



WISCONSIN LEGISLATIVE COUNCIL LEGAL MEMORANDUM

New Rules on Special Education Eligibility Criteria

INTRODUCTION

This memorandum provides information about the new eligibility criteria for children with disabilities under the special education laws. The criteria are set forth in administrative rules promulgated by the Department of Public Instruction (DPI) in ch. PI 11, Wis. Adm. Code (as amended by Clearinghouse Rule 98-138). The new criteria goes into effect on July 1, 2001, and will apply to evaluations conducted by individualized education program (IEP) teams on or after that date to determine whether a child is or continues to be a “child with a disability” under the special education laws.

After providing general background information, the memorandum provides a chart for each condition that is included in the definition of “child with a disability.” Each chart compares: (1) federal provisions relating to the eligibility criteria for that condition; (2) eligibility criteria for that condition under state rules before July 1, 2001; and (3) eligibility criteria for that condition under state rules effective July 1, 2001.

FEDERAL LAW

The federal Individuals with Disabilities Education Act (IDEA) provides funding to states that comply with various requirements relating to offering a free appropriate public education to a “child with a disability.” Under IDEA, a “child with a disability” means a child

with at least one of the following conditions who, by reason of the condition, needs special education and related services: (1) mental retardation; (2) hearing impairments (including deafness); (3) speech or language impairments; (4) visual impairments (including blindness); (5) serious emotional disturbance; (6) orthopedic impairments; (7) autism; (8) traumatic brain injury; (9) other health impairments; or (10) specific learning disabilities. [20 U.S.C. s. 1401 (3) (A).] Federal regulations implementing IDEA define these various conditions. [34 C.F.R. s. 300.7 (c).]

In addition, IDEA provides that for a child three to nine years of age, “child with a disability” may, at the discretion of the state and the local educational agency, 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 of these delays, needs special education and related services. [20 U.S.C. s. 1401 (3) (B).]

WISCONSIN LAW

CONDITIONS

Wisconsin statutes provide that a local educational agency must make available a free appropriate public education to a child with a

disability as required by applicable state and federal law. Current statutes provide that a “child with a disability” means a child who, by reason of any of the following, needs special education and related services: (1) cognitive disabilities; (2) hearing impairments; (3) speech or language impairments; (4) visual impairments; (5) emotional disturbance; (6) orthopedic impairments; (7) autism; (8) traumatic brain injury; (9) other health impairments; or (10) learning disabilities. [s. 115.76 (5) (a) 1. to 10., Stats.] (Several of the terms used in the Wisconsin statutes vary slightly from the terms used in IDEA.) Administrative rules define these conditions.

In addition, “child with a disability” may, at the discretion of the local educational agency and consistent with DPI rules, include a child who, by reason of his or her significant developmental delay, needs special education and related services. [s. 115.76 (5) (b), Stats.] The administrative rules also define significant developmental delay.

As shown in the attached charts, many of the eligibility criteria for these conditions will change effective July 1, 2001. In addition, the new rules specify that all the provisions in the rules must be construed consistent with IDEA and the federal regulations promulgated under IDEA. [s. PI 11.36 (intro.), Wis. Adm. Code.]

DETERMINATION OF NEED FOR SPECIAL EDUCATION AND RELATED SERVICES

Under both federal and state law, a determination that a child has one of the requisite conditions is not sufficient to define a child as a “child with a disability.” There also must be a determination that the child, by reason of the condition, *needs* special education and related services. [20 U.S.C. s. 1401 (3) (A) (ii); 34 C.F.R. s. 300.7 (a) (1); and s. 115.76 (5) (a) (intro.), Stats.] A child’s IEP team conducts an evaluation to make these determinations and also conducts periodic re-evaluations to

determine whether the criteria continue to be met. [s. 115.782, Stats.]

Effective July 1, 2001, the state rules specify that, as part of an evaluation or re-evaluation, an IEP team must identify all of the following:

1. The child’s needs that cannot be met through the regular education program as structured at the time the evaluation is conducted.
2. Modifications, if any, that can be made in the regular education program, such as adaptation of content, methodology or delivery of instruction to meet the child’s identified needs, that will allow the child to access the general education curriculum and meet the educational standards that apply to all children.
3. Additions or modifications, if any, that the child needs which are not provided through the general education curriculum, including replacement content, expanded core curriculum or other supports. [s. PI 11.35 (3) (a) to (c), Wis. Adm. Code.]

COMPARISON CHARTS

The attached charts compare: (1) federal regulations; (2) state rules prior to July 1, 2001; and (3) state rules effective July 1, 2001 for the following:

- Cognitive disability--Attachment 1
- Hearing impairment--Attachment 2
- Speech or language impairment--Attachment 3
- Visual impairment--Attachment 4
- Emotional disturbance--Attachment 5
- Orthopedic impairment--Attachment 6

- Autism--Attachment 7
- Traumatic brain injury--Attachment 8
- Other health impairment--Attachment 9
- Learning disability--Attachment 10
- Significant developmental delay--Attachment 11

DPI STUDY AND REPORT TO THE LEGISLATURE

The rules require DPI to conduct a study of the effect of the new eligibility criteria and report to the appropriate standing committees of the Legislature on the results of that study. [s. PI 11.37, Wis. Adm. Code.] A *preliminary report* must be submitted by June 30, 2003, and must include all of the following:

1. A comparison of the incidence rates of children identified as children with a disability before and after implementation of the new rules.
2. If incidence rates have changed, an analysis of the relationship between referral rates and incidence rates before and after implementation of the new rules.
3. If incidence rates have increased, an analysis of the factors in the new rules, and any other factors, which may have increased incidence rates.
4. If incidence rates have increased, an analysis of the relationship between: (a) IEP team determinations that a child is a child with a disability; and (b) IEP team determinations

that a child needs special education services and programming.

5. A comparison of the number of review hearings, appeals, complaints filed with DPI, mediation requests, and lawsuits filed before and after implementation of the new rules. If the numbers have increased, the report must provide an analysis of the factors in the new rules, and any other factors, that may have caused the increase.
6. An analysis of whether implementation of the new rules has increased either paperwork requirements by school district special education staff or special education monitoring activities by DPI staff. If there has been an increase, the report must provide an analysis of the factors in the new rules, and any other factors, that may have caused the increase.

