

OFFICE OF INSTRUCTIONAL ENHANCEMENT AND INTERNAL OPERATIONS
Summary of State Board of Education Agenda Items
April 18-19, 2013

OFFICE OF SPECIAL EDUCATION

16. Approval to begin the Administrative Procedures Act process: To revise State Board Policy 7219, *Individuals with Disabilities Education Improvement Act*

Executive Summary

State Board Policy 7219 and the *State Policies Regarding Children with Disabilities under the Individuals with Disabilities Education Act Amendments of 2004* are being amended to address needed changes in requirements. These policies address the requirements of the federal regulations (34 CFR 300 et. seq.) promulgated by the United States Department of Education, Office of Special Education Programs (OSEP). This update continues to reflect the Mississippi Department of Education's commitment to locate, evaluate, and identify all students with disabilities throughout the State of Mississippi and to provide a free appropriate public education in the least restrictive environment to eligible students.

Recommendation: Approval

Backup material attached

State Board Policy

DESCRIPTOR TERM: Individuals with Disabilities Education ~~Improvement~~ Act

CODE: 7219

ADOPTION DATE: July 21, 2006

REVISION: July 20, 2009, **April 19, 2013**

School districts are required to follow the *State Policies Regarding Children with Disabilities under the Individuals with Disabilities Education Act Amendments of 2004* (IDEA 2004).

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Summary of Proposed Changes to Policy 7219**

Policy Number(s)	Proposed Change	Rationale
300.8(a)(1); 300.8(c)(6-7); 300.8(c)(10)(ii); 300.309(3)(iii); 300.311(a)(6);	Changed mental retardation to intellectual disability	Rosa's Law
300.8(c)(11)	(11) <i>Speech or language impairment (LS)</i> means a communication disorder, such as <u>fluency</u> stuttering , impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.	Fluency the broader term
300.19 Title 42 Chapter 119 Subchapter VI part B §11434a	Changed youths to youth	Clerical Correction
300.115(b)(3)	<u>(3) Provide access to general statewide and district-wide assessments programs, with appropriate accommodations, where necessary.</u>	Required by IDEA and MS Code 37-23-148
300.301(b)	<p>(b) <i>Request for initial evaluations.</i> Consistent with the consent requirements in §300.300, either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.</p> <p><u>(1) When a verbal or written request for an initial evaluation is requested by:</u></p> <p><u>(i) a parent, the multidisciplinary evaluation team (MET) must meet within fourteen (14) calendar days to consider the request and to determine if a comprehensive evaluation is necessary.</u></p> <p><u>(a) After reviewing the request and other pertinent documentation, Written Prior Notice for Initial Evaluation or Written Prior Notice for Refusal to Evaluate must be given to the parent within seven (7) calendar days of the meeting.</u></p> <p><u>(b) Day one would be the day the parent makes the verbal or written request to the LEA (teacher, principal, secretary, special education director, etc.). The MET must make a decision within fourteen (14) calendar days of the parent's request.</u></p> <p><u>(ii) a public agency, the MET must meet within fourteen (14) calendar days to consider the request and to determine if a comprehensive evaluation is necessary.</u></p> <p><u>(a) After reviewing the request and other pertinent documentation, Written Prior Notice for Initial Evaluation or Written Prior Notice for Refusal to Evaluate must be given to the parent within seven (7) calendar days of the meeting.</u></p> <p><u>(b) Day one would be the day the public agency makes the verbal or written request to the LEA (teacher, principal, secretary, special education director, etc.). The MET must make a decision within fourteen (14) calendar days of the public agency's request.</u></p> <p><u>(iii) the Teacher Support Team (TST), the MET must meet within fourteen (14) calendar days to consider the request and to determine if a comprehensive evaluation is necessary.</u></p> <p><u>(a) After reviewing the request and other pertinent documentation, Written Prior Notice for Initial Evaluation or Written Prior Notice for Refusal to Evaluate must be given to the parent within seven (7) calendar days of the meeting.</u></p> <p><u>(b) Day one would be the day the TST makes the verbal or written request to the LEA. The MET must make a decision within fourteen (14) calendar days of the TST's recommendation.</u></p>	Clarify procedures for initial evaluation

Note: Proposed language is underlined. Current language to be deleted is indicated by strikethrough.

