

PART III

EVALUATION & ELIGIBILITY

| SECTIONS | PAGE |
|--|-------------|
| LEGAL CITATIONS | 2 |
| SECTION 1 ❖ PURPOSE OF AN EVALUATION..... | 3 |
| SECTION 2 ❖ INITIAL EVALUATION | 3 |
| SECTION 3 ❖ PARENTAL CONSENT..... | 4 |
| SECTION 4 ❖ INFORMATION FROM OTHER AGENCIES | 6 |
| SECTION 5 ❖ EVALUATION PROCEDURES..... | 6 |
| SECTION 6 ❖ EVALUATION SUMMARY & ELIGIBILITY REPORT | 8 |
| SECTION 7 ❖ RE-EVALUATION PROCEDURES | 9 |
| SECTION 8 ❖ ELIGIBILITY CRITERIA FOR DISABILITY CATEGORIES | 11 |
| SECTION 9 ❖ OVERIDENTIFICATION AND DISPROPORTIONALITY..... | 20 |

LEGAL CITATIONS

Section 1. Purpose of an Evaluation

34 CFR §300.301
4AAC 52.120 **adopts**
34 CFR §300.304
34 CFR §300.307-311

Section 2. Initial Evaluation

34 CFR §300.301
34 CFR §300.305
34 CFR §300.305(d)
4AAC 52.120(1)
20 USC 1414a1Bii
20 USC 1414c4
20 USC 1414c4Aii

Section 3. Parental Consent

34 CFR §300.300(a)(1)(i)
34 CFR §300.300(b)(3)(4)(i)(ii)
34 CFR §300.300(d)(2)
34 CFR §300.300(d)(3)
34 CFR §300.500
34 CFR §300.622
4AAC 52.200 **adopts**
 34 CFR §300.300(a-d)
 34 CFR §300.300(c)(ii)
20 USC 1414a1Cii
20 USC 1414a1DiiI

Section 4. Information from Other Agencies

34 CFR §99.31
34 CFR §300.622

Section 5. Evaluation Procedures

34 CFR §300.304(c)(4)(6)
34 CFR §300.305
34 CFR §300.535
34 CFR §300.606
4AAC 52.120 **adopts**
 34 CFR §300.304
 34 CFR §300.308-311
20 USC 1414b3Aii
20 USC 1414b5

Section 6. Re-evaluation Procedures

34 CFR §300.300
34 CFR §300.305
34 CFR §300.305(c)(1)
34 CFR §300.306
34 CFR §300.504(a)(1-4)
34 CFR §300.536
4AAC 52.180(a)
4AAC 52.180(b)
4AAC 52.180(d)
20 USC 1414b2A
20 USC 1414b4A
20 USC 1414i2DiiII

Section 7. Evaluation Summary and Eligibility Report

34 CFR §300.306
34 CFR §300.533
4AAC 52.125(a)(3)
4AAC 52.125(a)(1)
4AAC 52.540 **adopts**
 34 CFR §300.502
20 USC 1414c1Bii

Section 8. Eligibility Criteria for Disability Categories

34 CFR §300.8
4AAC 52.130
20 USC 1412a24
20 USC 1414b6A-B

Section 9. Overidentification & Disproportionality

20 USC 1414d2
20 USC 1418d1-2

SECTION 1 ❖ PURPOSE OF AN EVALUATION

The purpose of conducting an evaluation is to:

1. gather information to determine whether a child has a disability and is eligible for special education, and
2. determine the nature and extent of the special education and related services that the child's needs.

All evaluation procedures must be provided at no expense to the parent.

SECTION 2 ❖ INITIAL EVALUATION

Before a child may be evaluated, the District must notify the parents in writing. This notice must describe any evaluation procedure that the District proposes to use. Parents must give their informed consent in writing before their child may be evaluated. See Section 3 of this chapter regarding consent.

REVIEW OF EXISTING DATA

As part of an initial evaluation, a group consisting of qualified professionals and a parent of the child examine evaluation data already available on the child. This group typically includes the same members that make up an IEP Team. Examples of data that may be examined include:

1. Information and evaluations provided by the child's parents.
2. Current classroom-based assessments, local or state assessments, interventions, and classroom-based observations.
3. Teacher or related service providers' observations.
4. Classroom work samples.
5. Behavioral observations and assessments.

