

Michigan Administrative Rules for Special Education (MARSE) With Related IDEA Federal Regulations

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Michigan Department of Education
Office of Special Education

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Purpose of Document

The *Michigan Administrative Rules for Special Education (MARSE) With Related IDEA Federal Regulations* includes the full Michigan rules and pairs each rule with any of the relevant regulations from the *Individuals with Disabilities Education Act (IDEA)*.

Some IDEA regulations are not included in this document; regulations are only referenced if they relate to one of the Michigan rules. This document may help readers understand the Michigan rules in the context of the IDEA.

The state and districts are obligated to follow all state and federal special education law beyond just the MARSE. The appendices provide a more comprehensive list of state and federal special education laws to consider for programs and services.

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Note: There are no Michigan Administrative Rules for Special Education specific to discipline. When making discipline decisions, districts need to review the requirements in the [Revised School Code](#). The reference to the Revised School Code is found below the federal regulations.158

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Michigan Administrative Rules for Special Education (MARSE) With Related IDEA Federal Regulations

This document includes all *Michigan Administrative Rules for Special Education* with related IDEA federal regulations, when appropriate.

Part 1: General Provisions MARSE Rules 340.1701 – 340.1717

MARSE R 340.1701 Assurance of compliance. Rule 1.

- (1) All public agencies in the state, as those agencies are defined in 34 CFR 300.33 (2019), shall comply with these rules and with all of the following, which these rules adopt by reference:
 - (a) All provisions of the state’s application for federal funds under part B and part C of the Individuals with Disabilities Education Act, 20 USC 1411 to 1419 and 1431 to 1444.
 - (b) The requirements of part B and part C of the Individuals with Disabilities Education Act, 20 USC 1411 to 1419 and 1431 to 1444.
 - (c) The regulations implementing the Individuals with Disabilities Education Act, 20 USC 1400 *et seq.*, 34 CFR Part 300 (2019) and 34 CFR Part 303 (2019).
- (2) Copies of the adopted matter are available, at cost of reproduction, from the office of special education of the department at 1-888-320-8384. Copies of the adopted federal matter are available from the United States Government Publishing Office at bookstore.gpo.gov.

Related IDEA Federal Regulation

§ 300.2 Applicability of this part to State and local agencies.

- (a) States. This part applies to each State that receives payments under Part B of the Act, as defined in § 300.4.
- (b) Public agencies within the State. The provisions of this part—
 - (1) Apply to all political subdivisions of the State that are involved in the education of children with disabilities, including:
 - (i) The State educational agency (SEA).

- (ii) Local educational agencies (LEAs), educational service agencies (ESAs), and public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA.
- (iii) Other State agencies and schools (such as Departments of Mental Health and Welfare and State schools for children with deafness or children with blindness).
- (iv) State and local juvenile and adult correctional facilities; and
- (2) Are binding on each public agency in the State that provides special education and related services to children with disabilities, regardless of whether that agency is receiving funds under Part B of the Act.
- (c) Private schools and facilities. Each public agency in the State is responsible for ensuring that the rights and protections under Part B of the Act are given to children with disabilities—
 - (1) Referred to or placed in private schools and facilities by that public agency; or
 - (2) Placed in private schools by their parents under the provisions of § 300.148.

MARSE R 340.1701a Definitions; A to E.

Rule 1a.

As used in these rules:

- (a) “Adaptive behavior” means a student’s ability to perform the social roles appropriate for a person of his or her age and gender in a manner that meets the expectations of home, culture, school, neighborhood, and other relevant groups in which he or she participates.
- (b) “Agency” means a public or private entity or organization, including a local school district, a public school academy, an intermediate school district, the department, and any other political subdivision of the state that is responsible for providing education or services to students with disabilities.
- (c) “Complaint” means a written and signed allegation by an individual or organization, including the factual basis of the allegation, that there is a violation of any of the following:
 - (i) Any current provision of these rules.
 - (ii) The revised school code, 1976 PA 451, MCL 380.1 to 380.1852, as it pertains to special education programs and services.
 - (iii) The Individuals with Disabilities Education Act, 20 USC 1400 *et seq.*, and

the regulations implementing the act, 34 CFR Part 300 (2019) and 34 CFR Part 303 (2019).

- (iv) An intermediate school district plan.
 - (v) An individualized education program team report, administrative law judge decision, or court decision regarding special education programs or services.
 - (vi) The state application for federal funds under the Individuals with Disabilities Education Act, 20 USC 1400 *et seq.*
- (d) "Department" means the Michigan department of education.
- (e) "Departmentalize" means a delivery system in which 2 or more special education teachers teach groups of students with disabilities by instructional content areas.
- (f) "Electronic submission" means submission by email, by facsimile, or by any other electronic means approved by the department.

Related IDEA Federal Regulations

§ 300.5 Assistive technology device.

Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device.

§ 300.6 Assistive technology service.

Assistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes—

- (a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
- (b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- (c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
- (d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

- (e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and
- (f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

§ 300.7 Charter school.

Charter school has the meaning given the term in section 4310(2) of the Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. 6301 et seq. (ESEA).

§ 300.8(a) Child with a disability.

(a) General.

(1) Child with a disability means a child evaluated in accordance with §§ 300.304 through 300.311 as having an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as "emotional disturbance"), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

(2)

(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under §§ 300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part.

(ii) If, consistent with § 300.39(a)(2), the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be a child with a disability under paragraph (a)(1) of this section.

§ 300.9 Consent.

Consent means that—

- (a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or through another mode of communication;
 - (b) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
 - (c)
 - (1) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.
 - (2) If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).
 - (3) If the parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the public agency is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.
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§ 300.11 Day; business day; school day.

- (a) Day means calendar day unless otherwise indicated as business day or school day.
 - (b) Business day means Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day, as in § 300.148(d)(1)(ii)).
 - (c)
 - (1) School day means any day, including a partial day that children are in attendance at school for instructional purposes.
 - (2) School day has the same meaning for all children in school, including children with and without disabilities.
-

§ 300.12 Educational service agency.

Educational service agency means—

- (a) A regional public multiservice agency—
 - (1) Authorized by State law to develop, manage, and provide services or programs to LEAs;

- (2) Recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the State;
- (b) Includes any other public institution or agency having administrative control and direction over a public elementary school or secondary school; and
- (c) Includes entities that meet the definition of intermediate educational unit in section 602(23) of the Act as in effect prior to June 4, 1997.

§ 300.17 Free appropriate public education.

Free appropriate public education or FAPE means special education and related services that—

- (a) Are provided at public expense, under public supervision and direction, and without charge;
- (b) Meet the standards of the SEA, including the requirements of this part;
- (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and
- (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§ 300.320 through 300.324.

§ 300.101 Free appropriate public education (FAPE).

- (a) General. A free appropriate public education must be available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in § 300.530(d).
- (b) FAPE for children beginning at age 3.
 - (1) Each State must ensure that—
 - (i) The obligation to make FAPE available to each eligible child residing in the State begins no later than the child's third birthday; and
 - (ii) An IEP or an IFSP is in effect for the child by that date, in accordance with § 300.323(b).
 - (2) If a child's third birthday occurs during the summer, the child's IEP Team shall determine the date when services under the IEP or IFSP will begin.
- (c) Children advancing from grade to grade.
 - (1) Each State must ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though

the child has not failed or been retained in a course or grade, and is advancing from grade to grade.

