

IDEA and who previously received services under Part C of *IDEA* until such children enter, or are eligible under State law to enter, kindergarten; or

- (f) At the State's discretion, to continue service coordination or case management for families who receive services under Part C of *IDEA* consistent with §300.814(e).

300.815 Subgrants to LEAs

Each State that receives a grant under section 619 of the Act for any fiscal year must distribute all of the grant funds the State does not reserve under § 300.812 to LEAs (including public charter schools that operate as LEAs) in the State that have established their eligibility under section 613 of the Act. Effective with funds that become available on July 1, 2009, each State must distribute funds to eligible LEAs that are responsible for providing education to children aged three through five years, including public charter schools that operate as LEAs, even if the LEA is not serving any preschool children with disabilities.

300.816 Allocations to LEAs

- (a) *Base payments.* The State must first award each LEA described in §300.815 the amount that agency would have received under section 619 of *IDEA* for fiscal year 1997 if the State had distributed *seventy-five (75)* percent of its grant for that year under section 619(c)(3), as such section was then in effect.

- (b) *Base payment adjustments.* For fiscal year 1998 and beyond—
- (1) If a new LEA is created, the State must divide the base allocation determined under paragraph (a) of this section for the LEAs that would have been responsible for serving children with disabilities now being served by the new LEA, among the new LEA and affected LEAs based on the relative numbers of children with disabilities ages three (3) through five (5) currently provided special education by each of the LEAs;
 - (2) If one or more LEAs are combined into a single a new LEA, the State must combine the base allocations of the merged LEAs; and
 - (3) If for two or more LEAs, geographic boundaries or administrative responsibility for providing services to children with disabilities ages three (3) through five (5) changes, the base allocations of affected LEAs must be redistributed among affected LEAs based on the relative numbers of children with disabilities ages three (3) through five (5) currently provided special education by each affected LEA.
 - (4) If an LEA received a base payment of zero in its first year of operation, the SEA must adjust the base payment for the first fiscal year after the first annual child count in which the LEA reports that it is serving any children with disabilities aged three through five years. The State must divide the base allocation determined under paragraph (a) of this section for the LEAs that would have been responsible for serving

children with disabilities aged three through five years now being served by the LEA, among the LEA and affected LEAs based on the relative numbers of children with disabilities aged three (3) through five (5) years currently provided special education by each of the LEAs. This requirement takes effect with funds that become available on July 1, 2009.

- (c) *Allocation of remaining funds.* After making allocations under paragraph (a) of this section, the State must—
- (1) Allocate *eighty-five (85)* percent of any remaining funds to those LEAs on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the LEA's jurisdiction; and
 - (2) Allocate *fifteen (15)* percent of those remaining funds to those LEAs in accordance with their relative numbers of children living in poverty as determined by the *MDE*.
- (d) *Use of best data.* For the purpose of making grants under this section, States must apply on a uniform basis across all LEAs the best data that are available to them on the numbers of children enrolled in public and private elementary and secondary schools and the numbers of children living in poverty.

300.817 Reallocation of LEA funds

If *the MDE* determines that an LEA is adequately providing FAPE to all children with disabilities aged three (3) through five (5) residing in the area served by the LEA with State and local funds, the *MDE* may reallocate any portion of the funds under section 619 of *IDEA* that are not needed by that LEA to provide FAPE to other LEAs in the State that are not adequately providing special education and related services to all children with disabilities aged three (3) through five (5) residing in the areas the other LEAs serve.

300.818 Part of IDEA inapplicable

Part C of *IDEA* does not apply to any child with a disability receiving FAPE, in accordance with Part B of *IDEA*, with funds received under section 619 of *IDEA*.

SPECIAL EDUCATION

ELIGIBILITY DETERMINATION

GUIDELINES

It is necessary to adhere to federal regulations and corresponding State Policies when evaluating children suspected of having disabilities and when making eligibility determinations for special education. The applicable federal regulations and corresponding State policies include: §§300.8, 300.39, and 300.304 through 300.311.

