

PART Ed 1108
DETERMINATION OF ELIGIBILITY FOR SPECIAL EDUCATION

Ed 1108.01 Determination of Eligibility for Special Education

- (a) The LEA shall comply with 34 CFR 300.301-311 relative to determination of eligibility.

For §300.301 – 300.311, See Ed 1107.01(a)

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- (b) For determination of eligibility, the composition of the IEP team described in 34 CFR 300.306 shall also include:

§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 (b) 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);
 - (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

- (1) A teacher certified in each area of suspected disability; and
- (2) An individual knowledgeable about the child as a result of having had personal contact with the child in the school or, if the child is below school age, at another setting.