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300.305(a)(2)(iv)	<u>(iv) Any observations conducted for a specific student in order to determine eligibility must be written in a report and included in the documentation provided to parents.</u>	Clarifies parents receipt of formal observations
300.305(e)(3)	(3) For a child whose eligibility terminates under circumstances described in paragraph (e)(2) <u>above and students with disabilities who exit high school through the District GED Option Program</u> , a public agency must provide the child a summary of the child’s academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting postsecondary goals.	To include students who exit with GED Option
300.306(a)(2)	(a) <i>General.</i> Upon completion of the administration of assessments and other evaluation measures <u>and within a reasonable amount of time</u> — (1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined by §300.8 in accordance with paragraph (b) of this section and the educational needs of the child; and (2) The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent. <u>LEAs must provide the parent(s) a copy of the evaluation report at least seven (7) calendar days prior to the eligibility determination meeting, unless the parent elects to waive the seven (7) day timeline in writing.</u>	Provide parents a copy of the evaluation report 7 days prior to the eligibility determination
300.323(c)(2)	(2) As soon as possible <u>Immediately, without delay,</u> following development of the IEP, special education and related services are made available to the child in accordance with the child’s IEP.	Implementation of the IEP must occur immediately
300.530(d)(ii)	(ii) Receive, as appropriate, a functional behavioral assessment (<u>FBA</u>), and behavioral intervention services, and modifications, that are designed to address the behavior violation <u>to prevent said behavior from recurring.</u> a. <u>An FBA is an assessment utilized to evaluate a child’s behavior and determine the purpose or function of that behavior. The result of an FBA must lead to the development/modification and implementation of a behavior intervention plan. The FBA must include all of the following:</u> <u>1. Clear description of the problematic behavior;</u> <u>2. Identification of the antecedent events, times, and situations that predict when the problem behavior will and will not occur;</u> <u>3. Identification of the consequences of the problem behavior;</u> <u>4. Development of hypotheses and summary statements that describe the problem behavior and its functions; and</u> <u>5. Collection of data from a variety of sources: interviews, direct observation data, etc.</u> b. <u>A behavior intervention plan (BIP) must use the information gathered from the FBA to develop a concrete plan of action for improving a student’s behavior. A BIP focuses on redesigning the environment and building new skills that make the problem behavior irrelevant, inefficient, and ineffective in the environment. The BIP is not to control the student but to enable the student to be successful in his/her environment. All of the following must be included in a BIP:</u> <u>1. Observable and measurable description of the problem behavior;</u> <u>2. Identified purpose of the problem behavior as a result of the FBA;</u> <u>3. General strategy or combination of strategies for changing the problem behavior;</u> <u>4. Written description of when, where, and how often the strategy will be implemented; and</u> <u>5. Consistent system for monitoring and evaluating the effectiveness of the plan.</u>	Include the basic requirements of an FBA and BIP
300.516(b)	45-day timeline changed to 90-day timeline <i>Time limitation.</i> The party bringing the action shall have forty five (45) <u>ninety (90)</u>	Change in State Law 2011

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300.602(b)(1)(i)	(A) Reports annually to the public on the performance of each LEA located in <i>Mississippi</i> on the targets in the <u>SPP State performance plan</u> as soon as practicable but no later than 120 days following <i>Mississippi's</i> submission of its annual performance report to the Secretary under paragraph (b)(2) of this section; and	Clerical Correction
	<p>300.603 <u>Secretary's review and determination regarding State performance</u></p> <p>(a) <u>Review. The Secretary annually reviews the State's performance report submitted pursuant to §300.602(b)(2).</u></p> <p>(b) <u>Determination--</u></p> <p>(1) <u>General. Based on the information provided by the State in the State's annual performance report, information obtained through monitoring visits, and any other public information made available, the Secretary determines if the State--</u></p> <p style="padding-left: 40px;"><u>(A) Meets the requirements and purposes of Part B of the Act;</u> <u>(B) Needs assistance in implementing the requirements of Part B of the Act;</u> <u>(C) Needs intervention in implementing the requirements of Part B of the Act; or</u> <u>(D) Needs substantial intervention in implementing the requirements of Part B of the Act.</u></p> <p>(2) <u>Notice and opportunity for a hearing.</u></p> <p style="padding-left: 40px;"><u>(A) For determinations made under paragraphs (b)(1)(iii) and (b)(1)(iv) of this section, the Secretary provides reasonable notice and an opportunity for a hearing on those determinations.</u> <u>(B) The hearing described in paragraph (b)(2) of this section consists of an opportunity to meet with the Assistant Secretary for Special Education and Rehabilitative Services to demonstrate why the Department should not make the determination described in paragraph (b)(1) of this section.</u></p> <p>300.604 <u>Enforcement</u></p> <p>(a) <u>Needs assistance. If the Secretary determines, for two consecutive years, that a State needs assistance under §300.603(b)(1)(ii) in implementing the requirements of Part B of the Act, the Secretary takes one or more of the following actions:</u></p> <p>(1) <u>Advises the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance, which may include assistance from the Office of Special Education Programs, other offices of the Department of Education, other Federal agencies, technical assistance providers approved by the Secretary, and other Federally-funded nonprofit agencies, and requires the State to work with appropriate entities. Such technical assistance may include:</u></p> <p style="padding-left: 40px;"><u>(A) The provision of advice by experts to address the areas in which the State needs assistance, including explicit plans for addressing the area for concern within a specified period of time;</u> <u>(B) Assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically-based research;</u> <u>(C) Designating and using distinguished superintendents, principals, special education administrators, special education teachers, and other teachers to provide advice, technical assistance, and support; and</u></p>	To provide the State sanctioning authority

