

Disability Categories: State Terminology, Definitions & Eligibility Criteria

by

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Disability Categories: State Terminology, Definitions and Eligibility Criteria

Purpose

This policy analysis is a comparison of states' terminology, definitions and eligibility criteria for the 13 required federal disability categories under the Individual with Disabilities Education Act (IDEA): autism, deaf-blindness, deafness, emotional disturbance, hearing impairment, mental retardation, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury and visual impairment including blindness, as well as the one optional disability category: developmental delay. Only those aspects of state law related to eligibility criteria that go beyond federal requirements are described. Project FORUM at the National Association of State Directors of Special Education (NASDSE) carried out this policy analysis as part of its cooperative agreement with the U.S. Department of Education's Office of Special Education Programs (OSEP).

Policymakers may find it useful to compare their states' terminology, definitions and eligibility criteria with those of other states when contemplating changes to their state special education laws and regulations. This document is intended for use as a resource document and consequently contains detailed information. Each section, however, is designed to stand alone and the reader may choose to refer only to those sections on a disability category of specific interest. However, it is recommended that the reader review the background and legislation, methodology and summary sections, which provide a useful framework for interpreting data contained within this document.

Background and Legislation

States are currently required by federal law to report annually on the children served under IDEA using the 13 federal disability categories listed above [34 CFR §300.751(c)]. States are also permitted to use subcategories and/or additional disability categories as long as these are converted to the 13 federal categories for reporting. Developmental delay is an optional category that states may choose to use for children age three through nine or some subset of that age range and may also determine eligibility criteria for developmental delay [34 CFR §300.313]. Disability terms and definitions have evolved over time, with new categories being added (most recently autism and traumatic brain injury in 1990 under P.L. 101-476) and minor changes being made to federal terminology (e.g., "learning disabled" being changed to "specific learning disability" also in 1990 under P.L. 101-476) and definitions.¹

Federal regulations provide a number of generic criteria for determining eligibility that pertain to all disability categories – most of which were added as part of the 1997 amendments to IDEA (See Appendix I for relevant excerpts from IDEA regulations). With the exception of specific learning disability, federal regulations do not provide any disability category-specific eligibility criteria. According to federal regulations:

¹ For a more thorough history of federal legislation regarding disability terms, see: E. Müller and P. Linehan (2001), Federal disability terms: A review of state use, published by Project FORUM at NASDSE. This document may be downloaded at http://www.nasdse.org/FORUM/fed_disability_terms.pdf

- evaluation must be based on a variety of assessment tools and strategies [34 CFR §300.532(b)];
- assessment tools must be selected and administered so as not to be discriminatory on a racial or cultural basis [34 CFR §300.532(a)(1)(i)];
- any standardized tests must be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of tests [34 CFR §300.532(c)(1)(ii)];
- tests must be selected and administered to a child with impaired sensory, manual or speaking skills so that the test accurately reflects the child's aptitude or achievement levels [34 CFR §300.532(e)];
- no single procedure should be used as the sole criterion for determining whether a child is a child with a disability [34 CFR §300.532(f)];
- assessment should cover all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities [34 CFR §300.532(g)]; and
- evaluation must be sufficiently comprehensive to identify all of the child's education and related services needs [34 CFR §300.532(h)].

Upon completion of assessments and other evaluation procedures, federal regulations state that determination of eligibility must:

- be made by a group of qualified professionals and the parent [34 CFR §300.534(a)(1)]; and
- 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 [34 CFR §300.535(a)(1)].

Data Collection and Analysis

Collection of data took place in three phases. First, Project FORUM staff searched the National State Policy Database² for information included in state special education regulations on terminology, definitions and eligibility criteria specific to any of the 14 federal disability categories. Second, state education agency websites were searched for any additional information on the federal disability categories (e.g., handbooks or worksheets for determining eligibility). Third, individualized letters were sent to each state describing the information Project FORUM staff was able to find, and requesting that states confirm the accuracy of this information and supply any additional or missing information as appropriate. For the category of specific learning disability, supplemental information on definitions and eligibility was included based on research conducted at the National Research Center on Learning Disabilities (NRCLD) (Reschly, Hosp, & Schmied, 2003), and for the category of developmental delay, supplemental information on definitions and eligibility was provided by the National Early Childhood Technical Assistance Center (NECTAC) (Danaher, 2003).

² The National State Policy Database (NSPD) contains state special education regulations for 49 states, and can be found at: <http://128.146.206.233/Resources/NSPD.cfm>

As of March 31, 2003, Project FORUM staff was able to obtain information on one or more of the federal disability categories (i.e., terminology, definitions and/or eligibility criteria) for all 50 states and three non-state jurisdictions.³ No information was obtained for the remaining eight non-state jurisdictions. Forty-two of the total 61 states and non-state jurisdictions wrote to confirm the accuracy of Project FORUM's data. However, since no confirmation was received from the remaining 19 states and non-state jurisdictions, it is important to note that Project FORUM's analysis may in some cases be based on incomplete and/or outdated information. For the remainder of this document, the 53 states and non-state jurisdictions included in this analysis will be referred to as *states*.

Analysis of state data addressed the following questions:

- How many states use the exact federal term for each disability category or a slight variation and how many states use other comparable terms? For example, the term *hearing impaired* is treated as a slight variation of the federal term hearing impairment; whereas the term *auditory disability* is treated as a different but comparable term.
- How many states use the exact federal definition for each disability category or a slight variation thereof and how many states use other definitions? For the purpose of this analysis, a slight variation of the federal definition is any definition that is clearly based on the content and wording of the federal definition but contains minor variations in word choice or phrase order and/or provides examples of conditions included under the disability category not explicitly mentioned in the federal definition. Definitions that are coded as "other," although not necessarily differing substantively from federal definitions, use different wording and/or elaborate on concepts covered only briefly by federal definitions.
- What types of assessment and documentation do states require in determining eligibility for each disability category? Types of assessment and documentation commonly mentioned by states include for example: assessment or diagnosis by outside professionals (i.e., non-educators); educational or developmental assessment; communication assessment; intellectual assessment; adaptive behavior assessment; evaluation of vision, hearing, health or motor skills; and documentation of one or more interventions.
- How many states require the use of qualitative data in determining eligibility for each disability category? Qualitative data commonly mentioned by states include for example: observations, interviews, teacher narratives and social and developmental histories.
- How many states include requirements regarding the composition of the team that determines eligibility for each disability category? Professionals commonly required by states include for example: child's classroom teacher, speech-language clinician, physician, school psychologist or licensed psychologist, audiologist or otolaryngologist, or ophthalmologist or optometrist.

³ The three non-state jurisdictions included in this study are the Department of Defense Education Agency (DODEA), Commonwealth of Northern Mariana Islands and the Virgin Islands.

- How many states specifically require the participation of physicians or other medical professionals in determining eligibility for each disability category? Medical professionals required by states include neurologists, psychiatrists and otolaryngologists, as well as medical professionals who are not physicians (e.g., audiologists, optometrists or nurses).

Findings are reported in 14 sections – one for each of the federal disability categories. Some states include one or more of the federal disability categories under a single disability category. For instance, one state includes autism, other health impairment and traumatic brain injury under the disability category of orthopedic impairment. In cases such as this, information on definitions and eligibility for specific disabilities is provided under the disability category or categories used by the state.

The purpose of this document is to describe the terminology, definitions and eligibility criteria included in states' special education regulations or other official documents. A description of states' eligibility determination *practices* was not within the scope of this document. It is important to note, therefore, that states that do not have formal eligibility criteria for specific disability categories, may nonetheless have informal rules or guidelines in place governing the way in which eligibility is determined for some or all disability categories. Furthermore, several states provide generic eligibility criteria for *all* disability categories (rather than specific eligibility criteria for individual disability categories). For example, states may include specific requirements for the makeup of the team determining eligibility that apply to all disability categories. However, analysis of these generic eligibility criteria was not conducted for this document. One last point of clarification — all states must submit data for each federal disability category to the Secretary of Education [34 CFR §300.751]. It was not within the scope of this analysis to examine how state and federal disability categories are crosswalked for required data submission.

Organization of Document

This document is divided into 14 sections – one for each federal disability category. Each section is divided into the following subsections:

- *Overview* – the total number of states that include terminology, definitions and eligibility criteria for the particular disability category within state special education regulations or other official documents.
- *Terminology* – the total number of states that use the exact federal term or a slight variation, as well as the number of states that use different but comparable terms.
- *Definition* – the total number of states that use the exact federal definition or a slight variation, as well as the number of states that use different definitions.
- *Eligibility Criteria* – these subsections vary from one disability category to another and provide information on specific assessments required for determining eligibility (e.g., diagnosis or assessment by an outside professional, educational or developmental assessment, communication assessment, intellectual assessment, behavioral assessment, and/or other required or recommended assessments).
- *Use of Qualitative Data* – information on how many states specifically require the use of qualitative data for determining eligibility.

- *Requirements for Team Determining Eligibility* – information on how many states include specific requirements regarding the makeup of the team determining eligibility.
- *Requirements for Medical Involvement* – information on how many states require the involvement of physicians or other medical professionals in one or more phases of determining eligibility.
- *Summary* – a brief summary of findings related to states’ use of terminology, definitions and eligibility criteria for each disability category, as well as a table highlighting major findings.

A comprehensive summary is located at the end of the entire document that compares differences in states’ use of terminology, definitions and eligibility criteria *across* disability categories.

Findings

Most states have terms and definitions for the 14 federal disability categories. Not all states, however, have specific eligibility criteria for each disability category (i.e., several only include generic requirements for determining eligibility). Furthermore, among those states that have specific eligibility criteria, there is significant variation in terms of the level of detail provided. For instance, some states provide only one or two sentences for each disability category, whereas other states provide six or more pages per disability category. Several states have detailed recommendations for determining eligibility, but no requirements.

Autism

Overview

Fifty-one states use the exact federal term autism or a comparable term within state regulations or other documents. Forty-nine provide a definition for the category of autism and 32 include specific eligibility criteria. (See Table 1 for a summary of state terminology, definition and eligibility criteria for autism.) One state includes autism under the category of orthopedic impairment (OI), and information on this state’s definitions and eligibility criteria can be found under the section on OI.

Terminology

Forty-eight states use either the exact term autism or a slight variation — autistic. Three additional states use the comparable term *autism spectrum disorder*.

Definition

Federal regulations provide the following definition for autism:

(1)(i) *Autism* means a developmental disability significantly affecting verbal or nonverbal communication and social interaction, generally evident before age 3, that adversely affects a child’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. The term does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance as defined in paragraph (b) (4) of this section.

(ii) A child who manifests the characteristics of 'autism' after age 3 could be diagnosed as having 'autism' if the criteria in paragraph (c)(1)(i) of this section are satisfied. [34 CFR §300.7(c)(1)]

Forty-five states use the exact federal definition for autism or a slight variation and four states use other definitions. For instance, several states describe the characteristics of autism in slightly different terms – e.g., “a pervasive impairment of cognitive and perceptual functioning, the consequences of which are manifested by limited ability to understand, communicate, learn and participate in social relationships.” Another state describes autism as a “lifelong developmental disability.”

Of the 49 states providing a definition for autism, 14 states specify that one or more of the following additional conditions also fall under the category of autism: Asperger Syndrome, childhood disintegrative disorder, Rett's Syndrome and/or pervasive developmental disorder—*not* otherwise specified (PDD-NOS). One state specifies, however, that the category of autism does *not* include other pervasive developmental disorders.

Eligibility Criteria

Diagnosis or Assessment by Outside Professional

Fifteen states specifically require diagnosis or assessment by an outside professional. All 15 include information on which outside professionals are qualified to make a diagnosis of autism. The following are designated as qualified professionals in one or more states:

- physician (11 states);
- licensed psychologist (9 states);
- psychiatrist (8 states);
- school psychologist (7 states);
- trained evaluator of emotional/behavioral disorders or developmental disabilities (2 states);
- speech-language clinician⁴ (2 states);
- school psychologist in collaboration with a speech-language clinician (1 state);
- licensed psychometrist (1 state);
- associate school psychologist (1 state); and
- developmental pediatrician (1 state).

Two additional states have more specific professional requirements. One requires assessment by both a physician specializing in neurological development *and* a speech-language clinician and

⁴ The term speech-language clinician is used generically in this section to refer to any number of speech and language professionals working in the schools.

one requires diagnostic evaluation by an agency or multi-disciplinary team specializing in the diagnosis of autism.

Eight states specifically require a physical exam or medical report⁵ and one of these requires that information be provided by a pediatrician, neurologist or other physician. Several additional states also recommend physical or neurological exams *as appropriate*.

Behavioral Indicators

Twenty states include lists of behavioral indicators for the category of autism that go beyond those included in the federal definition. Some states require that a minimum number of indicators be exhibited by a child (e.g., 6 out of 9 indicators), whereas other states present the indicators for informational purposes only. Indicators most commonly listed by states include: significant delays in verbal and nonverbal communication; lack of imaginative play; marked impairment in ability to attract another's attention or sustain socially appropriate conversation; rigid or rule bound thinking; preoccupation with objects or unusual use of objects; unconventional responses to sensory stimuli; unusual motor patterns such as self-stimulation or self-injurious behavior; and isolated areas of precocious or advanced skills.

Autism-Specific Assessment Instruments

Eight states require the use of assessment instruments specifically designed for the identification of autism such as an autism rating scale or checklist aligned with the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM) criteria for autism. Of these eight, one state requires that an autism rating scale be standardized and completed by someone who knows the child well in consultation with a school psychologist, licensed psychologist or psycho-educational specialist. One state recommends, but does not require, the use of autism-specific assessment instruments.

Behavioral Assessment

Ten states require some type of behavioral and/or social assessment as part of their eligibility process for autism – for example, behavior rating scales or adaptive behavior assessments. Two states recommend, but do not require, the use of adaptive behavior scales.

Communication Assessment

Seventeen states require a communication assessment in determining eligibility for autism and one recommends such assessment. Four states specifically require that the assessment include one or more of the following components: both verbal and nonverbal communication; expressive and receptive communication; or semantic, pragmatic and social language skills. One state notes that an augmentative and alternative communication (AAC) assessment may be used when appropriate. Four states require that a speech-language clinician conduct the communication

⁵ These states may or may not be included among the 15 states requiring diagnosis or assessment by an outside professional.

assessment; two states require the assessment to be norm-referenced or standardized; and one state requires that the assessment be conducted within the past 12 months.

Educational or Developmental Assessment

Twelve states require an educational or developmental assessment and three recommend such assessment. Of these, one specifies that the assessment be conducted by an educational diagnostician or other qualified professional.

Other Required and Recommended Assessments

A number of states require other types of assessment and/or documentation.

- Seven states require an assessment of intellectual ability and two of these specify that the assessment be norm-referenced or standardized. Two additional states recommend intellectual assessment.
- Two states require a comprehensive psychological assessment.
- Five states require assessment of sensory processing – usually vision and hearing – and three states recommend such assessment. One of the five specifies that the hearing assessment must be conducted by an audiologist and recommends that the assessment be based on techniques that do not require an overt or voluntary response.
- One state requires an assessment of fine and gross motor skills and another requires a review of records.

Several states that include specific evaluation requirements for autism also include recommendations that particular assessments and/or documentation be included *as appropriate* (e.g., occupational therapy assessment or documentation of interventions). Three states have detailed recommendations for determining eligibility, but no specific requirements.

Use of Qualitative Data

Fifteen states specify that qualitative data be used to determine eligibility. Twelve states require a developmental history and five of these specify that a social history be included as one component. One state requires that the developmental history be obtained from a parent. Ten states require observations and six provide additional requirements:

- two or more observations across multiple settings (1 state);
- two or more observations on two or more occasions (1 state);
- three or more observations on two or more occasions (2 states); and
- observations conducted by either a licensed professional familiar with autism spectrum disorders or a member of the team determining eligibility (2 states).

Four states specify that data from interviews must be included. A fifth state requires either a family interview or compilation of a social/family/medical history. An additional three states recommend, but do not require, observations or interviews.

Requirements for Team Determining Eligibility

Five states have specific requirements regarding the makeup of the team determining eligibility. The following professionals are required by one or more of these five states:

- school psychologist, licensed psychologist, licensed psychological examiner under direct supervision of a licensed psychologist or psychiatrist (4 states);
- speech-language clinician (4 states)
- child's regular classroom teacher or other person qualified to teach child (3 states);
- special education teacher or expert in autism (2 states);
- physician (e.g., neurologist or pediatrician) (1 state);
- school social worker (1 state);
- professional with knowledge of special education eligibility criteria (1 state);
- school district administrator or designated representative (1 state); and
- other professionals as deemed appropriate – e.g., occupational therapist, physical therapist or guidance counselor (1 state).

Requirements for Medical Involvement

Four states require the involvement of physicians in one or more phases of the eligibility determination process – three states require diagnosis or assessment by either a psychiatrist or other physician; one requires that a pediatrician, neurologist or other physician conduct a physical exam; and one requires the presence of a physician on the eligibility determination team. Seven other states require physical exams or medical reports, but do not specify which medical professionals are required to complete them.

Summary

Almost all states included in this study use the federal term and definition for autism. Forty-eight states use the exact federal term or a slight variation and only three use other comparable terms. Forty-five states use the federal definition or a slight variation and only four use other definitions. Because autism is a relatively new disability category, however, there is little agreement across states as to which medical and/or mental health professionals are qualified to assess and diagnose autism, as well as which assessments are required for determining eligibility. For instance, of the 32 states providing specific eligibility criteria, 17 require communication assessment, 12 require educational assessment, 10 require behavioral or social skills assessment; and only eight require autism-specific assessment. Fifteen states require the use of qualitative data, most commonly observations and/or a developmental history. Fourteen states make special note of additional conditions included under the category of autism (e.g., Asperger Syndrome, PDD-NOS and Rett's Syndrome).