- (2) The determination that a child described in paragraph (a) of this section is eligible under this part, must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations.

**MARSE R 340.1701b Definitions; I to P.
Rule 1b.**

As used in these rules:

- (a) "Instructional services" means services provided by teaching personnel that are specially designed to meet the unique needs of a student with a disability. These may be provided by any of the following:
- (i) An early childhood special education teacher under R 340.1755.
 - (ii) A teacher consultant under R 340.1749.
 - (iii) A teacher of the speech and language impaired under R 340.1745.
 - (iv) A teacher providing instruction to students with disabilities who are homebound or hospitalized.
 - (v) A teacher providing instruction to students who are placed in juvenile detention facilities under R 340.1757.
- (b) "Multidisciplinary evaluation team" means a minimum of 2 persons who are responsible for evaluating a student suspected of having a disability. The team shall include at least 1 special education teacher or other specialist who has knowledge of the suspected disability.
- (c) "Occupational therapy" means therapy provided by an occupational therapist or an occupational therapy assistant who provides therapy under the supervision of a licensed occupational therapist. Occupational therapist and occupational therapy assistants are licensed by the state of Michigan under 1978 PA 368, MCL 333.1101 et seq.
- (d) "Parent" means any of the following:
- (i) A biological or adoptive parent of a child.
 - (ii) A foster parent, unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent.
 - (iii) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child, but not the state if the child is

- a ward of the state.
- (iv) An individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the child lives, or an individual who is legally responsible for the child's welfare.
 - (v) A surrogate parent who has been appointed in accordance with R 340.1725f.
 - (vi) Except as provided in paragraph (vii) of this subdivision, the biological or adoptive parent, when attempting to act as the parent under this part and when more than 1 party is qualified under paragraphs (i) to (v) of this subdivision to act as a parent, shall be presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.
 - (vii) If a judicial decree or order identifies a specific person or persons under paragraphs (i) to (iv) of this subdivision to act as the parent of a child, or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the parent.
 - (viii) The affected student or youth with a disability when the student or youth with a disability reaches 18 years of age, if a legal guardian has not been appointed by appropriate court proceedings.
- (e) "Parent advisory committee" means a committee of parents of students with disabilities of a particular intermediate school district appointed by the board of that district under R 340.1838.
 - (f) "Physical therapy" means therapy prescribed by a physician and provided by a therapist who is licensed by the state of Michigan under 1978 PA 368, MCL 333.1101 et seq. or a physical therapy assistant who provides therapy under the supervision of a licensed physical therapist.

Related IDEA Federal Regulations

§ 300.22 Individualized education program.

Individualized education program or IEP means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with §§ 300.320 through 300.324.

§ 300.29 Native language.

- (a) Native language, when used with respect to an individual who is limited English proficient, means the following:

- (1) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in paragraph (a)(2) of this section.
 - (2) In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment.
- (b) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or oral communication).
-

§ 300.30 Parent.

- (a) Parent means—
- (1) A biological or adoptive parent of a child;
 - (2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;
 - (3) A guardian generally authorized to act as the child’s parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
 - (4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or
 - (5) A surrogate parent who has been appointed in accordance with § 300.519 or section 639(a)(5) of the Act.
- (b)
- (1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.
 - (2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section to act as the “parent” of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the “parent” for purposes of this section.

§ 300.37 Services plan.

Services plan means a written statement that describes the special education and related services the LEA will provide to a parentally-placed child with a disability enrolled in a private school who has been designated to receive services, including the location of the services and any transportation necessary, consistent with § 300.132, and is developed and implemented in accordance with §§ 300.137 through 300.139.

§ 300.45 Ward of the State.

- (a) General. Subject to paragraph (b) of this section, ward of the State means a child who, as determined by the State where the child resides, is—
- (1) A foster child;
 - (2) A ward of the State; or
 - (3) In the custody of a public child welfare agency.
- (b) Exception. Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent in § 300.30.
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§ 300.107 Nonacademic services.

The State must ensure the following:

- (a) Each public agency must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.
- (b) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.
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§ 300.129 State responsibility regarding children in private schools.

The State must have in effect policies and procedures that ensure that LEAs, and, if applicable, the SEA, meet the private school requirements in §§ 300.130 through 300.148.

**MARSE R 340.1701c Definitions; R to Y.
Rule 1c.**

As used in these rules:

- (a) "Related services" means services defined at 34 C.F.R. §300.34 and ancillary services as defined in 1976 PA 451, MCL 380.1 et seq., which is available for public review at the department and at intermediate school districts.
- (b) "Services" means instructional or related services as defined in these rules.
- (c) "Special education" means specially designed instruction, at no cost to the parents, to meet the unique educational needs of the student with a disability and to develop the student's maximum potential. Special education includes instructional services defined in R 340.1701b(a) and related services.
- (d) "Youth placed in a juvenile detention facility" means a student who is placed by the court in a detention facility for juvenile delinquents and who is not attending a regular school program due to court order.

Related IDEA Federal Regulations

§ 300.34 Related services.

- (a) General. Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.
- (b) Exception; services that apply to children with surgically implanted devices, including cochlear implants.
 - (1) Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.
 - (2) Nothing in paragraph (b)(1) of this section—
 - (i) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this section) that are determined by the IEP Team to be

necessary for the child to receive FAPE.

- (ii) Limits the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or
 - (iii) Prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required in § 300.113(b).
- (c) Individual related services terms defined. The terms used in this definition are defined as follows:
- (1) Audiology includes—
 - (i) Identification of children with hearing loss;
 - (ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;
 - (iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;
 - (iv) Creation and administration of programs for prevention of hearing loss;
 - (v) Counseling and guidance of children, parents, and teachers regarding hearing loss; and
 - (vi) Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification
 - (2) Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.
 - (3) Early identification and assessment of disabilities in children means the implementation of a formal plan for identifying a disability as early as possible in a child's life.
 - (4) Interpreting services includes—
 - (i) The following, when used with respect to children who are deaf or hard of hearing: Oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and

TypeWell; and

- (ii) Special interpreting services for children who are deaf-blind.
- (5) Medical services means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.
- (6) Occupational therapy—
 - (i) Means services provided by a qualified occupational therapist; and
 - (ii) Includes—
 - (A) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;
 - (B) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and
 - (C) Preventing, through early intervention, initial or further impairment or loss of function.
- (7) Orientation and mobility services—
 - (i) Means services provided to blind or visually impaired children by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community; and
 - (ii) Includes teaching children the following, as appropriate:
 - (A) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);
 - (B) To use the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision;
 - (C) To understand and use remaining vision and distance low vision aids; and
 - (D) Other concepts, techniques, and tools.
- (8)
 - (i) Parent counseling and training means assisting parents in understanding the special needs of their child;
 - (ii) Providing parents with information about child development; and
 - (iii) Helping parents to acquire the necessary skills that will allow them

to support the implementation of their child's IEP or IFSP.

(9) Physical therapy means services provided by a qualified physical therapist.

(10) Psychological services includes—

- (i) Administering psychological and educational tests, and other assessment procedures;
- (ii) Interpreting assessment results;
- (iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
- (iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;
- (v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and
- (vi) Assisting in developing positive behavioral intervention strategies.

(11) Recreation includes—

- (i) Assessment of leisure function;
- (ii) Therapeutic recreation services;
- (iii) Recreation programs in schools and community agencies; and
- (iv) Leisure education.