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	<p style="text-align: center;"><u>(D) Devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under Part D of the Act, and private providers of scientifically-based technical assistance.</u></p> <p>(2) <u>Directs the use of State-level funds under section 611(e) of the Act on the area or areas in which the State needs assistance.</u></p> <p>(3) <u>Identifies the State as a high-risk grantee and imposes special conditions on the State's grant under Part B of the Act.</u></p> <p>(b) <u>Needs intervention. If the Secretary determines, for three or more consecutive years, that a State needs intervention under § 300.603(b)(1)(iii) in implementing the requirements of Part B of the Act, the following shall apply:</u></p> <p>(1) <u>The Secretary may take any of the actions described in paragraph (a) of this section.</u></p> <p>(2) <u>The Secretary takes one or more of the following actions:</u></p> <p style="padding-left: 20px;"><u>(A) Requires the State to prepare a corrective action plan or improvement plan if the Secretary determines that the State should be able to correct the problem within one year.</u></p> <p style="padding-left: 20px;"><u>(B) Requires the State to enter into a compliance agreement under section 457 of the General Education Provisions Act, as amended, 20 U.S.C. 1221 et seq. (GEPA), if the Secretary has reason to believe that the State cannot correct the problem within one year.</u></p> <p style="padding-left: 20px;"><u>(C) For each year of the determination, withholds not less than 20 percent and not more than 50 percent of the State's funds under section 611(e) of the Act, until the Secretary determines the State has sufficiently addressed the areas in which the State needs intervention.</u></p> <p style="padding-left: 20px;"><u>(D) Seeks to recover funds under section 452 of GEPA.</u></p> <p style="padding-left: 20px;"><u>(E) Withholds, in whole or in part, any further payments to the State under Part B of the Act.</u></p> <p style="padding-left: 20px;"><u>(F) Refers the matter for appropriate enforcement action, which may include referral to the Department of Justice.</u></p> <p>(c) <u>Needs substantial intervention. Notwithstanding paragraph (a) or (b) of this section, at any time that the Secretary determines that a State needs substantial intervention in implementing the requirements of Part B of the Act or that there is a substantial failure to comply with any condition of an SEA's or LEA's eligibility under Part B of the Act, the Secretary takes one or more of the following actions:</u></p> <p>(1) <u>Recovers funds under section 452 of GEPA.</u></p> <p>(2) <u>Withholds, in whole or in part, any further payments to the State under Part B of the Act.</u></p> <p>(3) <u>Refers the case to the Office of the Inspector General at the Department of Education.</u></p> <p>(4) <u>Refers the matter for appropriate enforcement action, which may include referral to the Department of Justice.</u></p> <p>(a) <u>Report to Congress. The Secretary reports to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate within 30 days of taking enforcement action pursuant to paragraph (a), (b), or (c) of this section, on the specific action taken and the reasons why enforcement action was taken.</u></p>	
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	<p>300.605 <u>Withholding funds</u></p> <p>(a) <u>Opportunity for hearing. Prior to withholding any funds under Part B of the Act, the Secretary provides reasonable notice and an opportunity for a hearing to the SEA involved, pursuant to the procedures in §§ 300.180 through 300.183.</u></p> <p>(b) <u>Suspension. Pending the outcome of any hearing to withhold payments under paragraph (a) of this section, the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate funds under Part B of the Act, or both, after the recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate funds under Part B of the Act should not be suspended.</u></p> <p>(c) <u>Nature of withholding.</u></p> <p>(1) <u>If the Secretary determines that it is appropriate to withhold further payments under § 300.604(b)(2) or (c)(2), the Secretary may determine—</u></p> <p style="padding-left: 40px;"><u>(A) That the withholding will be limited to programs or projects, or portions of programs or projects, that affected the Secretary's determination under § 300.603(b)(1); or</u></p> <p style="padding-left: 40px;"><u>(B) That the SEA must not make further payments under Part B of the Act to specified State agencies or LEAs that caused or were involved in the Secretary's determination under § 300.603(b)(1).</u></p> <p>(2) <u>Until the Secretary is satisfied that the condition that caused the initial withholding has been substantially rectified--</u></p> <p style="padding-left: 40px;"><u>(A) Payments to the State under Part B of the Act must be withheld in whole or in part; and</u></p> <p style="padding-left: 40px;"><u>(B) Payments by the SEA under Part B of the Act must be limited to State agencies and LEAs whose actions did not cause or were not involved in the Secretary's determination under § 300.603(b)(1), as the case may be.</u></p> <p>300.609 <u>Rule of construction</u></p> <p><u>Nothing in this subpart shall be construed to restrict the Secretary from utilizing any authority under GEPA, including the provisions in 34 CFR parts 76, 77, 80, and 81 to monitor and enforce the requirements of the Act, including the imposition of special conditions under 34 CFR 80.12.</u></p>	
300.530(d)(a)	<p><u>a. An FBA is an assessment utilized to evaluate a child's behavior and determine the purpose or function of that behavior. The result of an FBA must lead to the development/modification and implementation of a behavior intervention plan. The FBA must include all of the following:</u></p> <p style="padding-left: 20px;"><u>1. Clear description of the problematic behavior;</u></p> <p style="padding-left: 20px;"><u>2. Identification of the antecedent events, times, and situations that predict when the problem behavior will and will not occur;</u></p> <p style="padding-left: 20px;"><u>3. Identification of the consequences of the problem behavior;</u></p> <p style="padding-left: 20px;"><u>4. Development of hypotheses and summary statements that describe the problem behavior and its functions; and</u></p> <p style="padding-left: 20px;"><u>5. Collection of data from a variety of sources: interviews, direct observation data, etc.</u></p> <p><u>b. A behavior intervention plan (BIP) must use the information gathered from the FBA to develop a concrete plan of action for improving a student's behavior. A BIP focuses on redesigning the environment and building new skills that make the problem behavior irrelevant, inefficient, and ineffective in the environment. The BIP is not to control the student but to enable the student to be successful in his/her environment. All of the</u></p>	Clarification of FBA/BIP requirements

