

VDOE Supplemental Guidance for Evaluation and Eligibility in Special Education

The purpose of this document is to assist Individualized Education Program (IEP) and Eligibility teams, including parents, as they engage in evaluation, eligibility determinations, and decisions regarding the need for related services. This guidance is an addendum to the Virginia Department of Education’s [Evaluation and Eligibility For Special Education and Related Services: Guidance Document](#) and [Guidance on Evaluation and Eligibility for the Special Education Process Appendix A](#) (Sample Evaluation and Eligibility Forms). The Supplemental Guidance provides information about data sources that may be used to inform eligibility for special education services or a need for a related service, as well as information to assist in the local interpretation for terminology in Virginia special education regulations that are not clearly defined (e.g., determining “adverse educational impact” and determining “need for specially designed instruction”).

This guidance should be used in conjunction with existing [Regulations Governing Special Education Programs for Children with Disabilities in Virginia](#) and federal laws and are not intended to replace any regulation under the *Individuals with Disabilities Education Improvement Act of 2004* (IDEA) and the related federal and Virginia special education regulations. A local educational agency (LEA) may create local policy and procedures to guide the work of staff and are not required to implement this guidance, but are still required to follow federal and state regulations.

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Strengthening Evaluation and Eligibility Processes

An evaluation is an individualized process that seeks to answer a specific eligibility question and uncover the child's current strengths and competencies that will support continuous learning and development. An evaluation is not a standard battery of tests administered to all children suspected of needing special education services. In addition to making a determination about eligibility and the categorical classification of a disability, another primary goal in the comprehensive evaluation process is to inform educators about the instructional needs of the students.

The following information is intended to assist teams in strengthening their processes including: considering a referral for suspected disabilities, reviewing existing data, identifying additional needed data, and determining eligibility for special education and related services.

Parent Involvement

Throughout the special education process, parent involvement is critical. Special education law and regulations (8VAC20-81-10; § 20-124.6 and § 22.1-213.1 of the *Code of Virginia*; 34 CFR 99.4 and 34 CFR 300.30) define parent as:

- Biological or adoptive parent,
- Guardian,
- Person acting in place of a parent (such as a grandparent or stepparent with whom the child lives or a person legally responsible for the child's welfare),
- Foster parent, under specific circumstances,
- A surrogate parent appointed in accordance with requirements detailed under 8VAC20-81-220, or
- A minor emancipated under § 16.1-333 of the *Code of Virginia*.

Additional information relating to who may act as a parent is available in the *VDOE Parent's Guide to Special Education*. Throughout the remainder of this

supplemental guidance, the term parent is used consistently with the definition in special education law and regulations.

Strengthen Team Discussions

Teams should strive to include all participants in the decision-making process. Team leaders should recognize that all team members do not have the same experience and knowledge surrounding special education decision-making. Teams should consider the input of all members of the team, including parents, and strive to educate and inform members of their right to participate in the team decision-making process. Active facilitation and use of strategies will strengthen the work of the team. Some examples of general meeting strategies that may be helpful include:

- Use a meeting agenda that promotes discussion and provide parents an opportunity to add to the agenda at the beginning of the meeting
- Have additional copies of worksheets available for members of the team to follow along
- Assign a staff person to monitor time so that there is sufficient time for discussion and questions
- Provide training for staff and families on the role of an eligibility team member

To assist in explaining eligibility requirements and the results of educational evaluations, teams may use specific strategies including:

- Use visuals to compare and explain a student's scores (e.g., bell curve)
- Use plain language when discussing eligibility criteria requirements
- Differentiate educational identification from medical or clinical diagnosis
- Clarify any local requirements for data quality or quantity

Strive for Consistency Between and Among School Teams

Directors of special education are encouraged to take active steps to achieve consistency between teams across their LEA. Strategies that may be used to increase consistency between and among teams include:

- Meeting with eligibility chairs regularly
- Providing regular professional development for eligibility chairs
- Examining eligibility data disaggregated by various factors (e.g., school, grade, race/ethnicity, disability type, eligibility chair) to identify possible areas of concerns
- Conducting local audits or reviews of specific categories or eligibility criteria questions to determine consistency among various teams
- Fostering discussion among team members
- Providing annual training for all eligibility teams including case studies for teams to review and discuss and a review of state and local guidance and procedures

