



## ELIGIBILITY CRITERIA

### *General Guidelines*

According to Ed. Code Section 56320 § 3030, following an assessment, the IEP team, including assessment personnel, shall make the decision as to whether or not the assessment results demonstrate that the degree of the student's impairment requires special education and/or related services.

The IEP team shall take into account all of the relevant material which is available on the student. No single score or product of scores shall be used as the sole criterion for the decision of the IEP team as to the student's eligibility for special education.

In making a determination of eligibility, a student shall not be determined to be an individual with exceptional needs if the determining factor is one of the following:

- Lack of appropriate instruction in reading
- Lack of appropriate instruction in mathematics
- Due primarily to limited school experience or poor school attendance
- Is a result of environmental, cultural difference, or economic disadvantages
- Could be corrected through other interventions and supports offered within the general education program
- Limited-English proficiency

In order to receive special education and related services under Part B of IDEA, a child must be evaluated to determine both:

- A. Whether he or she has a disability, and
- B. Whether he or she, because of the disability, needs special education and related services.

The need for special education and related services is determined by the adverse effect of the disability on educational performance, despite consistently applied and documented general education accommodations in both academic and behavioral areas. Adverse effect on educational performance could be documented by the pervasive nature of a combination of the following:

- The student is not making satisfactory progress towards grade level standards.
- On grade reports, there is an overall pattern of poor or failing grades (equivalent of D's or F's) present for extended period of time.
- Quality and degree of task completion is significantly below the range of the class.
- On standardized and curriculum-based achievement tests, the student demonstrates a significant difference between ability and achievement.

Additionally, students may exhibit needs that are related to the disability but do not have adverse effect on their ability to progress in the general education curriculum. In order to qualify to receive special education and related services in these instances, the student must have adverse effect on educational benefit. Some examples include communication and socialization deficits that affect the student's ability



to socialize with peers and work in groups. This may also be true of students with social emotional or behavioral difficulties.

For more information on referral to the California School for the Blind, California School for the Deaf, or Diagnostic Centers for additional assessment, please see the section titled, "State Special Schools and Services."

### Eligibility Categories

- Specific learning disability (SLD)
- Other health impairment (OHI)
- Emotional disturbance (ED)
- Speech or language impairment (SLI)
- Autism (AUT)
- Intellectual disability (ID)
- Hard of hearing (HH)
- Deafness (DEAF)
- Visual impairment (VI)
- Orthopedic impairment (OI)
- Deaf-blindness (DB)
- Multiple disabilities (MD)
- Traumatic brain injury (TBI)

A student with a disability who does not require special education supports and services to access or progress in the general education curriculum would not be considered eligible under any of the eligibility categories.

Eligibility Summarized: *The following information comes from Ed. Code Section 56320 § 3030.*

### Specific Learning Disability (SLD)

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 have manifested itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations.

A specific learning disability can include conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. These conditions are medically diagnosed and do not automatically make a student eligible for special education and related services. A medical diagnosis may trigger an evaluation to determine the corresponding impairment in psychological processes and the need for special education and related services in the school setting.

The basic psychological processes include:

- Attention
- Visual processing



- Auditory processing
- Sensory-motor skills
- Cognitive processing

Specific learning disabilities do not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

A severe discrepancy shall not be primarily the result of limited school experience or poor school attendance, limited English proficiency, and it must have been documented that prior to, or as a part of, the referral process, the pupil was provided appropriate instruction and intervention in general education settings, delivered by qualified personnel.

In determining whether a student has a specific learning disability, the public agency must ensure that the student is observed in the student's learning environment.

### *SLD Eligibility Models*

The following two models are listed in CA. Ed. Code Section 56320 § 3030 as models an IEP team may use to determine eligibility under the category of Specific Learning Disability: the *Discrepancy Model* and the *Response to Intervention Model*.

Within both models, both of the following items apply:

- A. Disabilities do not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage, and
- B. The student is observed in the student's learning environment.

### Discrepancy Model

In determining whether a student has a specific learning disability, the public agency may consider whether a student has a severe discrepancy between intellectual ability and achievement in any of the following:

- Oral expression
- Listening comprehension
- Written expression
- Basic reading skill
- Reading fluency skills
- Reading comprehension
- Mathematical calculation
- Mathematical reasoning

The decision as to whether or not a severe discrepancy exists shall take into account all relevant material



which is available on the student. No single score, test, or procedure shall be used as the sole criterion for the decisions of the IEP team as to the student's eligibility for special education.