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	<p><u>following must be included in a BIP:</u></p> <ol style="list-style-type: none"> <u>1. Observable and measurable description of the problem behavior;</u> <u>2. Identified purpose of the problem behavior as a result of the FBA;</u> <u>3. General strategy or combination of strategies for changing the problem behavior;</u> <u>4. Written description of when, where, and how often the strategy will be implemented; and</u> <u>5. Consistent system for monitoring and evaluating the effectiveness of the plan.</u> 	
Special Ed Eligibility Determination Guidelines and Disability Categories	<p>General Information Section:</p> <p>A. A comprehensive evaluation to determine special education eligibility must:</p> <ol style="list-style-type: none"> 1. Assure that lack of appropriate instruction in math or reading, including the essential components of reading instruction as defined in section 1208(3) of ESEA, is not the determinant factor; <u>and</u> 2. Assure that limited English proficiency or social or cultural differences are not the determinant factors; <u>and</u> 	Clerical Clarification
Special Ed Eligibility Determination Guidelines Section I	<p><u>12. For children age fourteen (14) and above, appropriate and ongoing assessment of the student's needs, preferences, and interests related to the demands of current and future working, educational, living, personal and social environments.</u></p>	Addition of Vocational Assessment
Special Ed Eligibility Determination Guidelines Section I	<p><u>Adverse educational impact applies to academic, social, behavioral, and vocational performance. Each evaluation must be sufficient to substantiate adverse educational impact. The report(s) must clearly document adverse educational impact for all eligibility determinations, including language/speech.</u></p>	
Disability Categories: Autism	<p>A. Results of instruments, observations and/or other data which address:</p> <ol style="list-style-type: none"> 1. Receptive and expressive language skills, including language semantics and pragmatics; prosody (linguistics including intonation, rhythm and focus in speech); and the need for assisted communication; <u>and</u> 2. Social interactions; <u>and</u> 3. Responses to sensory experiences; <u>and</u> 4. Engagement in repetitive activities and stereotyped movements; and 5. Resistance to environmental change or change in daily routines. 	Clerical Correction
Disability Categories: Deaf-Blind	<p><u>Deaf-Blindness means concomitant hearing and visual impairments that adversely affect a child's educational performance.</u></p>	Clarification
Disability Categories: Developmental Delayed	<p><u>A child in the age range of birth through nine (9) who is experiencing significant delays in two or more of the five developmental areas (cognitive, fine/gross motor, communication/language, social/emotional/behavioral, and adaptive behavior) meets the eligibility criteria for Developmentally Delayed if, by reason of the developmental delays, they need special education and related services due to a disability that adversely affects a child's pre-academic or educational performance.</u></p> <p><u>EVALUATION REQUIREMENTS</u></p> <p><u>Developmentally Delayed is for non-categorical identification when the child has a disability and needs special education and related services, but does not clearly fit one of the other twelve (12) eleven (11)* eligibility categories (not including language/speech). If the eligibility criteria are clearly met for one or more of the other twelve (12) the eleven (11) (AU, DB, EmD, HI, ID, MD, OI, OHI, SLD, TBI, VI) eligibility categories (not including language/speech), DD should not be used.</u></p> <p><u>Mississippi has determined that DD applies to the age range birth through nine (9) years.</u></p>	Clarification