The *final report* must be submitted by June 20, 2005. It must include all of the above items and also must include an analysis of pupil performance and an analysis of factors relating to pupil performance for all children and for children with a disability, including a comparison of school districts with the highest and lowest rates of identifying pupils as children with a disability.

This Legal Memorandum was prepared on May 10, 2001, by *Joyce L. Kiel, Senior Staff Attorney*.

Attachments

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COGNITIVE DISABILITY

<p>FEDERAL REGULATIONS [34 C.F.R. s. 300.7 (c) (6)]</p>
<p>1. <u>Definition.</u> “Mental retardation” means “significantly subaverage general intellectual functions, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child’s educational performance.”</p>
<p>2. No explicit reference to “cognitive disability.”</p>

<p>STATE RULES PRIOR TO JULY 1, 2001 [Former s. PI 11.35 (2) (a) and (ad)]</p>	<p>STATE RULES EFFECTIVE JULY 1, 2001 [s. PI 11.36 (1)]</p>
<p>1. <u>Definition.</u> “Cognitive disability” refers to significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior manifested during the developmental period.</p>	<p>1. <u>Definition.</u> “Cognitive disability” means significantly subaverage intellectual functioning that exists concurrently with deficits in adaptive behavior and that adversely affects educational performance.</p>
<p>2. <u>Major considerations.</u> Major considerations for determination of cognitive disability are the following:</p> <p>a. <u>Measured intelligence.</u></p> <p>(1) Mild -2 to -3 S.D.*; moderate -3 to -4 S.D.; severe -4 to -5 S.D.; profound -6 S.D. (presumably refers to score on individual intelligence test)</p> <p>(2) -1 and -2 S.D. on individual intelligence tests may be determined to be mentally retarded on a selective basis if the child exhibits pervasive depressed mental development similar in nature to children testing below -2 S.D. and if the child: (a) has concomitant lags in cognitive, adaptive and achievement abilities; (b) has exhibited cognitive disability as documented from developmental and school history; and (c) is expected to have the condition indefinitely.</p>	<p>2. <u>Criteria.</u> Cognitive disability identification if a child meets <i>all</i> of the following criteria:</p> <p>a. <u>Measured intelligence.</u></p> <p>(1) -2 or more S.D. on at least one individually administered intelligence test; or</p> <p>(2) -1 to -2 S.D. on at least one individually administered intelligence test, documented cognitive disability in the past, and the condition is expected to last indefinitely.</p>

* Standard deviation (S.D.) is an average of how distant the individual’s scores in a distribution are from the mean, that is, from the average score.

STATE RULES PRIOR TO JULY 1, 2001 [Former s. PI 11.35 (2) (a) and (ad)]	STATE RULES EFFECTIVE JULY 1, 2001 [s. PI 11.36 (1)]
<p>b. <u>Adaptive functioning.</u></p> <p>A child is determined to be in the lower 2% of the child's age group on formal/informal criteria, scales and data in the child's ability to interact with others, manipulate objects and tools, move about the environment and otherwise meet the demands and expectancies of the general society and environment. In addition, the child's adaptive abilities are in the lower 2% of his or her peer and age group on the reference criterion particular to his or her specific socio-cultural community.</p> <p>c. <u>Academic functioning.</u></p> <p><u>Age 3-5</u> 1.5 years behind on normative language, perception and motor development criterion.</p> <p><u>Age 6-9</u> 2 years or more below normal grade achievement expectancies in language, motor and basic skill subjects, e.g., reading and mathematics.</p> <p><u>Age 10-14</u> 3.5 years or more below normal grade achievement expectancies in language, motor and basic skill subjects, e.g., reading and mathematics.</p> <p><u>Age 15-20</u> 5th grade or below achievement in language, motor and basic skill subjects, e.g., reading and mathematics.</p>	<p>b. <u>Adaptive behavior.</u></p> <p>-2 or more S.D. on standardized or nationally-normed measures, as measured by comprehensive, individual assessments (that include interviews of the parents, tests and observations of the child) in adaptive behavior which are relevant to the child's age, such as: (1) communication; (2) self-care; (3) home living skills; (4) social skills; (5) appropriate use of resources in the community; (6) self-direction; (7) health and safety; (8) applying academic skills in life; (9) leisure; and (10) work.</p> <p>c. <u>Academics.</u></p> <p><u>Age 3-5</u> -2 or more S.D. on standardized or nationally-normed measures, as measured by comprehensive, individual assessments, in at least two of the following areas: (1) academic readiness; (2) comprehension of language or communication; or (3) motor skills.</p> <p><u>Age 6-21</u> -2 or more S.D. on standardized or nationally-normed measures, as measured by comprehensive, individual assessments, in general information and at least two of the following areas: (1) written language; (2) reading; or (3) mathematics.</p>
<p>3. <u>Other Provisions.</u> a. In determining cognitive disability, evaluators must identify children who are mentally retarded in conjunction with depressing socio-cultural influences.</p> <p>b. A child with suspected developmental disabilities other than cognitive disability must be referred to an M-team for determination of other handicapping conditions and exceptional education needs (EEN).</p>	

HEARING IMPAIRMENT

<p>FEDERAL REGULATIONS [34 C.F.R. s. 300.7 (c) (3) and (5)]</p>
<p>1. <u>Definitions.</u> a. “Deafness” means “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.”</p> <p>b. “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.”</p> <p>c. “Deaf-blindness” is defined as noted in Attachment 4. (Prior and new state rules do not refer to “deaf-blindness.”)</p>

