



**Additional Procedures  
for Identifying Children  
With Specific Learning  
Disabilities**

Wrightslaw  
Special Education Law V2

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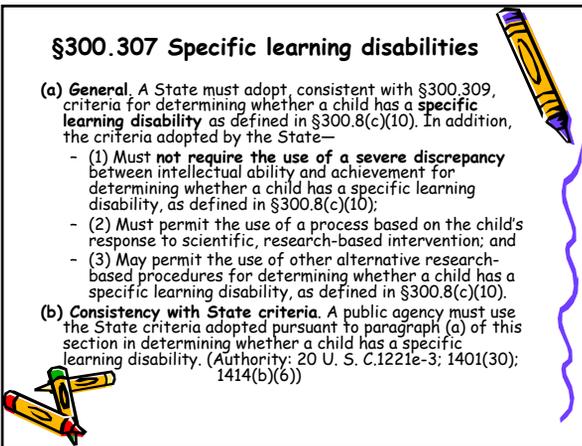
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**§300.307 Specific learning disabilities**

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

- (1) **Must not require the use of a severe discrepancy** between intellectual ability and achievement for determining whether a child has a specific learning disability, as defined in §300.8(c)(10);
- (2) Must permit the use of a process based on the child's response to scientific, research-based intervention; and
- (3) May permit the use of other alternative research-based procedures for determining whether a child has a specific learning disability, as defined in §300.8(c)(10).

(b) **Consistency with State criteria.** A public agency must use the State criteria adopted pursuant to paragraph (a) of this section in determining whether a child has a specific learning disability. (Authority: 20 U. S. C.1221e-3; 1401(30); 1414(b)(6))

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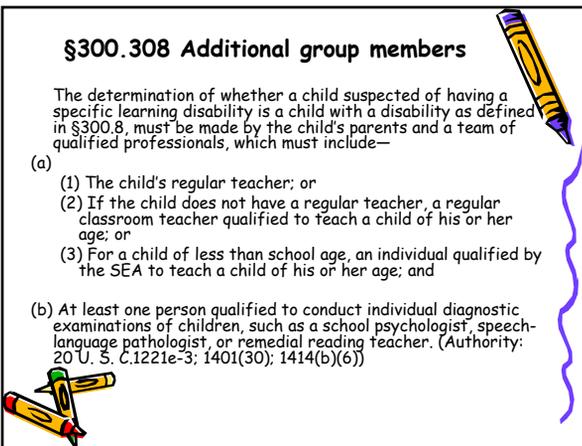
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**§300.308 Additional group members**

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))

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### §300.309 Determining the existence of a specific learning disability

(a) The group described in §300.306 may determine that a child has a specific learning disability, as defined in §300.8(c)(10), if

(1) The child does not achieve **adequately for the child's age or to meet State-approved grade-level standards in one or more** of the following areas, when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards:

- (i) Oral expression.
- (ii) Listening comprehension.
- (iii) Written expression.
- (iv) Basic reading skill.
- (v) **Reading fluency skills.**
- (vi) Reading comprehension.
- (vii) Mathematics calculation.
- (viii) Mathematics problem solving.



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### §300.309 Determining the existence of a specific learning disability (cont.)

(a) (2)

(i) The child does not make **sufficient progress to meet age or State-approved grade-level standards in one or more of the areas** identified in paragraph (a)(1) of this section when using a process based on the child's **response to scientific, research-based intervention**;

or

(ii) The child exhibits a **pattern of strengths and weaknesses** in performance, achievement, or both, relative to age, State-approved grade-level standards, or **intellectual development**, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with §§300.304 and 300.305; and



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### §300.309 Determining the existence of a specific learning disability (cont.)

(a)(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.



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### §300.309 Determining the existence of a specific learning disability (cont.)

(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.



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### §300.309 Determining the existence of a specific learning disability (cont.)

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



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### §300.310 Observation

(a) The public agency must ensure that the **child is observed in the child's learning environment** (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.

(b) The group described in §300.306(a)(1), in determining whether a child has a specific learning disability, must decide to—

- (1) Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation; or
- (2) Have at least one member of the group described in §300.306(a)(1) conduct an **observation** of the child's academic performance **in the regular classroom** after the child has been referred for an evaluation and parental consent, consistent with §300.300(a), is obtained.

(c) In the case of a child of less than school age or out of school, a group member must observe the child in an (Authority: 20 U. S. C.1221e-3; 1401(30); 1414(b)(6))



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### §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;



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### §300.311 Specific documentation for the eligibility determination (cont.)

(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 age, State-approved grade level standards or intellectual development consistent with §300.309(a)(2)(ii);

(6) The determination of the group concerning the effects of a visual, hearing, or motor disability; mental retardation; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and



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### §300.311 Specific documentation for the eligibility determination (cont.)

(7) If the child has participated in a process that assesses the child's **response to scientific, research-based intervention—**

(i) The instructional strategies used and **the student-centered data collected**; and

(ii) The documentation that the child's parents were notified about—

(A) The State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;

(B) Strategies for increasing the child's rate of learning; and

(C) The parents' right to request an evaluation.



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**§300.311 Specific documentation for the eligibility determination (cont.)**

(b) Each group member **must certify in writing** whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions. (Authority: 20 U. S. C.1221e-3; 1401(30); 1414(b)(6))



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