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<p>Disability Categories: Emotional Disability</p>	<p>A. <i>Narrative descriptions of:</i></p> <ol style="list-style-type: none"> 1. <i>the student’s behaviors, <u>and</u></i> 2. <i>settings</i> <i>situations in which the behaviors occur <u>and situations in which the behavior does not occur, and</u></i> 3. <i>antecedents leading to the behaviors, and</i> 4. <i>consequences immediately following the behaviors;</i> <p>B. <i>Functional assessments of the student’s behavior, if conducted;</i></p> <p>C. <i>Attempts to address the behaviors and the results, including:</i></p> <ol style="list-style-type: none"> 1. <i>Behavior Intervention Plans, if developed and implemented during the pre-referral process; <u>and</u></i> 2. <i>office discipline referrals; and</i> 3. <i>disciplinary actions;</i> 	<p>Clarification</p>
<p>Disability Categories: Hearing Impairment</p>	<p>A. <i>An audiometric evaluation explaining <u>each of the following items:</u></i></p> <ol style="list-style-type: none"> 1. <i>type of loss;</i> 2. <i>age of onset, if known;</i> 3. <i>severity of loss;</i> 4. <i>speech reception or speech awareness thresholds, if obtainable;</i> 5. <i>speech discrimination scores, if applicable;</i> 6. <i>recommendations regarding amplification; and</i> 7. <i>other recommended interventions, if any, including the need for assistive technology.</i> <p><i>NOTE: The audiological examination must be conducted by <u>one of the following:</u></i></p> <ol style="list-style-type: none"> i. <i>an audiologist who holds MDE licensure in audiology,</i> ii. <i>an audiologist who holds ASHA--CCC certification,</i> iii. <i>a physician with expertise in conducting audiological evaluations using appropriate audiological equipment,</i> 	<p>Clarification</p>
<p>Disability Categories: Intellectual Disabilities</p>	<p style="text-align: center;"><u>MENTAL RETARDATION</u> <u>INTELLECTUAL DISABILITY</u></p> <p style="text-align: center;">(MR) <u>ID</u></p> <p><u>DEFINITION</u> <i>Mental Retardation (MR) (also referred to as Intellectual Disability by some entities)</i> <i>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. <u>Significantly subaverage general intellectual functioning is defined as two (2) standard deviations or more below the mean, including a standard score of 70, on a measure of cognitive ability.</u></i></p> <p><i>A child with an eligibility ruling of mental retardation <u>Intellectual Disability</u> exhibits learning problems which vary in degree from mild to severe. Delays in cognitive abilities, adaptive behavior, and developmental milestones must have been evidenced during a child’s developmental period and, upon entering school, such delays must have adversely affected a child’s educational performance.</i></p> <p><u>EVALUATION REQUIREMENTS</u></p>	<p>Rosa’s Law</p>