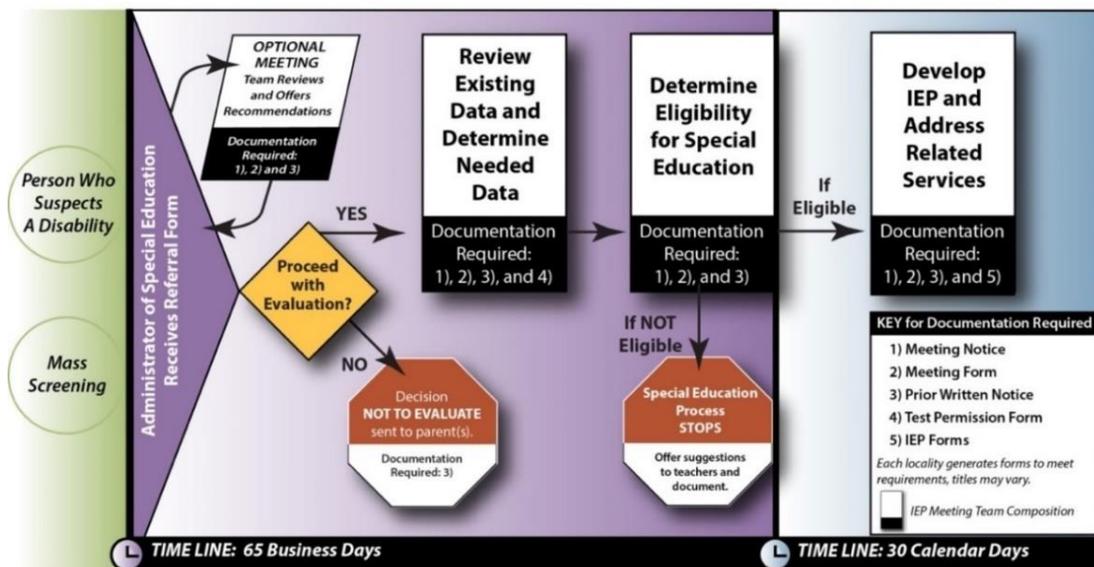
Information to Consider When Receiving a Referral from Mass Screening, an Individual, or Early Intervention

Referrals may be received from a variety of sources. When a referral is received from mass screening, a teacher, Early Intervention (EI), or any other individual such as a parent, Virginia regulations permit an optional meeting to review the referral and offer recommendations to the Administrator of Special Education or their designee. This provides the team a valuable opportunity to review core instruction and interventions attempted as well as concerns about the student (Refer to Figure 1). Documentation of core instruction and interventions provided to address the concerns as well as the degree of progress made while the student received such instruction and interventions, should be carefully reviewed. Additional factors should be considered, such as the student's cultural and linguistic differences and socio-

economic factors (refer to additional information below), access to high quality instruction and other relevant information to determine if a disability is suspected and if the LEA should move forward with an evaluation.

For young children, Virginia’s Infant and Toddler Connection (ITC) provides early intervention supports and services to infants and toddlers from birth through age two with a delay or disability (Part C of IDEA). Each local ITC collaborates with specific LEAs and provides referrals to the LEA where the child/family resides. It is required for EI to refer any child who is “potentially eligible” for special education and related services unless a family opts out. The term “potentially eligible” means any child still expected to need services after they exit EI. A referral does not automatically qualify the child for special education and related services. The steps of the eligibility process are the same for these young children. All IDEA Part B requirements, including but not limited to the meeting participants, parental notice, parental consent, eligibility criteria for specific disabilities, and timelines are applicable.

Figure 1. Referral from Mass Screening or Person Suspecting a Disability



Gathering of Assessment Data from a Variety of Sources

Eligibility teams should consider data from a variety of sources as they discuss eligibility criteria questions. This includes consideration of existing data (such as external evaluations and information provided by parents, current classroom-based, local, or state assessments, classroom-based observations, and the student's response to research-based interventions) as well as any new data or assessments collected as a result of the evaluation. The IDEA requires that no single or sole source of data be used to make eligibility determinations. Drawing on too few sources of data or failing to examine other possible factors, such as instructional issues that impact student performance, can bias findings and lead to over identification or misidentification.

Using a comprehensive assessment approach to student evaluation includes both observation and measurement of the student's skills across different environments. A comprehensive assessment may include historical trends of performance and current measures of academic skills (norm-referenced, criterion-referenced, and/or curriculum-based); cognitive abilities and processes; learning probes and dynamic assessment; social-emotional competencies and oral language proficiency as appropriate; classroom observations; and indirect sources of data (e.g., teacher and parent interviews and reports). The assessment data should be relevant for eligibility decision making and also may inform subsequent intervention and educational programming. Professionals are encouraged to choose tools based on the characteristics of the child and to gather data about the child's functional performance from a variety of settings or environments and utilize a variety of tools and data sources.