Table 1
State Terminology, Definition and Eligibility Criteria for
Autism

Terminology, Definition and Eligibility Criteria	Number of States
Uses Federal Term or Slight Variation	48
Uses Other Term	3
Uses Federal Definition or Slight Variation	45
Uses Other Definition	4
Includes Specific Eligibility Criteria	32
Includes the Following Eligibility Criteria:	
Diagnosis or Assessment by Outside Professional	15
Behavioral Indicators	20
Autism-Specific Assessment Instrument	8
Behavioral Assessment	10
Communication Assessment	17
Educational or Developmental Assessment	12
Requires Use of Qualitative Data	15
Includes Requirements for Makeup of Team Determining Eligibility	5
Requires Involvement of Physician(s)	4

Deaf-Blindness

Overview

Forty-nine states use the term deaf-blindness (DB) or a comparable term within state regulations or other official documents and 47 states provide a definition for DB. Eighteen states provide specific eligibility criteria for DB. (See Table 2 for a summary of state terminology, definitions and eligibility criteria for DB.) Ten states do not provide specific eligibility criteria for DB, but specify that eligibility criteria be met for both hearing impairment (HI) and visual impairment (VI). One additional state specifies that eligibility criteria must be met for HI, VI and speech and language impairment (SLI). Information on eligibility criteria for HI can be found under the section on HI, eligibility criteria for VI can be found under the section on VI, and eligibility criteria for SLI can be found under the section on SLI. Because one state includes DB under the category of multiple disabilities (MD), information on this state's definitions and eligibility criteria can be found under the section on MD.

Terminology

Forty-six states use the exact term deaf-blindness or a slight variation — deaf-blind. Of these, one state uses deaf-blindness as a subcategory of sensory impairments. Three states use comparable terms – dual-sensory impaired, multiple disabilities with severe sensory impairment, and sensory impairment – deaf-blind.

Definition

Federal regulations provide the following definition for deaf-blindness:

(2) *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. [34 CFR §300.7(c)(2)]

Forty-three states use the exact federal definition for DB or a slight variation and four states use other definitions. For example, some states provide very brief definitions – e.g., “severe visual impairment and severe hearing impairment,” whereas others provide more detail as to how the condition impacts academic performance.

Eligibility Criteria

Diagnosis or Assessment by Outside Professional

Seventeen states' eligibility criteria require diagnosis of DB by appropriate medical professionals. This is likely to include both audiological and optometric/ophthalmologic⁶

⁶ Most states accept either optometric assessment (conducted by an optometrist who is *not* a physician) or ophthalmologic assessment (conducted by an ophthalmologist who *is* a physician). Some states use the term

assessment. One state recommends, but does not require, optometric or ophthalmologic assessment.

Eleven states specify which professionals are qualified to conduct an audiological assessment. The following professionals are permitted by one or more of the eleven states:

- audiologist (10 states);
- otologist (7 states);
- otolaryngologist (3 states); or
- physician (3 states).

Three states specify that the assessment include one or more of the following components: audiometric testing, analysis of frequency modulated (FM) system check, audiometry brainstem response (ABR), otoacoustic emittance testing (OAE), hearing aid check, otoscopic inspection, word recognition and functional assessment of auditory ability. Three states specify that the audiological report include specific types of information such as the child's ability to understand spoken language with or without amplification, medications being used, interpretation of assessment results as applicable to the classroom setting, and recommendations for occupational therapy and physical therapy. In the case of fluctuating hearing, one state requires a medical history by a physician (preferably an otolaryngologist) documenting chronic middle ear disease. One state also requires an otological assessment if deemed necessary following the audiological assessment.

Eleven states specify which professionals are qualified to conduct an optometric or ophthalmologic assessment. The following professionals are permitted by one or more of the eleven states: ophthalmologist (11 states); optometrist (10 states) and physician (2 states). One state also permits a physician's report in lieu of an assessment, but only to verify continuing VI, and another state requires assessment by a neurologist in the case of cortical visual impairment. Five states require that the optometric or ophthalmologic assessment include one or more of the following components: visual acuity, visual field, fixation and movement, refraction errors, health of the eye structure and functional assessment of visual ability. Of these five states, one also recommends that additional diagnostic testing include Visual Evoked Response (VER), Magnetic Resonance Imaging (MRI) and electroretinogram. Four states specify that the optometric/ophthalmologic report include specific information such as etiology, diagnosis, prognosis, medications, recommendations for occupational therapy (OT) or physical therapy (PT) and information on specific syndromes and/or special health problems.

One additional state permits a physician's report in lieu of either an auditory or optometric/ophthalmologic assessment if no stimuli can be elicited. Another state permits assessment by a physician, but does not specify whether that is in lieu of an auditory assessment, optometric/ophthalmologic assessment, or both.

“ophthalmic” and “ophthalmological” assessment interchangeably with the term “ophthalmologic” assessment. For the purposes of this document, both terms have been combined under the single heading of ophthalmologic exam.

Types and Severity of Visual/Hearing Impairment

Nine states include specific criteria regarding the types and/or severity of auditory or visual impairment necessary for a child to be eligible under the category of DB. For instance, one or more states list at least one of the following types of hearing conditions as partially qualifying a child for the category of DB: hearing impairment, cortical deafness, central auditory processing dysfunction, monaural loss and inability to screen auditory background sounds. Likewise, one or more states list at least one of the following types of visual conditions as partially qualifying a child for the category of DB: functional blindness, cortical visual impairment, progressive vision loss, peripheral field loss and documented visual conditions such as extreme light sensitivity or lack of contrast sensitivity. One state also includes mention of children considered “at risk” for DB, including those with Usher Syndrome, optic atrophy and CHARGE Syndrome.

Regulations for three states include specific severity requirements. A state may specify, for example, that hearing impairment be 30 decibels or greater, or that visual acuity be no less than 20/70 in the better eye after best correction.

Communication Assessment

Nine states require assessment of communication skills as one of the criteria for DB. Three of the nine specify that the communication assessment include one or more of the following components: expressive and receptive language, developmental and functional levels of communication, preferred communication modalities and augmentative communication skills. One of the nine states specifies that the assessment be conducted by a speech-language clinician⁷ trained to evaluate children with developmental disabilities.

Educational or Developmental Assessment

Nine states include educational or developmental assessment as one of the criteria for DB. Two of those states specify which individuals are qualified to conduct the educational assessment – one requires that it be administered by an expert in either VI or HI and the other requires that it be administered by either an educational diagnostician or member of the team determining eligibility. One of the nine states specifies that the assessment be standardized and either designed or adapted for children with deaf-blindness.

Other Required and Recommended Assessments

Several states require additional types of assessment and/or documentation. Three states require an adaptive behavior assessment. Three states also require an orientation and mobility screening and/or assessment and three additional states recommend such assessment. The following assessments are required by one state: psychological assessment, intellectual assessment, sensory screening, communication screening and Braille assessment, as well as an unspecified record review.

⁷ The term speech-language clinician is used generically in this section to refer to any number of speech and language professionals working within the schools.

Several states that include specific evaluation requirements for DB also include recommendations that assessments or documentation be included *as appropriate* (e.g., consideration of child's need for Braille instruction, assessment of accommodations and modifications necessary for child to access general curriculum, and/or assessment of assistive technology needs). Three states provide detailed recommendations for determining eligibility, but no specific requirements.

Use of Qualitative Data

Seven states require the use of qualitative data for determining eligibility. Five states require observations of auditory and/or visual functioning, one of which requires that a physician or audiologist conduct the observation. One state requires a family interview, and specifies that it be conducted by a social worker or member of the team determining eligibility and include information on family history of Usher Syndrome or other contributing medical conditions. Another state requires either a social/family history or a family interview. Two states require a social/developmental history. One additional state recommends, but does not require, the use of interviews and observations.

Requirements for Team Determining Eligibility

One state includes specific requirements regarding the makeup of the team determining eligibility for DB. The team must include a physician or audiologist, a speech-language clinician, an optometrist or ophthalmologist, a teacher of students with VI and other professionals as necessary (e.g., a low vision specialist or orientation and mobility instructor).

Requirements for Medical Involvement

One state specifically requires diagnosis or assessment by a physician (i.e., ophthalmologist, otologist or otolaryngologist). Furthermore, in the case of specific types of impairment (e.g., fluctuating hearing or cortical visual impairment) another state requires assessment by a neurologist or otolaryngologist. Eleven additional states require diagnosis or assessment by either a physician or other medical professional (i.e., audiologist or optometrist). One state also requires the presence of two or more medical professionals on the eligibility determination team (i.e., a physician or audiologist *and* an optometrist or ophthalmologist).

Summary

Almost all states that were part of this analysis use the federal term and definition for DB. Forty-six states use the term DB or a slight variation and only 3 use other comparable terms. Forty-three states use the federal definition or a slight variation and only four use other definitions. Only 18 states, however, provide specific eligibility criteria for DB. Eleven other states require instead that eligibility criteria be met for the categories of both HI and VI. Of the 18 states that do provide specific eligibility criteria for DB, almost all require audiological and optometric/ophthalmologic assessments by appropriate medical professionals (17 states). Nine states also require communication assessment, and nine require educational or developmental assessment.

Table 2
State Terminology, Definition and Eligibility Criteria for
Deaf-blindness

Terminology, Definition and Eligibility Criteria	Number of States
Uses Federal Term or Slight Variation	46
Uses Other Term	3
Uses Federal Definition	43
Uses Other Definition	4
Includes Specific Eligibility Criteria	18
Includes the Following Eligibility Criteria:	
Diagnosis or Assessment by Outside Professional	17
Type & Severity of Visual/Hearing Impairment	9
Communication Assessment	9
Educational or Developmental Assessment	9
Requires Use of Qualitative Data	7
Includes Requirements for Makeup of Team Determining Eligibility	1
Requires Involvement of Physician(s)	1

Deafness

Overview

Thirty-three states use the term deafness or a comparable term within state special education regulations or other official documents and 32 states provide a definition for the category of deafness. Only 12 of these states, however, provide eligibility criteria specifically for the category of deafness. (See Table 3 for a summary of state terminology, definition and eligibility criteria for deafness.) Ten other states, while using the term deafness and providing a definition for deafness, include eligibility criteria for deafness under the category of hearing impairment (HI). An additional fifteen states do not use the term deafness or provide a separate definition for deafness, but specifically state that deafness is included under the category of HI. Information on eligibility criteria for HI can be found under the section on HI.

Terminology

Thirty-three states use the exact term deafness or a slight variation – deaf. No states use other comparable terms.

Definition

Federal regulations include the following definition for deafness:

(3) *Deafness* means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a child's educational performance. [34 CFR §300.7(c)(3)]

Thirty-two states use the exact federal definition for deafness or a slight variation. An example would be replacement of the federal phrase “with or without amplification” with the phrase “with or without an assistive device – e.g., hearing aid or cochlear implant.” No states use other definitions.

Eligibility Criteria

Diagnosis or Assessment by Outside Professional

Of the 12 states providing eligibility criteria for deafness, all require audiological assessment and/or diagnosis by an appropriate medical professional. Six states specify which professionals are qualified to conduct the audiological assessment. The following professionals are permitted by one or more states:

- audiologist (6 states);
- otologist (3 states);
- physician (2 states); and
- otolaryngologist (1 state).

One state specifies that one or more of the following tests must be included in the audiological assessment: behavioral audiometry, pure-tone thresholds, tympanography, speech discrimination, audiometry brainstem response (ABR) testing and clinical observation. Another state requires a functional hearing assessment.

Severity of Impairment

Three states provide specific criteria regarding the severity of auditory impairment necessary for a child to be eligible under the category of deafness. All three require that unaided hearing loss be in excess of 70 decibels.

Communication Assessment

Three states require some type of communication assessment. Two specify that the assessment be based on either standardized measures or professionally recognized scales appropriate to the child's age level. One of the three also requires a comprehensive language evaluation by an individual experienced in assessing children with hearing impairments.

Educational or Developmental Assessment

Two states include educational or developmental assessment as one of the criteria for deafness.

Other Required and Recommended Assessments

One state requires an unspecified record review. Three states include detailed recommendations for determining eligibility for deafness, but no specific requirements.

Use of Qualitative Data

Two states require the use of qualitative data for determining eligibility for deafness. Both require an observation of classroom performance that includes an assessment of how deafness affects the child's educational performance. One of these also requires a social/family/medical history or family interview.

Requirements for Team Determining Eligibility

One state includes specific requirements regarding the makeup of the team that determines eligibility. The required professionals include a physician or audiologist, speech-language clinician⁸ and a general education classroom teacher.

⁸ The term speech-language clinician is used generically in this section to refer to any number of speech and language professionals working in the schools.

Requirements for Medical Involvement

No state specifically requires the involvement of a physician in determining eligibility for deafness. However, six require the involvement of some type of medical professional (i.e., a physician, otologist *or* audiologist) in assessing deafness and a seventh requires that a medical professional (i.e., either a physician *or* audiologist) be a part of the team determining eligibility.

Summary

Although only 33 states use the disability category of deafness, 33 use the federal term deafness or a slight variation and 32 use the federal definition or a slight variation. An additional 15 states include deafness under the category of HI. Of the 12 states that provide specific eligibility criteria for deafness, all require audiological assessment by an appropriate medical professional.

Table 3
State Terminology, Definition and Eligibility Criteria for Deafness

Terminology, Definition and Eligibility Criteria	Number of States
Uses Federal Term or Slight Variation	33
Uses Other Term	0
Uses Federal Definition	32
Uses Other Definition	0
Includes Specific Eligibility Criteria	12
Includes the Following Eligibility Criteria:	
Diagnosis or Assessment by Outside Professional	12
Severity of Hearing Impairment	3
Communication Assessment	3
Educational or Developmental Assessment	2
Requires Use of Qualitative Data	2
Include Specific Requirements for Makeup of Team Determining Eligibility	1
Require Involvement of Physician(s)	0

Emotional Disturbance

Overview

Fifty-three states use the term emotional disturbance (ED) or a comparable term within state special education regulations or other official documents. Fifty-two states provide a definition for the category of ED and 36 provide specific eligibility criteria. (See Table 4 for a summary of state terminology, definitions and eligibility criteria for ED.)

Terminology

Thirty states use the exact term emotional disturbance or a slight variation – serious emotional disturbance. Twenty-three additional states use the following comparable terms: behavioral disorder, behaviorally-emotionally disabled, emotional and behavioral disorder, emotional disability, emotional impairment, emotional handicap, significant identifiable emotional disability, and socially and emotionally maladjusted.

Definition

Federal regulations provide the following definition for emotional disturbance:

(4) *Emotional disturbance* is defined as follows:

(i) The term means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that affects a child's educational performance:

(A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.

(C) Inappropriate types of behavior or feelings under normal circumstances.

(D) A general pervasive mood of unhappiness or depression.

(E) A tendency to develop physical symptoms or fears associated with personal or school problems.

(ii) The term includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance. [34 CFR §300.7(c)(1)]

Forty-seven states use the exact federal definition for ED or a slight variation and five states use other definitions. For example, some states choose not to include the federal list of behavioral indicators and one state divides ED into three subcategories or “clusters” of behaviors.

Of the 52 total states providing a definition for ED, 11 make special note of conditions that either explicitly do *not* qualify a student for ED (e.g., head trauma or behavior that is a response to a specific crisis or can be corrected through appropriate instruction or intervention) or do not *necessarily* qualify a student for ED (e.g., ADD/ADHD, anti-social behavior, child abuse, conduct problems, cultural deprivation, delinquency, interpersonal problems, substance abuse

and truancy). Four states include examples of specific conditions, in addition to schizophrenia, that are included under the category of ED (e.g., severe mental disorders such as major affective disorder or reactive attachment disorder, separation anxiety, avoidance disorder, overanxious disorder and serious eating or sleeping disorders).

Eligibility Criteria

Diagnosis or Assessment by Outside Professional

Eleven states have eligibility criteria that require diagnosis or assessment by either a physician or mental health professional and provide a range of allowable options including the following:

- psychiatrist (10 states);
- clinical psychologist (9 states);
- school psychologist (6 states);
- physician (1 state);
- certified social worker (1 state);
- professional trained in the assessment of emotional and behavioral disorders (1 state);
- and
- associate school psychologist (1 state).

In addition, three states specifically require a physical exam or health assessment.⁹

Behavioral Indicators

Nine states provide lists of behavioral indicators more detailed than that included within the federal definition. These states appear to present the indicators for informational purposes only, rather than as requirements. Examples of indicators include the following: suicidal behavior and ideation; developmentally inappropriate inattention; hyperactivity or impulsivity; severe and uncontrollable outbursts of anger or tantrum behavior; excessive dependence or over-closeness or inappropriate rebellion and defiance; auditory or visual hallucinations; persistent physical complaints not due to a medical condition; persistent patterns of stealing, lying or cheating; and rapid changes in behavior or mood.

Documentation of Behavior

Twenty-six states require behavioral observations and three states recommend behavioral observations. Of these, 11 require observations in at least one setting, 12 require observations in at least two settings and three require observations in at least three settings. Nine states specify that at least one observational setting be school-related. Two specify that observations be a minimum of 15 minutes in duration and that a control student be observed for the same behaviors. Three states require observations by two or more individuals and one state requires observations by three or more individuals.

⁹ These states may or may not be included among the 11 states requiring diagnosis or assessment by an outside professional.

Twelve states specify which individuals are qualified to conduct behavioral observations, including a teacher of students with ED, school psychologist, person trained in behavior management and/or a member of the team determining eligibility. None of these 12 states allow the classroom teacher alone to conduct observations. Five specifically state that observations must be conducted by someone other than the classroom teacher, and two specify that observations must be conducted by both the classroom teacher and another member of the eligibility determination team. The remaining five do not include additional specifications as to how observations are to be handled.

Ten states specify the minimum duration of ED symptoms required for eligibility – the range being two to twelve months and the mean six months. One of these states also permits documentation of sudden onset by a mental health professional.

Fourteen states require documentation that one or more behavioral interventions were implemented prior to determination of eligibility and an additional state requires documentation of behavioral interventions, except in those cases where intervention would delay appropriate identification. Another state recommends, but does not require, documentation of behavioral interventions. Two of the 14 states also require that a parent conference be conducted – or at least attempted – regarding the child’s behavior.