LEAs, State Board governed schools, and special State agency schools are allowed to make special education eligibility determinations for children. University based programs, local and regional juvenile detention centers and private school programs are required to work with the LEA responsible for Child Find to determine special education eligibility for children.

GENERAL INFORMATION

The information outlined in this section applies to all eligibility determinations.

A. A comprehensive evaluation to determine special education eligibility must:

- 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;*
- 2. Assure that limited English proficiency or social or cultural differences are not the determinant factors;*
- 3. Indicate the child needs special education and related services; and*
- 4. Identify all educational needs to be addressed in development of the IEP, regardless of whether those needs are typically linked to the disability category; and*
- 5. Consistently support the presence of a disability.*

NOTE: If data appear to represent inconsistencies but the team agrees the preponderance of the data supports the presence of a disability and need for special education and related services, the perceived inconsistencies must be documented and explained.

B. To gather information about the student, personnel must consider a variety of assessment tools and strategies which must include, but not be limited to:

- 1. The Teacher Narrative and/or Developmental History;*

2. *Documentation about the student's functioning in the home, classroom and/or in an early childhood setting through interview, observation, assessment, or other means;*
3. *Information contained in the student's cumulative record, including results of statewide assessments;*
4. *Information about the child's physical condition, including fine and gross motor skills, general physical condition, hearing, vision, and orofacial examination, if necessary;*
5. *Information about the child's social, behavioral, emotional, and adaptive functioning;*
6. *Information about pre-academic and/or academic performance;*
7. *Information about how the student communicates;*
8. *Indicators of cognitive abilities;*
9. *Evaluations and other information provided by the parent;*
10. *Evidence that the child has received appropriate instruction in reading and math (for kindergarten and preschool children, information regarding development and preschool experiences);*
12. *Information about the impact of social and cultural background and limited English proficiency on educational performance; and*
13. *For reevaluations, information from IEPs.*

NOTE: A professional who meets the qualifications found on page 287 must be a member of the multidisciplinary team making the eligibility determination when

significant emotional and/or behavioral issues adversely impacting the educational process have been identified and evaluated, regardless of the eligibility category being considered.

Unless otherwise indicated, the MDE does not dictate which test instruments to use or which areas to test. It is the responsibility of the multidisciplinary evaluation team to determine appropriate ways to measure each area and which instruments are necessary to obtain information sufficient to determine the presence of a disability, eligibility for special education, and programming needs. Teams are directed to carefully consider whether administration of a test is necessary to determine existence of a disability, need for special education or related services, and/or all educational needs of the student.

C. Data required for determining the presence of a disability, eligibility for special education, and IEP development must be current according to the definitions below. The team may determine more recent information is needed. Historical data must be considered along with current required information. On or after the date the parent signs consent for evaluation or reevaluation, the following information, if required by MDE policy or determined necessary by the team, may not be more than:

1. One (1) year old:

- i. Intelligence measures*
- ii. Hearing screening and follow-up evaluations*

of all methods and informants used must be included in the report and must meet the administration guidelines and standardized procedures for each instrument.

EMOTIONAL DISABILITY

(EmD)

DEFINITION

Emotional Disability (EmD) exists when a student exhibits one (1) or more of the following characteristics over a long period of time and/or to a marked degree, adversely affecting educational performance:

- A. An inability to learn that cannot be explained by intellectual, sensory or health factors;*
- B. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;*
- C. Inappropriate types of behavior or feelings under normal circumstances;*
- D. A general pervasive mood of unhappiness or depression; and/or*
- E. A tendency to develop physical symptoms or fears associated with personal or school problems.*

Emotional Disability includes schizophrenia. The term does not refer to children who are socially maladjusted, unless it is determined that they have an Emotional Disability.