Data collected focuses on the student's performance in the school environment and on individually administered tools and other measures (Refer to Table 1). This model focuses on the student's performance compared to peers and their individual performance in the educational environment. Comprehensive assessment generates insights unique to the student by using a combination of data sources from all of the

quadrants in Table 1. This approach to assessment reduces bias by ensuring data from more than just standardized norm referenced tests.

Table 1. Comprehensive Assessment Data Sources and Examples

| School Data | Evaluator Gathered Data |
|--|---|
| <p>Academic and Classroom Activities Examples Include:</p> <ul style="list-style-type: none"> ● Observations in school settings ● Work samples or artifact analysis ● Criterion-referenced assessment ● Intervention and progress monitoring data | <p>Authentic Data and Probes Examples Include:</p> <ul style="list-style-type: none"> ● Observations in functional activities ● Case history/Socio-cultural ● Interviews/Educational record review ● Student response to direct instruction in use of strategies ● Dynamic assessment, stimulability, or progress monitoring ● Play-based assessment ● Medical records or private evaluations ● Individualized Family Services Plan/ Early Intervention documentation ● Therapy documentation |
| <p>Existing School Based Tests and Measurements Examples include:</p> <ul style="list-style-type: none"> ○ Measures of academic achievement (e.g., CogAT, Iowa Test of Basic Skills, Stanford Achievement Test, PALS) ○ Curriculum-based assessment and benchmarks (e.g., SOLs, STAR reading) | <p>Individualized Norm Referenced Tests and Measurements</p> <ul style="list-style-type: none"> ● Measurements of student skills compared to normative sample ● Examples Include: <ul style="list-style-type: none"> ○ Norm-referenced tests of achievement, behavior, cognitive skills, adaptive skills, language (e.g., Woodcock Johnson, Vineland, BASC, CELF) |

The [RIOT ICEL framework](#) is another framework that assists teams in gathering and integrating data from a variety of sources to increase confidence. To ensure that the team does not underestimate the potential impact of teacher use of instructional

strategies, curriculum demands, and environmental influences that may impact the learner's academic performance, data is gathered from the domains of: instruction, curriculum, the environment, and finally the learner. The RIOT ICEL framework also encourages evaluators to: review student records and information, interview stakeholders (e.g., teachers, parents, and the student), observe the child in the learning environment, and then test and gather additional data. Online resources and questionnaires are available to assist teams with [problem solving using the RIOT ICEL matrix](#).

Consider Cultural, Linguistic and Socio-Economic Differences

The VDOE [Evaluation and Eligibility For Special Education and Related Services: Guidance Document](#) pages 29-31 provide basic information about cultural and linguistic differences and socio-economic factors. Teams should consider the impact of cultural and linguistic differences and socio-economic factors on student performance when determining whether a disability is suspected.

Some examples of differences that may impact a student's learning and engagement in school include:

- Cultural expectations of formal schooling or of school in general
- Different cultural norms (e.g., developmental milestone expectations)
- Transiency in education (e.g., at least two moves in a single school year or teacher changes)
- Responsibilities at home
- Socio-economic factors
- Primary language other than English
- Level of academic language proficiency
- Use of a dialect or variety of English other than Standard American English
- Exposure to trauma
- Access to structured activities or learning and practice opportunities

- Access to nurturing relationships or interactions
- Family access to health care and other social determinants of health

When working with families from diverse cultural and linguistic backgrounds, teams should recognize that the language, ethnicity, culture, structure, and preferences of the family influence student performance, and therefore, may affect the results of the evaluation. Evaluators should consider whether the normative samples of the assessments being used include the cultural group of the family being assessed and recognize differences in child-rearing practices that may impact a child's performance.

Data and examples of high-quality instruction provided during core instructional time and from interventions provided may assist the team in determining the student's responsiveness to instruction. This may also be described by evaluators as modifiability or stimulability. Data showing a student's level of responsiveness to strategies or interventions provided gives the team insight into the student's unique learning potential. Additionally, this data may assist teams confirming that interventions were delivered and the student's challenges are not a result of lack of instruction. This data is used to determine if the student's issues are a result of lack of practice or exposure, a result of a cultural or linguistic difference or because of a disability.

