-142)

**§ 300.542 Observation.**

(a) At least one team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting.

(b) 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.

(Authority: Sec. 5(b), Pub. L. 94-142)

**§ 300.543 Written report.**

(a) For a child suspected of having a specific learning disability, the documentation of the team's determination of eligibility, as required by §300.534(a)(2), must include a statement of—

- (1) Whether the child has a specific learning disability;
- (2) The basis for making the determination;
- (3) The relevant behavior noted during the observation of the child;
- (4) The relationship of that behavior to the child's academic functioning;
- (5) The educationally relevant medical findings, if any;
- (6) Whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services; and
- (7) The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.

(b) 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.

(Authority: Sec. 5(b), Pub. L. 94-142)