In determining the existence of a severe discrepancy, the IEP team shall use the following procedures. When standardized tests are considered to be valid for a specific student, a severe discrepancy is demonstrated by:

1. Converting into common standard scores, using a mean of 100 and standard deviation of 15, the achievement test score and the intellectual ability test score to be compared,
2. Computing the difference between these common standard scores, and
3. Comparing the computed difference to the standard criterion which is the product of 1.5 multiplied by the standard deviation of the distribution of computed differences of students taking these achievement and ability tests.

A computed difference which equals or exceeds this standard criterion, adjusted by one standard error of measurement, the adjustment not to exceed 4 common standard score points, indicates a severe discrepancy when such discrepancy is corroborated by other assessment data which may include other tests, scales, instruments, observations and work samples, as appropriate.

If the standardized tests do not reveal a severe discrepancy, the IEP team may find that a severe discrepancy does exist (between cognitive ability and academic achievement), provided that the team documents in a written report that the severe discrepancy between ability and achievement exists as a result of a disorder in one or more of the basic psychological processes. The report shall include a statement of the area, the degree, and the basis and method used in determining the discrepancy.

The report shall contain information considered by the team which shall include, but not be limited to:

- Data obtained from standardized assessment instruments
- Information provided by the parent
- Information provided by the student's present teacher
- Evidence of the student's performance in the general and/or special education classroom obtained from observations, work samples, and group test scores
- Consideration of the student's age, particularly for young students
- Any additional relevant information

A severe discrepancy shall not be primarily the result of limited school experience, poor school attendance, or limited English proficiency.

Per Larry P. vs. Riles litigation, African American students in the state of California cannot be administered cognitive assessments. For additional information on Test Selection and Eligibility for African American Students as a result of the Larry P. vs Riles litigation, please see the corresponding subsection of "Assessment, Test Selection and Reports".



### *Response to Intervention Model*

Using the Response to Intervention (RtI) Model, a student may be determined to have a specific learning disability if:

- A. The student does not achieve adequately for the student'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 student's age or state-approved grade-level standards:
- Oral expression
  - Listening comprehension
  - Written expression
  - Basic reading skill
  - Reading fluency skills
  - Reading comprehension
  - Mathematical calculation or
  - Mathematical reasoning

-AND-

- B. The student does not make sufficient progress to meet age or state-approved grade-level standards in one or more of the areas identified above when using a process based on the student's response to scientific, research-based intervention;

-OR-

The student 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 research/evidence-based assessments.

To ensure that underachievement in a student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, or due to limited English-proficiency, the group making the decision must consider:

- A. Data that demonstrate that prior to, or as a part of, the referral process, the student was provided appropriate instruction in general education settings, delivered by qualified personnel;

-AND-

- B. Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the



student's parents.

### *Other Health Impairment (OHI)*

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:

- A. 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;

-AND-

- B. Adversely affects a student's educational performance.

### *OHI and ADHD*

If a student exhibits ADHD-like behaviors, the IEP team should attempt to differentiate indicators that would be more closely associated with conditions such as:

- Substance abuse
- Mood disorders (i.e.: anxiety/depression)
- Conduct disorders
- Oppositional defiant disorder
- Malnutrition

School-based assessments do not diagnose ADHD or any other medical/mental health disorder(s), they document the presence of behavior that may be symptomatic of ADHD or other conditions. If the school deems a medical diagnosis necessary to determine special education eligibility, the school would be liable to provide access to the medical diagnosis from the doctor along with responsible for the costs of the doctor's visits.

### *Emotional Disturbance (ED)*

Emotional disturbance 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 student's educational performance:

- An inability to learn that cannot be explained by intellectual, sensory, or health factors
- An inability to build or maintain satisfactory interpersonal relationships with peers and teachers
- Inappropriate types of behavior or feelings under normal circumstances
- A general pervasive mood of unhappiness or depression
- A tendency to develop physical symptoms or fears associated with personal or school problems



- Emotional disturbance includes schizophrenia.

