

§ 300.306

§ 300.306 Determination of eligibility.

(a) *General.* Upon completion of the administration of assessments and other evaluation measures—

(1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in §300.8, in accordance with paragraph (c) of this section and the educational needs of the child; and

(2) The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

(b) *Special rule for eligibility determination.* A child must not be determined to be a child with a disability under this part—

(1) If the determinant factor for that determination is—

(i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA);

(ii) Lack of appropriate instruction in math; or

(iii) Limited English proficiency; and

(2) If the child does not otherwise meet the eligibility criteria under §300.8(a).

(c) *Procedures for determining eligibility and educational need.* (1) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under §300.8, and the educational needs of the child, each public agency must—

(i) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and

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

(2) 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 §§300.320 through 300.324.

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

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ADDITIONAL PROCEDURES FOR IDENTIFYING CHILDREN WITH SPECIFIC LEARNING DISABILITIES

§ 300.307 Specific learning disabilities.

(a) *General.* A State must adopt, consistent with §300.309, criteria for determining whether a child has a specific learning disability as defined in §300.8(c)(10). In addition, the criteria adopted by the State—

(1) Must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability, as defined in §300.8(c)(10);

(2) Must permit the use of a process based on the child's response to scientific, research-based intervention; and

(3) May permit the use of other alternative research-based procedures for determining whether a child has a specific learning disability, as defined in §300.8(c)(10).

(b) *Consistency with State criteria.* A public agency must use the State criteria adopted pursuant to paragraph (a) of this section in determining whether a child has a specific learning disability.

(Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))

§ 300.308 Additional group members.

The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in §300.8, 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: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))