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	<p><i>When the evaluation team is considering eligibility under the <u>Mental Retardation Intellectual Disability</u> category, the multidisciplinary team evaluation report and/or eligibility determination report must include results of:</i></p> <p><i>A. An individual standardized achievement test;</i></p> <p><i>B. An individual standardized measure of cognitive abilities;</i></p> <p><i><u>1. Significantly subaverage intellectual functioning is defined according to these categories:</u></i></p> <p><i><u>i. Educable Mental Retardation (EMR): two (2) standard deviations to three and one-half (3½) standard deviations below the mean of the test of mental abilities;</u></i></p> <p><i><u>ii. Trainable Mental Retardation (TMR): three and one-half (3½) to four and one-half (4½) standard deviations below the mean of the test of mental abilities;</u></i></p> <p><i><u>iii. Severe/Profound Mental Retardation (S/Pr): four and one-half (4½) standard deviations or more below the mean of the test of mental abilities.</u></i></p> <p><i><u>2. The standard error of measurement may be taken into consideration when determining subcategories for MR.</u></i></p> <p><i>C. A norm-referenced measure of adaptive behavior, which must include the home version of the measure if it is a component of the measure; completed by the primary caregiver(s). If the adaptive behavior measure allows for an informant other than the primary caregiver, the informant must be knowledgeable of how the child functions outside the school environment.</i></p> <p><i><u>1. The home version of the adaptive measure is required, if the publisher makes available a home version of the instrument. The informant should be the primary caregiver(s).</u></i></p> <p><i><u>2. Any informant for a measure of adaptive behavior must be knowledgeable of how the child function.</u></i></p>	
<p>Disability Categories: Language Speech</p>	<p><i>B. Results of an orofacial examination, which is required for suspected impaired articulation disorders, and, if necessary, a statement from a medical specialist noting physical problems which would interfere with language/speech production;</i></p>	<p>Clarification</p>
<p>Disability Categories: Multiple Disabilities</p>	<p><u>DEFINITION</u> <i>Multiple Disabilities (MD) means concomitant impairments (such as mental retardation intellectual disability-blindness or mental retardation intellectual disability-orthopedic impairment), the combination of which causes such severe educational needs that children cannot be accommodated in special education programs solely for one of the impairments. Multiple Disabilities do not include Although disabilities in two (2) or more areas may exist in the following categories, Deaf-Blindness, Specific Learning Disability, Developmental Delay or Language or Speech Impairment, these categories do not constitute Multiple Disabilities, in and of themselves. Language/speech, along with another disability, is generally viewed as a secondary condition, not MD.</i></p>	<p>Clarification</p>

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<p>Disability Categories: Specific Learning Disabilities</p>	<p><u>EVALUATION REQUIREMENTS</u> <i>A. <u>Must first consider whether a process based on the child’s response to scientific, research-based intervention(s) is sufficient to determine eligibility</u> (i.e., <u>Response to Intervention—RtI</u>); <u>and, in addition</u></i></p> <p><i>NOTE: Severe discrepancy is defined as 1.5 standard deviations below the mean of the <u>standardized test measuring the measure of</u> intellectual disability.</i></p>	
<p>Disability Categories: Orthopedic Impairment</p>	<p><u>EVALUATION REQUIREMENTS</u> <i>When the multidisciplinary evaluation team is considering eligibility under the Orthopedic Impairment category, the evaluation report and/or the eligibility determination report must include a diagnostic report from a physician or a nurse practitioner that provides information regarding:</i></p> <p><i>A. <u>The nature of the student’s congenital or acquired Orthopedic Impairment, and</u></i> <i>B. <u>Limitations and precautions to be considered, and</u></i> <i>C. <u>Recommendations for educational programming.</u></i></p>	<p>Clarification</p>
<p>Disability Categories: Other Health Impairment</p>	<p><u>EVALUATION REQUIREMENTS</u> <i>When the evaluation team is considering eligibility under the Other Health Impairment category, the evaluation report and/or the eligibility determination report must include a diagnostic report from a physician or a nurse practitioner that provides information regarding:</i></p> <p><i>A. <u>The nature of the student’s health impairment, and</u></i> <i>B. <u>Limitations and precautions to be considered, and</u></i> <i>C. <u>Recommendations for educational programming.</u></i></p> <p><i>When the evaluation team is considering eligibility under the Other Health Impairment (OHI) category due to an attention deficit disorder (ADD) or attention deficit hyperactivity disorder (ADHD), the comprehensive evaluation report and/or eligibility determination report must include <u>all of the following</u>:</i></p> <p><i>A. <u>A description of the student’s behaviors, settings in which the behaviors occur, antecedents leading to the behaviors, and consequences immediately following the behaviors;</u></i> <i>B. <u>Attempts to address the behaviors and the results, including office discipline referrals and disciplinary actions;</u></i> <i>C. <u>A description of how the behaviors adversely affect educational performance;</u></i> <i>D. <u>A statement as to whether the behaviors are typical for the student’s age, setting, circumstances, and peer group, and if not, how the behaviors are different; and</u></i> <i>E. <u>The correlation between documented behaviors and results of ADHD assessments.</u></i></p>	<p>Clarification</p>
<p>Disability Categories: Specific learning Disabilities</p>	<p><u>DEFINITION</u> <i>Specific Learning Disability (SLD) 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 the imperfect ability to listen, think, speak, read, write,</i></p>	<p>Clarification</p>

Note: Proposed language is underlined. Current language to be deleted is indicated by strikethrough.

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spell or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific Learning Disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of ~~mental retardation~~ intellectual disability, of emotional disability or of environmental, cultural differences, or economic disadvantage.