(12) Rehabilitation counseling services means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to a student with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 et seq.

(13) School health services and school nurse services means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.

(14) Social work services in schools includes—

- (i) Preparing a social or developmental history on a child with a disability;

- (ii) Group and individual counseling with the child and family;
 - (iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;
 - (iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
 - (v) Assisting in developing positive behavioral intervention strategies.
- (15) Speech-language pathology services includes—
- (i) Identification of children with speech or language impairments;
 - (ii) Diagnosis and appraisal of specific speech or language impairments;
 - (iii) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;
 - (iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and
 - (v) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.
- (16) Transportation includes—
- (i) Travel to and from school and between schools;
 - (ii) Travel in and around school buildings; and
 - (iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.

§ 300.39 Special education.

- (a) General.
- (1) Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including—
 - (i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and
 - (ii) Instruction in physical education.
 - (2) Special education includes each of the following, if the services otherwise meet the requirements of paragraph (a)(1) of this section—
 - (i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related

- service under State standards;
 - (ii) Travel training; and
 - (iii) Vocational education.
- (b) Individual special education terms defined. The terms in this definition are defined as follows:
- (1) At no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.
 - (2) Physical education means—
 - (i) The development of—
 - (A) Physical and motor fitness;
 - (B) Fundamental motor skills and patterns; and
 - (C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and
 - (ii) Includes special physical education, adapted physical education, movement education, and motor development.
 - (3) Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction—
 - (i) To address the unique needs of the child that result from the child's disability; and
 - (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.
 - (4) Travel training means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to—
 - (i) Develop an awareness of the environment in which they live; and
 - (ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).
 - (5) Vocational education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.

§ 300.43 Transition services.

- (a) Transition services means a coordinated set of activities for a child with a disability that—
- (1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child’s movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
 - (2) Is based on the individual child’s needs, taking into account the child’s strengths, preferences, and interests; and includes—
 - (i) Instruction;
 - (ii) Related services;
 - (iii) Community experiences;
 - (iv) The development of employment and other post-school adult living objectives; and
 - (v) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.
- (b) Transition services for children with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit from special education.

MARSE R 340.1702 “Student with a disability” defined. Rule 2.
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“Student with a disability” means a person who has been evaluated according to the individuals with disabilities education act and these rules, and is determined by an individualized education program team, an individualized family service plan team, or an administrative law judge to have 1 or more of the impairments specified in this part that necessitates special education or related services, or both, who is not more than 25 years of age as of September 1 of the school year of enrollment, and who has not graduated from high school. A student who reaches the age of 26 years after September 1 is a “student with a disability” and entitled to continue a special education program or service until the end of that school year.

Related IDEA Federal Regulation**§ 300.8 Child with a disability.**

(a) General.

(1) Child with a disability means a child evaluated in accordance with §§ 300.304 through 300.311 as having an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as “emotional disturbance”), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

(2)

(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under §§ 300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part.

(ii) If, consistent with § 300.39(a)(2), the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be a child with a disability under paragraph (a)(1) of this section.

(b) Children aged three through nine experiencing developmental delays. Child with a disability for children aged three through nine (or any subset of that age range, including ages three through five), may, subject to the conditions described in § 300.111(b), include a child—

(1) Who is experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: Physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

(2) Who, by reason thereof, needs special education and related services.

MARSE R 340.1705: Cognitive impairment; determination. Rule 5.

(1) Cognitive impairment shall be manifested during the developmental period

and be determined through the demonstration of all of the following behavioral characteristics:

- (a) Development at a rate at or below approximately 2 standard deviations below the mean as determined through intellectual assessment.
 - (b) Scores approximately within the lowest 6 percentiles on a standardized test in reading and arithmetic. This requirement will not apply if the student is not of an age, grade, or mental age appropriate for formal or standardized achievement tests.
 - (c) Lack of development primarily in the cognitive domain.
 - (d) Impairment of adaptive behavior.
 - (e) Adversely affects a student's educational performance.
- (2) A determination of impairment shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include a psychologist.

Related IDEA Federal Regulation

§ 300.8 Child with a disability.

- (c) Definitions of disability terms. The terms used in this definition of a child with a disability are defined as follows:
- (6) Intellectual disability 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. The term "intellectual disability" was formerly termed "mental retardation."

**MARSE R 340.1706 Emotional impairment; determination; evaluation report.
Rule 6.**

- (1) Emotional impairment shall be determined through manifestation of behavioral problems primarily in the affective domain, over an extended period of time, which adversely affect the student's education to the extent that the student cannot profit from learning experiences without special education support. The problems result in behaviors manifested by 1 or more of the following characteristics:
- (a) Inability to build or maintain satisfactory interpersonal relationships within the school environment.

- (b) Inappropriate types of behavior or feelings under normal circumstances.
 - (c) General pervasive mood of unhappiness or depression.
 - (d) Tendency to develop physical symptoms or fears associated with personal or school problems.
- (2) Emotional impairment also includes students who, in addition to the characteristics specified in subrule (1) of this rule, exhibit maladaptive behaviors related to schizophrenia or similar disorders. The term “emotional impairment” does not include persons who are socially maladjusted, unless it is determined that the persons have an emotional impairment.
- (3) Emotional impairment does not include students whose behaviors are primarily the result of intellectual, sensory, or health factors.
- (4) When evaluating a student suspected of having an emotional impairment, the multidisciplinary evaluation team report shall include documentation of all of the following:
- (a) The student’s performance in the educational setting and in other settings, such as adaptive behavior within the broader community.
 - (b) The systematic observation of the behaviors of primary concern which interfere with educational and social needs.
 - (c) The intervention strategies used to improve the behaviors and the length of time the strategies were utilized.
 - (d) Relevant medical information, if any.
- (5) A determination of impairment shall be based on data provided by a multidisciplinary evaluation team, which shall include a full and individual evaluation by both of the following:
- (a) A psychologist or psychiatrist.
 - (b) A school social worker.

Related IDEA Federal Regulation

§ 300.8 Child with a disability.

- (c) Definitions of disability terms. The terms used in this definition of a child with a disability are defined as follows:
- (4)
- (i) Emotional disturbance means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child’s 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.
 - (E) A tendency to develop physical symptoms or fears associated with personal or school problems.
- (ii) Emotional disturbance includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance under paragraph (c)(4)(i) of this section.

**MARSE R 340.1707 Deaf or hard of hearing.
Rule 7**

- (1) The term “deaf or hard of hearing” refers to students with any type or degree of hearing loss that interferes with development or adversely affects educational performance. “Deafness” means a hearing loss that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification. The term “hard of hearing” refers to students who have permanent or fluctuating hearing loss that is less severe than the hearing loss of students who are deaf and that generally permits the use of the auditory channel as the primary means of developing speech and language skills.
- (2) A determination of impairment must be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include an audiologist and an otolaryngologist or otologist.

Related IDEA Federal Regulation

§ 300.8 Child with a disability.

- (c) Definitions of disability terms. The terms used in this definition of a child with a disability are defined as follows:
 - (3) 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.

- (5) Hearing impairment means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section.

