

ANNEX A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

SUBPART A. MISCELLANEOUS PROVISION

CHAPTER 14. SPECIAL EDUCATION SERVICES AND PROGRAMS

§ 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 disability, multiple disabilities, other health impairments, specific learning disability or traumatic brain injury.

§ 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 disability, multiple disabilities, other health impairment, specific learning disability and traumatic brain injury.

(c) Students with disabilities who are identified as [mentally retarded] having an intellectual disability shall be reevaluated at least once every 2 years.

§ 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:

(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 disability.
- (iii) Emotional disturbance.
- (iv) Cultural factors.
- (v) Environmental or economic disadvantage.
- (vi) Limited English proficiency.

§ 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:

(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:

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

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

§ 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).

§ 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] has an intellectual disability or who is thought to [be mentally retarded] have an intellectual disability, a notice when mailed shall be issued to the parent by certified mail (addressee only, return receipt requested).