The term does not apply to students who are socially maladjusted, unless it is determined that they also have an emotional disturbance.

School-based assessments do not diagnose mental health disorders. They document the presence of behavior that may be symptomatic of mental health disorders and how those symptoms impact educational performance.

Due to the complexity of ED assessments, assessors may wish to provide differential eligibility criteria to rule-in and/ or rule-out other areas of eligibility such as OHI, AUT, or SLD. ED assessments typically include both broad band and narrow band assessments in order to help IEP team members pinpoint specific areas of need and target IEP Goals. A thorough ED evaluation should encompass all the components of an Educationally Related Mental Health Services (ERMHS) assessment and provide ample documentation to support student's need for ERMHS services, which may include counseling or Behavior Intervention Plan (BIP). In very rare circumstances, a student who meets the eligibility criteria for ED may not additionally require ERMHS supports, including a BIP.

#### *Speech or Language Impairment (SLI)*

*A student has a language or speech disorder once it is determined that the student's disorder meets one or more of the following criteria:*

- Articulation disorder- The student displays reduced intelligibility or an inability to use the speech mechanism which significantly interferes with communication and attracts adverse attention. Significant interference in communication occurs when the student's production of single or multiple speech sounds on a developmental scale of articulation competency is below that expected for his or her chronological age or developmental level, and which adversely affects educational performance. A student does not meet the criteria for an articulation disorder if the sole assessed disability is an abnormal swallowing pattern.
- Abnormal voice- A student has an abnormal voice which is characterized by persistent, defective voice quality, pitch, or loudness.
- Fluency disorders- A student has a fluency disorder when the flow of verbal expression including rate and rhythm adversely affects communication between the student and listener.
- Language disorder- The student has an expressive or receptive language disorder when he or she meets one of the following criteria:
  - The student scores at least 1.5 standard deviations below the mean, or below the 7th percentile, for his or her chronological age or developmental level on two or more standardized tests in one or more of the following areas of language development: morphology, syntax, semantics, or pragmatics. When standardized tests are considered to be invalid for the specific student, the expected language performance level shall be determined by alternative means as specified on the assessment plan, or
  - The student scores at least 1.5 standard deviations below the mean or the score is below the 7th percentile for his or her chronological age or developmental level on one or more standardized tests in one of the areas listed in section a and displays



inappropriate or inadequate usage of expressive or receptive language as measured by a representative spontaneous or elicited language sample of a minimum of 50 utterances. The language sample must be recorded or transcribed and analyzed, and the results included in the assessment report. If the student is unable to produce this sample, the language, speech, and hearing specialist shall document why a fifty utterance sample was not obtainable and the contexts in which attempts were made to elicit the sample. When standardized tests are considered to be invalid for the specific student, the expected language performance level shall be determined by alternative means as specified in the assessment plan.

### *Autism (AUT)*

Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, and adversely affecting a student's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

Autism does not apply if a student's educational performance is adversely affected primarily because the student has an emotional disturbance.

A student who manifests the characteristics of autism after age three could be identified as having autism if the criteria are satisfied.

Autism can be medically diagnosed; however, a medical diagnosis does not automatically make a student eligible for special education and related services. A medical diagnosis may trigger a school-based evaluation to determine the corresponding need for special education and related services in the school setting. Conversely, a student does not require a medical diagnosis to meet eligibility criteria for Autism.

School-based assessments do not diagnose autism. They document the presence of behavior that may be symptomatic of autism or autism spectrum disorders and how those behaviors impact a student's learning performance.

Assessors may wish to provide differential eligibility criteria to rule-in and rule-out other areas of eligibility such as OHI, ED, or SLD. Other areas of assessment for students with Autism may include: pragmatic language (speech) or a Functional Behavioral Assessment (FBA) resulting in a BIP.

### *Intellectual Disability (ID)*

Intellectual disability means significantly sub-average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a student's educational performance.



### *Hard of Hearing (HH)*

Hearing impairment means an impairment in hearing, whether permanent or fluctuating, that adversely affects a student's educational performance but that is not included under the definition of deafness in this section.

For more information on referral to the California School for the Deaf for additional assessment, please see the section titled, "State Special Schools and Services".