Behavioral/Emotional Assessment

Nineteen states include a behavioral/emotional assessment as one of the criteria for ED, and six recommend behavioral/emotional assessment. Six states specify particular types of assessment. Of these, four require the use of one or more behavior rating scales and three require a functional behavior assessment. Other states provide a range of options, including the following: behavior rating scale, functional behavior assessment, adaptive behavior checklist, personality profile, social maturity index and/or self-report inventory. Five states require that the behavioral/emotional assessment be norm-referenced or standardized and one of the five requires that scores be at least two standard deviations below the mean in terms of emotional functioning. Four states specify who is qualified to conduct a behavioral/emotional assessment. One state requires a social worker or other qualified professional, one requires a licensed psychologist, one requires three or more individuals who have known the child for at least six weeks, and one requires the child’s teacher and another adult knowledgeable of the child in consultation with a school psychologist or psycho-educational specialist. Several states recommend, but do not require, a behavioral/emotional assessment.

Educational or Developmental Assessment

Twenty-two states require educational or developmental assessment as one of the eligibility criteria for ED, and one state recommends such assessment. Of these, one state requires that the assessment be standardized and one state requires that the assessment be criterion or norm-referenced. Furthermore, one specifies that the assessment be conducted by an educational diagnostician or other qualified professional and another specifies that the assessment be administered by a school psychologist, special educator or other qualified professional.

Other Required and Recommended Assessments

A number of states require other assessments and/or documentation.

- Nine states require assessment of intellectual ability and two recommend such assessment. Of these, one requires that the test be standardized or norm-referenced, conducted within the past 12 months and administered by a school psychologist, licensed psychologist or psycho-educational specialist.
- Six states require a psychological evaluation or mental health screening, and another three states recommend psychological evaluation. One of the six requires that the evaluation be conducted by a school psychologist, licensed psychologist or psychiatrist and another requires that the evaluation be conducted by a licensed psychologist.
- Six states require a screening of vision, hearing, motor and/or communication skills and two others recommend sensory screening of some kind.
- Nine states require a review of academic, medical, attendance and/or disciplinary records.

Several states that include specific evaluation requirements for ED also recommend that other assessments and/or documentation be included *as appropriate* (e.g., sociological assessment or health assessment, particularly if a physical problem is a suspected source of ED). Three states provide detailed recommendations for determining ED eligibility, but no specific requirements.

Use of Qualitative Data

Twenty-six states require that qualitative data be used to determine eligibility and another five recommend the use of qualitative data. All 26 specify that observations are required (see section titled “Documentation of Behavior” on page X for details). Five states require interviews with parents, the child and/or teachers. Eight states require the use of a social and developmental history, one of which specifies that the history be compiled by a member of the team determining eligibility, licensed social worker, special educator, psychologist, school counselor or other qualified professional.

Requirements for Team Determining Eligibility

Four states include specific requirements regarding the makeup of the team determining eligibility. One or more states require participation by the following:

- school psychologist (3 states);
- licensed psychologist (3 states);
- licensed psychological examiner under supervision of a licensed psychologist or psychiatrist (3 states);
- child’s regular classroom teacher (3 states);
- special education teacher or ED specialist (2 states);
- school social worker (1 state);
- district administrator or designated representative (1 state); and
- other professionals as appropriate – e.g., school nurse or mental health service providers (2 states).

Requirements for Medical Involvement

No state specifically requires the professional diagnosis or assessment of ED by a physician (e.g., psychiatrist). Six states require assessments or screenings of vision, health or motor skills, but do not specify which medical professionals are qualified to conduct them. No state requires the presence of a medical professional on the eligibility determination team.

Summary

Only 30 states use the federal term ED or a slight variation, and 23 use other comparable terms. Most states, however, use the federal definition of ED or a slight variation (47 states) and only a few use other definitions (5 states). Of the 36 states that include eligibility criteria for ED, a majority requires documentation of behavioral problems via behavioral observations (26 states), educational or developmental assessment (22 states), and behavioral or emotional assessment (19 states). Fourteen states also require documentation of prior behavioral interventions. No state requires assessment or diagnosis of ED by a medical professional, although many require that some sort of mental health professional be involved in determining eligibility.

Table 4
State Terminology, Definition and Eligibility Criteria for
Emotional Disturbance

Terminology, Definition and Eligibility Criteria	Number of States
Uses Federal Term or Slight Variation	30
Uses Other Term	23
Uses Federal Definition	47
Uses Other Definition	5
Includes Specific Eligibility Criteria	36
Includes the Following Eligibility Criteria:	
Diagnosis or Assessment by Outside Professional	11
Behavioral Indicators	9
Documentation of Behavior	26
Behavioral/Emotional Assessment	19
Educational or Developmental Assessment	22
Requires Use of Qualitative Data	26
Includes Requirements for Makeup of Team Determining Eligibility	4
Requires Involvement of Physician(s)	0

Hearing Impairment

Overview

Fifty-three states use the term hearing impairment (HI) or a comparable term within state special education regulations or other official documents. Fifty-one states provide a definition of HI and 40 provide specific eligibility criteria. (See Table 5 for a summary of state terminology, definitions and eligibility criteria for HI.)

Terminology

Forty-three states use the exact federal term hearing impairment or a slight variation (i.e., hearing impaired or hearing impairments). Of these, one state uses HI as a subcategory of sensory impairment. Ten states use other comparable terms (i.e., auditory impairment, deaf or hard-of-hearing, or hearing disability).

Definition

Federal regulations provide the following definition for hearing impairment:

(5) *Hearing impairment* means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section. [34 CFR §300.7(c)(5)]

Thirty-three states use the exact federal definition for HI or a slight variation and two of these explicitly note that deafness is included in the definition. Eighteen states use other definitions and some obviously combine wording from the federal definitions for both HI and deafness. Twelve of these states explicitly note that deafness is included in the definition for HI.

Eligibility Criteria

Diagnosis or Assessment by Outside Professional

Thirty-two states require audiological assessment or diagnosis by an outside professional and a few states recommend such assessment. Many states specify which professionals are qualified to conduct an audiological assessment. The following professionals are permitted by one or more states:

- audiologist (20 states);
- otologist (6 states);
- physician (5 states); or
- otolaryngologist (3 states).

One of the 32 states also notes that when no response to auditory stimuli can be elicited, a physician's report or medical records may be substituted for audiological assessment.

Ten states specify that the audiological assessment include one or more of the following components: air conduction testing, analysis of frequency modulated (FM) system check, assessment of hearing sensitivity/acuity, audiogram, auditory brainstem response, bone conduction testing, hearing aid check and electro-acoustic analysis of hearing aid, impedance testing to determine type/extent of HI, otoacoustic emittance testing (OAE), otoscopic inspection, speech reception thresholds, speech discrimination scores and tympanometry. Three states specify that the audiological report include specific types of information such as etiology of hearing loss, prognosis, amplification evaluation (including whether use of amplification is contraindicated) and interpretation of results as they apply to the classroom setting.

Two states also require an otological assessment that provides diagnosis for middle and inner ear disorders. One of the two specifies that the otological report be obtained within 90 days of initial placement. A third state requires that when fluctuating hearing loss is suspected, a medical history compiled by a physician is required in addition to an audiological assessment.

Type and Severity of Impairment

Nineteen states include specific criteria regarding the types and/or severity of impairment necessary for a child to be eligible under the category of HI. For instance, several states list types of auditory conditions that partially qualify a child for the category of HI including: deafness, permanent or fluctuating hearing loss, unilateral hearing loss, high frequency hearing loss, sensorineural hearing loss and conductive hearing loss. In terms of severity, states may specify for example that one of the following severity requirements be met:

- an average pure-tone hearing loss in the speech range (500-2000 Hz) of 20 decibels or greater in the better ear;
- an average high frequency, pure-tone hearing loss of 35 decibels or greater in the better ear at two or more of the following frequencies: 2000, 3000, 4000 and 6000 Hz; or
- a permanent unilateral hearing loss of 35 decibels or greater in the speech range (500-2000 Hz).

Communication Assessment

Sixteen states include assessment of communication skills as one of the criteria for HI and two additional states recommend such assessment. Eight states require that the communication assessment include one or more of the following components:

- expressive and receptive language;
- signed/spoken/written language;
- opportunities for direct communication with peers and professionals using preferred mode of communication; and/or
- opportunities for direct instruction using preferred mode of communication.

Of the eight, one requires that evidence also be provided of impairment in speech, articulation, voice or fluency. Six states explicitly note that communication assessment should be based on

instruments specifically designed for the diagnosis of HI and/or that assessment should be conducted using child's preferred mode of communication. Two states specify that the communication assessment be standardized or norm-referenced and one of the two stipulates a minimum language delay requirement for eligibility. Two states specify professionals qualified to conduct communication assessments — one requires a speech-language clinician¹⁰ fluent in child's preferred mode of communication or a speech-language clinician in conjunction with a qualified interpreter/transliterater; the other state requires that assessment be conducted by a communication professional with expertise in deafness or HI.

Educational or Developmental Assessment

Twenty states require an educational or developmental assessment and a few others recommend such assessment. Three states specify that the assessment be standardized, norm-referenced or criterion-referenced. Of the three, one includes minimum score requirements for eligibility and another specifies that assessment be conducted within the preceding six months. Two states provide information on who is qualified to conduct an educational or developmental assessment — one requires an educational diagnostician or member of the team determining eligibility and the other requires a licensed professional. One state notes that child's preferred mode of communication should be considered when administering the assessment.

Other Required and Recommended Assessments

Several states require additional types of assessment or documentation.

- Four states require assessment of intellectual ability and another recommends such assessment. Of these, one specifies that the assessment be designed for children with HI and be conducted by an individual with expertise in HI and another requires that the assessment be conducted by a qualified psychologist.
- Six states require screening or assessment of health, vision and motor skills and a few others recommend such assessment. One of the six requires that the physical exam be conducted by an osteopath.
- Two states require an adaptive behavior assessment and several others recommend such assessment. Of the two, one requires that standardized instruments be used, and another requires that the assessment be conducted by a hearing specialist.
- Two states require social/emotional assessment, and a few others recommend such assessment.
- Two states require screening for Usher Syndrome after the age of 12.
- One state requires evidence of interventions.
- One state requires an unspecified review of records.

Several states that include specific evaluation requirements for HI also recommend that assessments and/or documentation be included *as appropriate* (e.g., optometric or ophthalmologic assessment, ongoing medical consultation and/or psychological assessments using instruments

¹⁰ The term speech-language clinician is used generically in this section to refer to any number of speech and language professionals working in the schools.

appropriate for children with deafness or HI). Some states provide detailed recommendations for determining eligibility, but no specific requirements.

Use of Qualitative Data

Seven states require the use of qualitative data for determining eligibility. Five of the seven require observations. Of these, one specifies that observation include child's academic and social behaviors and be conducted by a member of the team determining eligibility. A second requires that the observation be conducted by a licensed professional and document that the child's classroom interactions are limited. A third requires that the observation include an assessment of functional hearing.

Three states require interviews. One of these requires interviews with parents, teachers and the child, and specifies that interviews include information on child's communication needs, opportunities for communication with peers and professionals, and opportunities for direct instruction in preferred mode of communication. Another of the three states requires that interviews with parents and teachers document child's use of American Sign Language (ASL) or augmentative and alternative communication (AAC) alone or in combination with oral language.

Of the seven states requiring use of qualitative data, one state also requires either a family interview or a social/family/medical history and two states require a social/developmental history or teacher narrative.

Requirements for Team Determining Eligibility

Five states include specific requirements regarding composition of the team determining eligibility. One or more states require participation by the following professionals:

- teacher or expert in SLI (3 states);
- audiologist or physician (2 states);
- teacher or specialist in HI (2 states);
- child's regular classroom teacher (2 states);
- otolaryngologist or otologist (1 state);
- three or more professionals with expertise in audiology, HI, or interpretation of assessment results (1 state); and
- district administrator or designated representative (1 state).

Requirements for Medical Involvement

Two states specifically require the involvement of physicians in one or more phases of the HI eligibility determination process. One requires a physical exam by an osteopath or other physician as well as an exam by a physician in the case of a fluctuating hearing impairment, and one requires that either an otolaryngologist or otologist serve as a member of the team determining eligibility. Twenty additional states require diagnosis or assessment by some type of medical professional (e.g., audiologist, otolaryngologist, otologist or physician) and another requires the presence of an audiologist or physician on the eligibility determination team. Five

states require screening of health, vision, hearing or motor skills, but do not specify which medical professionals are qualified to conduct these screenings.

Summary

Although 43 states use the federal term HI or a slight variation, only 33 states use the federal definition or a slight variation. Ten states use other comparable terms and 18 use other definitions. This is primarily due to the fact that 12 states explicitly include deafness under the category of HI. Of the 40 states that include specific eligibility criteria for HI, almost all (32 states) require audiological assessment by an appropriate medical professional. Many also include educational or developmental assessment (20 states) as well as communication assessment (16 states).

**Table 5
State Terminology, Definition and Eligibility Criteria for
Hearing Impairment**

Terminology, Definition and Eligibility Criteria	Number of States
Uses Federal Term or Slight Variation	43
Uses Other Term	10
Uses Federal Definition	33
Uses Other Definition	18
Includes Specific Eligibility Criteria	40
Includes the Following Eligibility Criteria:	
Diagnosis or Assessment by Outside Professional	32
Type and/or Severity of Impairment	19
Communication Assessment	16
Educational or Developmental Assessment	20
Requires Use of Qualitative Data	7
Includes Requirements for Makeup of Team Determining Eligibility	5
Requires Involvement of Physician(s)	2

Mental Retardation

Overview

Fifty-three states use the term mental retardation (MR) or a comparable term within state special education regulations or other official documents. Fifty-two states provide a definition of MR. Forty-two states provide specific eligibility criteria for the category of MR. (See Table 6 for a summary of state terminology, definitions and eligibility criteria for MR.)

Terminology

Twenty-eight states use the exact term mental retardation. Twenty-five states use other comparable terms – cognitive delay, cognitive impairment, developmental cognitive disability, educational disability, intellectual disability, intellectual impairment, learning impairment, mental disability, mentally handicapped, mentally impaired or significant limited intellectual capacity.

Definition

Federal regulations provide the following definition for mental retardation:

(6) *Mental retardation* means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance. [34 CFR §300.7(c)(6)]

Forty-three states use the exact federal definition for MR or a slight variation and nine states use other definitions. Most are not substantively different from the federal definition, although several elaborate, for example, on what it means for a child's condition to have an adverse impact on his or her educational performance.

Although not necessarily an explicit part of state definitions, 17 states break the category of MR into two, three or four subcategories. For instance, 10 states use the subcategories mild, moderate, severe and/or profound and six use the subcategories educable, trainable, severe and/or profound. The seventeenth state uses the subcategories mild and functional. Fifteen of the 17 provide specific eligibility requirements for each subcategory regarding the severity of impairment (e.g., range of acceptable scores on assessments of intellectual ability, adaptive behavior and/or academic performance).

Eligibility Criteria

Diagnosis or Assessment by Outside Professional

Only two states require assessment and/or diagnosis by an outside professional. One state requires diagnosis by either a psychologist or psychiatrist, and the second state requires diagnosis

by a school psychologist, associate school psychologist, licensed psychologist or specialist in the assessment of intellectual functioning.

Intellectual Assessment

Thirty-eight states require an assessment of intellectual abilities to determine eligibility for the category MR and one state recommends intellectual assessment. Of the 38, seven require the use of a full-scale intelligence quotient (IQ) score and five require the use of both verbal and nonverbal or performance measures. One state requires two or more formal measures of intellectual ability and another state requires one formal measure in addition to the use of one or more of the following: assessment of specific abilities, criterion referenced test, alternate method of intellectual assessment, interview with parents and/or observation across multiple environments.

Five states specify that intellectual assessment be conducted by a particular type of professional, including a school psychologist, licensed psychologist, psycho-educational specialist, psychological examiner or an individual assigned by the district to administer and interpret intelligence tests. Three others note that the assessment must be conducted by a qualified professional but do not specify type.

Twenty-six states require that the intellectual assessment instrument be standardized and most of these specify that the minimum cut-off for MR is two or more standard deviations below the mean. Two additional states require that the assessment be norm-referenced. Two states note that when a standardized or norm-referenced assessment is deemed inappropriate due to the severity of a child's impairment, alternate measures may be used. Five states note that clinical judgment may be applied when interpreting the cut-off for minimum IQ scores and two states note that in the case of discrepancies between verbal and nonverbal scores, additional assessments should be conducted.

Adaptive Behavior Assessment

Thirty-five states require an adaptive behavior assessment to determine eligibility for MR and three states recommend such assessment. Of the 35, four specifically require the use of an adaptive behavior scale and three require that behaviors be assessed in both home and school environments. Nine states stipulate that one or more of the following domains be included as part of the adaptive behavior assessment: communication, self-care, home living, social and interpersonal skills, use of community resources, self-direction, functional academic skills, vocational skills, recreation and leisure, and health and safety.

One state specifies that a school psychologist conduct the adaptive behavior assessment. Three states require that a parent and/or teacher provide information and a fourth state specifies that the person providing information be familiar with the child's behavior at home and in school.

Twelve states require that the adaptive behavior assessment be standardized or norm-referenced, while two additional states also permit curriculum-based assessment. Of those states that require standardized or norm-referenced adaptive behavior assessment, most specify that the minimum

cut-off for MR is two or more standard deviations below the mean. One state recommends the flexible interpretation of cut-off scores, but notes that any score that does not fall two standard deviations below the mean must be justified. Two other states note that any discrepancy between adaptive behavior scores and measures of intellectual ability must be justified. Five states that do not specify standardized or norm-referenced assessment require that deficits be exhibited in two or more domains.

Educational or Developmental Assessment

Twenty-one states require an educational or developmental assessment for determination of MR and two states recommend such assessment. Of these 21, two specify who is qualified to administer the assessment — one state specifies that assessment be conducted by an educational diagnostician or member of the team determining eligibility and the other state requires that the assessment be conducted by a trained examiner within the preceding six months. Seven states require that the assessment instrument be standardized or norm-referenced, although two of these specifically note that if standardized assessments are deemed inappropriate, other measures may be used (e.g., criterion-referenced measures or behavioral observation). Two additional states permit curriculum-based and/or criterion-referenced assessment in addition to standardized and/or norm-referenced assessment. Four states require that deficits be manifest in two or more domains (e.g., reading, language arts or math).

Other Required and Recommended Assessments

A number of states require additional types of assessment or documentation.