<p>MARSE R 340.1708 Visual impairment explained; determination. Rule 8</p>
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- (1) A visual impairment shall be determined through the manifestation of both of the following:
 - (a) A visual impairment which, even with correction, interferes with development or which adversely affects educational performance. Visual impairment includes both partial sight and blindness.
 - (b) One or more of the following:
 - (i) A central visual acuity for near or far point vision of 20/70 or less in the better eye after routine refractive correction.
 - (ii) A peripheral field of vision restricted to not more than 20 degrees.
 - (iii) A diagnosed progressively deteriorating eye condition.
- (2) A determination of impairment shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include an ophthalmologist or optometrist.
- (3) If a student cannot be tested accurately for acuity, then functional visual assessments conducted by a teacher certified in visual impairment may be used in addition to the medical evaluation for determination of impairment.
- (4) For students with visual impairment who have a visual acuity of 20/200 or less after routine refractive correction, or who have a peripheral field of vision restricted to not more than 20 degrees, an evaluation by an orientation and mobility specialist shall be conducted. The orientation and mobility specialist shall also include in the report a set of recommended procedures to be used by a mobility specialist or a teacher of students with visual impairment in conducting orientation and mobility training activities.

Related IDEA Federal Regulation

§ 300.8 Child with a disability.

- (c) Definitions of disability terms. The terms used in this definition of a child with a disability are defined as follows:
 - (13) Visual impairment 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.

**MARSE R 340.1709 "Physical impairment" defined; determination.
Rule 9**

- (1) "Physical impairment" means severe orthopedic impairment that adversely affects a student's educational performance.
- (2) A determination of disability shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include assessment data from 1 of the following persons:
 - (a) An orthopedic surgeon.
 - (b) An internist.
 - (c) A neurologist.
 - (d) A pediatrician.
 - (e) A family physician or any other approved physician as defined in 1978 PA 368, MCL 333.1101 et seq.

Related IDEA Federal Regulation

§ 300.8 Child with a disability.

- (c) Definitions of disability terms. The terms used in this definition of a child with a disability are defined as follows:
 - (8) Orthopedic impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

**MARSE R 340.1709a "Other health impairment" defined; determination.
Rule 9a.**

- (1) "Other health impairment" means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, which results in limited alertness with respect to the educational environment and to which both of the following provisions apply:
 - (a) Is due to chronic or acute health problems such as any of the following:

- (i) Asthma.
 - (ii) Attention deficit disorder.
 - (iii) Attention deficit hyperactivity disorder.
 - (iv) Diabetes.
 - (v) Epilepsy.
 - (vi) A heart condition.
 - (vii) Hemophilia.
 - (viii) Lead poisoning.
 - (ix) Leukemia.
 - (x) Nephritis.
 - (xi) Rheumatic fever.
 - (xii) Sickle cell anemia.
- (b) The impairment adversely affects a student's educational performance.
- (2) A determination of disability shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include 1 of the following persons:
- (a) An orthopedic surgeon.
 - (b) An internist.
 - (c) A neurologist.
 - (d) A pediatrician.
 - (e) A family physician or any other approved physician as defined in 1978 PA 368, MCL 333.1101 et seq.

Related IDEA Federal Regulations

§ 300.8 Child with a disability.

- (c) Definitions of disability terms. The terms used in this definition of a child with a disability are defined as follows:
- (9) Other health impairment 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—
- (i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning,

leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and

- (ii) Adversely affects a child's educational performance.

MARSE R 340.1710 "Speech and language impairment" defined; determination.

Rule 10.

- (1) A "speech and language impairment" means a communication disorder that adversely affects educational performance, such as a language impairment, articulation impairment, fluency impairment, or voice impairment.
- (2) A communication disorder shall be determined through the manifestation of 1 or more of the following speech and language impairments that adversely affects educational performance:
 - (a) A language impairment which interferes with the student's ability to understand and use language effectively and which includes 1 or more of the following:
 - (i) Phonology.
 - (ii) Morphology.
 - (iii) Syntax.
 - (iv) Semantics.
 - (v) Pragmatics.
 - (b) Articulation impairment, including omissions, substitutions, or distortions of sound, persisting beyond the age at which maturation alone might be expected to correct the deviation.
 - (c) Fluency impairment, including an abnormal rate of speaking, speech interruptions, and repetition of sounds, words, phrases, or sentences, that interferes with effective communication.
 - (d) Voice impairment, including inappropriate pitch, loudness, or voice quality.
- (3) Any impairment under subrule (2)(a) of this rule shall be evidenced by both of the following:
 - (a) A spontaneous language sample demonstrating inadequate language functioning.
 - (b) Test results on not less than 2 standardized assessment instruments or 2 subtests designed to determine language functioning which indicate inappropriate language functioning for the student's age.

- (4) A student who has a communication disorder, but whose primary disability is other than speech and language may be eligible for speech and language services under R 340.1745(a).
- (5) A determination of impairment shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include a teacher of students with speech and language impairment under R 340.1796 or a speech and language pathologist qualified under R 340.1792.

Related IDEA Federal Regulation**§ 300.8 Child with a disability.**

- (c) Definitions of disability terms. The terms used in this definition of a child with a disability are defined as follows:
 - (11) Speech or language impairment means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

MARSE R 340.1711 "Early childhood developmental delay" defined; determination.

Rule 11

- (1) "Early childhood developmental delay" means a child through 7 years of age whose primary delay cannot be differentiated through existing criteria within R 340.1705 to R 340.1710 or R 340.1713 to R 340.1716 and who manifests a delay in 1 or more areas of development equal to or greater than 1/2 of the expected development. This definition does not preclude identification of a child through existing criteria within R 340.1705 to R 340.1710 or R 340.1713 to R 340.1716.
- (2) A determination of early childhood developmental delay shall be based upon a full and individual evaluation by a multidisciplinary evaluation team.

Related IDEA Federal Regulation**§ 300.8 Child with a disability.**

- (b) Children aged three through nine experiencing developmental delays. Child with a disability for children aged three through nine (or any subset of that age range, including ages three through five), may, subject to the conditions described in § 300.111(b), include a child—
 - (1) Who is experiencing developmental delays, as defined by the State and

as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: Physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

- (2) Who, by reason thereof, needs special education and related services.

**MARSE R 340.1713 Specific learning disability defined; determination.
Rule 13.**

- (1) "Specific learning disability" means a disorder in 1 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 cognitive impairment, of emotional impairment, of autism spectrum disorder, or of environmental, cultural, or economic disadvantage.
- (2) In determining whether a student has a learning disability, the state shall:
- (a) Not require the use of a severe discrepancy between intellectual ability and achievement.
 - (b) Permit the use of a process based on the child's response to scientific, research-based intervention.
 - (c) Permit the use of other alternative research-based procedures.
- (3) A determination of learning disability shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include at least both of the following:
- (a) The student's general education teacher or, if the student does not have a general education teacher, a general education teacher qualified to teach a student of his or her age or, for a child of less than school age, an individual qualified by the state educational agency to teach a child of his or her age.
 - (b) At least 1 person qualified to conduct individual diagnostic examinations of children and who can interpret the instructional implications of evaluation results, such as a school psychologist, an authorized provider of speech and language under R 340.1745(d), or a teacher consultant.

Related IDEA Federal Regulations

§ 300.8 Child with a disability.

- (c) Definitions of disability terms. The terms used in this definition of a child with a disability are defined as follows:
- (10) Specific learning disability—
- (i) General. Specific learning disability 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.
 - (ii) Disorders not included. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

§ 300.307 Specific learning disabilities.

