



STATE OF NEW JERSEY

DEPARTMENT OF EDUCATION

A Memo from the New Jersey Department of Education

Date: April 17, 2024
To: Local Educational Agency Leads, Directors of Approved Private Schools for Students with Disabilities
Route To: Directors of Special Education
From: Kathy Ehling, Assistant Commissioner
Division of Educational Services

Speech-Language Services Eligibility

The purpose of this Broadcast memorandum is to provide clarification for determining whether a student is eligible to receive speech-language services from a speech-language specialist in accordance with N.J.A.C. 6A:14-3.5(c)4 and N.J.A.C. 6A:14-3.6(a), and to provide clarification of N.J.A.C. 6A:14-3.7(e) with respect to location of related services.

In accordance with N.J.A.C. 6A:14-3.5(c)4 and N.J.A.C. 6A:14-3.6(a), when assessing for a language disorder for purposes of determining whether a student meets the criteria for communication impaired, the problem must be demonstrated through functional assessment of language in other than a testing situation and performance below 1.5 standard deviations, or the 10th percentile on at least two standardized language tests, where such tests are appropriate, one of which shall be a comprehensive test of both receptive and expressive language.

When implementing the requirement with respect to “standardized language tests,” test selection for evaluation or reevaluation of an individual student is based on various factors, such as the student’s ability to participate in the tests, the areas of suspected language difficulties/deficits (e.g., morphology, syntax, semantics, pragmatics/social language) and weaknesses identified during the assessment process which require further testing. With respect to test interpretation and decision-making regarding eligibility for special education and related services and eligibility for speech-language services, the criteria in the above provision do not limit the types of scores that can be considered (e.g., index, subtest, standard score, etc.).

Evaluators should review the pertinent examiners’ manual to determine which scores to utilize to determine eligibility. Test analyses, presented with the functional assessment of language and information about the educational impact of the communication difficulties on the student’s ability to be involved in academic, nonacademic, and extracurricular activities, assist in determining eligibility. In addition, if it is determined that standardized tests are not appropriate for assessing whether a particular student has a language disorder, the Individualized Education Program (IEP) team may utilize other factors to make such a determination, such as relying on a functional assessment in other than a testing situation.

It is important to also note that in determining whether a child has a disability – whether communication impaired or any of the other disability categories identified in 34 CFR §300.8 – the Individuals with Disabilities Education Act (IDEA) requires the use of a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, and prohibits the use of 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 (34 CFR §300.304(b)(1) and (2)).

In accordance with N.J.A.C. 6A:14-3.7(e), with respect to the location of related services, IEPs must include a statement that specifies the projected date for the beginning of the services and the anticipated frequency, location, and duration of those services. When identifying the location of related services, LEAs must ensure the

location is conducive to providing education services, taking into consideration the student's disability and any unique circumstances. Moreover, the IDEA and its implementing regulations at 34 CFR §300.320(a)(4) and 34 CFR §300.320(a)(7) require documentation of frequency, location and duration of the services required by the IEP. Consistent with 20 U.S.C. 1414(d)(1)(A)(i)(IV) and 34 CFR §300.320(a)(7), the IEP must include the specific amount of special education and related services, including location, frequency and duration of related services, that the LEA will provide to the child so the level of the agency's commitment of resources is clear.

Contact Information

For more information regarding this memo, please contact the Office of Special Education at (609) 376-9060 or send an email to OSEinfo@doe.nj.gov.

- c: Members, State Board of Education
- NJDOE Staff
- Statewide Parent Advocacy Network
- Garden State Coalition of Schools
- NJ LEE Group