EVALUATION REQUIREMENTS

When the evaluation team is considering eligibility under the Emotional Disability category, the multidisciplinary team evaluation report and/or eligibility determination report must include:

A. Narrative descriptions of:

- 1. the student's behaviors,*
- 2. settings in which the behaviors occur,*
- 3. antecedents leading to the behaviors, and*
- 4. consequences immediately following the behaviors;*

B. Functional assessments of the student's behavior, if conducted;

C. Attempts to address the behaviors and the results, including:

- 1. Behavior Intervention Plans, if developed and implemented during the pre-referral process;*
- 2. office discipline referrals; and*
- 3. disciplinary actions;*

D. Documentation to support the behaviors have been exhibited for a long period of time and/or to a marked degree;

E. A description of how the behaviors adversely affect educational performance;

F. 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;

G. The association between documented patterns of behavior and results of emotional and behavioral assessments;

H. A statement by a qualified professional supporting the team's conclusion that the student meets the eligibility criteria for EmD. Prior to eligibility determination, the qualified professional making the statement must:

- 1. observe the child,*
- 2. review all information gathered during the comprehensive evaluation,*
- 3. be qualified to interpret the test instruments administered according to the user qualifications for each measure, and*
- 4. review the eligibility criteria for EmD.*

Qualified personnel for this purpose include at least one of the following:

- 1. School psychologist currently licensed by MDE,*
- 2. Board-licensed psychologist, or*
- 3. Psychiatrist.*

I. If the team concludes the child does not meet the criteria for EmD because all behavior patterns appear to be the result of social maladjustment, the eligibility determination report must indicate this conclusion. Documentation must be included to support the team's conclusion that the behaviors are indicative of social maladjustment.

HEARING IMPAIRMENT

(HI)

DEFINITION

Hearing Impairment (HI) means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance. Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing with or without amplification that adversely affects a child's educational performance.

EVALUATION REQUIREMENTS

When the evaluation team is considering eligibility under the Hearing Impairment category, which includes Deafness, the multidisciplinary team evaluation report and/or eligibility determination report must include:

A. An audiometric evaluation explaining:

- 1. type of loss;*
- 2. age of onset, if known;*
- 3. severity of loss;*
- 4. speech reception or speech awareness thresholds, if obtainable;*
- 5. speech discrimination scores, if applicable;*
- 6. recommendations regarding amplification; and*
- 7. other recommended interventions, if any, including the need for assistive*

technology.

B. A description of the follow-up examination and results, including:

- 1. how the conditions noted during the examination might interfere with educational testing and performance; and*
- 2. recommendations for accommodations, modifications, and educational programming.*

C. Acoustic Immitance measures;

D. An audiogram and/or measures of auditory evoked potential, such as Auditory Brainstem Response (ABR), Auditory Steady State Response (ASSR), and Otoacoustic Emissions (OAE) that would define the hearing loss;

E. How the hearing loss impacts educational performance; and

F. Communication abilities and needs, including the need for assisted communication.

NOTE: The Audiological examination must be conducted by:

- i. an audiologist who holds MDE licensure in audiology,*
- ii. an audiologist who holds ASHA--CCC certification,*
- iii. a physician with expertise in conducting audiological evaluations using appropriate audiological equipment,*

- iv. a qualified audiologist who holds certification from the American Academy of Audiology (AAA), or*
- v. a qualified audiologist who is appropriately licensed through the designated licensure authority for the State of Mississippi.*

LANGUAGE OR SPEECH IMPAIRMENT

(LS)

DEFINITION

Language or Speech Impairment (LS) means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance. Speech disorders include impairments in articulation, fluency and/or voice. Language disorders include developmental or acquired impairments in the ability to receive, send, process, and comprehend concepts or verbal, nonverbal, and graphic symbol systems. A communication disorder may range in severity from mild to profound and may appear in combination with other communication disorders. A communication disorder may be the primary disability or secondary to other disabilities.