- Seven states require a health assessment or screening, and one of these specifies that if a child is being considered for eligibility under the category of profound MR, evaluation by a physician may be required.
- Five states require screening or assessment of vision and hearing.
- Six states require a communication assessment and two additional states require screening of speech and language skills. Of the six, one specifies that communication assessment be conducted by a speech-language clinician¹¹ or member of the team determining eligibility.
- Two states require a psychological assessment and one requires a sociological assessment.
- Three states require review of academic, social, medical, psychological and/or attendance records and an additional state recommends but does not require review of records.
- Four states also require or recommend documentation of prior interventions and one state requires documentation of two or more conferences addressing child's problems.
- One state requires evidence of consultation with an MR specialist prior to determination of eligibility.
- One state requires an assessment of the level of support needed — intermittent, limited, extensive or pervasive.

¹¹ The term speech-language clinician is used generically in this section to refer to any number of speech and language professionals working in the schools.

Several states that include specific evaluation requirements for MR also recommend that assessments or documentation be included *as appropriate* (e.g., vocational assessment for children over 14 years of age; assessment of social skills; or follow-up exams for hearing, vision and health). Three states provide detailed recommendations for determining eligibility, but no specific requirements.

Use of Qualitative Data

Twelve states require the use of qualitative data for determining eligibility for MR and four states recommend, but do not require, use of qualitative data. Two states require interviews — one specifies that an interview be conducted with parents and the other state specifies that interviews be conducted with the child, as well as his or her parents and teachers. Five states require a social/developmental history, and of these, two require that information be gathered from a parent. Two additional states require either a social/developmental history, interview and/or teacher narrative. Six states require observations — one specifies that observations be conducted by two or more individuals, two specify that observations occur in two or more settings and another requires that observation include comparison of the child with other children of the same chronological age.

Requirements for Team Determining Eligibility

Four states include specific requirements regarding the makeup of the team determining eligibility. The following professionals are required to be part of the team by one or more states:

- licensed psychologist (4 states);
- school psychologist or psychological examiner (4 states);
- special educator or specialist in MR (3 states);
- child's regular classroom teacher (2 states);
- speech-language clinician (1 state);
- person qualified to interpret assessments of health, adaptive skills or information relating to the family (1 state); and
- district administrator or designated representative (1 state).

Requirements for Medical Involvement

No state specifically requires the involvement of a physician or other medical professional as part of the eligibility determination process for MR. Nine states, however, require a health, vision and/or hearing assessment or screening, although none specify whether medical professionals are required to conduct such assessment.

Summary

Although most states have adopted the federal definition for MR or a slight variation (43 states in comparison with nine using other definitions), only just over half use the federal term MR (28 states compared with 25 using other comparable terms). Seventeen states break the category of MR into subcategories. Of the 42 states that include specific eligibility criteria for MR, almost all

require both intellectual assessment (38 states) and adaptive behavior assessment (35 states). Twenty-one also require educational or developmental assessment and 12 require the use of qualitative data. Only two states require assessment or diagnosis by an outside professional, and no state requires the involvement of medical professionals in determining eligibility for MR.

Table 6
State Terminology, Definition and Eligibility Criteria for
Mental Retardation

Terminology, Definition and Eligibility Criteria	Number of States
Uses Federal Term or Slight Variation	28
Uses Other Term	25
Uses Federal Definition	43
Uses Other Definition	9
Includes Specific Eligibility Criteria	42
Includes the Following Eligibility Criteria:	
Diagnosis or Assessment by Outside Professional	2
Intellectual Assessment	38
Adaptive Behavior Assessment	35
Educational or Developmental Assessment	21
Requires Use of Qualitative Data	12
Includes Requirements for Makeup of Team Determining Eligibility	4
Requires Involvement of Physician(s)	0

Multiple Disabilities

Overview

Forty-six states include the term multiple disabilities (MD) or a comparable term in their special education regulations or other documents. Forty-five states provide a definition for MD and 23 provide specific eligibility criteria. (See Table 7 for a summary of state terminology, definitions and eligibility criteria for MD.)

Terminology

Forty states use the exact federal term multiple disabilities or a slight variation – multiple disability or multiply disabled. Of the 40, one state has two separate sub-categories for MD – MD and MD with severe sensory impairment. Six states use other terms for the category MD – multi-handicapped, multiple impairments and severely multiply impaired. Seven states that use all the other federal disability categories do *not* use the category MD.

Definition

Federal regulations provide the following definition for multiple disabilities:

(7) *Multiple disabilities* means concomitant impairments (such as mental retardation-blindness, mental retardation-orthopedic impairment, etc.), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness. [34 CFR §300.7(c)(7)]

Thirty-four states use the exact federal definition for MD or a slight variation and 11 states use other definitions. Although most of the other definitions capture the essence of the federal definition, several elaborate, for example, on the types of special education services that may be required in order for children with MD to benefit educationally.

Although not explicitly part of their definitions, 16 states specifically note that certain disability categories and/or combinations of disability categories are either included or excluded from the MD category. Most commonly *included* categories are deafness, hearing impairment (HI), mental retardation (MR), orthopedic impairment (OI), other health impairment (OHI) and visual impairment (VI). Autism, deaf-blindness (DB) and emotional disturbance (ED) are also specifically included by several states. Most commonly *excluded* categories include DB, specific learning disability (SLD) and speech language impairment (SLI), as well as several combinations such as SLD/SLI and MR/SLI. Several states require that MR be one of the disabilities leading to a classification of MD and several also require that MR and/or other disabilities reach a certain level of severity (e.g., moderate to profound MR or severe HI).

Eligibility Criteria

Diagnosis or Assessment by Outside Professional

Three states require assessment or diagnosis by an appropriate medical professional. One or more states allow the following:

- physician (3 states);
- otologist (1 state);
- ophthalmologist (1 state); and
- osteopath (1 state).

One additional state requires a medical evaluation but does not specify who is qualified to conduct it and two other states require a medical history including information on specific syndromes, special health problems (e.g., tracheotomy), medications and long-term prognosis.

Eligibility Criteria for Two or More Disability Categories

Fifteen states require that eligibility criteria for two or more disability categories be met. One notes, however, that this requirement may be waived if the team determining eligibility can document that a child's condition has adverse effects on his or her educational performance. An additional state recommends but does not require that eligibility criteria for two disability categories be met.

Educational or Developmental Assessment

Six states require an educational or developmental assessment to document MD. Of these, one state requires that assessment be conducted by an educational diagnostician or a member of the team determining eligibility. This state also notes that assessment results must include an explanation as to how the child's condition justifies a classification of MD.

Other Required and Recommended Assessments

A number of states require additional assessments or documentation.

- Seven states require an assessment of intellectual ability – three require that the assessment be standardized; one requires that the assessment be conducted by a qualified psychologist; and one requires that the score be at least three standard deviations below the mean.
- Six states require an adaptive behavior assessment — one state requires that the assessment be standardized or curriculum-based and another requires that deficits be documented in two or more domains.
- Five states require screening or assessment of sensory and motor skills.
- Five states require a communication assessment.
- Three states require a social/emotional assessment.
- Two states require a vocational assessment.

- One state requires a psychological assessment.

Two states note that the use of augmentative and alternative communication or motor systems must be considered during evaluation and documented.

Several states that include specific evaluation requirements for MD also recommend that assessments or documentation be included *as appropriate* (e.g., audiological evaluation or ophthalmologic/optometric assessment). Several states provide detailed recommendations for determining eligibility, but no specific requirements.

Use of Qualitative Data

Only two states require the use of qualitative data for determining eligibility for MD – one requires the use of interviews and observations and the other requires a social/developmental history. One state recommends, but does not require, use of qualitative data.

Requirements for Team Determining Eligibility

Three states include specific requirements regarding the makeup of the team determining eligibility for MD. Participation by the following professionals is required by one or more states:

- school psychologist (3 states);
- licensed psychologist or psychological examiner (3 states);
- special education teacher or early childhood specialist (2 states);
- one or more professionals qualified to interpret assessments of health, adaptive skills or information relating to the family (1 state); and
- district administrator or designated representative (1 state).

Two of the three states note that the team should also include any professionals required as part of the eligibility criteria for the specific disability categories under consideration.

Requirements for Medical Involvement

Two states specifically require a physician to assess or diagnose MD. A third state requires that some type of medical professional (e.g., otologist, osteopath, physician *or* ophthalmologist) conduct the assessment or make the diagnosis. Five other states require a medical history, medical evaluation or sensory/motor screening or assessment, but do not specify which professionals are qualified to conduct these assessments. Some or all of the 15 states that require two or more disability category criteria be met for MD may also require the involvement of medical professionals for relevant disability categories.

Summary

Forty states use the federal term MD or a slight variation and six use other comparable terms. Thirty-four states use the federal definition or a slight variation and 11 use other definitions. Seven states choose to forego the category of MD altogether, in spite of the fact that those states

use all other federal disability categories. Of the 23 states that include eligibility criteria for MD, 15 only require that eligibility criteria for two or more disability categories be met and add no other criteria specifically for MD. The remaining states differ widely in their requirements, with several requiring intellectual assessment (7 states), educational or developmental assessment (6 states), adaptive behavior assessment (6 states), communication assessment (5 states) and/or sensory/motor screening or assessment (5 states). Only three states specifically require the involvement of a medical professional and only two states require the use of qualitative data in determining eligibility for MD.

Table 7
State Terminology, Definition and Eligibility Criteria for
Multiple Disabilities

Terminology, Definition and Eligibility Criteria	Number of States
Uses Federal Term or Slight Variation	40
Uses Other Term	6
Uses Federal Definition	34
Uses Other Definition	11
Includes Specific Eligibility Criteria	23
Includes the Following Eligibility Criteria:	
Diagnosis or Assessment by Outside Professional	3
Eligibility Criteria for Two or More Disability Categories	15
Educational or Developmental Assessment	6
Requires Use of Qualitative Data	2
Includes Requirements for Makeup of Team Determining Eligibility	3
Requires Involvement of Physician(s)	2

Orthopedic Impairment

Overview

Fifty-three states use the term orthopedic impairment (OI) or a comparable term within state special education regulations or other official documents. Fifty-two states provide a definition for the category of OI and 35 provide specific eligibility criteria. (See Table 8 for a summary of terminology, definitions and eligibility criteria for OI.)

Terminology

Forty-six states use the exact term OI or a slight variation – orthopedically impaired or severe orthopedic impairment. Three of these states use OI as a subcategory of either physical impairment, physically impaired or physical disability, and a fourth state notes that OI can be used interchangeably with orthopedically handicapped. Seven states do not use the term OI, but use the comparable terms physical disability, physically handicapped, physically impaired, physically and otherwise health impaired or orthopedic/physical impairment.

Definition

Federal regulations provide the following definition for OI:

(8) *Orthopedic impairment* means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures). [34 CFR §300.7(c)(8)]

Forty-five states use the exact federal definition for OI or a slight variation and seven states use other definitions. For instance, several states provide very brief definitions, whereas one state describes in greater detail than the federal definition how the condition negatively affects a child's ability to function physically – i.e., “physical capacity to move, coordinate activities, or perform physical activities is significantly limited, impaired or delayed.”

Most states list only the federal examples of conditions included under OI. However, of the 52 states that provide a definition for OI, seven states include different and/or additional terms such as arthritis, arthrogyrosis, autism, congenital amputations, deformity, dystrophies and atrophies, juvenile rheumatoid arthritis, loss of bone or muscle tissue, malformation, muscular dystrophy, osteogenesis imperfecta, osseomyelitis, spina bifida, spinal cord injury and traumatic brain injury.

Eligibility Criteria

Diagnosis or Assessment by Outside Professional

Twenty-nine states' eligibility criteria require diagnosis or medical assessment by an outside professional and a thirtieth requires review of the child's medical history. Seventeen states specify that the assessment must be conducted by a physician and two others provide a range of acceptable options, including a physician, internist, neurologist, osteopath, orthopedic surgeon or pediatrician. Additionally, one state permits diagnosis by either a physician or "other qualified professional" and another state requires assessment by an occupational therapist (OT) or physical therapist (PT) under the direction of a physician. In one state, a medical diagnosis alone is insufficient to justify eligibility for the category of OI. Seven states require that the medical report include information such as a description of condition, medical implications of condition and/or information relating to medications. Five states specify that the most recent medical report must be completed within the preceding twelve months. Another state recommends orthopedic/neuromuscular assessment in addition to a medical assessment.

Motor Assessment

Eight states require an assessment of motor skills and/or evidence of motor impairment to meet the eligibility criteria for OI. Of these, one specifies that the assessment be conducted by an OT or PT and one specifies that the student must score two or more standard deviations below the mean in at least one motor area or experience functional deficits in at least two motor areas.

Educational or Developmental Assessment

Twenty-one states require an educational or developmental assessment as part of the eligibility process for OI. Of these, three states require that a standardized or norm-referenced test be used — one state specifies that the student must score at least one standard deviation below the mean in order to be eligible; one state requires that the assessment be conducted within the past six months; and the third specifies that the assessment be conducted by an educational diagnostician or member of the team determining eligibility. One state recommends, but does not require, an educational assessment.

Other Required and Recommended Assessments

Several states require additional assessments or documentation.

- Four states require a social-emotional or behavioral assessment.
- Three states require vision and hearing assessments.
- Two states require a communication assessment.
- Two states require a review of school records.

Each of the following is required by one state: assessment of intellectual ability, assessment of need for adaptive physical education, documentation of accommodations tried, psychological

evaluation in the case of cognitive delay, and a special screening team comprised of an educator and either an OT or PT to assess child's treatment needs.

Several states that include specific evaluation requirements for OI also recommend that additional assessments or documentation be included *as appropriate* (e.g., an OT/PT assessment or assistive technology assessment). Three states make extensive recommendations, but have no eligibility requirements.

Use of Qualitative Data

Seven states require the use of qualitative data for determining eligibility. One state requires a family interview conducted by either a social worker or member of the team determining eligibility and another state requires either a family interview or a social/family/medical history. Four states require one or more classroom observations and one of these states specifies that a physician conduct one observation. Another requires that the observation be at least 30 minutes long and be conducted by a member of the team determining eligibility. Two states require a social and developmental history and another requires either a social and developmental history or teacher narrative.

Requirements for Team Determining Eligibility

Four states include specific requirements regarding the makeup of the evaluation team. One or more states require participation by the following:

- child's regular classroom teacher (3 states);
- OT, PT or other specialist (2 states);
- physician (1 state);
- school nurse (1 state);
- special education teacher (1 state);
- one or more persons knowledgeable of child (1 state);
- school district administrator or designated representative (1 state);
- child (1 state); and
- other professionals as indicated – e.g., assistive technology specialist (1 state).

Requirements for Medical Involvement

Twenty states specifically require the involvement of a physician in one or more phases of the eligibility determination process. Of these, 19 require diagnosis or assessment by an orthopedic surgeon, internist, neurologist, pediatrician or other physician; one requires the presence of a physician on the eligibility determination team; and one requires that a physician conduct at least one observation. Several additional states require involvement of other medical professionals — four states require assessment or diagnosis by an unspecified medical professional and one state requires that a school nurse be a part of the team determining eligibility. Three states also require vision and hearing assessment, but do not specify which professionals are qualified to conduct such assessments.

Summary

Forty-six states use the federal term OI or a slight variation and seven use other comparable terms. Forty-five use the federal definition or a slight variation and seven use other definitions. Of the total 52 states providing some sort of definition for OI, seven provide additional examples of conditions included under OI that are not included in the federal definition. Of the 35 states that include specific eligibility criteria for OI, 29 require professional assessment or diagnosis by an appropriate medical professional. The most commonly required assessments are educational or developmental (21 states) and motor (8 states). Twenty states specifically require the involvement of a physician in one or more phases of determining eligibility for OI.

Table 8
State Terminology, Definition and Eligibility Criteria for
Orthopedic Impairment

Terminology, Definition and Eligibility Criteria	Number of States
Uses Federal Term or Slight Variation	46
Uses Other Term	7
Uses Federal Definition	45
Uses Other Definition	7
Includes Specific Eligibility Criteria	35
Includes the Following Eligibility Criteria:	
Diagnosis or Assessment by Outside Professional	29
Motor Assessment	8
Educational or Developmental Assessment	21
Requires Use of Qualitative Data	7
Includes Requirements for Makeup of Team Determining Eligibility	4
Requires Involvement of Physician(s)	20

Other Health Impairment

Overview

Fifty-two states use the federal term other health impairment (OHI) or a comparable term within state special education regulations or other documents. Fifty-one states provide a definition for OHI and 32 states include specific eligibility criteria. (See Table 9 summary of state terminology, definitions and eligibility criteria.) Because one state includes OHI under the category of OI, information on this state's definitions and eligibility criteria can be found under the section on OI.

Terminology

Fifty-one states use the exact term OHI or a slight variation – other health impaired, health impairment or health impaired. Of these, three states use OHI as a subcategory of either physical disability or physically impaired and one state uses OHI and chronically ill interchangeably. One state does not use the term OHI, but uses the comparable term other health disability.

Definition

Federal regulations provide the following definition for other health impairment:

- (9) *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 –
- (i) 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, and sickle cell anemia; and
 - (ii) Adversely affects a child's educational performance. [34 CFR 300.7(c)(9)]

Forty-nine states use the federal definition of OHI or a slight variation and two states use a different definition of OHI. Although most of these capture the essence of the federal definition, several provide details not included in the federal definition such as required duration of child's condition (e.g., ranging from 3 weeks to 12 months).

Most of the 51 states providing a definition for OHI only provide the federal examples of conditions eligible under the category of OHI. However, 15 provide additional and/or other conditions, including nine states which include tuberculosis and one or more states that include acquired injury to the brain caused by internal occurrences or degenerative conditions, arthritis, burns, cancer, childhood disintegrative disorder, chronic lung disease, genetic impairments, HIV/AIDS, medical fragility, Rett's Disorder, Tourette Syndrome and ventilator assistance.

Eligibility Criteria

Diagnosis or Assessment by Outside Professional

Twenty-three states require diagnosis or assessment by a physician. Two additional states recommend, but do not require, medical diagnosis of OHI. Although attention deficit disorder or attention deficit hyperactivity disorder (ADD/ADHD) is usually included under the category of OHI, four of the 23 states include somewhat different eligibility criteria for ADD/ADHD. For information on how these states handle ADD/ADHD, see sub-section titled “Special Consideration for ADD/ADHD.”