B. Must first consider whether a process based on the child's response to scientific, research-based intervention(s) is sufficient to determine eligibility (i.e., Response to Intervention—RtI); and, in addition

C. May use other alternative research-based procedures; and/or

D. May use a severe discrepancy between intellectual ability and achievement.

NOTE: Severe discrepancy is defined as 1.5 standard deviations below the mean of the standardized test measuring the measure of intellectual disability.

TEAM COMPOSITION

The multidisciplinary evaluation team must include the child's parents and a team of qualified professionals, including:

A. The child's general education teacher; or

B. If the child does not have a general education teacher, a general education classroom teacher qualified to teach a child of his or her age; or

C. For a child of less than school age, an individual licensed by the SBE to teach a child of his or her age; and

D. A special education teacher; and

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

B. Statements indicating:

1. Whether the child has a specific learning disability; and

2. The basis for making the determination; and

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; and

4. The educationally relevant medical findings, if any; and

5. The determination of the group concerning the effects of a visual, hearing, or motor disability, intellectual disability ~~mental retardation~~; emotional disturbance; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and

6. If the child has participated in a process that assesses the child's response to scientific, research-based intervention:

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	<ul style="list-style-type: none"> i. <i>The instructional strategies used and the student-centered data collected; and</i> ii. <i>The documentation that the child’s parents were notified about:</i> <ul style="list-style-type: none"> a) <i>MDE’s policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided; <u>and</u></i> b) <i>Strategies for increasing the child’s rate of learning; and</i> c) <i>The parents’ right to request an evaluation.</i> <p><i>C. Each group member, <u>including parent(s)</u>, must certify in writing whether the report reflects the member’s conclusions. If it does not reflect the member’s conclusions, the group member must submit a separate statement presenting <u>his or her member’s</u> conclusions.</i></p>	
<p>Disability Categories: Traumatic Brain Injury</p>	<p><u>EVALUATION REQUIREMENTS</u> <i>When the evaluation team is considering eligibility under the Traumatic Brain Injury category, the comprehensive evaluation report(s) and/or eligibility determination report must include <u>the information included in A, B, and C below:</u></i></p> <p>A. <i>Information from a variety of sources (e.g., assessments, evaluations, the student’s teacher(s), parents and/or caregivers) who are familiar with the student’s educational differences in functioning prior to and following the injury, if <u>relevant applicable</u>, in the following areas:</i></p>	<p>Clarification</p>
<p>Disability Categories: Visual Impairment</p>	<p><u>EVALUATION REQUIREMENTS</u> <i>When the evaluation team is considering eligibility under the Visually Impaired category, the comprehensive evaluation report(s) and/or eligibility determination report must include a report from an ophthalmologist or optometrist that includes <u>all of the following:</u></i></p> <p>A. <i>visual acuity,</i></p> <p>B. <i>diagnosed visual problems,</i></p> <p>C. <i>a statement of how the child’s visual problem might affect educational performance, and</i></p> <p>D. <i>recommendations for educational programming.</i></p>	<p>Clarification</p>
<p>Revised Mississippi Program Improvement Monitoring</p>	<p>Addition of the Revised Program Improvement Monitoring</p> <p style="text-align: center;"><u>Mississippi Department of Education</u> <u>Office of Special Education</u> <u>Program Improvement Monitoring</u> <u>Results-Driven Accountability(RDA)</u></p> <p style="text-align: center;"><u>Introduction</u></p> <p><u>The Mississippi Department of Education (MDE) is authorized under §37-23-5 of Mississippi Code 1972, to “foster, inspect, approve, and administer a program of education for exceptional children.” It is the responsibility of the MDE, Office of Special Education (OSE) to ensure implementation of the mandates of Federal and State laws and regulations regarding the provision of programs, services, and protections to all Mississippi children and youth with disabilities.</u></p>	<p>Revised to reflect changes in RDA</p>

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The Individuals with Disabilities Education Act Amendments of 2004 (IDEA 2004) built on the 1997 reauthorization, which introduced significant revisions in the special education system, specifically on improving educational results for children with disabilities by addressing the importance of 1) access to the general curriculum in regular education classrooms, 2) higher expectations, 3) strengthening the role of parents, 4) high quality intensive professional development, 5) incentives for whole-school approaches, and 6) focusing resources on teaching and learning.