- (a) General. A State must adopt, consistent with §300.309, criteria for determining whether a child has a specific learning disability as defined in § 300.8(c)(10). In addition, the criteria adopted by the State—
- (1) Must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability, as defined in § 300.8(c)(10);
 - (2) Must permit the use of a process based on the child's response to scientific, research-based intervention; and
 - (3) May permit the use of other alternative research-based procedures for determining whether a child has a specific learning disability, as defined in § 300.8(c)(10).
- (b) Consistency with State criteria. A public agency must use the State criteria adopted pursuant to paragraph (a) of this section in determining whether a child has a specific learning disability.

§ 300.308 Additional group members.

The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in § 300.8, must be made by the

child's parents and a team of qualified professionals, which must include—

- (a)
 - (1) The child's regular teacher; or
 - (2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or
 - (3) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and
- (b) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

§ 300.309 Determining the existence of a specific learning disability.

- (a) The group described in § 300.306 may determine that a child has a specific learning disability, as defined in § 300.8(c)(10), if—
 - (1) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards:
 - (i) Oral expression.
 - (ii) Listening comprehension.
 - (iii) Written expression.
 - (iv) Basic reading skill.
 - (v) Reading fluency skills.
 - (vi) Reading comprehension.
 - (vii) Mathematics calculation.
 - (viii) Mathematics problem solving.
 - (2)
 - (i) 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 paragraph (a)(1) of this section when using a process based on the child's response to scientific, research-based intervention; or
 - (ii) 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, consistent with §§ 300.304 and 300.305; and

- (3) The group determines that its findings under paragraphs (a)(1) and (2) of this section are not primarily the result of—
 - (i) A visual, hearing, or motor disability;
 - (ii) An intellectual disability;
 - (iii) Emotional disturbance;
 - (iv) Cultural factors;
 - (v) Environmental or economic disadvantage; or
 - (vi) Limited English proficiency.
- (b) To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in §§ 300.304 through 300.306—
 - (1) Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
 - (2) 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.
- (c) 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 timeframes described in §§300.301 and 300.303, unless extended by mutual written agreement of the child’s parents and a group of qualified professionals, as described in § 300.306(a)(1)—
 - (1) If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction, as described in paragraphs (b)(1) and (b)(2) of this section; and
 - (2) Whenever a child is referred for an evaluation.

§ 300.310 Observation.

- (a) The public agency must ensure that the child is observed in the child’s learning environment (including the regular classroom setting) to document the child’s academic performance and behavior in the areas of difficulty.
- (b) The group described in § 300.306(a)(1), in determining whether a child has a

specific learning disability, must decide to—

- (1) 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
 - (2) Have at least one member of the group described in § 300.306(a)(1) conduct an observation of the child’s academic performance in the regular classroom after the child has been referred for an evaluation and parental consent, consistent with § 300.300(a), is obtained.
- (c) 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.

§ 300.311 Specific documentation for the eligibility determination.

- (a) For a child suspected of having a specific learning disability, the documentation of the determination of eligibility, as required in § 300.306(a)(2), must contain a statement of—
- (1) Whether the child has a specific learning disability;
 - (2) The basis for making the determination, including an assurance that the determination has been made in accordance with § 300.306(c)(1);
 - (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 to meet State-approved grade-level standards consistent with § 300.309(a)(1); and
 - (ii)
 - (A) The child does not make sufficient progress to meet age or State-approved grade-level standards consistent with § 300.309(a)(2)(i); or
 - (B) 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 consistent with § 300.309(a)(2)(ii);
 - (6) The determination of the group concerning the effects of a visual, hearing, motor disability, or an intellectual disability; emotional disturbance; cultural factors; 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) The State'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.
- (b) Each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

**MARSE R 340.1714 Severe multiple impairment; determination.
Rule 14.**

- (1) Students with severe multiple impairments shall be determined through the manifestation of either of the following:
- (a) Development at a rate of 2 to 3 standard deviations below the mean and 2 or more of the following conditions:
 - (i) A hearing impairment so severe that the auditory channel is not the primary means of developing speech and language skills.
 - (ii) A visual impairment so severe that the visual channel is not sufficient to guide independent mobility.
 - (iii) A physical impairment so severe that activities of daily living cannot be achieved without assistance.
 - (iv) A health impairment so severe that the student is medically at risk.
 - (b) Development at a rate of 3 or more standard deviations below the mean or students for whom evaluation instruments do not provide a valid measure of cognitive ability and 1 or more of the following conditions:
 - (i) A hearing impairment so severe that the auditory channel is not the primary means of developing speech and language skills.
 - (ii) A visual impairment so severe that the visual channel is not

sufficient to guide independent mobility.

- (iii) A physical impairment so severe that activities of daily living cannot be achieved without assistance.
 - (iv) A health impairment so severe that the student is medically at risk.
- (2) A determination of impairment shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include a psychologist and, depending upon the disabilities in the physical domain, the multidisciplinary evaluation team participants required in R 340.1707, R 340.1708, or R 340.1709, R 340.1709a, or R 340.1716.

Related IDEA Federal Regulation

§ 300.8 Child with a disability.

- (c) Definitions of disability terms. The terms used in this definition of a child with a disability are defined as follows:
- (7) Multiple disabilities means concomitant impairments (such as intellectual disability-blindness or intellectual disability-orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.

**MARSE R 340.1715 Autism spectrum disorder defined; determination.
Rule 15.**

- (1) Autism spectrum disorder is considered a lifelong developmental disability that adversely affects a student's educational performance in 1 or more of the following performance areas:
- (a) Academic.
 - (b) Behavioral.
 - (c) Social.
- Autism spectrum disorder is typically manifested before 36 months of age. A child who first manifests the characteristics after age 3 may also meet criteria. Autism spectrum disorder is characterized by qualitative impairments in reciprocal social interactions, qualitative impairments in communication, and restricted range of interests/repetitive behavior.
- (2) Determination for eligibility shall include all of the following:
- (a) Qualitative impairments in reciprocal social interactions including at least 2 of the following areas:

- (i) Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction.
 - (ii) Failure to develop peer relationships appropriate to developmental level.
 - (iii) Marked impairment in spontaneous seeking to share enjoyment, interests, or achievements with other people, for example, by a lack of showing, bringing, or pointing out objects of interest.
 - (iv) Marked impairment in the areas of social or emotional reciprocity.
- (b) Qualitative impairments in communication including at least 1 of the following:
- (i) Delay in, or total lack of, the development of spoken language not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime.
 - (ii) Marked impairment in pragmatics or in the ability to initiate, sustain, or engage in reciprocal conversation with others.
 - (iii) Stereotyped and repetitive use of language or idiosyncratic language.
 - (iv) Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level.
- (c) Restricted, repetitive, and stereotyped behaviors including at least 1 of the following:
- (i) Encompassing preoccupation with 1 or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus.
 - (ii) Apparently inflexible adherence to specific, nonfunctional routines or rituals.
 - (iii) Stereotyped and repetitive motor mannerisms, for example, hand or finger flapping or twisting, or complex whole-body movements.
 - (iv) Persistent preoccupation with parts of objects.
- (3) Determination may include unusual or inconsistent response to sensory stimuli, in combination with subdivisions (a), (b), and (c) of subrule (2) of this rule.
- (4) While autism spectrum disorder may exist concurrently with other diagnoses or areas of disability, to be eligible under this rule, there shall not be a primary diagnosis of schizophrenia or emotional impairment.

