

ANNEX A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

CHAPTER 14. SPECIAL EDUCATION SERVICES AND PROGRAMS

SECTION 14.123 Evaluation

(a) The group of qualified professionals, which reviews the evaluation materials to determine whether the child is a child with a disability under 34 CFR 300.306 (relating to determination of eligibility), shall include a certified school psychologist when evaluating a child for autism, emotional disturbance, [**mental retardation,**] intellectual disabilities, multiple disabilities, other health impairments, specific learning disability or traumatic brain injury.

SECTION 14.124 Reevaluation

(a) The group of qualified professionals, which reviews the evaluation materials to determine whether the child is a child with a disability under 34 CFR 300.303 (relating to reevaluations), shall include a certified school psychologist when evaluating a child for autism, emotional disturbance, [**mental retardation,**] intellectual disabilities, multiple disabilities, other health impairment, specific learning disability and traumatic brain injury.

SECTION 14.125 Criteria for the determination of specific learning disabilities

This section contains the State-level criteria for determining the existence of a specific learning disability. Each school district and intermediate unit shall develop procedures for the

determination of specific learning disabilities that conform to criteria in this section. These procedures shall be included in the school district's and intermediate unit's special education plan in accordance with § 14.104(b) (relating to special education plans). To determine that a child has a specific learning disability, the school district or intermediate unit shall:

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- (3) Have determined that its findings under this section are not primarily the result of:
  - (i) A visual, hearing or orthopedic disability.
  - (ii) **[mental retardation] intellectual disabilities.**
  - (iii) Emotional disturbance.
  - (iv) Cultural factors.
  - (v) Environmental or economic disadvantage.
  - (vi) Limited English proficiency.

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#### SECTION 14.132 ESY

(a) In addition to the requirements incorporated by reference in 34 CFR 300.106 (relating to extended school year services), school entities shall use the following standards for determining whether a student with disabilities requires ESY as part of the student's program:

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(2) In considering whether a student is eligible for ESY services, the IEP team shall consider the following factors; however, no single factor will be considered determinative:

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(vii) Whether the student's disability is severe, such as autism/pervasive developmental disorder, serious emotional disturbance, severe **[mental retardation]** intellectual disabilities, degenerative impairments with mental involvement and severe multiple disabilities.

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(d) Students with severe disabilities such as autism/pervasive developmental disorder, serious emotional disturbance; severe **[mental retardation]** intellectual disabilities; degenerative impairments with mental involvement; and severe multiple disabilities require expeditious determinations of eligibility for ESY services to be provided as follows:

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#### SECTION 14.143 Disciplinary Placements

(b) A removal from school is a change of placement for a student who is identified with [mental retardation] **an intellectual disability**, except if the student's actions are consistent with 34 CFR 300.530 (g)(1)-(3) (relating to authority of school personnel).

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#### SECTION 14.162 Impartial due process hearing and expedited due process hearing

(a) In addition to the requirements incorporated by reference in 34 CFR 300.504 (relating to procedural safeguard notice), with regard to a student who is **[mentally retarded]** intellectually

**disabled** or thought to be [**mentally retarded**] **intellectually disabled**, a notice when mailed shall be issued to the parent by certified mail (addressee only, return receipt requested).

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