<p>STATE RULES PRIOR TO JULY 1, 2001 [Former s. PI 11.35 (2) (d)]</p>	<p>STATE RULES EFFECTIVE JULY 1, 2001 [s. PI 11.36 (4)]</p>
<p>1. <u>Definitions.</u> a. “Hard of hearing child” means a child who, with a hearing aid, can develop a language system adequate to successful achievement and social growth. Audiological assessment should indicate at least a 30 db loss in the better ear in the speech range. Difficulty in understanding conversational speech as it takes place in a group necessitates special considerations.</p> <p>b. “Severely handicapped hearing child” means a child who, with or without a hearing aid, is unable to interpret adequately aural/oral communication. Audiological assessment indicates a minimum loss of 70 db in the better ear. Inability to discriminate all consonants and other difficulties appear as the loss becomes greater.</p>	<p>1. <u>Definition.</u> “Hearing impairment, including deafness,” means a significant impairment in hearing, with or without amplification, whether permanent or chronically fluctuating, that significantly adversely affects a child’s educational performance, including academic performance, speech perception and production, or language and communication skills.</p>
<p>2. <u>Other Provisions.</u> The loss in hearing acuity affects the normal development of language and is a medically irreversible condition for which all medical interventions have been attempted. The hearing loss affects a child in varying degrees, depending on the time the loss was sustained.</p> <p>Characteristics of hearing impairment may not be readily apparent. Children react differently to similar losses and, therefore, an audiogram must not be the sole criterion of significant EEN. Neither is the use or non-use of a hearing aid totally significant. Additional factors include inadequate, hesitant or no verbal communication, speech abnormality and, at times, aggressiveness due to misunderstanding. It is suggested that a continuing dialogue be maintained with the certified clinical audiologist in anticipation of a program recommendation.</p>	
<p>3. <u>Evaluation.</u> Auditory handicap is determined by medical (otologic) and audiologic evaluations. Examination must be done by a physician specializing in diseases of the ear and evaluation by a certified clinical audiologist.</p>	<p>2. <u>Evaluation.</u> A current evaluation by a licensed audiologist must be one of the components in an initial evaluation of a child with a suspected hearing impairment.</p>

SPEECH OR LANGUAGE IMPAIRMENT

<p>FEDERAL REGULATIONS [34 C.F.R. s. 300.7 (c) (11)]</p>
<p>Definition. “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.”</p>

<p>STATE RULES PRIOR TO JULY 1, 2001 [Former s. PI 11.35 (2) (e)]</p>	<p>STATE RULES EFFECTIVE JULY 1, 2001 [s. PI 11.36 (5)]</p>
<p>1. Characteristics. Speech and language handicaps are “characterized by a delay or deviance in the acquisition of prelinguistic skills, or receptive skills or expressive skills or both of oral communication.”</p>	<p>1. Definition. “Speech or language impairment” means an impairment of speech or sound production, voice, fluency, or language that significantly affects educational performance or social, emotional or vocational development.</p> <p>2. Criteria. The IEP team may identify a child as having a speech or language impairment if the child meets the definition under item 1., above, and meets any of the following five criteria:</p> <p>a. The child’s conversational intelligibility is significantly affected and the child displays at least one of the following:</p> <ul style="list-style-type: none"> (1) Performs on a norm-referenced test of articulation or phonology at least -1.75 S.D. for the child’s chronological age. (2) Demonstrates consistent errors in speech sound production beyond the time when 90% of typically developing children have acquired the sound. <p>b. One or more of the child’s phonological patterns of sound are at least 40% disordered or the child scores in the moderate to profound range of phonological process use in formal testing and the child’s conversational intelligibility is significantly affected.</p> <p>c. The child’s voice is impaired in the absence of an acute, respiratory virus or infection, and the voice impairment is not due to temporary physical factors such as allergies, short term vocal abuse or puberty. The child exhibits atypical loudness, pitch, quality or resonance for the child’s age and gender.</p> <p>d. The child exhibits behaviors characteristic of a fluency disorder.</p>

STATE RULES PRIOR TO JULY 1, 2001 [Former s. PI 11.35 (2) (e)]	STATE RULES EFFECTIVE JULY 1, 2001 [s. PI 11.36 (5)]
	<p>e. The child's oral communication or, for a child who cannot communicate orally, his or her primary mode of communication, is inadequate, as documented by <i>all</i> of the following:</p> <ul style="list-style-type: none">(1) Performance on norm-referenced measures that is at least -1.75 S.D. for chronological age.(2) Performance in activities is impaired as documented by informal assessment such as language sampling, observations in structured and unstructured settings, interviews or checklists.(3) The child's receptive or expressive language interferes with oral communication or his or her primary mode of communication. When technically adequate norm-referenced language measures are not appropriate as determined by the IEP team to provide evidence of a deficit of -1.75 S.D. in the area of oral communication, then two measurement procedures must be used to document a significant difference from what would be expected given consideration to chronological age, developmental level and method of communication such as oral, manual and augmentative. These procedures may include additional language samples, criterion reference instruments, observations in natural environments and parent reports.
<p>2. <u>Not included.</u> Documentation of a physical disability resulting in a voice problem, e.g., nodules or cleft palate, or an expressive motor problem, e.g., cerebral palsy or dysarthria, does not require a determination of speech and language handicap. The following are not included as a speech and language handicap:</p> <ul style="list-style-type: none">a. Speech and language problems resulting from differences in paucity of or isolation from appropriate models.b. Elective or selective mutism or school phobia, except in cooperation with programming for the emotionally disturbed.	<p>3. <u>Not included.</u> The IEP team may not identify a child who exhibits any of the following as having a speech or language impairment:</p> <ul style="list-style-type: none">a. Mild, transitory or developmentally appropriate speech or language difficulties that children experience at various times and to various degrees.b. Speech or language performance that is consistent with developmental levels as documented by formal and informal assessment data unless the child requires speech or language services in order to benefit from his or her educational programs in school, home and community environments.c. Speech or language difficulties resulting from dialectical differences or from learning English as a second language, unless the child has a language impairment in his or her native language.d. Difficulties with auditory processing without a concomitant documented oral speech or language impairment.e. A tongue thrust which exists in the absence of a concomitant impairment in speech sound production.

