

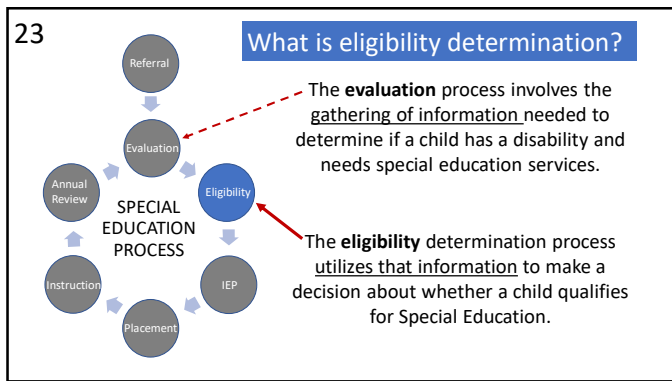


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Disclaimer

All materials have been prepared for general information purposes only. The information presented is not legal advice, is not to be acted on as such, may not be current and is subject to change without notice.

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The group that determines eligibility for special education must include:

- the student’s parents
- the student’s regular education teacher
 - or a teacher qualified to teach a student of his or her age and
- at least one person qualified to conduct diagnostic examinations
 - school psychologist
 - speech-language pathologist or
 - remedial reading teacher
- Others may also be included when appropriate, such as an occupational therapist or physical therapist

4

What happens at the meeting?

The initial IEP meeting to determine eligibility will generally include:

- Introductions of those attending
- A review of the results of your child’s evaluation
- A review of any material that you, as the parent, want to have included as part of the determination
- Discussion of the evaluation results
- Determination of eligibility and
- Determination of the educational needs of the student (if eligible)

5

23 The right to participate in meetings related to their child is one of the most important and powerful of parent rights

To protect this right, the district must:




- provide parents with prior written notice of the meeting
- do so early enough to ensure parents have the opportunity to participate
- schedule the meeting at a mutually agreed on time and place
- provide a translator if parent informs them of the need

34 C.F.R. Secs. 300.322 (a), 300.501 (b)

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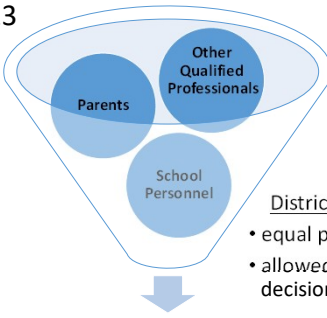
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The notice must indicate

-  The purpose, time, and place of the meeting
-  Who will be attending the meeting
-  That the district or parents may invite others to participate as *members* of the IEP team

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Who makes the eligibility determination?

Parents are a Vital Part of the IEP Team

District must ensure that parents are


- equal participants of the IEP team
- allowed to fully participate in making decisions

IEP Team

8

Parents were not always part of the eligibility determination process.

Since the IDEA Amendments of 1997, parents are to be part of the group that determines their child's eligibility.



9

24 To qualify for Special Education, a child must:



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24 Qualifying Areas of Impairment:

			Hearing Impairment
Autism	Deaf-Blindness	Emotional Disturbance	Deafness
Intellectual Disability	Multiple Disabilities	Orthopedic Impairment	Other Health Impairment
Specific Learning Disability	Language Or Speech Disorder	Traumatic Brain Injury	Visual Impairment

34 C.F.R. Sec. 300.8; 5 C.C.R. Sec. 3030

11

24 A student is not eligible for special education if their educational needs are due to:

- Lack of appropriate instruction in reading or math
- Unfamiliarity with the English language
- Temporary physical disabilities
- Social maladjustment
- Environmental, cultural, or economic factors

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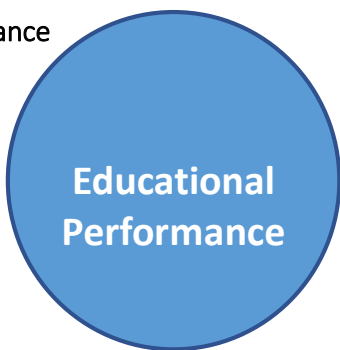
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24 Educational performance is a broad concept