On the basis of that review, the team identifies what additional information, if any, is needed to determine:

1. Whether the child demonstrates a disability.
2. The child's present levels of academic achievement and related developmental needs of the child.
3. Whether the child requires special education and related services.
4. 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 and to

PART III – EVALUATION & ELIGIBILITY

participate, as appropriate, in the general education curriculum.

Note: The team that determines if additional evaluation data are needed may conduct the review without a meeting. Parental consent is not required before reviewing existing data as part of an evaluation or administering a test/evaluation that is given to all children (unless consent is required of parents of all children).

DETERMINATION THAT NO ADDITIONAL DATA ARE NEEDED

If the IEP team and other qualified professionals determine that no additional data are needed to determine the child's educational needs, the District shall provide written notice to the child's parents:

- A. that determination and the reasons for the determination;
- B. the rights of parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs; and
- C. shall not be required to conduct such an assessment unless requested by the child's parents. In all instances, parents have the opportunity to be part of the team that makes that determination. Therefore, no parental consent is necessary if no additional data are needed to conduct the evaluation or re-evaluation.

DETERMINATION THAT ADDITIONAL DATA ARE NEEDED

If the group of qualified professionals and a parent of the child conclude that not enough data exists to make the above determinations, the District must administer the necessary tests and evaluations to produce the needed data.

SECTION 3 ❖ PARENTAL CONSENT

The following parental consents are required as initial steps in the evaluation process:

1. The parents' signature indicating consent to conduct the initial evaluation must be received before any evaluation can be conducted. Only a parent, a guardian, a person acting as a parent, or a surrogate parent can provide consent for initial evaluations.

Note: When a child is determined eligible for special education services, the IEP must be implemented within 45 school days of receiving parental consent for the initial evaluation. The 45 school days timeframe shall not apply in 2 situations:

- A. If a child moves to a new school district after consent for evaluation has been obtained but before the evaluation can be completed, as long as the

B. If the parent repeatedly fails or refuses to produce the child for an evaluation.

2. The parent's signature indicating consent to release information must be received in order for non-educational agencies to release information.

Parental consent is necessary when any assessment instrument is administered as part of an evaluation or re-evaluation. However, districts are not required to obtain parental consent for teacher and related service provider observations, on-going classroom evaluation, or the administration of, or review of, the results of adapted or modified assessments that are administered to all children in a class, grade, or school.

Parental consent for evaluation should not be construed as consent for placement or receipt of special education and related services.

PARENT REFUSES CONSENT FOR INITIAL EVALUATION

If a parent refuses consent for an initial evaluation, the child cannot be evaluated. If the District believes an evaluation is warranted, the District may request mediation or a due process hearing. If the mediation results in parental consent to evaluate, or a hearing officer decision indicates that testing is appropriate and the parent does not appeal, then the child may be evaluated.

PARENT REFUSES CONSENT FOR SERVICES

If the parent refuses initial consent for services, the LEA will not be considered to have failed to provide a FAPE to the child and shall not be required to convene IEP meetings about the child. The LEA may not use due process to seek to provide services if parents have failed to provide consent.

CONSENT

Consent means:

1. That the parent has been fully informed, in his or her native language or other mode of communication, of all information relevant to the activity for which consent is sought.
2. The parent understands and agrees in writing (the parent's signature) to the carrying out of the activity for which the parent's consent is sought.
3. The consent describes that activity and lists any records that will be released and to whom.
4. The parent understands that the granting of consent is voluntary and may be revoked prior to the action requiring consent transpiring.

(See [Appendix C](#) for a sample Consent for Initial Evaluation form.)

REVOKING CONSENT FOR AN INITIAL EVALUATION

A parent who has provided consent for an initial evaluation may revoke that consent any time prior to the evaluation occurring. However, once the evaluation has been completed, a parent may not revoke consent to revert the child to a previous status, or to have the evaluation disregarded.

SECTION 4 ❖ INFORMATION FROM OTHER AGENCIES

Upon receipt of parental consent, if appropriate, letters requesting information may be sent to individuals and agencies who have had contact with the child (inclusion of a stamped self-addressed envelope will facilitate a timely response.). A copy of the signed consent form should be included with the letters and retained in the child's confidential file (see [Appendix C](#) for Authorization to Obtain Information form). Sources of this additional information may include:

1. Records from health and social service agencies.
2. Records from preschool programs.
3. Records from legal service agencies.
4. Records from non-school professionals (e.g., physicians, social workers, and psychologists).

