

Questions and Answers/April 1, 2010, Webinar

1. When a speech implementer provides services to a non-disabled child as part of a Response to Intervention model, does that person have to be supervised by a speech language pathologist?

Answer: yes. Please also remember that since this is a regular education service, the speech implementer can only do this using a portion of his or her time that is covered by non-IDEA salary; likewise, the SLP, providing supervision, must provide that supervision as an extension of the portion of his or her time that is non-IDEA salary.

2. Is an observation required for reevaluation of a student who is Learning Disabled?

Answer: this is up to the evaluation team to determine.

3. Can a child who has always received ESY, ever be determined to be ineligible for ESY?

Answer: yes. There are other opportunities to determine if there are regression/recoupment issues, besides the summer. For example, winter break, or spring break. It is certainly possible that an IEP team might determine that there is no longer a reason to predict regression recoupment issues, even though the child has always received ESY. It is an IEP team decision.

4. If a student is a ward of the state and placed in a residential setting by Children's Division, and an educational surrogate is appointed, can a parent, whose rights have not been terminated, still make educational decisions, including initiating due process hearing proceedings?

Answer: no. The parent is not an educational decision-maker even though their parental rights have not been terminated. This is true even though the CD may be inviting the parent to participate in the IEP meeting as a part of the attempt to preserve the family unit. If the CD places the child to LIVE with the natural parent, then the parent is the educational decision-maker.

5. According to question #21 on the FAQ for ECSE on the DESE website, a regular education teacher must be at the initial IEP meeting and then can be excused on subsequent IEP meetings; however, that is not clear within the standards and indicators manual. The standards indicate that the regular education teacher can be excused from an IEP meeting but does not mention that the IEP meeting is an initial or annual IEP review. Can you clarify if the regular education teacher is required to attend the initial IEP for ECSE or K-12 students or can the regular education teacher be excused from that meeting?

Answer: You are correct about the conflicting information in the Standards and Indicators and in the ECSE FAQ. Federal regulations make no distinction between initial and subsequent IEP meetings when allowing team members to be excused. While regular

education teachers may be excused from IEP meetings, we always encourage districts to make every effort to have all members of the team in attendance for all IEP meetings. We will review the information in our FAQ to determine if changes need to be made.

6. Can the regular education teacher be excused from the eligibility determination meeting if it is for a disability other than specific learning disability (SLD)?

Answer: The standards indicate the regular education teacher must be present for a SLD eligibility determination meeting. Federal Regulation 300.308 clarifies that a regular education teacher is required to be a member of the team of qualified professionals determining whether a child has a specific learning disability. All other eligibility determinations mention a team of qualified professionals and do not specify those team members.

7. How do we meet the highly qualified teacher requirements, when implementing regular education modified setting (such as class within a class), and what are the requirement for special education teachers?

Answer: Please see Department's FAQ document at:
<http://www.dese.mo.gov/divspeced/LS03.09.10-3.htm>

8. Do Parents receive a NOA when they refuse the initial evaluation?

Answer: No.

9. How do we satisfy child find obligations if we cannot document parent refusal to evaluate?

Answer: you do want to document that the parent refused to sign the consent for initial evaluation.

10. What if they do not need give consent and have enough information for the eligibility, do we proceed?

Answer: you can proceed with an eligibility determination if you have sufficient information and do not need to do additional testing.

11. What if we have consent but the results indicate another test to do, and after evaluation results are in and you decide more info is needed do you need another permission?

Answer: No.

12. What is the status of a state wide IEP system?

Answer: Put on hold December 16. See web site for specifics.

13. If you use the Triennial Form to document that there is no need for a reevaluation, how do we document what information that we looked out to make that decision? And does that Triennial form just get stapled to the last evaluation and that becomes the most recent evaluation for the student's file?

Answer: Please see the answer to question #1 from the March webinar; please call one of the supervisors in our compliance section for further assistance.

14. If a parent revokes sped services does the notice of action signed count as a written request?

Answer: No. Please see revocation of consent information from SELS archives April 16, 2009, as well as link to the sample written notice at:
http://www.dese.mo.gov/divspeced/Compliance/MOSample_Forms/documents/NOA-Sample.pdf

15. Does functional behavior need to be addressed on all IEPs for all areas of sped identification, or just students who have been identified ID/MR?

Answer: This is an IEP team decision.

16. In regards to Educational Surrogates, for our Juvenile Detention Center that resides in our district who can make the referrals?

Answer: The JO can make a referral. It won't trigger written notice, since he or she is not the parent.

17. Are DJO's ever identified as the educational decision maker?

Answer: No.

18. Can you briefly repeat your response about the implementer doing RtI?

Answer: see summary of first 10 minutes of webinar.

19. Do you know whether districts will be forgiven days missed for H1N1?

Answer: No

20. It has been my understanding that unless a court has terminated the parental rights of a parent, they still retained decision maker authority and must be invited to all IEP meetings, etc. Are you saying this is incorrect?

Answer: Yes, this is incorrect. If the child is placed by the Children's Division with the natural parent, then the parent continues to be the educational decision-maker. But if Children's Division places the child in a residential facility, or with a person other than

the parent, the parent does not make educational decisions and is only invited to the IEP meeting if the educational decision-maker wants them there.

21. How imminent is the reorganization of DESE? I am referring to the new chart dated March 25, 2010. Thank You.

Answer: Originally it was to be implemented after the March 26 state board meeting; however, this is on hold. I anticipate implementation in stages over the next couple of months.

22. Would you explain the learning disability area of listening comprehension? Such as how we evaluate for it and what we need to use as testing instruments?