IDEA distinguishes between "educational" and "academic"



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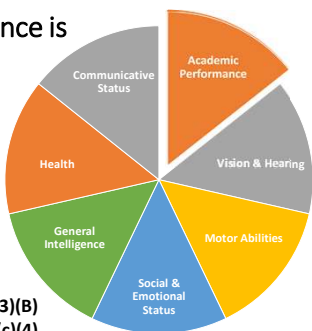
24 Educational performance is a broad concept

IDEA distinguishes between "educational" and "academic"

For example, children must be assessed by schools in all areas of suspected disability.

Academic performance is only one of the areas in which children must be assessed.

20 U.S.C. Sec. 1414(b)(3)(B)
34 C.F.R. Sec. 300.304(c)(4)



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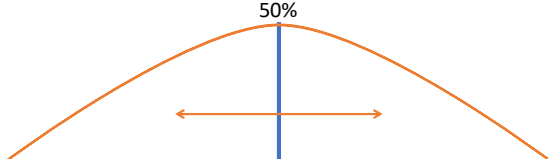
A basic overview
 Understanding
 Assessment Results



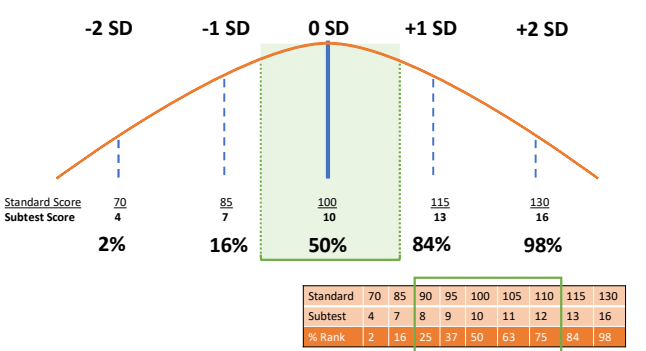
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Educational and psychological tests are designed to present normal bell curve distributions

- Raw Score: number of items correctly answered or performed
- Mean: average score
- Percentile rank: amount of **variation** of all scores from the mean

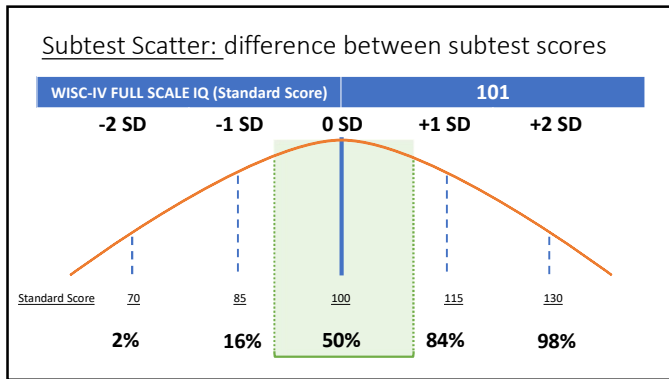


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Standard	70	85	100	115	130
Subtest	4	7	10	13	16
% Rank	2	16	50	84	98

18



19

Subtest Scatter: difference between subtest scores

WISC-IV FULL SCALE IQ		101					
Verbal Comprehension Index		Perceptual Reasoning Index		Working Memory Index		Processing Speed Index	
Similarities	16	Block Design	11	Digit Span	14	Coding	4
Vocabulary	14	Picture Concepts	7	Letter-Number Sequencing	10	Symbol Search	7
Comprehension	12	Matrix Reasoning	6	Arithmetic	8	Cancellation	8
Information	13	Picture Completion	8				
Word Reasoning	12						

Standard	70	85	90	95	100	105	110	115	130
Subtest	4	7	8	9	10	11	12	13	16
% Rank	2	16	25	37	50	63	75	84	98