The American Speech Language and Hearing Association recognizes four (4) communication disorders described in A-D below:

A. An articulation/phonological processing disorder is the atypical production of speech sounds characterized by substitutions, omissions, additions or distortions that may interfere with intelligibility. Phonological processing includes the rules governing the addition or substitution of a phoneme, including but not limited to:

1. *voicing processes;*
2. *deletion processes;*
3. *fronting processes;*
4. *syllable processes; and*
5. *phoneme processes.*

B. A fluency disorder is an interruption in the flow of speaking characterized by:

1. *atypical rate,*
2. *atypical rhythm, and*
3. *repetitions in sounds, syllables, words, and phrases.*

These characteristics might also be accompanied by excessive tension, struggle behavior, and secondary mannerisms.

C. A voice disorder is characterized by the abnormal production and/or absences of:

1. *vocal quality,*
2. *pitch,*
3. *loudness,*
4. *resonance, and/or*
5. *duration, which are inappropriate for an individual's age and/or sex.*

D. A language disorder is impaired comprehension and/or use of spoken, written and/or other symbol systems including:

1. *the form of language (phonology, morphology, syntax),*
2. *the content of language (semantics), and/or*
3. *the function of language in communication (pragmatics).*

EVALUATION REQUIREMENTS

When the evaluation team is considering eligibility under the Language or Speech Impairment category, the multidisciplinary team evaluation report and/or eligibility determination report must include:

- A. *Results of hearing screening;*
- B. *Results of an orofacial examination and, if necessary, a statement from a medical specialist noting physical problems which would interfere with language/speech production;*
- C. *A physician's statement of release and recommendation(s) for services when a voice evaluation has been conducted;*
- D. *The number, types, and severity of disruptions, and a description of secondary characteristics in various settings (e.g., reading, monologue, conversation) when a fluency evaluation has been conducted;*

E. Results of a standardized measure(s) of language, when a language evaluation has been conducted;

NOTE: The score(s) must be at least 1.5 standard deviations below the mean of the test in the areas of expressive language and/or receptive language, including morphology, syntax, semantics and/or pragmatics for an eligibility ruling in Language.

F. When an articulation evaluation has been completed for children ages 30 months and older, evidence that the child's articulation skills are below age-appropriate peers based on normative data, including a measure of stimulability;

G. Documentation that the child's communication impairment adversely affects educational performance including the child's ability to communicate in academic, social and vocational settings; and

H. Documentation of the child's speech/language skills in conversational speech.

MENTAL RETARDATION

(MR)

DEFINITION

Mental Retardation (MR) (also referred to as Intellectual Disability by some entities) 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.

A child with an eligibility ruling of mental retardation 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.

EVALUATION REQUIREMENTS

When the evaluation team is considering eligibility under the Mental Retardation category, the multidisciplinary team evaluation report and/or eligibility determination report must include results of:

A. An individual standardized achievement test;

B. An individual standardized measure of cognitive abilities;

- 1. Significantly subaverage intellectual functioning is defined according to these categories:*
 - 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;*
 - 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;*
 - 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.*
- 2. The standard error of measurement may be taken into consideration when determining subcategories for MR.*

C. A norm-referenced measure of adaptive behavior.

- 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).*
- 2. Any informant for a measure of adaptive behavior must be knowledgeable of how the child functions outside the school environment.*

MULTIPLE DISABILITIES

(MD)

DEFINITION

Multiple Disabilities (MD) means concomitant impairments (such as mental retardation-blindness or mental retardation-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 Deaf-Blindness, Specific Learning Disability, Developmental Delay or Language or Speech Impairment.

EVALUATION REQUIREMENTS

When the multidisciplinary evaluation team is considering eligibility under the Multiple Disabilities category, the categories that are evidenced by the data and a statement that the child cannot be appropriately served in a special education program designed solely for one of the disabilities must be included in the eligibility determination report.