Answer: Listening comprehension is a disorder involved in understanding of spoken language which may manifest itself in any area of academic instruction. The evaluation process: Since the disorder may manifest itself in any area of academic instruction, it is important to notice if the student is or is not achieving adequately for age or to meet MO approved grade-level standards in any area, particularly in reading or written expression. The evaluation requirements would be the same as any other area of learning disability. Evaluation instrument used should be acknowledged standardized, norm-referenced tests, which assess listening comprehension.

A list found on the internet of Standardized Language Assessments (which is likely not all inclusive) that could be used to assess for the area of listening comprehension is at the following link:

<http://www.dese.mo.gov/divspeced/documents/StandardizedLanguageAssessments.pdf>

Some of these would need to be administered by an SLP, others could be administered by any trained individual. As always, we advise to read the test manual for administration requirements.

Receptive language is the ability to understand and comprehend what is being said or read. Students with basic language comprehension (receptive) needs can exhibit a variety of observable behaviors. The following checklist will help you to determine if your student has comprehension difficulties:

- Difficulty understanding and following directions or instructions.
- Becomes overwhelmed when given 2 or multi step directions.
- Often doesn't understand longer more complex sentences, thus becomes confused easily.
- Struggles with figurative versus literal language and will usually need explanations.
- Regularly requires clarification and to have the instructions/directions repeated.

Often uses the term 'I don't know' or 'I forget'.

The child may be able to read but when questioned about the passage just read, he/she has limited understanding.

23. If the IEP team does not think a student needs an outside evaluation but the parent wants one - does the district have to pay for an outside evaluation?

Answer: No, but if the district does not pay for the independent evaluation it must initiate due process hearing proceedings to prove it was unnecessary.

24. I was just told yesterday by Thompson Publishing that AARA funds could be used to purchase a 504 manual. She (Susan) read from a report on AARA. Please clarify.

Answer: IDEA funds, whether ARRA funds or “regular” IDEA funds, can’t be used on a Section 504 manual. Perhaps she is talking about other ARRA funds, like the stabilization funds that came to districts through the foundation formula.

25. We've been told that we no longer need to have a signature page signed to document attendance at the IEP meetings. Instead, just typing in the names on the front of the IEP is sufficient. Is that correct?

Answer: That is correct; there has never been a state or federal requirement for attendees to sign the IEP document. This is just the way that many folks document who attends.

26. Can a student be served by a certified Spec Ed teacher if they qualify for Language, instead of an SLP. I also don't understand the difference between a student who qualifies under expressive language as opposed to a child who qualifies under the LD category of oral expression.

Answer: See Language Impairment and Learning Disability criteria below. Expressive language is not a category for school-age under the category of LI. Also, the procedures for evaluating and determining eligibility are different. The discrepancy for school-age is the same (1.5 SD). Look at what the child is/is not doing (relative strengths and weaknesses), determine area(s) of concern, evaluate in that (those) areas and then see if the child meets eligibility criteria in one or more areas and then, if child meets more than one, determine which is the primary.

The majority of characteristic behaviors for either classification are quite similar in nature and performance (e.g., receptive language problems in perceiving speech sounds, understanding words, understanding language structure, and following directions; or expressive language problems in articulating speech sounds, formulating words and sentences, word finding, language pragmatics). A student with an appropriately diagnosed learning disability in oral expression and/or listening comprehension, and with an appropriately diagnosed language impairment (disorder), may be classified as either a specific learning disabled student or a speech-language impaired student and served in either category. Whichever classification and service is most appropriate for the student should be the classification and services chosen.

Language Impairment

The evaluation report documents the consistent inappropriate use of **one (1) or more** of the following structures of language:

1500.10.a. Morphology (structuring words from smaller units of meaning)

1500.10.b. Syntax (putting words together in phrases and sentences—sometimes referred to as grammar deficits)

1500.10.c. Semantics (selecting words to represent intended meaning and combining words and sentences to represent intended meaning—sometimes referred to as vocabulary deficits)

1500.10.d. Pragmatics (using the functions of language to communicate with others)

1500.30.a. The evaluation report documents the results of two (2) norm-referenced and standardized language assessments which measure the same areas of language.

1500.30.b. The evaluation determines whether the child's language functioning is significantly below the child's cognitive abilities. The following criteria apply:

1500.30.b.(1) Children ages 3 through 5 years, not kindergarten eligible: 2 standard deviations below peers.

1500.30.b.(2) Children who are kindergarten age eligible and older: 1.5 standard deviations below cognitive ability. NOTE: If unable to obtain the child's full-scale cognitive score, professional judgment must be used.

Learning Disabilities

A comprehensive evaluation report is present and documents:

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:

1400.10.a. Basic Reading Skill

1400.10.b. Reading Comprehension

1400.10.c. Reading Fluency Skills

1400.10.d. Written Expression

1400.10.e. Mathematics Calculation

1400.10.f. Mathematics Problem Solving

1400.10.g. Listening comprehension

1400.10.h. Oral Expression

DISCREPANCY

- 1.) 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.

Documentation must include:

1400.20.d. Evidence of pattern of strengths and weaknesses

AND

1400.20.e. Discrepancy of at least 1.5 standard deviations between achievement and intellectual ability.

OR

1400.20.f. A child who does not display a discrepancy of at least 1.5 standard deviations as defined above, may be deemed to have a specific learning disability through the use of professional judgment. **NOTE:** Documentation must include evidence that the child is not achieving adequately or making sufficient progress based on a review of formal and informal assessments.

27. Can a district email IEP and eval reports to schools and parents using PDF view only?

Answer: yes, but if the IEP being sent is supposed to be a draft IEP for use at a meeting, then sending it PDF might make it appear to be a final document.