§ 300.307 Specific learning disabilities.

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

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

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

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

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

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

§ 300.308 Additional group members.

The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in §300.8, must be made by the child’s parents and a team of qualified professionals, which must include—

(a) (1) The child’s regular teacher; or

(2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or

(3) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and

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

(Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))
(3) The group determines that its findings under paragraphs (a)(1) and (2) of this section are not primarily the result of—  
   (i) A visual, hearing, or motor disability;  
   (ii) Mental retardation;  
   (iii) Emotional disturbance;  
   (iv) Cultural factors;  
   (v) Environmental or economic disadvantage; or  
   (vi) Limited English proficiency.  

(b) To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in §§300.304 through 300.306—  
   (1) Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and  
   (2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child’s parents.  

(c) The public agency must promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the timeframes described in §§300.301 and 300.303, unless extended by mutual written agreement of the child’s parents and a group of qualified professionals, as described in §300.306(a)(1)—  
   (1) If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction, as described in paragraphs (b)(1) and (b)(2) of this section; and  
   (2) Whenever a child is referred for an evaluation.

§ 300.311 Specific documentation for the eligibility determination.  

(a) For a child suspected of having a specific learning disability, the documentation of the determination of eligibility, as required in §300.306(a)(2), must contain a statement of—  
   (1) Whether the child has a specific learning disability;  
   (2) The basis for making the determination, including an assurance that the determination has been made in accordance with §300.306(c)(1);  
   (3) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child’s academic functioning;  
   (4) The educationally relevant medical findings, if any;  
   (5) Whether—  
      (i) The child does not achieve adequately for the child’s age or to meet State-approved grade-level standards consistent with §300.309(a)(1); and  
      (ii)(A) The child does not make sufficient progress to meet age or State-approved grade-level standards consistent with §300.309(a)(2)(i); or  
      (B) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to