STATE RULES PRIOR TO JULY 1, 2001 [Former s. PI 11.35 (2) (e)]	STATE RULES EFFECTIVE JULY 1, 2001 [s. PI 11.36 (5)]
	<p>f. Elective or selective mutism or school phobia without a documented oral speech or language impairment.</p> <hr/> <p>4. <u>Factors to Consider.</u> The IEP team must substantiate a speech or language impairment by considering all of the following:</p> <ul style="list-style-type: none">a. Formal measures using normative data or informal measures using criterion referenced data.b. Some form of speech or language measures, such as developmental checklists, intelligibility ratio, language sample analysis and minimal core competency.c. Information about the child's oral communication in natural environments.d. Information about the child's augmentative or assistive communication needs. <hr/> <p>5. <u>IEP Team Membership.</u> An IEP team must include a DPI-licensed speech or language pathologist and information from the most recent assessment to document a speech or language impairment and the need for speech or language services.</p>

VISUAL IMPAIRMENT

<p>FEDERAL REGULATIONS [34 C.F.R. s. 300.7 (c) (2) and (13)]</p>
<p>1. <u>Definitions.</u> a. “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.”</p> <p>b. “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.” (Prior and new state rules do not refer to “deaf-blindness.”)</p>

<p>STATE RULES PRIOR TO JULY 1, 2001 [Former s. PI 11.35 (2) (c)]</p>	<p>STATE RULES EFFECTIVE JULY 1, 2001 [s. PI 11.36 (3)]</p>
<p>1. <u>Definitions.</u> a. “Moderately visually handicapped” means distance visual measurements of 20/70 and 20/200 in the better eye after correction. Near vision measurements of 14/56, e.g., Jaeger 10, or near vision equivalents.</p> <p>b. “Severely visually handicapped” means distance visual measurements of 20/200 to 20/400 in the better eye after correction. Near vision measurements of 14/140, e.g., Jaeger 17, or near vision equivalents.</p> <p>c. “Profoundly visually handicapped” means:</p> <ul style="list-style-type: none"> (1) Distance visual measurements are 20/500 or less in the better eye after correction. (2) HM - the ability to perceive hand movement. (3) PLL - perceives and localizes light in one or more quadrants. <p>d. “Totally blind” means:</p> <ul style="list-style-type: none"> (1) LP - perceives but does not localize light. (2) No LP - no light perception. 	<p>1. <u>Definitions.</u> “Visual impairment” means that, even after correction, a child’s visual functioning significantly adversely affects his or her educational performance.</p> <p>2. <u>Criteria.</u> An IEP team may identify a child as having a visual impairment after all of the following events occur:</p> <ul style="list-style-type: none"> a. A certified teacher of the visually impaired conducts a functional vision evaluation which includes a review of medical information, formal and informal tests of visual functioning and the determination of the implications of the visual impairment on the educational and curricular needs of the child. b. An ophthalmologist or optometrist finds at least one of the following: <ul style="list-style-type: none"> (1) Central visual acuity of 20/70 or less in the better eye after conventional correction. (2) Reduced visual field to 50 degrees or less in the better eye. (3) Other ocular pathologies that are permanent and irremediable. (4) Cortical visual impairment.

STATE RULES PRIOR TO JULY 1, 2001 [Former s. PI 11.35 (2) (c)]	STATE RULES EFFECTIVE JULY 1, 2001 [s. PI 11.36 (3)]
<p>e. "Peripheral field and central vision loss" means peripheral field so contracted that the widest diameter of such fields subtends an angular distance no greater than 50 feet.</p> <p>f. "Ocular motility" means loss of vision efficiency in either eye, due to double or binocular vision.</p> <p>g. "Lack of binocular vision" means the inability to use the two eyes simultaneously to focus on the same object and to fuse the two images into a single image.</p> <p>h. "Lack of accommodation" means the inability of the eye to hold a steady fixation for seeing at various distances, especially near.</p> <p>i. Diagnosed physical disabilities or handicapping conditions which may result in a visual handicap or affect visual functioning in the future are also included as a visual handicap.</p>	<p>(5) A degenerative condition that is likely to result in a significant loss of vision in the future.</p> <p>c. An orientation and mobility specialist, or teacher of the visually impaired in conjunction with an orientation and mobility specialist, evaluates the child to determine if there are related mobility needs in home, school or community environments.</p>
<p>2. <u>Examination.</u> Visual handicap is determined by functional visual efficiency including visual fields, ocular motility, binocular vision and accommodation. A visual handicap is determined by medical examination, e.g., by an ophthalmologist or optometrist.</p>	

EMOTIONAL DISTURBANCE

<p>FEDERAL REGULATIONS [34 C.F.R. s. 300.7 (c) (4)]</p>
<p>1. <u>Definition.</u> a. “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: (1) an ability to learn that cannot be explained by intellectual, sensory or health factors; (2) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; (3) inappropriate types of behavior or feelings under normal circumstances; (4) a general pervasive mood of unhappiness or depression; and (5) a tendency to develop physical symptoms or fears associated with personal or school problems.”</p> <p>b. Schizophrenia is included in the definition.</p>
<p>2. <u>Not included.</u> Emotional disturbance does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.</p>

<p>STATE RULES PRIOR TO JULY 1, 2001 [Former s. PI 11.35 (2) (g)]</p>	<p>STATE RULES EFFECTIVE JULY 1, 2001 [s. PI 11.36 (7)]</p>
<p>1. <u>Characteristics.</u> a. Emotional disturbance is characterized by emotional, social and behavioral functioning that significantly interferes with the child's total educational program and development, including the acquisition or production, or both, of appropriate academic skills, social interactions, interpersonal relationships or intrapersonal adjustment. The condition denotes intraindividual and interindividual conflict or variant or deviant behavior or any combination of these, exhibited in the social systems of school, home and community and these may be recognized by the child or significant others.</p> <p>b. Behaviors must be characterized as severe, chronic or frequent.</p> <p>c. Behaviors must be manifested in two or more of the child's social systems, e.g., school, home or community.</p>	<p>1. <u>Definition.</u> “Emotional behavioral disability” means social, emotional or behavioral functioning that so departs from generally accepted, age appropriate ethnic or cultural norms that it adversely affects a child’s academic progress, social relationships, personal adjustment, classroom adjustment, self-care or vocational skills.</p>
<p>2. <u>Indicators.</u> The following behaviors, among others, may be indicative of emotional disturbance:</p>	<p>2. <u>Criteria.</u> Emotional behavioral disability identification if a child meets the definition above and meets all of the following:</p> <p>a. The child demonstrates severe, chronic and frequent behavior that is not the result of situational anxiety, stress or conflict.</p> <p>b. The child’s behavior described in item 1., above, occurs in school and in at least one other setting.</p> <p>c. The child displays any of the following:</p>