A number of states’ OHI regulations/policies include specifics regarding medical reports or health information:

- medical report must include information on medications (4 states);
- medical report must be completed within the preceding 12 months (4 states);
- team determining eligibility must conduct an assessment of the child’s health and/or review the child’s health history (3 states);
- diagnosing physician must sign a statement that the condition is permanent or of more than 60 days’ duration (1 state); and
- medical report must indicate that the student’s condition requires health technologies, special diet or medications, then a school nurse must also conduct a health assessment (1 state).

Educational or Developmental Assessment

Twenty states’ eligibility criteria for OHI require educational or developmental assessment. This assessment may include, for example, measures of academic performance, classroom observations, criterion-referenced tests or curriculum-based assessment. Three states specify that the educational or developmental assessment must be based on results from a norm-referenced or standardized test, another state requires that an educational assessment be conducted by an educational diagnostician or member of the team determining eligibility and a third state requires that an assessment be conducted within the past six months. Two states recommend, but do not require, educational assessment.

Other Required and Recommended Assessments

Several states that include specific evaluation requirements note that additional assessments or documentation are required. Four states require an adaptive behavior assessment; three states require assessment of social/emotional skills; three states require assessment of screening of vision, hearing or communication skills; two states require an assessment of motor skills; and two states require a psychological assessment. One state requires that a special screening team comprised of an educator and either an occupational therapist (OT) or physical therapist (PT) assess child’s treatment needs.

Several states that include specific evaluation requirements for OHI note that additional evaluations should also be conducted *as appropriate*, particularly in the area of the suspected disability. Three states provide detailed recommendations but have no eligibility requirements.

Use of Qualitative Data

Six states require the use of qualitative data for determining eligibility for OHI. Two states require interviews and one specifies that a social worker or member of the team determining eligibility must conduct the interview. Another state requires either a family interview or a social/medical/family history, and three states require either a social and developmental history or a teacher narrative. Three states require observations — one requires that a special education teacher conduct the observation and another requires the observation to be at least 30 minutes and conducted within the previous 12 months by a member of the team determining eligibility with expertise in OHI.

Requirements for Team Determining Eligibility

Five states include specific requirements for the composition of the team determining eligibility. One or more states require participation by the following professionals:

- child's regular classroom teacher (3 states);
- special education teacher (3 states);
- physician (2 states);
- OT or PT (1 state);
- school nurse or other person qualified to interpret an assessment of child's health (1 state);
- school psychologist (1 state);
- one or more persons qualified to interpret child's social, emotional and developmental condition (1 state); and
- district administrator or designated representative (1 state).

Requirements for Medical Involvement

Twenty-three states require the involvement of a physician in one or more phases of the eligibility determination process. Of these, 19 require diagnosis or assessment by a physician and an additional four require diagnosis or assessment by a physician, *except* in the case of ADD/ADHD. Two of the 19 also require that a physician be a part of the team determining eligibility. Additionally, several states require involvement by other types of medical professionals: One state requires the presence of a school nurse on the eligibility determination team. Additionally, three states require assessment of vision and hearing and two states require assessment of motor skills, but none of these states specify which professionals are qualified to conduct such assessments.

Special Consideration of ADD/ADHD

Five states make special mention of ADD/ADHD within their eligibility criteria for OHI. Of these, four include specific eligibility criteria for ADD/ADHD as follows – three states require diagnosis by either a physician or a mental health professional; and one state requires that the assessment include observation by a member of the team determining eligibility as well as completion of an ADD/ADHD rating scale by the child’s teachers and parents. Two states note that children with ADD/ADHD may be eligible under other disability categories and one specifically cautions that because ADD/ADHD may coexist with other conditions, evaluation procedures must be sufficiently comprehensive to determine whether the child should be primarily identified under OHI or another disability category.

Summary

Almost all states use the federal term and definition for OHI. Fifty-one states use the federal term OHI or a slight variation and only one uses another comparable term. Forty-nine states use the federal definition or a slight variation and only two use other definitions. Of the total 51 states offering a definition for OHI, 15 provide examples of additional conditions included under the category of OHI that are not mentioned in the federal definition. Of the 32 states that include eligibility criteria for OHI, most require assessment or diagnosis by a physician (23 states) and educational or developmental assessment (20 states). Five states include special guidelines for determining eligibility for ADD/ADHD.

**Table 9
State Terminology, Definition and Eligibility Criteria for
Other Health Impairment**

Terminology, Definition and Eligibility Criteria	Number of States
Uses Federal Term or Slight Variation	51
Uses Other Term	1
Uses Federal Definition	49
Uses Other Definition	2
Include Specific Eligibility Criteria	32
Include the Following Eligibility Criteria:	
Diagnosis or Assessment by Outside Professional	19
Educational or Developmental Assessment	20
Requires Use of Qualitative Data	6
Includes Requirements for Makeup of Team Determining Eligibility	4
Requires Involvement of Physician(s)	23

Specific Learning Disability

Background and Legislation

The category specific learning disability (SLD) is somewhat different from the other categories, in that it is the only category for which federal regulations provide specific eligibility criteria. After P.L. 94-142 was enacted in 1975, federal regulations were issued that included specific information on determining eligibility of students with SLD and the requirement of a “severe discrepancy” between academic performance and intellectual ability was introduced at this time. The federal definition of SLD has remained virtually unchanged.¹² Federal eligibility criteria for determining the existence of a specific learning disability were also developed at this time (See Appendix II for excerpts from IDEA regulations pertaining to specific learning disability.)

Federal regulations stipulate that members of the team determining eligibility for SLD include the child’s parents, the child’s regular teacher or a teacher or individual qualified to teach a child of his or her age and at least one person qualified to conduct individual diagnostic examinations of children [34 CFR §300.540]. The team may determine that a child has a specific learning disability if it finds 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 or mathematics reasoning [34 CFR §300.541(a)]. At least one member of the team determining eligibility, other than the child’s regular teacher, is required to observe the child’s academic performance in the classroom or, if the child is not in school, in an environment appropriate to the child’s age [34 CFR §300.542].

The eligibility determination report must include the following information:

- relevant behavior noted during observation;
- educationally relevant medical findings (if any);
- presence or absence of a severe discrepancy between achievement and ability that is not correctible without special education services;
- effects of environmental, cultural or economic disadvantage; and
- each team member’s certification in writing as to whether the report reflects his or her conclusion [34 CFR §300.543].

Overview

Fifty-three states use the federal term specific learning disability (SLD) or a comparable term within special education regulations or other documents and the same 53 states provide a definition for SLD. Forty-nine states provide specific criteria for determining eligibility for SLD

¹² For additional information on the history of federal regulations pertaining to SLD, see R. Bradley, L. Danielson, and D. Hallahan (Eds.), (2002), *Identification of learning disabilities: Research to practice*, Mahwah, NJ: Lawrence Erlbaum Associates.

that reiterate and/or expand the federal eligibility criteria.¹³ (See Table 10 for a summary of terminology, definitions and eligibility criteria for SLD.)

Terminology

Fifty-one states use the exact term specific learning disability or a slight variation — learning disability, specific learning disabilities or specific learning disabled. Of these, one state notes that SLD can be used interchangeably with perceptually impaired and one state uses SLD as a subcategory of learning disability (which also includes MR). Two states use other comparable terms — identifiable learning disability and perceptual and communicative disability.

Definition

Federal regulations provide the following definition for specific learning disability:

(10) *Specific learning disability* is defined as follows:

(i) *General*. The term 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, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

(ii) *Disorders not included*. The term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage. [34 CFR §300.7(c)(10)]

Forty-six states use the exact federal definition for SLD or a slight variation. Seven states use other definitions that, while using different wording from the federal definition, are not substantially different in terms of content. For example, several states emphasize that SLD is a condition intrinsic to the individual.

In addition to the exclusionary factors included in the federal definition for SLD, several of the 53 total states that provide a definition for SLD also note that determination of eligibility may not be based on factors such as emotional stress, difficulty adjusting, lack of motivation or temporary crisis.

Eligibility Criteria

Forty-six states reiterate federal eligibility criteria for SLD either partially or fully. Most commonly, states reiterate information relating to determination of discrepancy (43 states), followed by requirements relating to observations (30 states), information to be included in the eligibility determination report (22 states) and composition of the team determining eligibility

¹³ For SLD only, the numbers are based on data collected by Project FORUM and data provided by The National Research Center on Learning Disabilities (NRCLD).

(19 states). Forty-four states provide other and/or additional eligibility criteria for SLD beyond those required in the federal regulations.¹⁴

Diagnosis or Assessment by Outside Professional

Unlike most other disability categories, no state requires assessment or diagnosis by an outside professional for the category of SLD.

Intellectual Assessment

Thirty-two states include specific requirements beyond those included in the federal regulations regarding assessment of intellectual abilities. Of these, six specify which personnel are qualified to administer intellectual assessments (e.g., school psychologist, licensed psychologist, licensed psycho-educational specialist, qualified psychological examiner or appropriately licensed and/or trained professional). Sixteen specify that the intellectual assessment instrument be standardized or norm-referenced, although in two of these states an alternative assessment may be used in cases where a standardized assessment is deemed inappropriate. Three states include score requirements; one state requires that the assessment instrument be selected from a published list of options; one state requires that assessment be conducted within the past 12 months; and one specifies that the assessment report include the instruments used, date of assessment and results.

Educational or Developmental Assessment

Thirty-two states include specific requirements beyond those in federal regulations regarding educational or developmental assessment. Some states only require assessment of suspected areas of disability, whereas others require assessment of some or all of the seven federal areas (i.e., oral expression, listening comprehension, written expression, basic reading, reading comprehension, mathematics calculation and mathematics reasoning).

Other educational or developmental assessment requirements are as follows:

- Eighteen states require that at least one assessment be standardized or norm-referenced and another two require the use of achievement tests but do not specify whether the tests must be standardized or norm-referenced. One state notes that if a standardized test is deemed inappropriate, an alternative may be substituted.
- Twelve states specify that the assessment include two or more sources of information and include the following types of options (usually in addition to a standardized or norm-referenced measure): classroom tests, observations, cumulative record reviews, work samples, anecdotal teacher records, curriculum-based assessments or results from instructional support programs.
- Three states specify which individuals are qualified to administer the educational assessment — educational diagnostician, school psychologist, specially trained teacher or qualified member of the eligibility determination team.
- One state requires that the assessment be current within the past six months.

¹⁴ This number is based on data collected by Project FORUM in addition to data provided by the NRCLD.

Determining Discrepancy

Thirty-three states include specific information regarding discrepancy determination (e.g., instructions, formulas or tables for calculating discrepancy between academic functioning and intellectual ability). The majority of these states include information regarding the minimum discrepancy in standard deviations (ranging from one to two standard deviations). Other states use the following methods for determining discrepancy: regression prediction formula, standard scores, true score formula or deviation, regressed IQ with standard score discrepancy, percentage discrepancy, grade-level discrepancy, standard scores between academic areas or statistical formulas.¹⁵ Several states also include suggestions for how to handle cases where calculations do not reveal a significant discrepancy (e.g., basing the decision on team judgment as well as standardized tests). One state notes that it does not require specific IQ or achievement testing, nor does it identify a definitive score or score range to determine when a discrepancy becomes 'severe' and warrants a finding of SLD. Another state includes no mention of discrepancy in either the definition or eligibility criteria for SLD.

Other Required and Recommended Assessments

A number of states require additional types of assessment or documentation as described below.

- Ten states require documentation of prior intervention and one state recommends documentation of prior intervention. Of the 10, two states specifically require documentation of two or more interventions, one requires that intervention be conducted by a member of the team determining eligibility, one requires that intervention be conducted within the preceding 12 months and two require additional documentation of conferences or attempted conferences.
- Eight states require screening or assessment of vision, hearing, motor and/or communication skills. Of the eight, one specifies that screening must be current within the past 12 months.
- Five states require a review of attendance, academic, medical and/or social records and two states recommend a record review.
- Four states require assessment and/or documentation to rule out the possibility of other disabilities and three states recommend such assessments or documentation.
- Four states also require classroom work samples in the area(s) of suspected SLD and one state recommends the use of classroom work samples. Of the four, one requires annotations to include grade level of work, errors, time to complete and amount of assistance needed.
- Three states require some type of psychological or neuropsychological assessment.
- Two states require a behavioral assessment.

The following assessments and/or documentation are required by one state: a social/emotional assessment; physical assessment; assessment of provision of learning opportunities; and documentation to rule out lack of proficiency in English, lack of opportunity, culture and health issues as the cause of SLD.

¹⁵ See paper by Reschle et al., (2003) for more detailed description of states' methods for operationalizing discrepancy.

Several states that include specific evaluation requirements for SLD also recommend that assessments or documentation be included *as appropriate* (e.g., health assessment or medical consultation if there has been a change in child's behavior). Three states provide detailed recommendations for determining eligibility, but no specific requirements.

Use of Qualitative Data

Seventeen states include specific requirements regarding the use of qualitative data that go beyond the federal requirement of at least one observation, and three states recommend, but do not require, the use of qualitative data. Four states require that the observation report include the date, location and/or duration of the observation; and three states require that the report include the name and title of the observer. Two states require a minimum of two observations and one state permits the general classroom teacher to conduct one of the observations. One state requires that observation be conducted in each area of suspected SLD, one requires that the disabling condition be documented across multiple settings, one requires that observation examine factors extrinsic to the child (e.g., instructional practices, environmental arrangements and situational factors) and one state requires that observation take place within the preceding 12 months.

Four states require a social/developmental history and a fifth requires either a social/developmental history or a teacher narrative. One other state requires two interviews — one with the child and one with the family conducted by a social worker or member of the team determining eligibility. Another state requires either a family interview or a social/family/medical history.

Requirements for Team Determining Eligibility

Five states include specific requirements regarding the makeup of the team determining eligibility. For instance, participation by the following professionals is required by one or more states:

- school psychologist, licensed psychological examiner or licensed psychologist (3 states);
- teacher certified in SLD or related disability area (2 states);
- special education teacher or specialist with knowledge in the area of suspected disability (1 state);
- general education classroom teacher (1 state); and
- school district administrator or designated representative (1 state).

One state further specifies that if the discrepancy is in the areas of oral expression or listening comprehension, the team must include a professional qualified to assess speech or language impairment (SLI) and another state requires that for a child below the age of five, an early childhood teacher be included as a member of the team.

Requirements for Medical Involvement

No state specifically requires the involvement of physicians or other medical professionals in determining eligibility for SLD. Eight states, however, require the screening or assessment of vision, hearing, motor and/or communication skills, although none specifies which professionals are qualified to conduct these screenings.

Summary

Most states use the exact term SLD or a slight variation (51 states) and only two use other comparable terms. Slightly fewer states use the exact federal definition or a slight variation (46) and seven use other definitions. SLD is somewhat different from other federal disability categories in that it is the only category for which federal eligibility criteria are provided. Forty-six states reiterate federal eligibility criteria either partially or fully and 44 states provide additional eligibility criteria that go beyond federal requirements. Most states include additional eligibility criteria regarding intellectual assessment (32 states) and educational or developmental assessment (32 states). Most also include specific guidelines for determining discrepancy (33 states). Seventeen states include specific requirements regarding the use of qualitative data that go beyond federal requirements. No state requires the involvement of physicians or other medical professionals.

Table 10
State Terminology, Definition and Eligibility Criteria for
Specific Learning Disability

Terminology, Definition and Eligibility Criteria	Number of States
Uses Federal Term or Slight Variation	51
Uses Other Term	2
Uses Federal Definition	46
Uses Other Definition	7
Includes Specific Eligibility Criteria	49
Includes the Following Eligibility Criteria:	
Intellectual Assessment (Beyond Federal Requirements)	32
Educational or Developmental Assessment (Beyond Federal Requirements)	32
Information Regarding Determination of Discrepancy	33
Requires Use of Qualitative Data	17
Includes Requirements for Makeup of Team Determining Eligibility	5
Requires Involvement of Physician(s)	0

Speech or Language Impairment

Overview

Fifty-three states use the federal term speech or language impairment (SLI) or a comparable term within state special education regulations or other official documents, and 30 divide the category into four or more subcategories. Fifty-one states provide a definition for SLI and 39 states provide specific eligibility criteria for the category of SLI and/or specific subcategories of SLI. (See Table 11 for summary of state terminology, definitions and eligibility criteria for SLI.)

Terminology

Forty-two states use the exact term speech or language impairment or a slight variation (i.e., speech/language impairments or speech and language impaired). One of these states also notes that the term SLI can be used interchangeably with the term communication disorder. Eleven states use other comparable terms including communication disability, communication disorder, communication impairment, speech-language disability and speech impairment.

Definition

Federal regulations provide the following definition for speech or language impairment:

(11) *Speech or language impairment* means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance. [34 CFR §300.7(c)(11)]

Thirty-six states use the exact federal definition for SLI or a slight variation. Fifteen states use other definitions. For example, some state definitions describe how the condition adversely impacts a child's academic performance, that the condition may vary in terms of severity or that the condition may be congenital or acquired.

Of the 51 total states providing definitions for the category of SLI, 30 divide SLI into four or more subcategories and provide definitions and/or eligibility criteria for each subcategory. The most commonly used subcategories include the four mentioned in the federal definition: language impairment, articulation/phonology impairment, fluency impairment and voice impairment. Although most states use these exact terms, several use slightly different terms to describe the same subcategories. Additional subcategories used by only one state include absence of language, delayed acquisition of language, hearing loss resulting in speech/language disorder, listening comprehension and severe communication deficits that may require the use of an augmentative communication system.

Eligibility Criteria

Communication Assessment

Twenty-two states require general communication assessment and/or diagnosis by a professional for the category of SLI and one state recommends, but does not require, communication assessment. Of these, 14 require that one of the following outside professionals conduct the communication assessment: speech-language clinician¹⁶ (14 states) or physician (1 state).

Eleven states provide specific information regarding content of the assessment. Four of the 11 include information on required areas of assessment, including language skills (e.g., receptive and expressive language, phonology, morphology, syntax, semantics and pragmatics), speech skills (e.g., articulation, voice, fluency and oral-motor competency) and/or functional communication skills. Two of these states require initial screening for all possible areas of impairment followed by comprehensive assessment in areas of particular concern.