ORTHOPEDIC IMPAIRMENT

(OI)

DEFINITION

Orthopedic Impairment (OI) means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly (e.g., clubfoot or absence of one or more members), impairments caused by disease (e.g., poliomyelitis or bone tuberculosis), and impairments resulting from other causes (e.g., cerebral palsy, amputations, and fractures or burns causing contractures).

EVALUATION REQUIREMENTS

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:

- A. The nature of the student's congenital or acquired Orthopedic Impairment,*
- B. Limitations and precautions to be considered, and*
- C. Recommendations for educational programming.*

OTHER HEALTH IMPAIRMENT

(OHI)

DEFINITION

Other Health Impairment (OHI) means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that:

- A. Is due to chronic or acute health problems such as asthma, attention deficit disorder (ADD) or attention deficit hyperactivity disorder (ADHD), diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, or Tourette Syndrome; and*
- B. Adversely affects a child's educational performance.*

EVALUATION REQUIREMENTS

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:

- A. The nature of the student's health impairment,*
- B. Limitations and precautions to be considered, and*

C. Recommendations for educational programming.

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 the following:

A. A description of the student's behaviors, settings in which the behaviors occur, antecedents leading to the behaviors, and consequences immediately following the behaviors;

B. Attempts to address the behaviors and the results, including office discipline referrals and disciplinary actions;

C. A description of how the behaviors adversely affect educational performance;

D. 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

E. The correlation between documented behaviors and results of ADHD assessments.

NOTE: For ADD and ADHD, a diagnostic report from a physician or a nurse practitioner is not required.

SPECIFIC LEARNING DISABILITY

(SLD)

DEFINITION

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, 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, of emotional disability or of environmental, cultural differences, or economic disadvantage.

PRE-REFERRAL REQUIREMENTS

To ensure that underachievement in a child suspected of having a specific learning disability is not due to a lack of appropriate instruction in reading or math, the multidisciplinary evaluation team must consider, as part of the evaluation:

- A. Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in general education settings, delivered by qualified personnel; and*

B. Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.

The public agency must promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the evaluation and reevaluation timeframes, unless extended by mutual written agreement of the child's parents and a group of qualified professionals:

A. If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction; and

B. Whenever a child is referred for an evaluation.

EVALUATION REQUIREMENTS

When determining whether a child has a Specific Learning Disability, public agencies:

A. Must first consider a process based on the child's response to scientific, research-based intervention(s) (i.e., Response to Intervention—RtI);

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

C. 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 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;*
- 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.*

REPORT REQUIREMENTS

When the evaluation team is considering eligibility under the Specific Learning

Disability category, the eligibility determination report must include:

A. Documentation of an observation using the following guidelines:

- 1. The public agency must ensure that the child is observed in the child's learning environment (including the general education classroom setting) to document the child's academic performance and behavior in the areas of difficulty.*
- 2. The multidisciplinary evaluation team must:*
 - i. Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation; or*
 - ii. Have at least one member of the multidisciplinary evaluation team conduct an observation of the child's academic performance in the general education classroom after the child has been referred for an evaluation and parental consent is obtained.*
- 3. In the case of a child of less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age.*

B. Statements indicating:

- 1. Whether the child has a specific learning disability;*
- 2. The basis for making the determination;*

3. *The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;*
4. *The educationally relevant medical findings, if any;*
5. *Whether:*
 - i. *The child does not achieve adequately for the child's age or fails 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 in the following areas:*
 - a) *Oral expression*
 - b) *Listening comprehension*
 - c) *Written expression*
 - d) *Basic reading skill*
 - e) *Reading fluency skills*
 - f) *Reading comprehension*
 - g) *Mathematics calculation*
 - h) *Mathematics problem solving;*
 - ii. *The child does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in the paragraph (5.i.) above when using a process based on the child's response to scientific, research-based intervention; or*
 - iii. *The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards or intellectual development that is determined by the group to be relevant to*

the identification of a specific learning disability, using appropriate assessments.