<p align="center">STATE RULES PRIOR TO JULY 1, 2001 [Former s. PI 11.35 (2) (g)]</p>	<p align="center">STATE RULES EFFECTIVE JULY 1, 2001 [s. PI 11.36 (7)]</p>
<p>a. An inability to develop or maintain satisfactory interpersonal relationships.</p> <p>b. Inappropriate affective or behavioral response to what is considered a normal situational condition.</p> <p>c. A general pervasive mood of unhappiness, depression or state of anxiety.</p> <p>d. A tendency to develop physical symptoms, pains or fears associated with personal or school problems.</p> <p>e. An inability to learn that cannot be explained by intellectual, sensory or health factors.</p> <p>f. Extreme withdrawal from social interaction or aggressiveness over an extended period of time.</p> <p>g. Inappropriate behaviors of such severity or chronicity that the child's functioning significantly varies from children of similar age, ability, educational experiences and opportunities, and adversely affects the child or others in regular or special education programs.</p> <p>h. A profound disorder in communication or socially responsive behavior, e.g., autistic-like.</p>	<p>(1) Inability to develop or maintain satisfactory interpersonal relationships.</p> <p>(2) Inappropriate affective or behavior response to a normal situation.</p> <p>(3) Pervasive unhappiness, depression or anxiety.</p> <p>(4) Physical symptoms, pains or fears associated with personal or school problems.</p> <p>(5) Inability to learn that cannot be explained by intellectual, sensory or health factors.</p> <p>(6) Extreme withdrawal from social interactions.</p> <p>(7) Extreme aggressiveness for a long period of time.</p> <p>(8) Other inappropriate behaviors that are so different from children of similar age, ability, educational experiences and opportunities that the child or other children in a regular or special education program are negatively affected.</p>
<p>3. <u>Other.</u> a. Manifestations of the child's problems are likely to influence family interactions, relationships and functioning or have an influence on specific individual members of the family.</p> <p>b. Emotional disturbance may be the result of interaction with a variety of other handicapping conditions such as learning, physical or cognitive disabilities or severe communication problems, including speech or language.</p>	<p>3. <u>Other.</u> The IEP team may not identify or refuse to identify a child as a child with an emotional behavioral disability solely on the basis that the child has another disability, or is socially maladjusted, adjudged delinquent, a dropout, chemically dependent, or a child whose behavior is primarily due to cultural deprivation, familial instability, suspected child abuse or socio-economic circumstances, or when medical or psychiatric diagnostic statements have been used to describe the child's behavior.</p>
<p>4. <u>Study by M-Team.</u> a. Classification must be determined through a current, comprehensive study of a child by an M-team.</p> <p>b. An M-team referral for suspected emotional disturbance may be indicated when certain medical or psychiatric diagnostic statements have been used to describe a child's behavior. Such diagnoses may include, but are not limited to autism, schizophrenia, psychoses, psychosomatic disorders, school phobia, suicidal behavior, elective mutism or neurotic states of behavior</p>	<p>4. <u>IEP Team.</u> The IEP team must rely on a variety of sources of information, including systematic observations of the child in a variety of educational settings and shall have reviewed prior, documented interventions. If the IEP team knows the cause of the emotional behavioral disability, the cause may be, but is not required to be, included in the IEP team's written evaluation summary.</p>

STATE RULES PRIOR TO JULY 1, 2001 [Former s. PI 11.35 (2) (g)]	STATE RULES EFFECTIVE JULY 1, 2001 [s. PI 11.36 (7)]
<p>c. Students may be considered for a potential M-team evaluation when there is a suspected emotional disturbance, if they are also socially maladjusted, adjudged delinquent, dropouts, drug abusers or students whose behavior or emotional problems are primarily associated with factors including cultural deprivation, educational retardation, family mobility or socio-economic circumstances, or suspected child abuse.</p> <p>d. It is strongly recommended that extensive family involvement or assistance be considered in the evaluation and programming of the child.</p>	

ORTHOPEDIC IMPAIRMENT**FEDERAL REGULATIONS**

[34 C.F.R. s. 300.7 (c) (8)]

Definition. “Orthopedic impairment” means “severe orthopedic impairment that adversely affects a child’s educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).”

STATE RULES PRIOR TO JULY 1, 2001

[Former s. PI 11.35 (2) (b)]

Same as federal regulations.

STATE RULES EFFECTIVE JULY 1, 2001

[s. PI 11.36 (2)]

Same as federal regulations and prior state rules.

AUTISM

FEDERAL REGULATIONS [34 C.F.R. s. 300.7 (c) (1)]
1. <u>Definition.</u> “Autism” means “a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3, 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.”
2. <u>Child after age 3.</u> A child who manifests the characteristics of “autism” after age 3 could be diagnosed as having “autism” if the criteria above are satisfied.
3. <u>Not included.</u> Autism does not apply if a child’s educational performance is adversely affected primarily because the child has an emotional disturbance, as discussed in Attachment 5.

STATE RULES PRIOR TO JULY 1, 2001 [Former s. PI 11.35 (2) (i)]	STATE RULES EFFECTIVE JULY 1, 2001 [s. PI 11.36 (8)]
1. <u>Definition.</u> Same as item 1. under federal regulations.	Same as prior state rules.
2. <u>Child after age 3.</u> Same as item 2. under federal regulations.	
3. <u>Not included.</u> Item 3., under federal regulations is not specified, but the rule does not preclude the same result.	
4. <u>Criteria.</u> To identify a child as autistic, all of the following three criteria must be met: a. The child displays difficulties or differences or both in interacting with people and events. The child may be unable to establish and maintain reciprocal relationships with people. The child may seek consistency in environmental events to the point of exhibiting rigidity in routines. b. The child displays problems which extend beyond speech and language to other aspects of social communication, both receptively and expressively. The child's verbal language may be absent or, if present, lacks the usual communicative form which may involve deviance or delay or both. The child may have a speech or language disorder or both in addition to communication difficulties associated with autism.	