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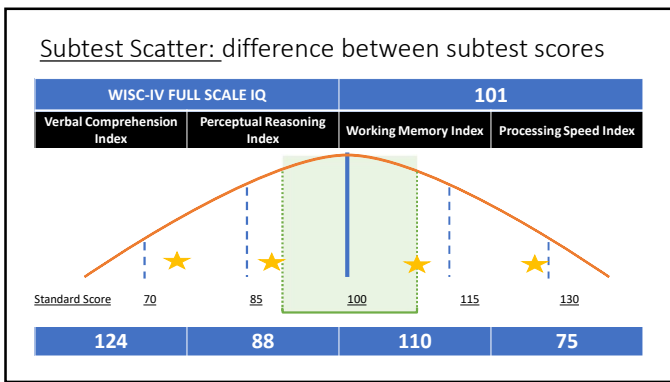
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Educational test results can be reported in different formats and compared in different ways

- Formats include:
 - Standard scores (SS) and standard deviations (SD)
 - Percentile ranks (PR)
- Comparisons include:
 - Age equivalent scores (AE)
 - Grade equivalent scores (GE)

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When apparent progress is actually regression:

- When an individual's average raw score increases it can indicate progress...but not always.
- The average performance of the age/grade improves.
- Did the student maintain or improve their % ranking?

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When a prong is not met

- Educational assistance may be available under another federal law, Section 504 of the Rehabilitation Act
- The student may be eligible under other disability categories, including **Specific Learning Disability**

Have a disability defined by IDEA

+

Need special education and related services because of the disability

=

Qualifies for Special Education

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Qualifying Areas of Impairment:

Autism	Deaf-Blindness	Emotional Disturbance	Hearing Impairment/Deafness
Intellectual Disability	Multi-Disab	Specific Learning Disability	Cognitive Impairment
Specific Learning Disability	Language Or Speech Disorder	Traumatic Brain Injury	Visual Impairment

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Specific Learning Disability
SLD

Dyslexia
Dysgraphia
Dyscalculia
Memory Problems

Auditory Processing Disorder
Language Processing Disorder
Executive Functioning Problems

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“Learning disabilities are neurologically-based processing problems. These processing problems can interfere with learning basic skills such as reading, writing or math. They can also interfere with higher level skills such as organization, time planning, abstract reasoning, long or short term memory and attention.”

Learning Disabilities Association of America,
<https://ldaamerica.org/types-of-learning-disabilities/>

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SLD Defined

A student must have a disorder in one or more of the basic psychological processes involved in understanding or using spoken or written language

- attention
- visual processing
- auditory processing
- sensory-motor skills
- cognitive abilities

32

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SLD Defined

A student must have a disorder in one or more of the basic psychological processes involved in understanding or using spoken or written language

- attention
- visual processing
- auditory processing
- sensory-motor skills
- cognitive abilities

that may manifest itself in an imperfect ability to

- ✓listen
- ✓speak
- ✓write
- ✓do math calculations
- ✓think
- ✓read
- ✓spell

33

SLDs do not include learning problems that are the result of:

- visual, hearing, or motor disabilities
- intellectual disability
- emotional disturbance
- environmental, cultural, or economic disadvantage

5 C.C.R. sec. 3030 (b) (10)

34

Methods to determine if a child has a SLD

- Severe Discrepancy
- Incommensurate Achievement
- Response to Scientific, Research-Based Intervention
- Patterns of Strengths and Weaknesses

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Severe Discrepancy

- oral expression
- listening comprehension
- written expression
- basic reading skill
- reading comprehension
- mathematical calculation
- mathematical reasoning

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Severe Discrepancy

Proper Assessment for Severe Discrepancy

The determination whether a severe discrepancy exists must take into account all relevant material available on the child.

- No single score or product of scores, test or procedure shall be used as the sole criterion.
- Prescribed procedures must be followed regarding standardized tests.

5 C.C.R. Sec. 3030 (b)(10)(B)

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26

Incommensurate Achievement

A child may be deemed to have a SLD if he does not achieve commensurate with his age in one or more of the following:

- Oral expression
- Listening comprehension
- Written expression
- Basic reading skill
- Reading fluency skills
- Reading comprehension
- Mathematics calculation
- Mathematics problem solving

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Response to Scientific, Research-Based Intervention

Before its 2004 Amendment, IDEA **required** a student show a "severe discrepancy" to be identified as having a SLD.