Federal laws and regulations do not require parental consent for the District to request information from other districts that the child has attended or in which the child intends to enroll.

SECTION 5 ❖ EVALUATION PROCEDURES

A variety of assessment tools and strategies are used to gather relevant functional, academic and developmental information about the child, including information provided by the parent. This information is used by the team to determine whether the child has a disability, the child's present levels of academic achievement and functional performance, and if eligible for special education and related services, the content of the child's IEP. The information is also used to determine whether modifications are needed to enable the child to achieve his or her annual IEP goals, and to participate in the general education curriculum. For preschool children, this information is used to help them participate in age-appropriate activities.

EVALUATION PROCEDURES

All evaluations must abide by the following requirements:

1. A child must be evaluated in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional functioning, general intelligence, academic performance, communicative status, and motor abilities. In addition, the evaluation must be sufficiently comprehensive to identify all of the child's

PART III – EVALUATION & ELIGIBILITY

special education and related services needs, whether or not they are commonly linked to the disability category in which the child is classified.

2. No single assessment procedure may be used as the sole criterion for determining whether a child has a disability and for determining an appropriate educational program for the child.
3. Evaluation materials must be technically sound and may assess the relative contribution of cognitive and behavioral factors, in addition to physical and developmental factors.
4. Evaluation materials and procedures must be appropriate to determine the nature and extent of a learning impairment and directly assist in identifying areas of educational need.
5. Evaluation materials and procedures must be validated for the specific purpose for which they are to be used.
6. Evaluation of a child who may have limited English proficiency should assess the child's proficiency in English as well as the child's native language to distinguish language proficiency from disability needs.
7. Evaluation materials and procedures used to assess a child with limited English proficiency must be selected and administered in accordance with #9 of this sub-section to ensure they measure a potential disability and need for special education, rather than English language skills.
8. Evaluation materials and procedures must be provided in the language that most likely will yield accurate information on what the child knows and can do academically, developmentally and functionally.
 - A. The native language of the child is that language normally used by the child in the home/learning environment.

situations where it is not feasible to assess the child in his or her native language or mode of communication, the group of qualified professionals and a parent of the child must still obtain and consider accurate and reliable information that will enable them to make an informed decision as to whether the child has a disability and the effects of the disability on the child's educational achievement.

9. Evaluation materials and procedures must be administered in adherence with the developer's instructions and by appropriately trained personnel. If an assessment is not conducted under standard conditions (e.g., qualifications of test administrator or method of test administration), this must be noted in the evaluation report.
10. All materials and procedures used for assessing and identifying child with disabilities must be selected and administered so as not to be biased in terms of race, gender, culture or socioeconomic status.
11. Tests must be selected and administered so as best to ensure that when 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).
12. Tests and other evaluation materials include those tailored to assess specific areas of educational need (including current classroom-based assessments and observations of the teacher and related service providers, physical condition, social or cultural background, information provided by the parents, and adaptive behavior), and not merely those that are designed to provide a single general intelligence quotient.
13. Information obtained from all of these sources, including evaluations and information provided by the parent, must be documented and carefully considered.
14. A child shall not be determined to have a disability if the determinant factor is a lack of explicit and systematic instruction in essential components of reading (phonemic awareness, phonics, vocabulary development, reading fluency, including oral reading skills, and reading comprehension strategies) or a lack of instruction in math; or limited English proficiency.

Note: The presence of a disability is not sufficient to establish eligibility for special education. The disability must result in an educational deficit that requires specially designed instruction (i.e., special education).

SECTION 6 ❖ EVALUATION SUMMARY & ELIGIBILITY REPORT

Upon completion of the administration of tests and other evaluation materials, a determination of whether the student is eligible for special education services shall be made by a group of qualified professionals and a parent of the child. Previously, this eligibility group was referred to as the IEP Team in order to distinguish it from the MDT (multi-disciplinary team). However, the required membership and purpose of the eligibility group and the IEP Team are not the same and

PART III – EVALUATION & ELIGIBILITY

so the phrase *group of qualified professionals and a parent of the child* is used in the current revision in keeping with IDEA 2004. A written evaluation/eligibility report must be prepared to document that a child is eligible for special education. The report must summarize the information from all the evaluations. A copy of the report must be given to the parent. To the extent feasible, the results of evaluations should be provided to parents and appropriate school personnel before any meeting to discuss identification, evaluation, placement, or FAPE.