<p style="text-align: center;">STATE RULES PRIOR TO JULY 1, 2001 [Former s. PI 11.35 (2) (i)]</p>	<p style="text-align: center;">STATE RULES EFFECTIVE JULY 1, 2001 [s. PI 11.36 (8)]</p>
<p>c. At least <i>one</i> of the following must be met:</p> <p>(1) The child exhibits delays, arrests or regressions in motor, sensory, social or learning skills. The child may exhibit precocious or advanced skill development, while other skills may develop at normal or extremely depressed rates. The child may not follow normal developmental patterns in the acquisition of skills.</p> <p>(2) The child exhibits abnormalities in the thinking process and in generalizing. The child exhibits strengths in concrete thinking while difficulties are demonstrated in abstract thinking, awareness and judgment. Perseverant thinking and impaired ability to process symbolic information may be present.</p> <p>(3) The child exhibits unusual, inconsistent, repetitive or unconventional responses to sounds, sights, smells, tastes, touch or movement. The child may have a visual or hearing impairment or both in addition to sensory processing difficulties associated with autism.</p> <p>(4) The child displays marked distress over changes, insistence on following routines, and a persistent preoccupation with or attachment to objects. The child's capacity to use objects in an age-appropriate or functional manner may be absent, arrested or delayed. The child may have difficulty displaying a range of interests or imaginative activities or both. The child may exhibit stereotyped body movements.</p>	
<p>5. <u>Evaluation.</u> The results of standardized or norm-referenced instruments used to evaluate and identify a child for autism may not be reliable or valid. Therefore, alternative means of evaluation, such as criterion-referenced assessments, achievement assessments, observation and work samples, must be considered to identify a child as autistic. Augmentative communication strategies, such as facilitated communication, picture boards or signing, must be considered when evaluating a child for autism.</p>	

TRAUMATIC BRAIN INJURY

FEDERAL REGULATIONS [34 C.F.R. s. 300.7 (c) (12)]
1. <u>Definition.</u> “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.”
2. <u>Application.</u> 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.
3. <u>Not included.</u> Does not apply to brain injuries that are congenital or degenerative or induced by birth trauma.

STATE RULES PRIOR TO JULY 1, 2001 [Former s. PI 11.35 (2) (j)]	STATE RULES EFFECTIVE JULY 1, 2001 [s. PI 11.36 (9)]
1. <u>Definition.</u> Same as item 1. under federal regulations.	1. Same as federal regulations and prior state rule.
2. <u>Application.</u> Same as item 2. under federal regulations, but adds as areas of impairment: communication and executive functions, such as organizing, evaluating and carrying out goal-directed activities.	2. Same as prior state rule.
3. <u>Not included.</u> Same as item 3. under federal regulations.	3. Same as federal regulations and prior state rule.
4. <u>Evaluation.</u> The results of standardized and norm-referenced instruments used to evaluate and identify a child may not be reliable or valid. Therefore, alternative means of evaluation, such as criterion-referenced assessment, achievement assessment, observation, work samples, and neuropsychological assessment data, must be considered to identify a child who exhibits total or partial functional disability or psychosocial impairment in one or more of the areas described under item 2., above.	4. Same as prior state rule.
5. <u>Medical information.</u> Available medical information from a physician must be considered before a child is identified as having traumatic brain injury.	5. Same as prior state rule.
6. <u>Other.</u> Children whose educational performance is adversely affected as a result of acquired injuries to the brain caused by internal occurrences, such as vascular accidents, infections, anoxia, tumors, metabolic disorders and the effects of toxic substances or degenerative conditions may meet the criteria of one of the other handicapping conditions, such as other health impairment, learning disability or multiple handicapped.	6. Same as prior state rule, but changes reference to “handicapping conditions” to “impairments” and deletes examples of other handicapping conditions and suspected handicapping conditions.

OTHER HEALTH IMPAIRMENT**FEDERAL REGULATIONS**

[34 C.F.R. 300.7 (c) (9)]

Definition. “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: (a) 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 and sickle cell anemia; and (b) adversely affects a child’s educational performance.”

STATE RULES PRIOR TO JULY 1, 2001

[Former s. PI 11.35 (2) (k)]

1. **Definition.** Similar to federal regulation, except for the following:
 - a. Omits references to attention deficit disorder (ADD) and attention deficit hyperactive disorder as examples of health problems.
 - b. Adds references to tuberculosis and acquired injuries to the brain caused by internal occurrences or degenerative conditions as examples of health problems.
2. **Other.** Refers in the NOTE following former s. PI 11.35 (2) to a federal policy memo which provides that a child with ADD is neither automatically eligible nor ineligible for special education and must meet the eligibility criteria for “other health impaired” or any other specified disability condition to be eligible for special education.

STATE RULES EFFECTIVE JULY 1, 2001

[s. PI 11.36 (10)]

1. **Definition.** Same as prior state rule.
2. **Other.** Amends the NOTE which follows s. PI 11.36 to acknowledge that federal regulations specifically list ADD and attention deficit hyperactivity disorder among the health problems which may result in disability based on other health impairment if other criteria are met.

LEARNING DISABILITY**FEDERAL REGULATIONS**

[34 C.F.R. s. 300.7 (c) (10)]

1. **Definition.** “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 an 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.”
2. **Not included.** Learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities; of mental retardation; of emotional disturbance; or of environmental, cultural or economic disadvantage.

STATE RULES PRIOR TO JULY 1, 2001

[Former s. PI 11.35 (2) (f)]

1. **Denotation.** Learning disability denotes severe and unique learning problems due to a disorder existing within a child which significantly interferes with the ability to acquire, organize or express information. These problems are manifested in school functioning in an impaired ability to read, write, spell or arithmetically reason or calculate.