Five states require use of one or more standardized or norm-referenced instruments and of these, two include information on score requirements. Two states also require analysis of language samples. Three states do not include specific requirements regarding type of assessment, but permit use of formal and/or informal measures.¹⁷ Several states include lists of acceptable assessment options such as criterion-referenced measures, checklists, intelligibility ratios, interviews and observations.

Seventeen states also require that specific communication assessments be used to determine eligibility for one or more subcategories of SLI (e.g., language, articulation/phonology, fluency and voice) instead of, or in addition to, requiring a general communication assessment. Eligibility requirements for specific subcategories can be found under the sub-sections titled Language Impairment, Articulation Impairment, Fluency Impairment and Voice Impairment.¹⁸

Other Required and Recommended Assessments

A number of states require additional types of assessment and/or documentation for the category of SLI.

- Nine states require an educational assessment. Of the nine, one requires that the child's teacher or a member of the team determining eligibility conduct the assessment.
- Eight states require a hearing assessment or screening and one specifically requires an audiometric screening within the last 12 months.

¹⁶ The term speech-language clinician is used generically in this section to refer to speech and language professionals with a variety of titles working in the schools. Titles such as speech-language pathologist or speech and language therapist are determined and protected by state licensing laws; however, regardless of title, all perform much the same functions within educational settings.

¹⁷ The terms "formal" and "informal" assessments or measures are used in three states' documents. Although one state defines formal as norm-referenced and informal as criterion-referenced, the other states do not provide definitions.

¹⁸ One state also uses a fifth subcategory – Listening Comprehension Impairment – and requires specific assessment in the area of auditory processing.

- Five states require a vision assessment or screening and one state requires a speech and language screening within the past 12 months.
- Four states require an oral-facial exam and one state recommends an oral-facial exam.

Each of the following is required by at least one state: unspecified record review, documentation of a consultation with a speech and language specialist prior to referral, documentation that no improvement in speech and language performance has occurred within the preceding six months, documentation of a discrepancy between child's speech and language performance and either academic performance or intellectual ability, and a physician's statement whenever an organic cause of SLI is suspected. One state specifically notes that eligibility for SLI requires that the child be unable to communicate without assistance or augmentative and alternative communication (AAC) devices or systems.

Several states that include specific evaluation requirements for SLI also recommend that assessments or documentation be included *as appropriate*. Three states provide detailed recommendations for determining eligibility, but have no specific requirements.

Language Impairment – Subcategory Requirements

Nineteen states provide specific eligibility criteria for the subcategory language impairment.¹⁹ Ten states require that assessment include receptive and expressive language and seven states require that assessment include phonology, morphology, syntax, semantics and pragmatics. Eight states specifically require the use of two or more assessment measures. Nine states require that one or more assessment measures be based on standardized or norm-referenced instruments. Two states require analysis of a language sample and one requires use of a language rating scale. Five states do not specify what type of assessment should be used, but include lists of appropriate assessment options such as checklists, observations and language sample analysis. Ten states include information on score requirements and one state requires that a speech and language specialist conduct the assessment.

Two states also require an educational assessment for the subcategory of language impairment. One state requires documentation of a discrepancy between cognitive level and speech and language performance, but does not specifically require intellectual assessment. One state requires both a hearing screening and an assessment of auditory perception.

Articulation Impairment – Subcategory Requirements

Nineteen states provide specific eligibility criteria for the subcategory articulation impairment.²⁰ Of these, 15 require assessment of articulation and phonological skills. One state notes that

¹⁹ The subcategory language impairment refers to impaired comprehension and/or use of language, and may involve the form of language (phonology, morphology, syntax), the content of language (semantics) and/or the function of language in communication (pragmatics) in any combination. This definition, as well as the following definitions for other SLI subcategories, is a composite of definitions from various state regulations.

²⁰ The subcategory articulation impairment refers to the atypical production of speech sounds characterized by substitutions, omissions, additions or distortions that may interfere with intelligibility.

articulation must be affected in two or more environments and may be documented by either a teacher or parent. Several states require specific types of assessment:

- analysis of conversational articulation (2 states);
- analysis of connected speech (2 states);
- single word test or sentence/phrase repetition tasks (1 state);
- articulation rating scale (1 state); and
- determination of phoneme stimulability (1 state).

Seven states include score requirements on articulation assessments to be eligible in this subcategory. Three states require use of two or more assessment measures. Seven states require that at least one assessment be standardized or norm-referenced. Two of the seven, however, waive this requirement for older children (i.e., over the ages of 8 or 9) – one state, for instance, allows the analysis of speech samples in lieu of standardized assessment. One state requires that a statement by the examiner ensure that articulation errors are not due to cultural or dialectical differences or maturational delay.

Two states require an oral-facial exam and two states require the use of qualitative data in the form of a teacher report.

Fluency Impairment – Subcategory Requirements

Seventeen states provide specific eligibility criteria for the subcategory fluency impairment.²¹ Of these, 13 require assessment of dysfluent speech. Two note that assessment must include information on type, frequency, duration and/or intensity of dysfluency, as well as whether dysfluency is a response to stress. Several states require use of specific measures:

- analysis of one or more language samples (4 states);
- fluency rating scale (2 states); and
- language sample or fluency rating scale (1 state).

Two states require two or more measures of dysfluency, two states require that the measures be standardized or norm-referenced and one state recommends that a speech-language clinician conduct the assessment. Eight states include information on score requirements. One state notes that determination should not be based on dysfluencies attributable to maturational delay.

Four states require observations of dysfluency patterns in two or more settings and two of these specify that a speech-language clinician, classroom teacher or parent conduct the observations. Four other states, while not specifically requiring observations, do require that dysfluency problems be documented across multiple settings. One state requires both a hearing screening and an oral-facial exam.

Four states require the use of qualitative data for determining eligibility for the subcategory fluency impairment. All four require observations; two require a teacher report; and one requires

²¹ The subcategory fluency impairment refers to an interruption in the flow of speaking characterized by atypical stoppages, repetitions or prolongations of sounds, syllables, words and phrases.

interviews with the parent, teacher or child. Two additional states require that information be gathered from the parent, teacher or child; and one of these states also requires information from the speech-language clinician.

Voice Impairment – Subcategory Requirements

Nineteen states provide specific eligibility criteria for the subcategory voice impairment.²² Of these, 12 specifically require voice assessment (e.g., evaluation of pitch, quality, resonance, inflection and loudness) and one recommends voice assessment. Several states require the use of specific assessment instruments:

- voice rating scale (4 states);
- two or more diagnostic observations (2 states); and
- vocal characteristics checklist (1 state).

Three states include information on score requirements, three require that assessments/observations take place 10-14 days apart and one state requires that a minimum of two assessments be conducted.

Seven states require assessment or diagnosis by an appropriate medical professional and two states recommend medical assessment under certain conditions, e.g., suspected laryngeal tract etiology or velopharyngeal incompetency. The following medical professionals are allowed to conduct the assessment by one or more states: otolaryngologist (3 states), otorhinolaryngologist (1 state) and physician (1 state). Four additional states require a medical report from a physician (specialty not required) or specifically by an otolaryngologist stating that voice therapy is not contraindicated and a fifth requires clearance from a physician allowing the voice assessment to take place. Two states require an oral-facial exam and one requires a hearing screening. One state makes special note of the fact that mild hoarseness that is the result of an upper respiratory disease or allergy is not appropriate as the sole basis for determination.

Four states specifically require the use of qualitative data for determining eligibility for the subcategory voice impairment. Three require observations — one specifies that someone other than the referring teacher or speech-language clinician must conduct the observation and two require a teacher report. One additional state requires that information be gathered from the parent, teacher or child, as well as the speech-language clinician.

One state also requires that an otolaryngologist be a member of the team determining eligibility.

Use of Qualitative Data

Four states specifically require the use of qualitative data for determining general eligibility for SLI. Three require observation by a parent, teacher or speech-language clinician — one requires a minimum of two observations. The fourth requires a developmental history obtained from the

²² The subcategory voice impairment refers to aphonia (absence of voice) or the abnormal production of vocal quality, pitch, loudness, resonance and/or duration, which is inappropriate for an individual's age and/or gender. It does not include selective mutism.

parent. One of the four states also requires either a family interview or social/medical/family history. Five states also require the use of qualitative data for determining eligibility for one or more subcategories of SLI. Several states recommend, but do not require, the use of qualitative data. As mentioned above, a number of states also require qualitative data for determining eligibility for one or more subcategories of SLI.

Requirements for Team Determining Eligibility

Ten states include specific requirements regarding the composition of the team determining eligibility. All require participation of a speech-language clinician. One or more states require participation by the following professionals:

- regular classroom teacher (3 states);
- special educator if another disability is present in addition to SLI (1 state);
- district administrator or designated representative (1 state); and
- person with knowledge of the pupil (1 state).

As mentioned above, in the case of voice impairment, one state also requires participation by an otolaryngologist.

Requirements for Medical Involvement

No state specifically requires the involvement of medical professionals as part of the eligibility determination process for the general category of SLI. Nine states, however, require involvement of one or more specific medical professionals as part of the eligibility determination process for the subcategory voice impairment — four of the nine require assessment or diagnosis by an otolaryngologist, otorhinolaryngologist or other physician; five of the nine require a medical report by an otolaryngologist or other physician indicating that voice assessment or voice therapy is not contraindicated medically; and one of the nine requires that an otolaryngologist be part of the team determining eligibility.

Although four states require an oral-facial exam as one of the general criteria for SLI, and three others require an oral-facial exam for one or more subcategories of SLI, none specify whether medical professionals are required to conduct these exams. Furthermore, nine states require health, vision and/or hearing assessment or screening for SLI or one of the subcategories of SLI, but do not specify whether medical professionals are required to conduct these assessments.

Summary

Forty-two states use the federal term SLI or a slight variation and 11 use other comparable terms. Thirty-six states use the federal definition or a slight variation and 15 use other definitions. Thirty states divide SLI into four or more subcategories, most commonly those mentioned in the federal definition — language impairment, articulation impairment, fluency impairment and voice impairment. Twenty-two states require general communication assessment and/or diagnosis by a qualified professional for the category of SLI and 17 states also include specific communication assessments to determine eligibility for one or more subcategories of SLI. Ten

states require that a speech-language clinician be a part of the team determining eligibility. The involvement of medical professionals is required by nine states in determining eligibility for the subcategory voice impairment.

Table 11
State Terminology, Definition and Eligibility Criteria for
Speech or Language Impairment

Terminology, Definition and Eligibility Criteria	Number of States
Uses Federal Term or Slight Variation	42
Uses Other Term	11
Uses Federal Definition	36
Uses Other Definition	15
Includes Specific Eligibility Criteria	39
Includes the Following Eligibility Criteria:	
General Communication Assessment	22
Specific Eligibility Criteria for Subcategory of:	
Language Impairment	19
Articulation Impairment	19
Fluency Impairment	17
Voice Impairment	19
Requires Use of Qualitative Data	4
Includes Requirements for Makeup of Team Determining Eligibility	10
Requires Involvement of Physician(s)	0

Traumatic Brain Injury

Overview

Fifty-two states use the term traumatic brain injury (TBI) or a comparable term within special education regulations or other official documents. Fifty-one states provide definitions for TBI and 30 states provide eligibility criteria for TBI. (See Table 12 for a summary of state terminology, definitions and eligibility criteria for TBI.) One other state does not use the term TBI, but includes TBI under the category of orthopedic impairment (OI) and information on this state's definitions and eligibility criteria can be found under the section on OI.

Terminology

Forty-nine states use the exact term traumatic brain injury. Of these, two states include TBI as a subcategory of OI and a third uses the term TBI interchangeably with neurologically impaired. Three states use other comparable terms – head injury, neurological impairment and neurologically impaired.

Definition

Federal regulations provide the following definition for TBI:

(12) *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 child's 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 to brain injuries induced by birth trauma.
[34 CFR §300.7(c)(12)]

Forty-eight states use the exact federal definition for TBI or a slight variation. Of these, two list a variety of possible causes of TBI including bullet wounds, contusions, near drowning and skull fracture. One of the 48 specifically notes that injuries caused by internal occurrences are not covered under TBI; another notes that injuries to the brain caused by internal occurrences (e.g., anoxia, effects of toxic substances, infections, metabolic disorders, tumors or vascular accidents) may meet criteria for other disability categories; and a third notes that children with brain disorders other than TBI should nonetheless be considered for assessment using eligibility criteria for TBI. One state notes that the condition must be permanent or expected to last for 60 or more days.

Three states use other definitions. One of these specifically notes that its definition is broader than the federal definition and includes conditions not usually covered by the term TBI. Contrary to the federal definition, a second state explicitly notes that internal occurrences such as stroke or

aneurysm *are* included under TBI. The third state's definition is similar to the federal definition, but uses different wording.

Eligibility Criteria

Diagnosis or Assessment by Outside Professional

Twenty-eight states' eligibility criteria require an assessment or diagnosis by an outside professional. Three of these states allow this requirement to be waived if documentation of TBI can be provided via other appropriate sources such as health department reports, social services reports or parents' medical bills and records. A twenty-ninth state, while not specifically requiring assessment or diagnosis by a professional, *does* require a description of the event resulting in TBI. One other state recommends, but does not require, assessment by an appropriate professional.

Of the 28 states that require an assessment or diagnosis by an outside professional, 21 specify who may conduct this assessment. The following professionals are permitted by one or more states:

- physician (21 states);
- neuro-psychologist or psychologist (4 states);
- neurologist or neural specialist (2 states);
- speech-language clinician²³ (1 state);
- school psychologist (1 state); and
- associate school psychologist (1 state).

Three states require a medical history in addition to assessment and a fourth notes that if a child has received services in a medical or rehabilitation setting, reports from the facility must be provided. Furthermore, in the event that a child's impairment requires health technology, health management, health treatments such as special diet, medications or assistance with daily living, one state also requires a health assessment by a nurse or other qualified professional in addition to medical documentation of TBI.

Neuropsychological Assessment

Ten states require some type of neuropsychological assessment that addresses the impact of TBI on cognitive or sensory-motor functioning. States describe this battery of assessments in different ways and do not necessarily use the term neuropsychological assessment. Assessment is most likely to include the following components: screening of intellectual functioning (e.g., cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech) and assessment of sensory-motor skills (e.g., sensory/perceptual processing, physical functioning and seizure activity). One state requires that assessment be conducted post-injury and within the past three months.

²³ The term speech-language clinician is used generically in this section to refer to any number of speech and language professionals working in the schools.

Of the ten states that require a neuropsychological assessment, three states specify who may conduct this assessment. The following professionals are mentioned by one or more states:

- school psychologist (3 states);
- neuropsychologist (1 state);
- psycho-educational specialist knowledgeable in TBI (1 state); and
- member of eligibility determination team (1 state).

Two states recommend but do not require neuropsychological assessment and several additional states require a single component of a neuropsychological assessment – i.e., physical/motor assessment. (See section titled *Other Required or Recommended Assessments*.)

Adaptive Behavior Assessment

Six states require some type of adaptive behavior assessment addressing impact of TBI on academic performance, communication, social/emotional functioning and functional daily living. One state requires that adaptive behavior assessment be conducted post-injury and within the past three months and another requires that assessment be conducted by a school psychologist or neuropsychologist within the past 12 months. Two states recommend, but do not require, an adaptive behavior assessment and several states require some type of emotional/behavioral assessment (see section titled *Other Required and Recommended Assessments*).

Educational or Developmental Assessment

Fourteen states require an educational or developmental assessment to determine eligibility for TBI. Of these, four states require that whenever possible a comparison be made of the child's educational performance before and after injury. Two states require that a standardized or norm-referenced instrument be used to assess educational performance and one state requires that an assessment be conducted by an educational diagnostician or member of the team determining eligibility. Two states, although not requiring a current educational assessment, do require information on child's pre-injury functioning and/or academic performance.

Other Required and Recommended Assessments

A number of states require additional types of assessment or documentation as described below.

- Seven states require a communication assessment or screening and one of these specifies that the assessment include language processing and use, take place within the preceding 12 months and be conducted by a speech language therapist familiar with TBI.
- Six states require a sensory assessment or screening. One of the six specifies that the assessment take place within the preceding 12 months and another specifies that the assessment include information regarding processes impacted by TBI (e.g., neurologically-based hearing impairment).
- Five states require an assessment of emotional/behavioral status.

- Four states require an intellectual assessment and one of these requires the use of a standardized assessment instrument.
- Four states require an assessment of physical/motor skills.
- Two states require an unspecified review of records.
- One state requires a health assessment.
- One state requires documentation of two or more interventions as well as conferences or attempted conferences with parents.

Several states that include specific evaluation requirements also include recommendations that assessments or documentation be included based on areas of suspected disability resulting from TBI. Others recommend assessment as appropriate of augmentative and alternative communication (AAC) and assistive services needs, as well as medical screening for neurological damage. Three states provide detailed recommendations for determining eligibility, but have no specific requirements.

Use of Qualitative Data

Eleven states specifically require the use of qualitative data in determining eligibility for TBI and several states recommend, but do not require, the use of qualitative data. Six states require observations. Of the six, two states require two or more observations and one requires three or more observations. Two of the 11 states require that someone other than the classroom teacher conduct observations and one requires that at least two individuals conduct observations. Two states note that the observation report must document the specific nature and severity of the child's impairment. In addition, two states require parent interviews and one requires that a school social worker or member of the team determining eligibility conduct the interview. Another state requires either a parent interview or social/family history. Three states require a developmental or social/developmental history and one state requires a teacher narrative.

Requirements for Team Determining Eligibility

Four states include specific requirements regarding the makeup of the team determining eligibility. One or more states require participation by the following professionals:

- special education teacher, general education teacher or professional with expertise in TBI (3 states);
- physician (2 states);
- school psychologist or licensed psychologist (2 states);
- speech and language specialist (1 state);
- school district administrator or designated representative (1 state);
- school nurse or other person qualified to assess health (1 state); and
- one or more persons qualified to interpret information relating to child's social, emotional, developmental or familial condition (1 state).