The Evaluation Summary & Eligibility Report should include at least the following information: (see [Appendix C](#) for sample Evaluation Summary & Eligibility Report.)

1. The date of the report (for an initial evaluation, this date represents the date the child is determined eligible for special education).
2. The name, birth date, and gender of the child.
3. The dates the evaluations were conducted.
4. A list of the members of the team consisting of qualified professionals and a parent of the child.
5. The signature of each team member.
6. A description of the child's present levels of academic achievement and functional performance.
7. A description of environmental, cultural, or economic factors, if appropriate (required for learning disabilities; should be considered for emotional disturbance, mental retardation, and speech impaired).
8. A summary of the team's discussion.
9. The disability category, the educational needs of the child, and a statement of whether the child requires special education and related services.
10. Dissenting opinions, if any.

Note: If a parent disagrees with the District evaluation, the parent has the right to an independent educational evaluation (see [Part VII, Section 8](#)). The LEA may not use due process to seek to provide services if parent refuses initial consent for services. (The LEA will not be considered to have failed to provide a FAPE and shall not be required to develop an IEP)

SECTION 7 ❖ RE-EVALUATION PROCEDURES

The District must ensure that a re-evaluation of each child with a disability is conducted every 3 years, or more frequently if conditions warrant, or if the child's parent or teacher makes a reasonable request for such an individual evaluation. "Conditions warrant" means when there is sufficient information to suspect that a significant change in a child's educational functioning is occurring that may necessitate change in the child's educational program.

PART III – EVALUATION & ELIGIBILITY

A re-evaluation refers to any evaluation that is conducted after a student has been determined eligible for special education. Once a child has been evaluated the first time and a decision has been made that the child is eligible, any subsequent evaluation would constitute a re-evaluation. All re-evaluation procedures must be provided at no expense to the parents.

For a child whose eligibility category is early childhood developmental delay, re-evaluation by the IEP Team and other qualified professionals is required before the child's 9th birthday. The re-evaluation will determine whether the child continues to be eligible for special education and related services.

Re-evaluation is not required before the termination of a student's eligibility for special education services due to graduation with a regular high school diploma or exceeding the age eligibility for FAPE (21 years). However, either of these events constitutes a “change of placement” that requires prior written notice be given a reasonable amount of time before the termination of services occurs.

CONSENT FOR RE-EVALUATION

Prior written notice must be provided and parental consent obtained prior to re-evaluation if additional data/information is required. A single form that meets the requirements of consent and notice may be used. If the parent fails to respond to reasonable measures taken by the District to obtain consent, the school may proceed with the re-evaluation. A district must document the measures it took to obtain consent. The consent for evaluation/re-evaluation is located in [Appendix C](#).

As noted previously, parental consent is not required before reviewing existing data as part of the re-evaluation or administering a test that is given to all children (unless consent is required of parents of all children). Therefore, no parental consent is necessary if no additional data are needed to conduct a re-evaluation.

IEP Team Responsibilities

Prior to any re-evaluation of a student:

1. The IEP Team and other qualified professionals will determine the nature and extent of the evaluation by reviewing existing data on the child. Data may include, for example, evaluations and information provided by the parent, current classroom-based assessments and observations, and teacher and related service providers' observations.
2. On the basis of its review of existing data, and input from the child's parents, the IEP Team and other qualified professionals will determine what additional data, if any, are needed to determine:
 - A. Whether the child continues to have a disability.
 - B. The present levels of academic achievement and related developmental needs of the child.

- C. Whether the child continues to need special education and related services.
 - D. Whether any additions or modifications to the special education and related services are needed to enable the child to meet the IEP goals and to participate in the general education curriculum.
3. If the IEP Team and other qualified professionals determine that additional data are not required, the District must clearly document that decision and provide prior written notice ([Appendix E](#)) to the parents of that determination and the reason for the determination. The District must also inform the parent of his or her right to request further assessment to determine whether the child continues to be a child with a disability and to determine educational needs.
4. Based on recommendations from the IEP Team and other qualified professionals, the District will seek parental consent and administer the needed assessments.

SECTION 8 ❖ ELIGIBILITY CRITERIA FOR DISABILITY CATEGORIES

States must have in effect policies and procedures designed to prevent inappropriate overidentification or disproportionate representation by race or ethnicity of children with disabilities, including particular disability categories.

