

OSDE Response to Public Comments July, 2022

Topic	Comment	Discussion	Changes
Qualified Professionals	Some commenters requested that the OSDE designate persons of specific qualifications be identified as "the Qualified Examiner" for each disability category type.	It is the position of the OSDE that there is not a single "Qualified Examiner" who can interpret evaluations results for an eligibility team. In fact, within the IDEA, there is only a single mention of a "qualified examiner" and it is in relation to Independent Education Evaluations. Instead, as it relates to determining eligibility, the IDEA §1414 (b) (4) (A) refers to a "team of qualified professionals". A qualified professional is a person who is qualified to administer and interpret the results of a specific test. In this way, there may be multiple qualified professionals who conduct and interpret assessments as part of a comprehensive evaluation.	None
Qualified Professionals	Several commenters stated that a Remedial Reading Teacher is not a qualified examiner and should not serve on the Eligibility team as such.	Under §300.308 (b) as it relates to eligibility under the category of specific learning disability, IDEA states, "At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher". While a remedial reading teacher is listed as a qualified professional, this in no way implies that a remedial reading teacher is qualified to administer and/or interpret assessments outside the scope delineated by the test publisher.	None

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Adaptive Behavior	Several commenters stated that it is unnecessary to conduct assessments related to Adaptive Behavior for all categories of disabilities.	It is the position of the OSDE that the purpose of a comprehensive evaluation is to both make a determination of whether the child is a child with a disability and also determine the educational needs of the child (1414 (b) (4) (A)). While in most .disability categories, assessments in the area of adaptive behavior do not necessarily assist with the determination of the disability, it does assist with the determination of the student's needs. IDEA federal regulations § 300.306(c)(1)(i) states, "In interpreting evaluation data for the purpose of determining if a child is a child with a disability under § 300.8, and the educational needs of the child, each public agency must - Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background and adaptive behavior". However, for the categories of Orthopedic Impairment, Other Health Impairment, and Speech Language Impairment, OSDE agrees that assessments in the area of Adaptive Behavior should not be a required component of a comprehensive evaluation.	Adaptive Behavior Assessment removed as a required component of a comprehensive for Orthopedic Impairment, Other Health Impairment and Speech Language Impairment assessments which is consistent with the 2017 Special Education Handbook required components.

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Speech Language Impairment Evaluation Components	Some commenters requested that Academic/Achievement component as a required component for a Speech Language Impairment category be eliminated as it would place undue burden on districts to conduct additional assessments when Speech Language Impairment is the only suspected category.	Required components for any category do not require additional assessments to be conducted, unless the group determines based on the unique circumstances of the student there needs to be additional components added to the evaluation battery. The adverse impact on academic/achievement or behavior may be met through the review of existing data (e.g. classroom performance, grades, universal screenings, office discipline referrals, etc.). In the event that the team determines there is not sufficient data, the team would recommend additional assessments as part of an initial or reevaluation. It was never the intent or expectation of OSDE that all students with a suspected disability category of SLI be administered an achievement battery of assessments.	The "Recommend" column was eliminated and the "academic/achievement" component was moved from the "Recommended" column to the "As Needed" column.

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Excusal from MEEGS	Some commenters asked if there could be a mechanism for a general education teacher to be excused from a MEEGS meeting in the instance of non-school age children.	IDEA is silent on excusal from Eligibility/MEEGS Meetings. It is the position of the OSDE that eligibility team members should be allowed excusal of some participants under the same circumstances allowable for IEP participant excusal.	Language added to allow excusal for certain team members.
Certified School Psychologists and Certified School Psychometrists not needed at ALL reevaluation eligibility meetings	Several commenters indicated that a certified school psychologist or certified school psychometrist should be present for every reevaluation eligibility meeting.	IDEA states in § 300.306(a)(1) "A group of qualified professionals and the parent of the child determines whether the child is a child with a disability." If the suspected disability is a Specific Learning Disability, then IDEA states, " a team of qualified professionals, which must include the child's regular teacher; or if the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or for a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and at least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher." It is the position of the OSDE that in some circumstances of reevaluation, it may not be necessary for a certified school psychologist or certified school psychometrist to be present for the MEEGS meeting. The language in the handbook clearly identifies when it could	None