- However, this can mean a student has to fail for long periods of time before being found eligible.

Districts can take another approach by monitoring how a student responds to scientific, research-based intervention

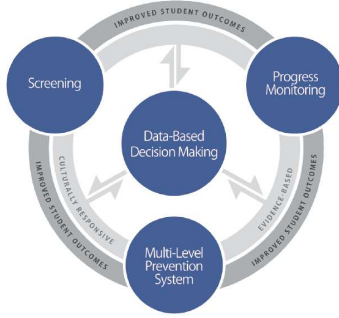
- This is often called "Response to Intervention" or **RTI**

5 C.C.R. Sec. 3030 (b)(10)

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Essential Components of an RTI framework



Source: National Center on Response to Intervention, 2010

40

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Screening

Conducted to identify or predict students who may be at risk for poor learning outcomes.

- Universal screening assessments are often used to accomplish this by reviewing a student's recent performance on state or district tests.
- In screening, attention should focus on fidelity of implementation and selection of evidence-based tools, with consideration for cultural and linguistic responsiveness and recognition of student strengths.

National Center on Response to Intervention

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Progress monitoring

- Assess students' academic performance
- Quantify a student rate of improvement or responsiveness to instruction
- Evaluate the effectiveness of instruction.

Attention should focus on

- Fidelity of implementation and
- selection of evidence-based tools
- With consideration for cultural and linguistic responsiveness and recognition of student strengths

National Center on Response to Intervention

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Multi-level prevention system

Provides access to increasingly intense levels of instruction and interventions. This may include:

- **Tier 1:** Group Intervention while remaining in classroom
- **Tier 2:** Targeted Interventions in small group setting
- **Tier 3:** Individualized intervention targeting skill deficits

At all levels, attention should be on fidelity of implementation, with consideration for cultural and linguistic responsiveness and recognition of student strengths.

National Center on Response to Intervention

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Data-based Decision Making

Data analysis and decision making occur at **all** levels of RTI implementation and all levels of instruction.

Source: National Center on Response to Intervention, 2010

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Patterns of Strengths and Weaknesses

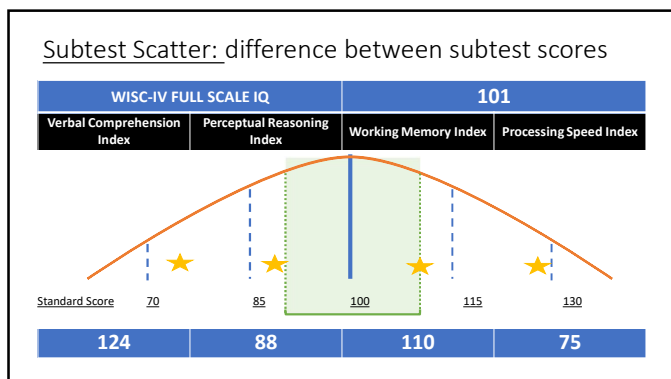
A student may be determined to have a SLD if they exhibit a pattern of strengths and weaknesses in:

- performance or
- achievement

Relative to:

- age
- state approved grade level standards or
- intellectual development

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26 Proper Assessment for SLD

The team should ensure that any underachievement is not due to

- (1) lack of appropriate instruction in reading or math or
- (2) learning problems that are the result of:
 - visual, hearing, or motor disabilities
 - intellectual disability
 - emotional disturbance
 - environmental, cultural, or economic disadvantage

The district must also ensure that the student is observed in their learning environment.

5 C.C.R. Sec. 3030 (b)(10)(C)

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The team must document all of its eligibility findings in writing

The written eligibility determination report must include detailed information about the findings and conclusions reached by the team.

- **Each member** of the team must certify in writing whether the written report reflects his or her conclusion.
- If it does not, that member must submit a separate statement presenting his or her conclusions.

Parents should be given this documentation, regardless of whether their child is found eligible or not.