2. **Criteria.** *Both* of the following criteria must be met before a child is considered to have a learning disability:

- a. The child must exhibit a significant discrepancy between functional achievement and expected achievement, which is defined as functional achievement at or below 50% (.5) of expected achievement.

STATE RULES EFFECTIVE JULY 1, 2001

[s. PI 11.36 (6)]

1. **Definition.** “Specific learning disability” means a severe learning problem due to a disorder in one or more of the basic psychological processes involved in acquiring, organizing or expressing information that manifests itself in school as an impaired ability to listen, reason, speak, read, write, spell or do mathematical calculations, despite appropriate instruction in the general education curriculum. Specific learning disability may include conditions such as perceptual disability, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia.

2. **Criteria.** The IEP team may identify a child as having a specific learning disability if *all* of the following are true:

- a. “Classroom achievement.” Upon initial identification, the child’s ability to meet the instructional demands of the classroom and to achieve commensurate with his or her age and ability levels is severely delayed in any of the following areas: (1) oral expression; (2) listening comprehension; (3) written expression; (4) basic reading skill; (5) reading comprehension; (6) mathematical calculation; or (7) mathematical reasoning.

<p style="text-align: center;">STATE RULES PRIOR TO JULY 1, 2001 [Former s. PI 11.35 (2) (f)]</p>	<p style="text-align: center;">STATE RULES EFFECTIVE JULY 1, 2001 [s. PI 11.36 (6)]</p>
<p>When first identified, the child must have a significant discrepancy in functional achievement in two or more of the readiness or basic skill areas of math, reading, spelling and written language. The M-team must consider the child's receptive and expressive language and fine motor functioning. (A significant discrepancy in the single area of math, accompanied by less significant, yet demonstrable discrepancies in other basic skill areas, may satisfy the academic eligibility criteria.)</p> <p>The following comments apply:</p> <p>(1) "Functional achievement" is defined as the child's instructional level in readiness and basic skill areas. Determination of functional achievement is based on a combination of formal and informal individualized tests, criterion-referenced measures, observations and an analysis of classroom expectations in basic skill areas.</p> <p>(2) "Expected achievement" is I.Q. x the number of years in school since enrollment in 5-year-old kindergarten. This is multiplied by .5 to arrive at a grade score which is 50% of expected achievement. (If the child did not attend kindergarten, add one year to total years in school.) If the functional achievement level is at or below the grade score derived from the formula, a significant discrepancy exists.</p> <p>(3) The formula is inappropriate for children who have not completed two years in school. Children entering kindergarten or first grade who are achieving in readiness areas one or more years below expected achievement levels for their chronological age may be considered as having a significant discrepancy between their functional and expected achievement based on examples in ch. PI 11, Appendix J, of prior rules.</p> <p>(4) A child whose functional achievement approaches but is not at or below 50% of expected achievement may be considered to have met the academic functioning criterion if the child demonstrates variable performance between the sub-skills required for each of the areas of reading, writing, spelling, arithmetical reasoning or calculation and if the child meets all the other criteria used to identify learning disability. This determination must be based on the M-team's collective judgment, and the rationale must be documented in the M-team report.</p>	<p>b. "Significant discrepancy." Upon initial identification, a significant discrepancy exists between the child's academic achievement in any of the areas under item a., above, and intellectual ability as documented by the child's composite score on a multiple score instrument or the child's score on a single score instrument. The IEP team may base a determination of significant discrepancy only upon the results of individually administered, standardized achievement and ability tests that are reliable and valid. A significant discrepancy means a difference between standard scores for ability and achievement equal to or greater than 1.75 standard errors of the estimate below expected achievement, using a standard regression procedure that accounts for the correlation between ability and achievement measures. (Appendix A to ch. PI 11 specifies the recommended regression formula for calculating significant discrepancy scores.)</p> <p>This regression procedure must be used <i>except</i> under any of the following conditions:</p> <p>(1) The regression procedure may not be used to determine a significant discrepancy if the IEP team determines that the child cannot attain valid and reliable standard scores for intellectual ability or achievement because of the child's test behavior, the child's language, another impairment of the child that interferes with the attainment of valid and reliable scores or the absence of valid and reliable standardized, diagnostic tests appropriate for the child's age. If the IEP team makes this determination, the IEP team must document the reasons why it was not appropriate to use the regression procedure and must document that a significant discrepancy exists, including documentation of a variable pattern of achievement or ability, in at least one of the areas under item a., above, using other empirical evidence.</p> <p>(2) If the discrepancy between the child's ability and achievement approaches but does not reach the 1.75 standard error of the estimate cut-off in item b., above, the child's performance in any of the areas in item a., above, is variable, and the IEP team determines that the child meets all other criteria under item a., above, and item c., below, the IEP team may consider that a significant discrepancy exists.</p>

STATE RULES PRIOR TO JULY 1, 2001 [Former s. PI 11.35 (2) (f)]	STATE RULES EFFECTIVE JULY 1, 2001 [s. PI 11.36 (6)]
<p>(5) In attendance centers where the number of children functioning at or below 50% of expected achievement exceeds that which might be anticipated for the general population, additional efforts must be made to substantiate that the child's functional achievement level is due to a disorder existing within the child and not due to other impairments.</p> <p>(6) Evidence must exist that the learning disabilities are primarily attributable to a deficit within the child's learning system. Evidence may include average or above average ability in some areas. In documenting this in-child variability, academic and non-academic behaviors must be considered.</p> <p>b. The child must exhibit normal or potential for normal intellectual functioning.</p> <p>The following comments apply:</p> <p>(1) The measure of intellectual functioning may be established by a score above -1 S.D. on a single score intelligence instrument, or by a verbal or performance quotient of 90 or above on a multiple score intelligence instrument.</p> <p>(2) The instrument used to establish this measure must be recognized as a valid and comprehensive individual measure of intellectual functioning.</p> <p>(3) If there is reason to suspect the test results are not true indices of a particular child's ability, then clarification of why the results are considered invalid must be provided. Previous experience, past performance and other supportive data that intellectual functioning is average must be present and documented in written form.</p> <p>(4) There may exist rare cases of severe language involvement which detrimentally affect the learning disabled child's ability to perform adequately on intelligence tests given the language emphasis of these instruments. In these rare situations the importance of the intellectual criteria may be reduced given substantial evidence to indicate average ability.</p>	<p>c. "Information processing deficit." The child has an information processing deficit that is linked to the child's classroom achievement delays under item a., above, and to the significant discrepancy under item b., above. An information processing deficit means a pattern of severe problems with storage, organization, acquisition, retrieval, expression or manipulation of information rather than relative strengths and weaknesses. The IEP team must document the reasons for and data used to make its determination that the child has an information processing deficit.</p>