Under 300.600(b), the IDEA requires that the primary focus of IDEA monitoring be on (1) improving educational results and functional outcomes for children with disabilities, and (2) ensuring that the states and LEAs meet the IDEA program requirements. With a heightened focus on accountability and effectiveness for students with disabilities, the Office of Special Education Programs (OSEP) will implement a process for Results-Driven Accountability (RDA) to support LEA improvement effort that is designed to improve the educational results and functional outcomes of Mississippi's students with disabilities. RDA will align all components of accountability in a manner that best supports LEAs in improving results for infants, toddlers, children and youth with disabilities, and their families.

The Results-Driven Accountability process, a data-driven process, will focus on areas of compliance that impact results for children and youth with disabilities and support a more balanced approach to determining program effectiveness in special education.

Major Components of the Results-Driven Accountability System

A. Annual Performance Report (APR)

The IDEA requires states to submit annual reports that include data relative to specific areas addressed in IDEA. APR indicators will be designed to measure the State's outcomes that are most closely aligned with improving results. The State's determination will reflect the LEA's effectiveness in improving outcomes for children with disabilities.

B. Annual LEA Status Determinations

The OSE is required to make annual determinations of each LEA's performance status. Determinations under RDA will be based upon an LEA's overall performance on a set of priority indicators and other relevant data. The following State determinations will be used:

1. Meets Requirements
2. Needs Assistance
3. Needs Intervention
4. Needs Substantial Intervention

C. Monitoring and Technical Assistance

A differentiated system of monitoring and technical assistance (TA) will be implemented to support LEAs with the most significant needs for improvement. Performance of each LEA will be used to determine the appropriate level of monitoring and technical assistance.

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Results-Driven Accountability (RDA)
A Data-Driven Process

Data from the Annual Performance Report (APR) Indicators will be collected and analyzed on an on-going basis to determine LEA program performance and compliance, select LEAs for monitoring and/or technical assistance, which may include site visits and desk audits.

The OSE, through its general supervisory authority, will conduct monitoring activities as a result of the following:

- 1) Receipt of a Formal State Complaint;
- 2) Request by the Office of Accreditation, Commission on School Accreditation or the State Superintendent of Education;
- 3) Selection by the Office of Accreditation for a Nonpublic School On-site Evaluations;
- 4) Fiscal Audits; and
- 5) Educable Child Program Reviews.

Since the primary focus of IDEA monitoring is on improving educational results and functional outcomes for children with disabilities and ensuring LEAs meet the IDEA program requirements, technical assistance is a critical component and a high priority for the OSE. Components of technical assistance include developing corrective action plans, improvement plans, professional development, identification and dissemination of technical information and strategies, and assignment of staff and/or consultants at MDE expense to assist the LEA.

D. Rewards and Sanctions

LEAs achieving the Meets Requirements determination will receive recognition after validation by the OSE. LEAs failing to submit and/or to implement an Improvement Plan, failing to show progress on selected indicators, or failing to correct all identified areas of noncompliance within the 12-month timeline will enter a system of sanctions.

Rewards

LEAs achieving the highest designation, "Meets Requirements," may receive one or more of the following rewards:

- 1) Letter to the LEA's Superintendent and School Board Chair;
- 2) Certificate of recognition presented at annual Statewide Conference;
- 3) Press release to local and State newspapers; and
- 4) Commendations on MDE web site and in publications.

Sanctions

LEAs with identified noncompliance will result in immediate notification to the Office of Accreditation by the OSE that the LEA has findings of noncompliance on record. The LEA is required to:

- 1) Develop an Improvement Plan that is designed to address all identified areas of noncompliance;
- 2) Submit the Improvement Plan within thirty (30) days to the OSE and address all finding; and
- 3) Implement the necessary corrective actions to resolve the identified

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	<p style="text-align: center;"><u>noncompliance as soon as possible, but in no case later than 12 months from the date of notification of noncompliance.</u></p> <p><u>Additional sanctions may be utilized when (1) an LEA refuses to implement corrective actions to resolve identified noncompliance or (2) the LEA has not corrected all identified areas of noncompliance within the 12-month timeline. These sanctions may include:</u></p> <ol style="list-style-type: none">1) <u>The development and submission of a Corrective Action Plan (CAP) under Accreditation Policy 2.8; which has been approved by the LEA's local school board and the State Board of Education (SBE);</u>2) <u>Appointment by MDE of a Special Education Consultant or Technical Advisor to assist with implementation of the CAP at LEA expense;</u>3) <u>Submission of a request to the Commission on School Accreditation to take immediate action concerning the noncompliance; and</u>4) <u>Directing the use of and/or withholding of all or part of IDEA Part B funds until all identified areas of noncompliance have been corrected.</u> <p><u>The OSE will utilize all available sanctions necessary to address LEAs with evidence of on-going and continuing noncompliance (§300.600).</u></p>	
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