Requirements for Medical Involvement

Eighteen states explicitly require involvement of a physician in one or more phases of determining eligibility for TBI. Seventeen states explicitly require an assessment or diagnosis by a neurologist or other physician and two states require that a physician serve as a member of the team determining eligibility. In addition, six states require screenings of vision, hearing or general health, but do not specify which professionals are qualified to conduct these screenings; three states require a medical history compiled by an appropriate professional; and one state requires an assessment by a nurse under certain circumstances.

Summary

Most states use the exact term TBI (49 states) and only three use other comparable terms. Most states also use the federal definition of TBI or a slight variation (48 states) and only three use other definitions. Twenty-eight states require assessment or diagnosis by an appropriate professional. Many states also require educational or developmental assessment (14 states), some type of neuropsychological assessment (10 states), communication screening or assessment (7 states), adaptive behavior assessment (6 states) and sensory assessment (6 states). Eighteen states specifically require the involvement of a physician and 11 states require the use of qualitative data. Because TBI is still a relatively new disability category under IDEA, there appears to be less agreement across states as to eligibility requirements than for some of the other disability categories.

Table 12
State Terminology, Definition and Eligibility Criteria for
Traumatic Brain Injury

Terminology, Definition and Eligibility Criteria	Number of States
Uses Federal Term or Slight Variation	49
Uses Other Term	3
Uses Federal Definition	48
Uses Other Definition	3
Includes Specific Eligibility Criteria	30
Includes the Following Eligibility Criteria:	
Diagnosis or Assessment by Outside Professional	28
Neuropsychological Assessment	10
Adaptive Behavior Assessment	6
Educational or Developmental Assessment	14
Requires Use of Qualitative Data	11
Includes Requirements for Makeup of Team Determining Eligibility	4
Requires Involvement of Physician(s)	18

Visual Impairment Including Blindness

Overview

Fifty-three states use the term visual impairment including blindness (VI) or a comparable term in state special education regulations or other official documents. Fifty-two states provide definitions for VI and of these, 43 specifically note that blindness is included within the definition. Forty-two states provide eligibility criteria for VI. (See Table 13 for summary of state terminology, definitions and eligibility criteria for VI.)

Terminology

Forty-nine states use the exact term visual impairment including blindness or a slight variation (i.e., visual impairment/blindness, visual impairment, visually impaired or visual impairments). Four states use other comparable terms (i.e., blind and partially sighted, vision disability, visually handicapped, and sensory impairment/vision).

Definition

Federal regulations provide the following definition for visual impairment:

(13) *Visual impairment including blindness* means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness. [34 CFR §300.7(c)(12)]

Forty-one states use the exact federal definition for VI or a slight variation. Eleven states use other definitions; however, of these, four note that blindness is included within the definition. A number of states that use other definitions also include specific information on minimal levels of visual acuity.

Three of the total 52 states providing a definition for VI mention conditions in addition to blindness that are included under the category (e.g., cortical visual impairment, degenerative condition that will result in significant loss of vision, nystagmus, reduced visual field, retinitis pigmentosa, or VI resulting from congenital defects, eye disease or injuries to the eye). One state notes that learning problems that are primarily the result of visual perceptual and/or visual motor difficulties are *not* included under the category VI.

Eligibility Criteria

Diagnosis or Assessment by Outside Professional

Thirty-one states' eligibility criteria require diagnosis and/or optometric or ophthalmologic assessment by appropriate medical professionals. One of these states notes that in the case of blindness, a physician's statement or copy of medical records is permitted in lieu of an optometric/ophthalmologic assessment and another state notes that in case of cortical visual

impairment, a neurologist may conduct the assessment. Two additional states recommend, but do not require, optometric/ophthalmologic assessment.

Twenty-seven states specify which professionals are qualified to conduct an optometric or ophthalmologic assessment. The following professionals are permitted by one or more states: ophthalmologist (21 states), optometrist (19 states) and eye specialist (7 states). Eight states require that the optometric/ophthalmologic report include one or more of the following components: etiology; diagnosis; secondary or accompanying visual conditions (e.g., nystagmus or photo phobia); treatment regimen; prognosis; corrected and uncorrected visual acuity measures for left, right and both eyes; measure of field of vision; assessment of visual discrimination and processing skills; and recommendations for lighting levels, physical activity, aids or use of glasses as appropriate. One state requires that assessment be conducted within the past 12 months.

Type and Severity of Impairment

Twenty-five states include specific criteria regarding the types and/or severity of visual impairment necessary for a child to be eligible under the category of VI. Nine states break VI into two or more of the following subcategories – functionally blind, legally blind, partially sighted, significant functional impairment, progressive visual impairment and cortical visual impairment. In terms of severity requirements, 22 states include specific criteria regarding severity of VI. States either include generic specifications such as “visual acuity of 20/70 or poorer in better eye with correction” or “visual field restriction of 20 degrees” or include different severity requirements for each subcategory.

Functional Vision Assessment

Nine states require a functional vision assessment. A number of states specify that the following professionals are qualified to conduct this assessment: teacher of the visually impaired (5 states), orientation and mobility specialist (2 states) and appropriately trained diagnostician (2 states). One state requires that the assessment include performance of tasks in a variety of environments requiring use of both near and far vision, recommendations for low vision evaluation, and orientation and mobility evaluation. Another state requires that the assessment include child’s access to educational and social opportunities.

Educational or Developmental Assessment

Eighteen states require an educational or developmental assessment for the category of VI and three states recommend such assessment. Of the 18, two states require that the assessment be standardized, norm-referenced or criterion-referenced; one state requires that the assessment be conducted by an educational diagnostician or member of the team determining eligibility; and one requires that the assessment be conducted within the preceding six months.

Other Required and Recommended Assessments

Several states require additional types of assessment and/or documentation and a number require assessments specifically related to VI.

- Seven states require a literacy media assessment that includes consideration of Braille, large print, regular print, auditory mode or a combination, as well as current and future needs. Two of the seven require assessment by a teacher of children with VI and one requires that the assessment include recommendations for specific visual, tactual or auditory learning media. Three states recommend, but do not require, Braille assessment.
- Seven states require an orientation and mobility assessment and two recommend such assessment. Of the seven, two specify that an orientation and mobility specialist conduct the assessment.
- Three states require a functional literacy assessment.
- One state requires an assessment of the need for low vision services.

In addition, two states require intellectual assessment. Of these, one notes that assessment must be standardized, adapted for use by students with VI and administered by a professional with knowledge of VI. The other state requires that a qualified psychologist conduct the assessment. Two additional states recommend, but do not require, intellectual assessment.

Six states require a screening or assessment of hearing, motor and/or communication and one state recommends such assessment. One of these specifically states that the communication assessment must include visual communication skills. Another requires that vision, hearing and communication screening be current within the past 12 months, although the vision screening may be waived if an optometric/ophthalmologic assessment is documented.

Four states require a medical history or health assessment and three states recommend such assessment. One of the four states requires that the health assessment be conducted by a physician or osteopath. Other assessments/reviews required or recommended by states include:

- adaptive behavior assessment (1 requires, 5 recommend);
- social/emotional assessment (2 require, 5 recommend);
- documentation of attempted interventions (2 require, 1 recommends);
- generic record review (1 requires);
- review of the child's educational history (1 requires); and
- assessment of independent living, recreation and leisure, career education, assistive technology and compensatory skills (1 requires).

Several states that include specific evaluation requirements also recommend that assessments or documentation be included *as appropriate* (e.g., vocational assessment, assistive technology assessment, or psychological assessment). Three states provide detailed recommendations for determining eligibility, but no specific requirements.

Use of Qualitative Data

Eight states require the use of qualitative data for determining eligibility and two states recommend the use of qualitative data. Six states require observation of visual functioning and one specifies that an observation be conducted as part of a functional vision assessment (See subsection above on Functional Vision Assessment). One state requires that an observation be conducted by the child's classroom teacher, one requires observation by someone *other* than the child's classroom teacher and a third requires observation by a teacher of VI or appropriately trained diagnostician. Another state requires that the observation report document any of the following behaviors: shutting or covering one eye, squinting, difficulty with work requiring vision, avoidance or near work task or irritation when required to do near work, inability to see distant objects, difficulty with navigation and eye appearance (e.g., crossed eye, nystagmus). Three states require a developmental history or teacher narrative and one requires that the developmental history be obtained from a parent. One state requires a family interview and another requires either a family interview or the compilation of a family/social/medical history.

Requirements for Team Determining Eligibility

Five states include specific requirements regarding the makeup of the team determining eligibility. Participation by each of the following professionals is required by at least one state:

- teacher or specialist in VI (3 states);
- optometrist or ophthalmologist (2 states);
- regular classroom teacher (2 states);
- three or more persons with expertise in VI or the interpretation of health and/or educational assessments (1 state); and
- other professionals as appropriate — low vision specialist or orientation and mobility instructor (1 state).

Requirements for Medical Involvement

Three states specifically require a diagnosis or assessment by a physician (i.e., ophthalmologist) in determining eligibility for VI and another state requires a physical exam conducted by a physician or osteopath. Twenty-five additional states require diagnosis or assessment by a medical professional (e.g., either an ophthalmologist *or* an optometrist or eye specialist). Furthermore, six states require screening or assessment of vision, hearing or motor skills. Three states require a medical history or current medical assessment, but do not specify which medical professionals are qualified to conduct such assessments.

Summary

Most states use the federal term VI or a slight variation (49 states) and only four use other comparable terms. Fewer states, however, use the federal definition for VI (41 states) and instead use other definitions (11 states). Forty-three states specifically include blindness within the definition of VI. Most states require optometric or ophthalmologic assessment or diagnosis by an appropriate medical professional (31 states), although only three require assessment or diagnosis by a physician. Eighteen states require an educational or developmental assessment, nine require a functional vision assessment and seven states require a literacy media assessment.

Table 13
State Terminology, Definition and Eligibility Criteria for
Visual Impairment Including Blindness

Terminology, Definition and Eligibility Criteria	Number of States
Use Federal Term or Slight Variation	49
Use Other Term	4
Use Federal Definition	41
Use Other Definition	11
Include Specific Eligibility Criteria	42
Include the Following Eligibility Criteria:	
Diagnosis or Assessment by Outside Professional	31
Type and/or Severity of Impairment	25
Functional Vision Assessment	9
Educational or Developmental Assessment	18
Require Use of Qualitative Data	8
Include Specific Requirements for Makeup of Team Determining Eligibility	5
Require Involvement of Physician(s)	4

Developmental Delay

Background and Legislation

The passage of P.L. 99-457 in 1986 and with it, the creation of the Part C Infants and Toddlers with Disabilities Program for ages birth through two, has often been seen as an importance milestone in the creation of the optional disability category *developmental delay* for young children under Part B. Because developmental delay may be used for all children eligible under Part C, concerns about potential discontinuity between Part C and Part B have arisen. Subsequent reauthorizations of the law addressed these concerns by adding an optional category, developmental delay, for ages three through five (P.L. 102-119, 1991) and then extending the age range through age nine (P.L. 105-17, 1997). According to the IDEA regulations, states may chose to use developmental delay under Part B for children age three through nine or some subset of that age range and may also determine eligibility criteria for developmental delay [34 CFR §300.313]. States may use developmental delay in addition to one or more of the other Part B disability categories for the early childhood years they designate. LEAs, in turn, may elect to use or not use developmental delay as defined by the state (criteria and age range), but may not independently adopt or define developmental delay. States may adopt a common definition of developmental delay for both Parts C and B (Office of Special Education Programs, 1999). (See Appendix III for excerpts from IDEA regulations pertaining to developmental delay.)

Many states served children with disabilities younger than mandatory school age prior to the passage of P.L. 99-457 (Meisels, Harbin, Modigliani, & Olson, 1988). A number of states used terms other than the disability categories listed in the law to describe these young children, such as “preschool handicapped,” “preprimary impaired,” or “noncategorical early childhood.” While these young children may have manifested delays or disabilities in the areas covered under the law, many professionals and advocates felt that classification of young children was difficult or inappropriate using the Part B categories (Division for Early Childhood, 2001). States’ policies have continued to evolve, and the use of the category developmental delay has increased since the federal law incorporated this option (Danaher and Shackelford, 2001).

Overview

Fifty-two states use the term developmental delay (DD) or a comparable term applied to young children within state special education regulations or other official documents. The same 52 states include some sort of definition for DD and also provide specific eligibility criteria for DD.²⁴ (See Table 14 for a summary of state terminology, definitions and eligibility criteria for DD.)

Terminology

Thirty-eight states use the exact term developmental delay or a slight variation – developmentally delayed, early childhood developmental delay, student with a developmental

²⁴ For DD only, the numbers are based on data collected by Project FORUM *as well as* supplemental information from National Early Childhood Technical Assistance Center (NECTAC).

delay, significant developmental delay or young child with a developmental delay.²⁵ Fourteen states use other comparable terms – child with disabilities age 3-5, developmental disability, individual with exceptional needs or established medical condition 3-5, noncategorical delay, noncategorical early childhood, preschool child with a disability, preprimary impaired, preschool disabled and preschool special needs.²⁶ Two of the 52 states using the category DD or a comparable term divide it into two or more subcategories in order to differentiate between severity and/or type of delay. One uses preschool severe delay, preschool moderate delay and preschool speech/language delay. The other uses delayed/atypical development and delayed/atypical behavior. Another two states use other terms *in addition to* DD – i.e., one uses preschool speech delay in addition to DD and the other uses early childhood disability in addition to DD.

Definition

Federal regulations provide the following definition for developmental delay:

(b) *Children aged 3 through 9 experiencing developmental delays.* The term *child with a disability* for children aged 3 through 9 may, at the discretion of the State and LEA and in accordance with §300.313, include a child –

(1) 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

(2) Who, by reason thereof, needs special education and related services.

[34 CFR §300.7(b)]

Regulations go on to stipulate that a state that adopts the term developmental delay under §300.7(b) determines whether it applies to children aged three through nine, or to a subset of that age range (e.g., ages three through five) [34 CFR §300.313 (a)(1)].

Forty states use the federal definition for DD and 12 use other definitions. States that adopt the federally-defined age range or a subset thereof, as well as adopt the five federal developmental domains are identified as using the federal definition for DD. States that adopt different age ranges and/or developmental domains are identified as using other definitions for DD.

Of the 52 states using the category DD, only eight adopt the full federal age range of three through nine years. The remaining 44 states adopt subsets of the federally defined age range, with the most common being three through five years (20 states) and the second most common being three through eight years (6 states). Other age ranges used by states are:

²⁵ One of the 38 states also permits LEAs to use a noncategorical approach for all ages.

²⁶ One additional state does not use the category of DD at all, but instead permits LEAs to use a noncategorical approach for all ages.

- birth through five (1 state);
- birth to kindergarten (1 state);
- birth through seven (1 state);
- birth through eight (3 states);
- two through eight (1 state);
- third year only (1 state);
- three through four (1 state);
- three through six (1 state);
- three through seven years (4 states);
- three to kindergarten (1 state);
- three to first grade (1 state);
- three until enrolled in public school (1 state); and
- three through end of school year in which child turns six (1 state).

Three of the 52 states note that use of the category DD beyond age five is at the discretion of the local education agencies (LEAs).

Thirty-nine states use the five federal developmental domains: physical, cognitive, communication, social/emotional and adaptive. Eight states use other developmental domains (between four and eight), most of which vary only slightly from the federal domains. For instance, one state uses four developmental domains – cognitive, motor, language and social – the motor domain is roughly equivalent to the federal physical domain and the social domain subsumes the federal domains of social/emotional and adaptive behavior. Four states include the developmental domains vision and/or hearing. Two states divide the federal physical domain into the two sub-domains of fine motor and gross motor. Five of the 52 states do not list any developmental domains as part of their definition for DD.

Eligibility Criteria

Diagnosis or Assessment by Outside Professional

Unlike most other disability categories, no state requires diagnosis or assessment by an outside professional for the category of DD.

Established Risk Conditions

Seven states provide extensive lists of established risk conditions factors associated with DD (e.g., chromosomal syndromes and conditions associated with mental retardation, congenital syndromes and conditions associated with MR, sensory impairments, metabolic disorders, prenatal and perinatal infections and significant medical problems, low birth weight infants and post-natal acquired problems known to result in significant developmental delays).

Restrictions on Use

Twelve states include specific restrictions on use of the category DD.²⁷ Ten states note that the category of DD may only be used as a category of last resort (i.e., when a child fails to meet criteria for one of the other disability categories). Another two states note that in order to be eligible for DD, a child must meet criteria for one or more of the other disability categories. Several states reiterate federal law by noting that while LEAs have the option of using DD or not, if they choose to use the category, they must adopt the definition and eligibility criteria provided by the state.

Developmental Assessment

Forty-three states explicitly state that developmental assessment is required to determine eligibility for DD. Two states recommend, but do not explicitly require, developmental assessment. Forty-one states require use of standardized or norm-referenced instruments, although 13 of these list conditions wherein standardized/norm-referenced scores are unnecessary (e.g., diagnosis with a condition known to result in DD, physical disability or eligibility for another disability category) and 11 of these permit use of alternative assessments (e.g., criterion-referenced) if standardized/norm-referenced instruments are deemed inappropriate. Forty states include cut-off scores to aid in determining eligibility, with most requiring that the child score either two standard deviations below the mean in one domain or one and a half standard deviations below the mean in two or more domains. Nineteen states also define delay in terms of percentages (e.g., 25 percent delay in one domain or 20 percent delay in two or more domains). One state notes that if a child's score falls between one and one and a half standard deviations below the mean, the child must be tested again within one year.

Seven states specifically note that a child must be assessed in all domains. Twelve specifically note that two or more assessment instruments or sources of assessment data be used, and of these, five specify that the second assessment must address the area or areas of suspected delay. Eleven states note that team or professional judgment may be used to determine eligibility, particularly in cases where assessment does not conclusively demonstrate eligibility. Two states specify which professionals are qualified to conduct developmental assessment – one requires examiners qualified for specific disabilities suspected of causing DD and the other requires either a school psychologist, licensed psycho-educational specialist or other appropriate professional.