Listed below are the criteria for the 14 disability categories that must be used to determine whether a child demonstrates a disability and is in need of special education and related services. The presence of a disability is not sufficient to establish eligibility for special education. The disability must result in an educational deficit that requires specially designed instruction (i.e. special education).

1. **Autism**

To be eligible for special education and related services as a child with autism, a child must:

- A. exhibit a developmental disability significantly affecting verbal and non-verbal communication and social interaction, generally evident before age 3, that adversely affects educational performance; and

- I. irregularities and impairments in communication.
 - II. engagement in repetitive activities and stereotyped movements.
 - III. resistance to environmental change or change in daily routines.
 - IV. unusual responses to sensory experiences.
- F. A child who manifests the above characteristics after age 3 may be diagnosed as having autism.

Note: A child identified with Pervasive Developmental Disorder (PDD) should not be determined eligible under the category of "Autism", but may be found eligible under another category by the team.

2. **Deafness**

To be eligible for special education and related services as a child with deafness, a child must:

- A. exhibit a hearing impairment that hinders the child's ability to process linguistic information through hearing, with or without amplification and that adversely affects educational performance; and
- B. require special facilities, equipment, or methods to make his or her educational program effective; and
- C. be diagnosed by a physician or audiologist as deaf; and
- D. be certified by a group consisting of qualified professionals and a parent of the child as qualifying for and needing special education services.

3. **Deaf-Blindness**

To be eligible for special education and related services as a child with deaf-blindness, a child must:

- A. exhibit concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that the child cannot be accommodated in a special education program solely for deaf or blind children; and
- B. require special facilities, equipment, or methods to make his or her educational program effective; and
- C. be diagnosed by an optometrist or ophthalmologist and by a physician or audiologist, as appropriate, as deaf-blind; and
- D. be certified by a group consisting of qualified professionals and a parent of the child as qualifying for and needing special education services.

4. **Early Childhood Developmental Delay**

To be eligible for special education and related services as a child demonstrating an early childhood developmental delay, a child must:

- A. be not less than 3 years old nor more than 8 years of age; and
- B. be certified by a group consisting of qualified professionals and a parent of the child as qualifying for and needing special education services by meeting the following criteria:
 - I. function at least two standard deviations below the national norm or 25% delayed in age equivalency in at least one of the following areas:
 - cognitive development
 - physical development which includes fine and gross motor
 - speech or language development which includes expressive and receptive language, articulation, fluency, voice
 - social or emotional development and
 - adaptive-functioning, self-help skills; **or**
 - II. function at least 1.7 standard deviations below the mean or 20% delayed in age equivalency in two or more of the five areas in “b” above;
 - III. have learning problems that are not primarily the result of bilingualism, cultural difference, environmental disadvantage, or economic disadvantage; and
 - IV. require special facilities, equipment, or methods to make the child's educational program effective.

When evaluating the child, if it is clearly not appropriate to use a norm-referenced instrument, another instrument, such as a criterion-referenced measure, may be used to document the delay.

The determination of a delay and the detrimental effect on the child's daily life and educational performance shall be based on qualitative and quantitative measures, including developmental history, basic health history, observation of the child in multiple environments, and supportive evidence of how the disability adversely affects education performance.

If the District decides not to use the criteria for early childhood developmental delay as outlined above, the District shall apply the eligibility criteria of one of the other disability categories in this section in determining the child's eligibility for special education and related services. The category early childhood developmental delay should not be used when the child clearly meets the eligibility for another disability category.

5. **Emotional Disturbance**

To be eligible for special education and related services as a child with emotional disturbance, a child must:

- A. have a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects educational performance:
 - I. an inability to learn that cannot be explained by intellectual, sensory, or health factors;
 - II. an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
 - III. inappropriate types of behavior or feelings under normal circumstances;
 - IV. a generally pervasive mood of unhappiness or depression; or
 - V. a tendency to develop physical symptoms of fears associated with personal or school problems.
- B. require special facilities, equipment or methods to make his or her educational program effective; and
- C. be diagnosed as emotionally disturbed by a psychiatrist or psychologist; and
- D. be certified by a group consisting of qualified professionals and a parent of the child as qualifying for and needing special education services.

Note: The term includes children who are schizophrenic but does not include children who are socially maladjusted unless it is determined that they have an emotional disturbance. It is important to distinguish children demonstrating an emotional disturbance from children with other behavior problems. [Appendix J](#) provides some clarification of terminology to assist in making these distinctions.