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Parents Should be Informed Members of the IEP Team

Remember, you are an equal member of the IEP team. You need to be armed with information *before* you go to the eligibility determination meeting.

“The [district] shall comply with a request for school records without unnecessary delay before any meeting regarding an individualized education program...”

California law requires that parents receive copies of all school records within five business days from the date the request is made.

20 U.S.C. Sec. 1415(b)(1); 34 C.F.R. Sec. 300.501;
Cal Ed Code Sec. 56504

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OSEP Guidance Letter: Assessment Reports

“Under 34 C.F.R. §300.306(a), a copy of the evaluation report must be provided at no cost to the parents. However, neither IDEA nor its implementing regulations establish a timeline for providing a copy of the evaluation report or the documentation of determination of eligibility to parents. Likewise, IDEA does not prescribe a timeline for sharing the results of assessments conducted as part of the child’s evaluation or reevaluation. Whether parents receive all evaluation reports prior to the IEP Team meeting is a decision that is left to State and local officials to make. 71 Fed. Reg. 46645.”

“It is important to ensure that parents have the information they need to participate meaningfully in IEP Team meetings, which may include reviewing their child’s records. The public agency must comply with a parent’s request to inspect and review existing educational records, including an evaluation report, without unnecessary delay and before any meeting regarding an IEP, and in no case more than 45 days after the request has been made. This includes the right to a response from the public agency to reasonable requests for explanations and interpretations of the records. 34 C.F.R. § 300.613.”

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Guidance from the Commentary to the IDEA 2004 Regulations

- When the Education Department published the IDEA 2004 special education regulations, they included an *Analysis of Comments and Changes* (“**Commentary**”).
- The Commentary was published in the Federal Register, Volume 71, pages 46540-46845.
- You can download the Commentary about IEPs from https://www.wrightslaw.com/idea/comment/46661-46688_reg_320-328_ieps.pdf
- The Commentary does not have the effect of binding law, but it is considered *influential*.

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Commentary: Draft IEPs (FR 46678)

"With respect to a draft IEP, we encourage public agency staff to come to an IEP Team meeting prepared to discuss evaluation findings and preliminary recommendations. Likewise, parents have the right to bring questions, concerns, and preliminary recommendations to the IEP Team meeting as part of a full discussion of the child's needs and the services to be provided to meet those needs."

"We do not encourage public agencies to prepare a draft IEP prior to the IEP Team meeting, particularly if doing so would inhibit a full discussion of the child's needs. However, if a public agency develops a draft IEP prior to the IEP Team meeting, the agency should make it clear to the parents at the outset of the meeting that the services proposed by the agency are preliminary recommendations for review and discussion with the parents."

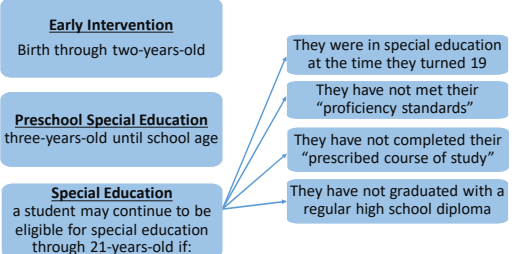
"The public agency also should provide the parents with a copy of its draft proposals, if the agency has developed them, prior to the IEP Team meeting so as to give the parents an opportunity to review the recommendations of the public agency prior to the IEP Team meeting, and be better able to engage in a full discussion of the proposals for the IEP."

"It is not permissible for an agency to have the final IEP completed before an IEP Team meeting begins."

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Age Requirements

34 C.F.R. Sec. 300.102
Cal. Ed. Code Sec. 56026(c)(4) & 56026.1



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Eligibility: A Gateway to Services

Once eligibility for special education is determined, services available should be based on the student's disability label.

- Schools cannot use disability labels to affect students in other ways.
- The services provided should be based on the child's unique needs, not on the disability label.

LABELS DON'T DRIVE PLACEMENT OR SERVICES

34 C.F.R. Secs. 300.39 & 300.320(a)(2)(i)(A);
Cal. Ed. Code Secs. 56031 & 56345(a)(2)(A)

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