		<p>be appropriate for a certified school psychologist or certified school psychometrist not to be present. OSDE recognizes many districts do not have a school psychologist or psychometrist on staff and contracting with one when it is not necessary is an undue financial hardship on those districts. In addition, any district may put in place a district requirement that a school psychologist or school psychometrist be present for all MEEGS meetings, which is above and beyond the requirements of the OSDE.</p>	
<p>Expedited evaluation</p>	<p>Several commenters were concerned that if there were a request for an evaluation following every disciplinary action, it would severely increase the testing dockets.</p>	<p>IDEA states, "If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under this subsection, the evaluation shall be conducted in an expedited manner (20 U.S.C. § 1415(k)(5)(D)." OSDE contends that this language requiring an "expedited" evaluation if a parent requests an initial evaluation following a suspension has been part of the IDEA since its last reauthorization in 2004.</p>	<p>None</p>

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A request from a physician for an initial evaluation must be considered by the district	Some commenters felt requests for initial evaluations from physicians would broaden the scope of initial referrals, overwhelming the LEA resources.	It is the position of the OSDE that any time there is a request for an initial evaluation, regardless of who makes the request, that triggers a Child Find issue. The LEA should act on that referral, meaning conduct a formal Review of Existing Data. At the end of the review, if there is evidence that the student may be a student with a disability, the LEA should seek consent for the appropriate evaluations and conduct said evaluations. Not every referral will result in an evaluation.	None
Associate level SLPAs	Some commenters felt like associate level SLPA should be able to carry a caseload, serve as a special education teacher, and develop an IEP with supervision from an SLP.	It is the position of the OSDE that any individual serving as the special education teacher and teacher of record, including the responsibilities of developing the draft IEP, must possess a minimum of a bachelor's degree and obtain an Oklahoma Teacher Certificate.	None
Caseload/Class Size	Some commenters felt like caseloads were too low given the shortage of special education teachers and service providers. Some commenters felt like caseloads were too high given the workload and stress loads of special education teachers and service providers.	OSDE recognizes there must be a balance in providing caseload limits. OSDE will continue with its current work group reviewing caseload versus workload models.	None at this time.

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Regular Education vs. General Education	Some commenters suggested the agency change its language to reflect more current use of "general education" over "regular education".	While the language of IDEA 2004 uses the term "regular education", OSDE agrees that "general education" is more appropriate language in 2022.	All references to "regular education" have been changed to "general education", unless quoting directly from IDEA.
Adverse impact on educational performance	Some commenters requested additional guidance surrounding what constitutes an adverse impact on educational performance.	It is the position of the OSDE that adverse impact on educational performance is broader than a student's classroom grades, benchmark scores, or summative test performance.	A full section was added to address this, including, "effects on educational performance cannot, therefore, be based solely on discrepancies in age or grade level performance in academic subject areas. An adverse effect can be manifested through, for example, behavior, and social/emotional status. The adverse impact must be determined on a case-by-case basis and is dependent on the unique needs of the particular child". Information was also added from an OSEP letter (Letter to Clarke, March 8, 2007) and examples were provided.

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Lack of appropriate instruction	Some commenters requested additional guidance surrounding the lack of appropriate instruction in reading and math	It is the position of the OSDE that districts may not deny evaluation or initial eligibility under IDEA based solely on student attendance or other circumstances that may lead a team to determine there has been a lack of appropriate instruction as the determinant factor.	Additional language was added to address this, including, "Lack of appropriate instruction in reading, including the essential components of reading instruction; lack of appropriate instruction in math; or limited English proficiency (LEP) must not be the determinant factor when making eligibility decisions for any of the suspected disability categories. These factors do not preclude the possibility that the student may have a disability. Moreover, the LEA may not deny an initial evaluation solely on the student's frequent absences as the basis for a lack of exposure to the core curriculum or a lack of appropriate instruction." Examples were also provided.

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Comprehensive Evaluation Component Division	Some commenters requested the removal of the "Recommended" column in the list of comprehensive evaluation components. Commenters were concerned the use of the term "Recommended" would incorrectly infer that OSDE was recommending the LEA conduct evaluations from this column.	It is the intent of the OSDE to identify only the "Required" components of a comprehensive evaluation by disability category.	Components formerly in the "Recommended" column have been combined with the "As Needed" column, allowing for the professional judgement of the qualified professionals to select other components based on the individual needs of students.