- (5) A determination of impairment shall be based upon a full and individual evaluation by a multidisciplinary evaluation team including, at a minimum, a psychologist or psychiatrist, an authorized provider of speech and language under R 340.1745(d), and a school social worker.

Related IDEA Federal Regulation**§ 300.8 Child with a disability.**

- (c) Definitions of disability terms. The terms used in this definition of a child with a disability are defined as follows:
- (1)
- (i) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.
 - (ii) Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in paragraph (c)(4) of this section.
 - (iii) A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in paragraph (c)(1)(i) of this section are satisfied.

MARSE R 340.1716 "Traumatic brain injury" defined; determination. Rule 16.

- (1) "Traumatic brain injury" means an acquired injury to the brain which is caused by an external physical force and which results in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. The term applies to open or closed head injuries resulting in impairment in 1 or more of the following areas:
- (a) Cognition.
 - (b) Language.
 - (c) Memory
 - (d) Attention.
 - (e) Reasoning.

- (f) Behavior.
 - (g) Physical functions.
 - (h) Information processing.
 - (i) Speech.
- (2) The term does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma.
- (3) A determination of disability shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include an assessment from a family physician or any other approved physician as defined in 1978 PA 368, MCL 333.1101 et seq.

Related IDEA Federal Regulation

§ 300.8 Child with a disability.

- (c) Definitions of disability terms. The terms used in this definition of a child with a disability are defined as follows:
- (12) Traumatic brain injury 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. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one 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 speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

**MARSE R 340.1717 Deaf-blindness defined; determination.
Rule 17.**

- (1) Deaf-blindness means concomitant hearing impairment and visual impairment, the combination of which causes severe communication and other developmental and educational needs that cannot be accommodated in special education programs without additional supports to address the unique needs specific to deaf-blindness. Deaf-blindness also means both of the following:
- (a) Documented hearing and visual losses that, if considered individually, may not meet the requirements for visual impairment or hearing impairment, but the combination of the losses affects educational performance.

- (b) Such students function as if they have both a hearing and visual loss, based upon responses to auditory and visual stimuli in the environment, or during vision and hearing evaluations.
 - (2) A determination of the disability shall be based upon data provided by a multidisciplinary evaluation team which shall include assessment data from all of the following:
 - (a) Medical specialists such as any of the following:
 - (i) An ophthalmologist.
 - (ii) An optometrist.
 - (iii) An audiologist.
 - (iv) An otolaryngologist.
 - (v) An otologist.
 - (vi) A family physician or any other approved physician as defined in 1978 PA 368, MCL 333.1101 et seq.
 - (b) A teacher of students with visual impairment.
 - (c) A teacher of students with hearing impairment.
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Related IDEA Federal Regulation

§ 300.8 Child with a disability.

- (c) Definitions of disability terms. The terms used in this definition of a child with a disability are defined as follows:
 - (2) Deaf-blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

Part 2: Initial Evaluation, Time Lines, Individualized Education Program, District Responsibilities, and Due Process Procedures
MARSE Rules 340.1721 – 340.1725f

MARSE R 340.1721 Request for initial evaluation.
Rule 21.

Within 10 school days of receipt of a written request for an initial evaluation of a student suspected of having a disability, and before any formal evaluation designed to determine eligibility for special education programs and services, the public agency shall provide the parent with written notice consistent with 34 CFR § 300.503 and, when necessary shall request written consent to evaluate.

Related IDEA Federal Regulations

§ 300.111 Child find.

- (a) General.
- (1) The State must have in effect policies and procedures to ensure that—
 - (i) All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and
 - (ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.
- (b) Use of term developmental delay. The following provisions apply with respect to implementing the child find requirements of this section:
- (1) A State that adopts a definition of developmental delay under § 300.8(b) determines whether the term applies to children aged three through nine, or to a subset of that age range (e.g., ages three through five).
 - (2) A State may not require an LEA to adopt and use the term developmental delay for any children within its jurisdiction.
 - (3) If an LEA uses the term developmental delay for children described in § 300.8(b), the LEA must conform to both the State's definition of that term and to the age range that has been adopted by the State.

- (4) If a State does not adopt the term developmental delay, an LEA may not independently use that term as a basis for establishing a child's eligibility under this part.
 - (c) Other children in child find. Child find also must include—
 - (1) Children who are suspected of being a child with a disability under § 300.8 and in need of special education, even though they are advancing from grade to grade; and
 - (2) Highly mobile children, including migrant children.
 - (d) Construction. Nothing in the Act requires that children be classified by their disability so long as each child who has a disability that is listed in § 300.8 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act.
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§ 300.300 Parental consent.

- (a) Parental consent for initial evaluation.
 - (1)
 - (i) The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under § 300.8 must, after providing notice consistent with §§ 300.503 and 300.504, obtain informed consent, consistent with § 300.9, from the parent of the child before conducting the evaluation.
 - (ii) Parental consent for initial evaluation must not be construed as consent for initial provision of special education and related services.
 - (iii) The public agency must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.
 - (2) For initial evaluations only, if the child is a ward of the State and is not residing with the child's parent, the public agency is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if—
 - (i) Despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the child;
 - (ii) The rights of the parents of the child have been terminated in accordance with State law; or
 - (iii) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for

an initial evaluation has been given by an individual appointed by the judge to represent the child.

(3)

- (i) If the parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation under paragraph (a)(1) of this section, or the parent fails to respond to a request to provide consent, the public agency may, but is not required to, pursue the initial evaluation of the child by utilizing the procedural safeguards in subpart E of this part (including the mediation procedures under § 300.506 or the due process procedures under §§ 300.507 through 300.516), if appropriate, except to the extent inconsistent with State law relating to such parental consent.
- (ii) The public agency does not violate its obligation under § 300.111 and §§ 300.301 through 300.311 if it declines to pursue the evaluation.

(b) Parental consent for services.

- (1) A public agency that is responsible for making FAPE available to a child with a disability must obtain informed consent from the parent of the child before the initial provision of special education and related services to the child.
- (2) The public agency must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child.
- (3) If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, the public agency—
 - (i) May not use the procedures in subpart E of this part (including the mediation procedures under § 300.506 or the due process procedures under §§ 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child;
 - (ii) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with the special education and related services for which the parent refuses to or fails to provide consent; and
 - (iii) Is not required to convene an IEP Team meeting or develop an IEP under §§ 300.320 and 300.324 for the child.