### *Deafness (DEAF)*

Deafness means a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a student's educational performance.

For more information on referral to the California School for the Deaf for additional assessment, please see the section titled, "State Special Schools and Services".

### *Visual Impairment (VI)*

Visual impairment including blindness means an impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness.

For more information on referral to the California School for the Blind for additional assessment, please see the section titled, "State Special Schools and Services".

### *Orthopedic Impairment (OI)*

Orthopedic impairment means a severe orthopedic impairment that adversely affects a student'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).

### *Deaf- Blindness (DB)*

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 students with deafness or student with blindness.

For more information on referral to the California School for the Blind for additional assessment, please see the section titled, "State Special Schools and Services".



### *Multiple Disabilities (MD)*

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.

### *Traumatic Brain Injury (TBI)*

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 a student's educational performance. Traumatic brain injury 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.

Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

Neither the IDEA nor California law expressly require medical documentation of TBI prior to determining whether a student qualifies under the TBI eligibility category. If a parent provides the IEP team, either verbally or in writing, with information that a student has suffered a TBI, the IEP team should consider the information and determine whether the information suffices to prove the student suffers from a TBI or whether additional information is necessary. If the IEP team requires further information, such as a medical evaluation to determine whether the student is suffering from a TBI caused by external physical force or some other impairment, the district is required to provide the assessment at no cost to the parents, just as it would under any other disabling condition.

Other Considerations with Regards to Eligibility:

### *Attention Deficit Hyperactivity Disorder (ADHD)*

A student whose educational performance is adversely affected by a suspected or diagnosed attention deficit hyperactivity disorder (ADHD) and after other documented interventions have proven unsuccessful, may meet eligibility requirements under the following categories:

- *Specific Learning Disability (SLD)* with a significant discrepancy between ability and achievement and a deficit in attention which is one of the five basic psychological processes; or
- *Emotionally Disturbed (ED)* when the lack of attention is causing a severe emotional condition so pervasive that it adversely affects educational performance; or
- *Other Health Impaired (OHI)* when ADHD is a chronic, acute health problem which causes a limited and/or heightened alertness to the educational environment and adversely impacts educational performance.

It may be beneficial for the Assessment Team to provide differential eligibility criteria (in assessment



reports) to examine all three of the above criteria (SLD, ED, OHI) in order to rule-in or rule-out a category and assist the IEP team in documenting that these needs were fully explored.

*Medical Diagnosis: ADHD, Autism, Other Medical Conditions, and/or Mental Health Disorders*

Eligibility for special education and medical diagnosis are two different entities:

- Educational eligibility allows a student to access IDEA services and is determined by a school-based IEP team after school-based assessments are conducted.
- Medical diagnosis is a process conducted by a doctor or team of doctors to determine a medical need exists, which can include either a physical or a mental health disorder.

There is no requirement for medical documentation from a doctor in order for a student to become eligible for or continue to receive special education services, unless the IEP team deems it necessary.

If an IEP team suspects ADHD, autism, other medical conditions, and/or mental health disorders may be impacting a student's learning, the team should conduct a school-based assessment to look at the ways in which the suspected disability is manifesting at school and impacting the student's ability to learn.

In extremely rare circumstances, an IEP team may determine that additional medical documentation is required. If the school deems a medical diagnosis necessary to determine special education eligibility, the school would be liable to provide access to the medical diagnosis from the doctor along with responsible for the costs of the doctor's vi

In order to access special education services, a student must have an assessment for special education conducted to examine how the student's learning is impacted by the disability. A doctor's recommendation, report, prescription, or letter is not sufficient to determine eligibility, but must be taken into account by the IEP team.

*Accessing Related Services*

In order for a student to access any related services, they must have an evaluation conducted by the appropriately credentialed specialist. The evaluation/assessment must identify that the student qualifies for the related service and the report must outline areas of need. The IEP team will then meet, discuss the assessment results, and develop present levels from the assessments results. The student's needs will be outlined in the present levels and those needs will drive goals and services. The goals should have baseline data to indicate present level of functioning. Services and goals should be updated at each annual IEP and re-evaluated at each triennial IEP. Should a service provider wish to exit a student from a related service, they should complete a full reevaluation to provide the IEP team with documentation that the related service is no longer necessary.