6. **Hearing Impairment**

To be eligible for special education and related services as a child with a hearing impairment, a child must:

- A. exhibit a hearing impairment, whether permanent or fluctuating, that

adversely affects educational performance but is not within the meaning of deaf; and

- B. require special facilities, equipment, or methods to make his or her educational program effective; and
- C. be diagnosed by a physician or audiologist as hard of hearing; and
- D. be certified by a group consisting of qualified professionals and a parent of the child as qualifying for and needing special education services.

7. **Specific Learning Disability**

To be eligible for special education and related services as a child with a learning disability, all of the following six components must be addressed:

- A. The child must exhibit 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 do mathematical calculations.

The term **specific learning disability**:

- I. includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.
- II. does not include children who have learning problems that are primarily the result of a visual disability; motor disability; hearing disability; mental retardation; emotional disturbance;

PART III – EVALUATION & ELIGIBILITY

performance, achievement, or both, relative to age, State approved grade level standards or intellectual development that is determined by the group using approved assessments.

Note: LEAs are not required to consider whether a child has a severe discrepancy between achievement and intellectual ability when determining whether a child has a learning disability and permitting LEAs to use a response to research-based intervention as part of an evaluation process and may permit the use of the other alternative research-based procedures for determining whether a child has a specific learning disability.

- C. The team must also ensure the following:
 - I. At least one team member, other than the child's regular teacher, must observe the child's academic performance in the regular classroom setting;
 - II. In the case of a child who is of less than school age or is out of school, a team member must observe the student in an environment appropriate for a child that age; and,
 - III. The observation report must document the name and title of the observer, as well as the date and place of the observation. This report must also be attached to the Evaluation Summary and Eligibility Report (Appendix C).

- D. The group of qualified professionals and a parent of the child must prepare a written report of the evaluation results that includes statements of:
 - I. Whether the child has a specific learning disability;

The report must be dated and team members must indicate their agreement or disagreement with the report's conclusions, and then sign the report. A team member who disagrees with the conclusions of this report must submit a separate statement of his or her own conclusions.

- VII. The determination of the team regarding the effects of environmental, cultural, or economic factors on the child's academic performance.

The report must be dated and team members must indicate their agreement or disagreement with the report's conclusions, and then sign the report. A team member who disagrees with the conclusions of this report must submit a separate statement of his or her own conclusions.

- E. The student must require special facilities, equipment, or methods to make his or her education program effective.
- F. The student must be certified by a group consisting of qualified professionals and a parent of the student as qualifying for and needing special education services.

8. **Mental Retardation**

To be eligible for special education and related services as a child with mental retardation, a child must:

- A. score two or more standard deviations below the national norm on an individual standardized test of intelligence; and
- B. exhibit deficits in adaptive behavior manifested during the developmental period that adversely affect the child's educational performance; and
- C. require special facilities, equipment or methods to make his or her educational program effective; and
- D. be diagnosed as mentally retarded by a psychiatrist or psychologist; and
- E. be certified by a group of qualified professionals and a parent of the child as qualifying for and needing special education services.

9. **Multiple Disabilities**

To be eligible for special education and related services as a child with multiple disabilities, a child must:

- A. exhibit two or more of the impairments described in this section, the combination of which causes such severe education problems that he or she

the child as qualifying for and needing special education services that cannot be provided in a program for a single condition set out in this section.

Note: The term multiple disabilities does not include deaf-blindness. Children with multiple disabilities exhibit two or more severe disabilities that are likely to be life-long, significantly interfere with independent functioning, and necessitate environmental modifications to enable the individual to participate in school and society. A learning disability and speech or language impairment does not constitute a multiple disability. Likewise, a child with mental retardation who receives speech therapy as a related service would not be found eligible under this category.

10 **Orthopedic Impairment**

To be eligible for special education and related services as a child with an orthopedic impairment, a child must:

- A. exhibit a severe orthopedic impairment, including impairments caused by a congenital anomaly, disease or other causes, that adversely affects educational performance; and
- B. require special facilities, equipment, or methods to make his or her educational program effective; and
- C. be diagnosed by a physician as orthopedically impaired; and
- D. be certified by a group consisting of qualified professionals and a parent of the child as qualifying for and needing special education services.