- (4) If, at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the public agency—
 - (i) May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with § 300.503 before ceasing the provision of special education and related services;
 - (ii) May not use the procedures in subpart E of this part (including the mediation procedures under § 300.506 or the due process procedures under §§ 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child;
 - (iii) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; and
 - (iv) Is not required to convene an IEP Team meeting or develop an IEP under §§ 300.320 and 300.324 for the child for further provision of special education and related services.
- (c) Parental consent for reevaluations.
 - (1) Subject to paragraph (c)(2) of this section, each public agency—
 - (i) Must obtain informed parental consent, in accordance with § 300.300(a)(1), prior to conducting any reevaluation of a child with a disability.
 - (ii) If the parent refuses to consent to the reevaluation, the public agency may, but is not required to, pursue the reevaluation by using the consent override procedures described in paragraph (a)(3) of this section.
 - (iii) The public agency does not violate its obligation under § 300.111 and §§ 300.301 through 300.311 if it declines to pursue the evaluation or reevaluation.
 - (2) The informed parental consent described in paragraph (c)(1) of this section need not be obtained if the public agency can demonstrate that—
 - (i) It made reasonable efforts to obtain such consent; and
 - (ii) The child’s parent has failed to respond.
- (d) Other consent requirements.
 - (1) Parental consent is not required before—

- (i) Reviewing existing data as part of an evaluation or a reevaluation;
or
 - (ii) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.
- (2) In addition to the parental consent requirements described in paragraph (a) of this section, a State may require parental consent for other services and activities under this part if it ensures that each public agency in the State establishes and implements effective procedures to ensure that a parent's refusal to consent does not result in a failure to provide the child with FAPE.
- (3) A public agency may not use a parent's refusal to consent to one service or activity under paragraphs (a), (b), (c) or (d)(2) of this section to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this part.
- (4)
- (i) If a parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to provide consent, the public agency may not use the consent override procedures (described in paragraphs (a)(3) and (c)(1) of this section); and
 - (ii) The public agency is not required to consider the child as eligible for services under §§ 300.132 through 300.144.
- (5) To meet the reasonable efforts requirement in paragraphs (a)(1)(iii), (a)(2)(i), (b)(2), and (c)(2)(i) of this section, the public agency must document its attempts to obtain parental consent using the procedures in § 300.322(d).

§ 300.503 Prior notice by the public agency; content of notice.

- (a) Notice. Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency—
- (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
 - (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

- (b) Content of notice. The notice required under paragraph (a) of this section must include—
- (1) A description of the action proposed or refused by the agency;
 - (2) An explanation of why the agency proposes or refuses to take the action;
 - (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
 - (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
 - (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part;
 - (6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and
 - (7) A description of other factors that are relevant to the agency's proposal or refusal.
- (c) Notice in understandable language.
- (1) The notice required under paragraph (a) of this section must be—
 - (i) Written in language understandable to the general public; and
 - (ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
 - (2) If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure—
 - (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
 - (ii) That the parent understands the content of the notice; and
 - (iii) That there is written evidence that the requirements in paragraphs (c)(2)(i) and (ii) of this section have been met.

§ 300.504 Procedural safeguards notice.

- (a) General. A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy also must be given to the parents—
- (1) Upon initial referral or parent request for evaluation;

- (2) Upon receipt of the first State complaint under §§ 300.151 through 300.153 and upon receipt of the first due process complaint under § 300.507 in a school year;
 - (3) In accordance with the discipline procedures in § 300.530(h); and
 - (4) Upon request by a parent.
- (b) Internet Web site. A public agency may place a current copy of the procedural safeguards notice on its Internet Web site if a Web site exists.
- (c) Contents. The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under § 300.148, §§ 300.151 through 300.153, § 300.300, §§ 300.502 through 300.503, §§ 300.505 through 300.518, §§ 300.530 through 300.536 and §§ 300.610 through 300.625 relating to—
- (1) Independent educational evaluations;
 - (2) Prior written notice;
 - (3) Parental consent;
 - (4) Access to education records;
 - (5) Opportunity to present and resolve complaints through the due process complaint and State complaint procedures, including—
 - (i) The time period in which to file a complaint;
 - (ii) The opportunity for the agency to resolve the complaint; and
 - (iii) The difference between the due process complaint and the State complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures;
 - (6) The availability of mediation;
 - (7) The child’s placement during the pendency of any due process complaint;
 - (8) Procedures for students who are subject to placement in an interim alternative educational setting;
 - (9) Requirements for unilateral placement by parents of children in private schools at public expense;
 - (10) Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
 - (11) State-level appeals (if applicable in the State);
 - (12) Civil actions, including the time period in which to file those actions; and
 - (13) Attorneys’ fees.

- (d) Notice in understandable language. The notice required under paragraph (a) of this section must meet the requirements of § 300.503(c).
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§ 300.505 Electronic mail.

A parent of a child with a disability may elect to receive notices required by §§ 300.503, 300.504, and 300.508 by an electronic mail communication, if the public agency makes that option available.

<p>MARSE R 340.1721a Initial evaluation. Rule 21a.</p>

- (1) Each student suspected of having a disability shall be evaluated by a multidisciplinary evaluation team as defined in R 340.1701b(b). In addition to the requirements in R 340.1705 to R 340.1717, the multidisciplinary evaluation team shall do all of the following:
- (a) Complete a full and individual evaluation.
 - (b) Make a recommendation of eligibility and prepare a written report to be presented to the individualized education program team by the designated multidisciplinary evaluation team member who can explain the instructional implication of evaluation results. The report shall include information needed by the individualized education program team to determine all of the following:
 - (i) Eligibility.
 - (ii) A student's present level of academic achievement and functional performance.
 - (iii) The educational needs of the student.
- (2) Special education personnel who are authorized to conduct evaluations of students suspected of having a disability may provide consultation to general education personnel.
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Related IDEA Federal Regulations

§ 300.15 Evaluation.

Evaluation means procedures used in accordance with §§ 300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

§ 300.301 Initial evaluations.

- (a) General. Each public agency must conduct a full and individual initial evaluation, in accordance with §§ 300.304 and 300.306, before the initial provision of special education and related services to a child with a disability under this part.
- (b) Request for initial evaluation. Consistent with the consent requirements in § 300.300, either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.
- (c) Procedures for initial evaluation. The initial evaluation—
 - (1)
 - (i) Must be conducted within 60 days of receiving parental consent for the evaluation; or
 - (ii) If the State establishes a timeframe within which the evaluation must be conducted, within that timeframe; and
 - (2) Must consist of procedures—
 - (i) To determine if the child is a child with a disability under § 300.8; and
 - (ii) To determine the educational needs of the child.
- (d) Exception. The timeframe described in paragraph (c)(1) of this section does not apply to a public agency if—
 - (1) The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or
 - (2) A child enrolls in a school of another public agency after the relevant timeframe in paragraph (c)(1) of this section has begun, and prior to a determination by the child’s previous public agency as to whether the child is a child with a disability under § 300.8.
- (e) The exception in paragraph (d)(2) of this section applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed.

§ 300.302 Screening for instructional purposes is not evaluation.

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

§ 300.303 Reevaluations.

- (a) General. A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with §§ 300.304 through 300.311—
 - (1) If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or
 - (2) If the child’s parent or teacher requests a reevaluation.
- (b) Limitation. A reevaluation conducted under paragraph (a) of this section—
 - (1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and
 - (2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.

§ 300.304 Evaluation procedures.

- (a) Notice. The public agency must provide notice to the parents of a child with a disability, in accordance with § 300.503, that describes any evaluation procedures the agency proposes to conduct.
- (b) Conduct of evaluation. In conducting the evaluation, the public agency must—
 - (1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining—
 - (i) Whether the child is a child with a disability under § 300.8; and
 - (ii) The content of the child’s IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);
 - (2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and
 - (3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
- (c) Other evaluation procedures. Each public agency must ensure that—
 - (1) Assessments and other evaluation materials used to assess a child under

this part—

- (i) Are selected and administered so as not to be discriminatory on a racial or cultural basis;
 - (ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;
 - (iii) Are used for the purposes for which the assessments or measures are valid and reliable;
 - (iv) Are administered by trained and knowledgeable personnel; and
 - (v) Are administered in accordance with any instructions provided by the producer of the assessments.
- (2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
 - (3) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment 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).
 - (4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;
 - (5) Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with § 300.301(d)(2) and (e), to ensure prompt completion of full evaluations.
 - (6) In evaluating each child with a disability under §§ 300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

- (7) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

§ 300.305 Additional requirements for evaluations and reevaluations.