6. *The determination of the group concerning the effects of a visual, hearing, or motor disability, mental retardation; emotional disturbance; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and*
7. *If the child has participated in a process that assesses the child's response to scientific, research-based intervention:*
 - i. *The instructional strategies used and the student-centered data collected; and*
 - ii. *The documentation that the child's parents were notified about:*
 - a) *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;*
 - b) *Strategies for increasing the child's rate of learning; and*
 - c) *The parents' right to request an evaluation.*

C. Each group member 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 the member's conclusions.

TRAUMATIC BRAIN INJURY

(TBI)

DEFINITION

Traumatic Brain Injury (TBI) means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one (1) or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and/or speech. The term does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma.

EVALUATION REQUIREMENTS

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:

- A. 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 applicable, in the following areas:*

1. *cognition;*
2. *language;*
3. *memory;*
4. *attention;*
5. *reasoning;*
6. *abstract thinking;*
7. *judgment;*
8. *problem-solving;*
9. *sensory, perceptual and motor abilities;*
10. *psychosocial behavior;*
11. *physical functions;*
12. *information processing; and/or*
13. *speech.*

B. A description of the acquired brain injury and cause of the injury; and

C. Reports from physicians, providers of rehabilitation services, and/or other healthcare providers describing precautions, limitations, and recommendations to consider when planning educational services, if available.

VISUALLY IMPAIRED

(VI)

DEFINITION

Visual Impairment (VI) including blindness means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

EVALUATION REQUIREMENTS

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:

- A. visual acuity,*

- B. diagnosed visual problems,*

- C. a statement of how the child's visual problem might affect educational performance, and*

- D. recommendations for educational programming.*

REFERENCE GUIDE

CHARTER SCHOOL

The term charter school means a public school that—

- (a) In accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;
- (b) Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;
- (c) Operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;
- (d) Provides a program of elementary or secondary education, or both;
- (e) Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;
- (f) Does not charge tuition;
- (g) Complies with the Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and Part B of *IDEA*;

- (h) Is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;
- (i) Agrees to comply with the same federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;
- (j) Meets all applicable federal, State, and local health and safety requirements;
- (k) Operates in accordance with State law; and
- (l) Has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

ESSENTIAL COMPONENTS OF READING INSTRUCTION

Essential components of reading instruction mean explicit and systematic instruction in: Phonemic awareness; Phonics; Vocabulary development; Reading fluency, including oral reading skills; and Reading comprehension strategies.

LIMITED ENGLISH PROFICIENT

The term ‘*limited English proficient*’, when used with respect to an individual, means an individual—

- (a) *Who* is aged *three (3)* through *twenty-one (21)*;

- (b) Who is enrolled or preparing to enroll in an elementary school or secondary school;
- (c)
 - (1) Who was not born in the United States or whose native language is a language other than English;
 - (2)
 - (i) Who is a Native American or Alaska Native, or a native resident of the outlying areas; and
 - (ii) Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or
 - (3) Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and
- (d) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—
 - (1) The ability to meet the State's proficient level of achievement on State assessments described in §1111(b)(3);
 - (2) The ability to successfully achieve in classrooms where the language of instruction is English; or
 - (3) The opportunity to participate fully in society.

SCIENTIFICALLY BASED RESEARCH

Scientifically based research is research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs. To meet this standard, the research must—

- (a) Employ systematic, empirical methods that draw on observation or experiment.
- (b) Involve rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn.
- (c) Rely on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators.
- (d) Be evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls.
- (e) Ensure that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings.
- (f) Have been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

TITLE 42 CHAPTER 119 SUBCHAPTER VI PART B §11434a

The term “homeless children and youths”—

- (a) **M**eans individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of §11302 (a)(1) of this title); and
- (b) Includes—
 - (1) Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
 - (2) Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 11302 (a)(2)(C) of this title);
 - (3) Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
 - (4) Migratory children (as such term is defined in §6399 of title 20) who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).