11 **Other Health Impairment**

To be eligible for special education and related services as a child with a health impairment, a child must:

- A. exhibit limited strength, vitality, or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, Tourette Syndrome, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes; or a heightened alertness to environmental stimuli due to Attention Deficit Disorder (ADD) or attention deficit hyperactivity disorder (ADHD) that adversely affects educational performance;
- B. require special facilities, equipment, or methods to make his or her educational program effective; and
- C. be diagnosed by a physician; and
- D. be certified by a group consisting of qualified professionals and a parent of the child as qualifying for and needing special education services.

12 **Speech or Language Impairment**

. *To be eligible for special education and related services as a child with a speech or language impairment, a child must:*

- A. exhibit a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects educational performance; and
- B. require special facilities, equipment, or methods to make his or her educational program effective; and
- C. be diagnosed by a physician, speech-language pathologist, or a speech-language therapist as speech or language impaired; and
- D. be certified by a group consisting of qualified professionals and a parent of the child as qualifying for and needing special education services.

13 **Traumatic Brain Injury**

. *To be eligible for special education and related services as a child with a traumatic brain injury, a child must:*

- A. exhibit an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial maladjustment, or both, that adversely affects educational performance. The term includes open or closed head injuries resulting in mild, moderate, or severe impairments in one or more areas, including 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 include brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma; and
- B. require special facilities, equipment, or methods to make his or her educational program effective; and
- C. be diagnosed by a physician as having a traumatic brain injury; and
- D. be certified by a group consisting of qualified professionals and a parent of the child as qualifying for and needing special education services.

14 **Visual Impairment**

. *To be eligible for special education and related services as a child with a visual impairment, a child must:*

- A. exhibit a visual impairment, not primarily perceptual in nature, resulting in measured acuity of 20/70 or poorer in the better eye with correction, or a visual field restriction of 20 degrees as determined by an optometrist or ophthalmologist, that even with correction, adversely affects educational

performance; or

- B. exhibit a physical eye condition that affects visual functioning to the extent that specially designed instruction is needed; and
- C. require special facilities, equipment, materials, or methods to make his or her educational program effective as determined by a teacher of students with visual impairments; and
- D. be certified by a group consisting of qualified professionals, which includes a certified teacher of students with visual impairments, and a parent of the child as qualifying for and needing special education services.

SECTION 9 ❖ OVERIDENTIFICATION AND DISPROPORTIONALITY

Disproportionality refers to the overrepresentation/overidentification or under representation/under identification of the number of students of a particular racial/ethnic group in any given area of education. The over or under representation of racially, culturally, and linguistically diverse students in special education has been considered one of the most significant challenges faced across the country in the last few decades.

Districts must maintain data of race, ethnicity and disability area to determine if any group is represented disproportionately. Policies and procedures must be in place to prevent overidentification. The State must examine data at both the SEA and LEA level and determine whether disproportionality on the basis of race and ethnicity is occurring in the incidence, duration and type of disciplinary action, in addition to identification and placement as children with disabilities.

A detailed in depth discussion on Disproportionality can be obtained in the Alaska State Performance Plan (SPP) – 2005. This report is located on line at:
http://www.eed.state.ak.us/tls/sped/Reports_Results.html

REQUIREMENTS FROM IDEA 2004

Analysis of Disproportionality

States must determine if significant disproportionality is occurring with respect to:

- The identification of children as children with disabilities and in accordance with a particular impairment.
- Their placement in particular educational settings.
- The incidence, duration and type of disciplinary actions.

IDEA Requirements when reviewing policies and procedures

In the case of a determination of significant disproportionality, the State must:

PART III – EVALUATION & ELIGIBILITY

- Provide for the review and, if appropriate, revision of the policies, procedures and practices.
- Require any LEAs where significant overidentification occurs to reserve the maximum amount of funds under Section 613(f) to provide comprehensive coordinated early intervening services, particularly to serve children in those groups that are significantly overidentified.
- Require the LEA to publicly report on the revision of policies, practices and procedures.

AK EED Next Steps:

1. To continue analysis of the IDEA 2004 indicators of performance related to disproportionality including: achievement, completion, discipline, and LRE.
2. To examine environment factors that may be contributing to disproportionality in special education in Alaska (such as FAS).
3. Develop and implement a plan for the review of school district policies, procedures and practices, for identification and placement of students with IEPs, particularly for Native American students.
4. Educate, inform and collaborate with General Education to ensure equitable educational opportunities for all Alaskan students.