STATE RULES PRIOR TO JULY 1, 2001 [Former s. PI 11.35 (2) (f)]	STATE RULES EFFECTIVE JULY 1, 2001 [s. PI 11.36 (6)]
<p>3. <u>Not included.</u> Learning problems, when primarily due to the following, must be excluded from consideration as a learning disability:</p> <ul style="list-style-type: none">(a) The other handicapping conditions specified in the special education statutes.(b) Learning problems resulting from extended absence, continuous inadequate instruction, curriculum planning or instructional strategies.(c) Discrepancies between ability and school achievement due to motivation.(d) Functioning at grade level but with potential for greater achievement.	<p>3. <u>Not included.</u> a. The IEP team may not identify a child as having a specific learning disability if it determines that the significant discrepancy between ability and achievement is primarily due to: (1) environmental, cultural or economic disadvantage; (2) insufficient instruction in reading or math; (3) limited proficiency in English; or (4) any of the other special education impairment categories.</p> <p>b. A child who is found to have a significant discrepancy between ability and achievement in the single area of oral expression or listening comprehension and who meets criteria for speech and language impairment must be considered to have a primary impairment in the area of speech and language.</p>
	<p>4. <u>IEP team decision, membership and observation.</u> a. The IEP team must base its decision of whether a child has a specific learning disability on formal and informal assessment data on intellectual ability, academic achievement and learning behavior from sources such as standardized tests, error analysis, criterion-referenced measures, curriculum-based assessments, student work samples, interviews, observations and an analysis of the child's response to previous interventions, classroom expectations and curriculum.</p> <p>b. If the IEP team is concerned that a child has a significant discrepancy in oral expression or listening comprehension, the IEP team must include a person qualified to assess speech and language impairments.</p> <p>c. At least one observation in the general classroom setting by a team member other than the classroom teacher must be conducted.</p>
	<p>5. <u>Re-evaluation.</u> Upon reevaluation, a child who met initial identification criteria under item 2., above, and continues to demonstrate a need for special education, including specially designed instruction, is a child with a specific learning disability, unless the provision under item 3. a., above, applies at the time of re-evaluation. If a child with a specific learning disability performs to generally accepted performance expectations in the general education classroom without specially designed instruction, the IEP team must determine whether the child is no longer a "child with a disability" under the special education statutes.</p>

SIGNIFICANT DEVELOPMENTAL DELAY**FEDERAL REGULATIONS**

[34 C.F.R. s. 300.7 (b)]

1. Provides that for children 3 through 9 years of age, “child with a disability” may, at the discretion of the state and local educational agency, include a child who:
- a. 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
 - b. By reason thereof, needs special education and related services.

STATE RULES PRIOR TO JULY 1, 2001

[Former s. PI 11.35 (2) (L)]

STATE RULES EFFECTIVE JULY 1, 2001

[s. PI 11.36 (11)]

1. Definition. “Significant developmental delay” means children, ages 3, 4 and 5 years of age or below compulsory school attendance age, who are experiencing significant delays in the areas of physical, cognition, communication, social-emotional or adaptive development.

2. Identification. Requires delays in development that significantly challenge the child in *two* or more of the following major life activities:

a. Physical activity in gross motor skills, such as the ability to move around and interact with the environment with appropriate coordination, balance and strength; or fine motor skills, such as manually controlling and manipulating objects such as toys, drawing utensils, and other useful objects in the environment.

b. Cognitive activity, such as the ability to acquire, use and retrieve information as demonstrated by the level of imitation, discrimination, representation, classification, sequencing, and problem-solving skills often observed in a child’s play.

c. Communication activity in expressive language, such as the production of age-appropriate content, form and use of language; or receptive language, such as listening, receiving and understanding language.

No substantive change to prior state rules.

STATE RULES PRIOR TO JULY 1, 2001 [Former s. PI 11.35 (2) (L)]	STATE RULES EFFECTIVE JULY 1, 2001 [s. PI 11.36 (11)]
<p>d. Emotional activity such as the ability to feel and express emotions, and develop a positive sense of oneself; or social activity, such as interacting with people, developing friendships with peers, and sustaining bonds with family members and other significant adults.</p> <p>e. Adaptive activity, such as caring for his or her own needs and acquiring independence in age-appropriate eating, toileting, dressing and hygiene tasks.</p>	
<p>3. <u>Documentation.</u> Documentation of delays and their detrimental effect upon the child's daily life must be based upon qualitative and quantitative measures including all of the following:</p> <p>a. A developmental and basic health history, including results from vision and hearing screenings and other pertinent information from parents and, if applicable, other caregivers or service providers.</p> <p>b. Observation of the child in his or her daily living environment such as the child's home, with a parent or caregiver, or an early education or care setting which includes peers who are typically developing. If observation in these settings is not possible, observation in an alternative setting is permitted.</p> <p>c. Results from norm-referenced instruments must be used to document significant delays of at least -1.5 S.D. in two or more of the developmental areas which correspond to the major life activities. If it is not appropriate to use norm-referenced instruments, other instruments, such as criterion-referenced measures, must be used.</p>	
<p>4. <u>Other.</u> All other suspected handicapping conditions must be considered before identifying a child's primary handicapping condition as significant developmental delay.</p>	