- (a) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must—
- (1) Review existing evaluation data on the child, including—
- (i) Evaluations and information provided by the parents of the child;
 - (ii) Current classroom-based, local, or State assessments, and classroom-based observations; and
 - (iii) Observations by teachers and related services providers; and
- (2) On the basis of that review, and input from the child’s parents, identify what additional data, if any, are needed to determine—
- (i)
 - (A) Whether the child is a child with a disability, as defined in § 300.8, and the educational needs of the child; or
 - (B) In case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child;
 - (ii) The present levels of academic achievement and related developmental needs of the child;
 - (iii)
 - (A) Whether the child needs special education and related services; or
 - (B) In the case of a reevaluation of a child, whether the child continues to need special education and related services; and
 - (iv) 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 of the child and to participate, as appropriate, in the general education curriculum.
- (b) Conduct of review. The group described in paragraph (a) of this section may conduct its review without a meeting.
- (c) Source of data. The public agency must administer such assessments and other evaluation measures as may be needed to produce the data identified

under paragraph (a) of this section.

- (d) Requirements if additional data are not needed.
 - (1) If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, and to determine the child's educational needs, the public agency must notify the child's parents of—
 - (i) That determination and the reasons for the determination; and
 - (ii) The right of the 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.
 - (2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.
- (e) Evaluations before change in eligibility.
 - (1) Except as provided in paragraph (e)(2) of this section, a public agency must evaluate a child with a disability in accordance with §§ 300.304 through 300.311 before determining that the child is no longer a child with a disability.
 - (2) The evaluation described in paragraph (e)(1) of this section is not required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under State law.
 - (3) For a child whose eligibility terminates under circumstances described in paragraph (e)(2) of this section, a public agency must provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

§ 300.306 Determination of eligibility.

- (a) General. Upon completion of the administration of assessments and other evaluation measures—
 - (1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in § 300.8, in accordance with paragraph (c) of this section and the educational needs of the child; and
 - (2) The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

- (b) Special rule for eligibility determination. A child must not be determined to be a child with a disability under this part—
 - (1) If the determinant factor for that determination is—
 - (i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA as such section was in effect on the day before the date of enactment of the Every Student Succeeds Act (December 9, 2015));
 - (ii) Lack of appropriate instruction in math; or
 - (iii) Limited English proficiency; and
 - (2) If the child does not otherwise meet the eligibility criteria under § 300.8(a).
- (c) Procedures for determining eligibility and educational need.
 - (1) 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—
 - (i) 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; and
 - (ii) Ensure that information obtained from all of these sources is documented and carefully considered.
 - (2) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with §§ 300.320 through 300.324.

**MARSE R 340.1721b Time lines.
Rule 21b.**

- (1) Within 10 school days of receipt of a written request for any evaluation, the public agency shall provide the parent with written notice consistent with 34 CFR §300.503 and shall request written parental consent to evaluate. The time from receipt of parental consent for an evaluation to the notice of an offer of a free appropriate public education or the determination of ineligibility shall not be more than 30 school days. This time line begins upon receipt of the signed parental consent by the public agency requesting the consent. This time line may be extended if agreed to by the parent and public agency. Any extension to this time line shall be both of the following:

- (a) In writing.
 - (b) Measured in school days.
- (2) The parent has 10 school days after receipt of the notice of an initial offer of a free appropriate public education to provide the public agency with written parental consent to provide initial special education programs and services.
 - (3) Within 7 school days from the date of the individualized education program team meeting, the public agency shall provide the parent with the notice of an offer of a free appropriate public education or determination of ineligibility. The public agency shall document mode and date of delivery. The notice shall identify where the programs and services are to be provided and when the individualized education program begins.
 - (4) Unless a parent has filed an appeal under R 340.1724f, the public agency, as defined under 34 CFR § 300.33, shall initiate a proposed special education individualized education program as soon as possible and not more than 15 school days after the parent's receipt of written notification under R 340.1721b(3), or not more than 15 school days after receipt of written parental consent under R 340.1721b(2). The parties may agree to a later initiation date if the later date is clearly identified in the individualized education program. An initiation date later than 15 school days shall not be used to deny or delay programs or services because they are unavailable and shall not be used for purposes of administrative convenience.
 - (5) For students with an individualized education program in effect at a previous public agency who transfer public agencies within the same school year, the new public agency shall immediately provide a free appropriate public education. A decision regarding implementation of an individualized education program in accordance with 4 CFR §300.323 shall be made within 30 school days of enrollment.

Related IDEA Federal Regulation

§ 300.323 When IEPs must be in effect.

- (a) General. At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in § 300.320.
- (b) IEP or IFSP for children aged three through five.
 - (1) In the case of a child with a disability aged three through five (or, at the discretion of the SEA, a two-year-old child with a disability who will turn age three during the school year), the IEP Team must consider an IFSP that contains the IFSP content (including the natural environments

- statement) described in section 636(d) of the Act and its implementing regulations (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures under this part. The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is—
- (i) Consistent with State policy; and
 - (ii) Agreed to by the agency and the child’s parents.
- (2) In implementing the requirements of paragraph (b)(1) of this section, the public agency must—
- (i) Provide to the child’s parents a detailed explanation of the differences between an IFSP and an IEP; and
 - (ii) If the parents choose an IFSP, obtain written informed consent from the parents.
- (c) Initial IEPs; provision of services. Each public agency must ensure that—
- (1) A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and
 - (2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child’s IEP.
- (d) Accessibility of child’s IEP to teachers and others. Each public agency must ensure that—
- (1) The child’s IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and
 - (2) Each teacher and provider described in paragraph (d)(1) of this section is informed of—
 - (i) His or her specific responsibilities related to implementing the child’s IEP; and
 - (ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.
- (e) IEPs for children who transfer public agencies in the same State. If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency

(in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either—

- (1) Adopts the child's IEP from the previous public agency; or
 - (2) Develops, adopts, and implements a new IEP that meets the applicable requirements in §§ 300.320 through 300.324.
- (f) IEPs for children who transfer from another State. If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency—
- (1) Conducts an evaluation pursuant to §§ 300.304 through 300.306 (if determined to be necessary by the new public agency); and
 - (2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in §§ 300.320 through 300.324.
- (g) Transmittal of records. To facilitate the transition for a child described in paragraphs (e) and (f) of this section—
- (1) The new public agency in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to 34 CFR 99.31(a)(2); and
 - (2) The previous public agency in which the child was enrolled must take reasonable steps to promptly respond to the request from the new public agency.

**MARSE R 340.1721e Individualized education program.
Rule 21e.**

- (1) Pursuant to 34 CFR Part 300 (2019), an individualized education program team shall develop a written individualized education program that includes all of the following:
 - (a) A statement of measurable annual goals, including measurable short-term objectives.
 - (b) A statement documenting that the individualized education program team