Other Required and Recommended Assessments

A number of states require additional types of assessment or documentation as described below:

- Six states require a review of records (e.g., psychological, social and/or medical) and two additional states recommend, but do not require, a record review.
- Three states require screening or assessment of vision, hearing and/or communication; a fourth requires assessment of vision, hearing and communication within the past 12

²⁷ A number of states also have restrictions on the use of other disability categories for this age range. For example, deaf-blindness, deafness, hearing impairment and/or vision impairment may be the only categories permitted other than DD. For more information on these types of state restrictions, see Danaher (2003).

months *only* if the child does not meet the criteria for another disability category; and a fifth requires complete evaluation for children suspected of hearing, visual or orthopedic impairment to determine if the child also meets the eligibility criteria for deafness, HI, VI or OI.

- Two states require a health assessment and two states require a health history.
- One state requires a social/emotional assessment.

Several states include recommendations that assessments or documentation be included *as appropriate* (e.g., documentation of interventions or health screening). Two states provide detailed recommendations for determining eligibility, but have no specific requirements.

Use of Qualitative Data

Sixteen states require the use of qualitative data for determining eligibility for DD, one state requires the use of qualitative data under certain conditions and one state recommends, but does not require, the use of qualitative data.

Fourteen states specifically note that observations are required. Of these, four stipulate that the observation must be conducted within a normalized or age-appropriate environment, one requires that observation take place within a “routine setting” and one requires observation across multiple environments. Five states specify that the observation must be structured, two states require that an appropriate professional conduct the observation and one state requires that the observation be at least 20 minutes in length. Further, one state requires a structured observation by a member of the team determining eligibility *only* if eligibility criteria for another disability category are not met.

Seven states specifically note that interviews are required. Of these, four require family or parental interviews and a fifth requires either a family interview or social/family/medical history. Two states require that the family interview be used to confirm or modify information obtained by the LEA and/or describe behavior in environments that the LEA cannot assess. Another state requires that the family interview document the child’s strengths and needs. One state requires that the interview be conducted by a qualified professional and a second requires that the interview be structured.

Six states specifically require either a teacher narrative or social/developmental history and a seventh requires a social/developmental history *only* if eligibility criteria for another disability category are not met.

Requirements for Team Determining Eligibility

Six states include specific requirements regarding the makeup of the team determining eligibility. One or more states require participation by the following:

- child’s teacher or teacher qualified to teach child of the same age (3 states);
- special education teacher or specialist in early childhood (3 states);
- qualified professionals knowledgeable about areas being evaluated (2 states);

- one or more persons with personal knowledge of the child who is qualified to interpret information relating to the child's health, family and social/emotional condition (2 states);
- licensed school psychologist with training in preschool children with disabilities (1 state); and
- district administrator or designated representative (1 state).

One of the six states also requires participation by two or more of the following professionals: school psychologist or licensed psychological examiner; early childhood special education teacher or special education teacher with early childhood experience; speech-language clinician; appropriately licensed related services and medical specialists; or other persons as indicated. Another of the six states also recommends, but does not require, that the team include professionals in the area of suspected delay (e.g., speech-language clinician, occupational therapist, physical therapist, audiologist, psychologist).

Requirements for Medical Involvement

No state specifically requires the involvement of physicians or other medical professionals as part of the eligibility determination process for DD. Three states, however, require vision and/or hearing assessment and two additional states require a health assessment, but none specifies whether medical professionals are required to conduct such assessment.

Summary

Thirty-eight states use the federal term DD or a slight variation and 14 use other comparable terms. Similarly, 40 states use the federal definition for DD and 12 use other definitions. Only 8 of the 52 states using the category of DD adopt the full federal age range for DD (i.e., three through nine years), whereas all others use a subset thereof. Thirty-nine states use the five domains specified in federal regulations and eight use developmental domains that are slightly different from the federal developmental domains. Almost all states providing eligibility criteria for DD require developmental assessment (43 states). No state requires the involvement of physicians or other medical professionals in determining eligibility for DD. However, 16 states specifically require the use of qualitative data, most commonly in the form of observations and/or interviews.

Table 14
State Terminology, Definition and Eligibility Criteria for
Developmental Delay

Terminology, Definition and Eligibility Criteria	Number of States
Use Federal Term or Slight Variation	38
Use Other Term	14
Use Federal Definition	40
Use Other Definition	12
Include Specific Eligibility Criteria	52
Include the Following Eligibility Criteria:	
Established Risk Conditions	7
Restrictions on Use	12
Developmental Assessment	43
Require Use of Qualitative Data	16
Include Specific Requirements for Makeup of Team Determining Eligibility	6
Require Involvement of Physician(s)	0

Summary

Overview

Consistency across states in terminology, definitions and eligibility criteria vary considerably from one disability category to another. States are most likely to adopt federal terms and definitions for the disability categories more recently added to federal law, such as autism and traumatic brain injury, and states are less likely to have established consistent eligibility criteria for these same categories.

Terminology

Most states use the 14 federal disability categories. For instance, all 53 states included in this study use the categories emotional disturbance, hearing impairment, mental retardation, orthopedic impairment, specific learning disability, speech or language impairment, and vision impairment including blindness. Several states, however, forego use of one or more disability categories and/or choose to combine two or more federal categories into a single category. For example, states are least likely to use the federal required categories deafness (33 states), multiple disabilities (46 states) and deaf-blindness (49 states). In terms of combining categories, states are most likely to include deafness under the category of hearing impairment (15 states). Three states also include autism, other health impairment or traumatic brain injury under the category of orthopedic impairment, and one state includes deaf-blindness under the category of multiple disabilities.

Most states adopt the federal terms or slight variations for the 14 disability categories. For example, at least 46 of the 52 states included in this study use federal terminology for autism (48 states), deaf-blindness (46 states), other health impairment (46 states), specific learning disability (50 states), traumatic brain injury (49 states) and visual impairment including blindness (49 states). Furthermore, all of the 33 states using the category deafness adopt the federal terminology. States are somewhat less likely to use federal terminology for the categories hearing impairment (43 states), multiple disabilities (34 states), speech or language impairment (42 states) and developmental delay (38 states). States are least likely to adopt federal terminology for the categories emotional disturbance (23 states) and mental retardation (25 states).

Definitions

Most states adopt the federal definitions or slight variations for the 14 disability categories. For instance, 45 or more of the 52 states included in this study adopt federal definitions or slight variations for the categories autism (45 states), emotional disturbance (47 states), orthopedic impairment (45 states), other health impairment (49 states) specific learning disability (46 states) and traumatic brain injury (48 states). Furthermore, all 32 states providing definitions for deafness adopt the federal definition. States are somewhat less likely to use federal definitions for the following disability categories: deaf-blindness (43 states), mental retardation (43 states), visual impairment including blindness (41 states) and developmental delay (40 states). States are least likely to adopt the federal definitions for hearing impairment (33 states), multiple

disabilities (34 states) and speech or language impairment (36 states). Most states that use other definitions for hearing impairment combine elements of the federal definition for deafness with that of hearing impairment and most states that use other definitions for speech or language impairment provide separate definitions for each subcategory (i.e., language, articulation, fluency and voice).

Eligibility Criteria

States are more likely to require outside professionals (i.e., non-educational practitioners such as physicians, psychiatrists or speech-language clinicians) to assess and/or diagnose certain disability categories — most commonly hearing impairment (32 states), vision impairment including blindness (31 states), orthopedic impairment (29 states), traumatic brain injury (28 states) and other health impairment (23 states). Furthermore, of the 18 states that have eligibility criteria for deaf-blindness, 17 require outside assessment and, of the 12 states that have eligibility criteria for deafness, all require an outside assessment. States are less likely to require specific outside professionals to assess and/or diagnose autism (15 states) and emotional disturbance (11 states), a trend which appears to be related to the fact that there is less agreement across states as to eligibility criteria for these disability categories, as well as less agreement as to the specific need for involvement by medical and/or mental health professionals. Finally, states almost never require the involvement of outside professionals in assessing and/or diagnosing mental retardation (2 states), specific learning disability (no states) and developmental delay (no states).

In terms of professionals qualified to conduct assessments, states are most likely to require the involvement of:

- an audiologist or otolaryngologist in assessing deafness and hearing impairment;
- an optometrist or ophthalmologist in assessing vision impairment;
- an audiologist or otolaryngologist as well as an optometrist or ophthalmologist in assessing deaf-blindness;
- a physician in assessing orthopedic impairment and other health impairment;
- a speech-language clinician²⁸ in assessing speech or language impairment;
- a physician, neurological specialist or mental health professional in assessing traumatic brain injury;
- a physician or mental health professional in diagnosing autism; and
- a mental health professional in diagnosing emotional disturbance.

In terms of specific types of assessment, states are most likely to require educational or developmental assessments. Most commonly states require educational or developmental assessment as one of the eligibility criteria for developmental delay (43 states), specific learning disability (32 states), emotional disturbance (22 states), mental retardation (21 states), orthopedic impairment (21 states), hearing impairment (20 states) and other health impairment (20 states). Of the 12 states that have specific eligibility criteria for deaf-blindness, nine require a communication assessment. States are less likely to require educational or developmental

²⁸ The term speech-language clinician is used generically in this section to refer to any number of speech and language professionals working in the schools.

assessments for the categories of vision impairment (18 states), traumatic brain injury (18 states), autism (12 states) and multiple disabilities (6 states).

The next most frequently required type of assessment is communication assessment. Most commonly states require a communication assessment as one of the criteria for speech or language impairment (34 states)²⁹, autism (17 states), hearing impairment (16 states) and deaf-blindness (9 states).

States also require disability-specific assessments and/or combinations of assessments, as described below:

- mental retardation – intellectual assessment (38 states) and adaptive behavior assessment (35 states);
- specific learning disability – intellectual assessment (32 states) in combination with educational or developmental assessment (32 states);
- emotional disturbance – documentation of behavior (26 states) in combination with behavioral assessment (19 states);
- traumatic brain injury – neuropsychological assessment (10 states) and/or adaptive behavior assessment (6 states);
- autism – autism-specific assessment (8 states) and/or behavioral assessment (10 states);
- vision impairment – functional vision assessment (9 states);
- orthopedic impairment – motor assessment (8 states); and
- multiple disabilities – eligibility criteria for two or more other disability categories must be met (15 states).

Use of Qualitative Data

States are more likely to include specific eligibility requirements regarding the use of qualitative data for some disability categories than for others. For instance, states require the use of qualitative data for the category of emotional disturbance (26 states), specific learning disability (17 states), developmental delay (16 states), autism (15 states), mental retardation (12 states) and traumatic brain injury (11 states). Fewer than ten states specifically require the use of qualitative data for the other disability categories.

Observations are the most commonly required type of qualitative data. For example, 26 states require observations for the category of emotional disturbance, 17 for the category of specific learning disability, 14 for the category of developmental delay and 10 for the category of autism. Social and developmental histories are the next most commonly required type of qualitative data. For example, 10 states require social and developmental histories for the category of autism and eight require them for the category of emotional disturbance. Least common is the requirement of family, teacher and/or child interviews — for example, category of emotional disturbance (5 states).

²⁹ This number includes both the 22 states that require a communication assessment as one of the general criteria for SLI and the 17 states that require a communication assessment for one or more subcategories of SLI.

Requirements for Team Determining Eligibility

Only a few states include specific requirements for the makeup of the team determining eligibility and most of these include requirements for *all* disability categories. States are most likely to require participation by specific professionals for the categories of speech and language impairment (10 states), developmental delay (6 states), autism (5 states), hearing impairment (5 states), other health impairment (5 states), specific learning disability (5 states) and visual impairment (5 states).

In addition to requiring participation by the child's general classroom teacher and/or a special education teacher, states are most likely to require that:

- a mental health professional be a part of the team determining eligibility for autism, emotional disturbance, mental retardation or specific learning disability;
- a physician or audiologist be a part of the team determining eligibility for deaf-blindness, deafness or hearing impairment;
- a speech-language clinician be a part of the team determining eligibility for autism, deaf-blindness, deafness, hearing impairment, and speech or language impairment;
- a physician, school nurse or OT/PT be a part of the team determining eligibility for orthopedic impairment or other health impairment;
- a physician and/or mental health professional be a part of the team determining eligibility for traumatic brain injury; and
- a physician or optometrist be a part of the team determining eligibility for vision impairment.

Involvement of Medical Professionals

States are more likely to require the involvement of physicians or other medical professionals for certain disability categories than for others. For example, states most commonly require the involvement of physicians in determining eligibility for other health impairment (23 states), orthopedic impairment (20 states) and traumatic brain injury (18 states). Although most of these states require that a physician assess and/or diagnose the conditions above, several states also require that a physician be a part of the team determining eligibility for autism (4 states), vision impairment (3 states), hearing impairment (2 states) and multiple disabilities (2 states).

States also require the involvement of a broader set of medical professionals, including, for example, audiologists or optometrists as well as physicians. States most commonly require the involvement of medical professionals in determining eligibility for vision impairment (25 states), hearing impairment (20 states) and deaf-blindness (11 states). Furthermore, for many disability categories, a number of states require assessment and/or screening of vision, hearing, health or motor skills, but do not specify whether a medical professional is required to conduct these screenings/assessments.

Concluding Remarks

The purpose of this document is to provide policy makers with information on the terminology, definitions and eligibility criteria used by states for each of the federal disability categories. All of this information can be found in state laws, regulations or other policy documents. For many states, there is significant *within* state variation regarding eligibility criteria for different disability categories. For example, a state's eligibility criteria for mental retardation may be very different from that same state's eligibility criteria for visual impairment; or a state may provide detailed eligibility criteria for one disability category and minimal detail for another. There is also significant variation *across* states. For instance, states use different terms for disability categories such as mental retardation or emotional disturbance, different definitions for categories such as hearing impairment and speech or language impairment, and different eligibility criteria for categories such as autism. States also vary significantly in terms of the amount of detail provided for eligibility criteria, with some states including only a sentence or two per disability category and other states including several pages per disability category.

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Appendix I – Excerpts from Federal Regulations Regarding Evaluations and Reevaluations

§300.7 Child with a disability.

(a) *General.* (1) As used in this part, the term *child with a disability* means a child evaluated in accordance with §§300.530-300.536 as having mental retardation, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, serious emotional disturbance (hereafter referred to as emotional disturbance), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

(2)(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under §§300.530-300.536, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a *child with a disability* under this part.

(ii) If, consistent with §300.26(a)(2), the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be a *child with a disability* under paragraph (a)(1) of this section.

(b) *Children aged 3 through 9 experiencing developmental delays.* The term *child with a disability* for children aged 3 through 9 may, at the discretion of the State and LEA and in accordance with §300.313, include a child—

(1) 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

(2) Who, by reason thereof, needs special education and related services.

§300.532 Evaluation procedures.

Each public agency shall ensure, at a minimum, that the following requirements are met:

(a) (1) Tests and other evaluation materials used to assess a child under Part B of the Act –

(i) Are selected and administered so as not to be discriminatory on a racial or cultural basis; and

(ii) Are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so; and

(2) Materials and procedures used to assess a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education, rather than measuring the child's English language skills.

(b) A variety of assessment tools and strategies are used to gather relevant functional and developmental information about the child, and information related to enabling the child to be involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities), that may assist in determining –

(1) Whether the child is a child with a disability under §300.7; and

(2) The content of the child's IEP.

(c) (1) Any standardized tests that are given to a child –

(i) Have been validated for the specific purpose for which they are used; and

(ii) Are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests.

(2) If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration) must be included in the evaluation report.

(d) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(e) Tests are selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual or speaking skills (unless those skills are the factors that the test purports to measure).

(f) No single procedure is used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.

(g) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

(h) In evaluating each child with a disability under §§300.531-300.536, the evaluation is sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been classified.

(i) The public agency uses technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical and developmental factors.

(j) The public agency uses assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.

§300.533 Determination of needed evaluation data.

(a) *Review of existing evaluation data.* As part of an initial evaluation (if appropriate) and as part of any reevaluation under Part B of the Act, a group that includes the individuals described in §300.344, and other qualified professionals, as appropriate, shall –

(1) Review existing evaluation data on the child, including –

(i) Evaluations and information provided by the parents of the child;

(ii) Current classroom-based assessments and observations; and

(iii) Observations by teachers and related service providers; and

(2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine –

(i) Whether the child has a particular category of disability, as described in §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.

§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 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.

§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 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.

Appendix II – Excerpts from Federal Regulations Regarding 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.

§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 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.

§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.

§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.

Appendix III – Federal Regulations Related to Developmental Delay for Children Ages 3 Through 9 Years

§300.7 Child with a disability.

(a) *General.* (1) As used in this part, the term *child with a disability* means a child evaluated in accordance with §§300.530-300.536 as having mental retardation, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, serious emotional disturbance (hereafter referred to as emotional disturbance), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

(2)(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under §§300.530-300.536, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a *child with a disability* under this part.

(ii) If, consistent with §300.26(a)(2), the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be a *child with a disability* under paragraph (a)(1) of this section.

(b) *Children aged 3 through 9 experiencing developmental delays.* The term *child with a disability* for children aged 3 through 9 may, at the discretion of the State and LEA and in accordance with §300.313, include a child—

(1) 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

(2) Who, by reason thereof, needs special education and related services.

§ 300.313 Children experiencing developmental delays.

(a) *Use of term developmental delay.* (1) A State that adopts the term *developmental delay* under §300.7(b) determines whether it applies to children aged 3 through 9, or to a subset of that age range (e.g., ages 3 through 5).

(2) A State may not require an LEA to adopt and use the term *developmental delay* for any children within its jurisdiction

(3) If an LEA uses the term *developmental delay* for children described in §300.7(b), the LEA must conform to both the State's definition of that term and to the age range that has been adopted by the State.

(4) If a State does not adopt the term *developmental delay*, an LEA may not independently use that term as a basis for establishing a child's eligibility under this part.

(b) *Use of individual disability categories.* (1) Any State or LEA that elects to use the term *developmental delay* for children aged 3 through 9 may also use one or more of the disability categories described in §300.7 for any child within that age range if it is determined, through the evaluation conducted under §§300.530-300.536, that the child has an impairment described in §300.7, and because of that impairment needs special education and related services.

(2) The State or LEA shall ensure that all of the child's special education and related services needs that have been identified through the evaluation described in paragraph (b)(1) of this section are appropriately addressed.

(c) *Common definition of developmental delay.* A State may adopt a common definition of *developmental delay* for use in programs under Parts B and C of the Act. (Authority: 20 U.S.C. §1401(3)(A) and (B))