Teams are encouraged to utilize a variety of tools and dynamic assessment practices to identify the skills that a child possesses as well as their learning potential, since dynamic assessment emphasizes the learning process and is responsive to the child. Dynamic assessment practices may inform the team's work as they determine if the student's challenges are primarily or predominantly the result of a cultural or linguistic difference or a disorder.

It is vital to note that the presence of a cultural, linguistic or socio-economic difference alone is not sufficient to deny a referral or find a child ineligible for special education and related services. Teams should consider all available data and determine the predominant or primary cause of the student's difficulty.

Students who are English Learners (ELs)

When a student speaks another language, distinguishing a learning difference from a disorder may be difficult. The VDOE's [Handbook For Educators Of English Learners With Suspected Disabilities](#) reminds teams that "When an EL does not learn English at the expected pace, falls behind academically, or exhibits inappropriate behavior, educators must decide whether the issue is caused by a disability or by difficulty in developing second language skills and/or cultural adjustment (p. 5)." This guidance document also provides pre-referral procedures and special considerations for evaluation and use of interpreters. Special educators should work closely with English Language Development (ELD) Teachers to ensure data about the student's language proficiency, culture, and educational experiences are considered.

A key goal of the assessment of children who are ELs should be to clearly distinguish language and cultural differences from actual learning or developmental delays so as not to misidentify children as disabled. There are several ways to increase the accuracy of an evaluation of children who are ELs:

- Determine whether an evaluation should be performed in English, in a child's native language, or bilingually
- Select appropriate assessment tools and methods (e.g., dynamic assessment)
- Use multiple assessment methods that minimize the need for the English language
- Include family as a source of information, e.g., collecting information about language and cognitive development and expectations in their home culture

Children who continue to learn their home language while simultaneously learning English may be referred to as dual language learners (DLLs). Research demonstrates that children can learn two or more languages at the same time, and that supporting the development of the child's home language helps with the acquisition of English. At the same time, assessing children who are DLLs can pose specific challenges, including how to distinguish between typical patterns of language acquisition when

learning two languages as opposed to the presentation of a delay due to disability. As many of the characteristics are the same, it is common for children who are DLLs to be inadvertently identified as children with language-based disabilities. It is important that the evaluation be accurate and independent of a child's ability to speak English.

Additional VDOE resources specific to students who are ELs with Suspected and/or Identified Disabilities include:

- [Comprehensive System of Supports for English Learners with Disabilities \(ELWD\)](#)
- [Supporting Rigorous Learning for English Learners with Disabilities \(ELWD\)](#)
- [Supporting English Language Learners - Differentiating Language Differences from Suspected Disabilities](#)
- [Understanding Disability Categories and Differentiation Ideas for English Learners with Disabilities \(ELWD\)](#)

Students who are Twice Exceptional

Students who are twice exceptional are children, kindergarten through twelfth grade, who are identified as gifted by the identification and placement committee for the school division's gifted education program and are also identified as a child with a disability, as defined by Virginia's special education regulations. All eligibility criteria, including educational impact and need for specially designed instruction must be met. Teams should review additional guidance in this document on significant discrepancy (refer to page 25).

The eligibility committees for both gifted and special education identification should be familiar with identification practices and criteria surrounding each area of disability and giftedness. Additional information can be found in VDOE's guidance document, [Supporting the Identification and Achievement of the Twice-Exceptional Student: Frequently Asked Questions](#).

Core Instruction

Teams should work closely with general education staff to examine instruction provided and student responsiveness to strategies and differentiated instruction.

Some examples of factors to consider include:

1. Student performance across subjects or with specific staff
2. Components of the grading system (e.g., participation, homework, assessment)
3. Teaching and reinforcement of classroom expectations
4. Relevance of content to student's cultural background
5. Student engagement in all educational environments (e.g., content, lunch, recess, unstructured time or transitions)
6. Student involvement in self-monitoring to set expectations and educational goals
7. For young children, exposure to structured activities and educational opportunities

Many preschool aged children will be experiencing their first exposure to a structured educational program and instruction. Children are never excluded from eligibility for special education based on a lack of instruction, lack of participation in an early childhood setting, or perceived concerns with a lack of stimulation or parenting skills in a child's home environment. For these young children, referrals may come from any source that suspects a child may be eligible for special education and related services. They may include parents, public preschools (e.g., Virginia Preschool Initiative, Head Start), and community-based child care or preschool programs. It is critical that this identification occurs in a timely manner and once an LEA receives a referral, the evaluation process is initiated. The IDEA does not require, or encourage, an LEA to use a Response to Intervention (RtI) approach prior to a referral for evaluation or as part of determining whether a two, three, four or five-year-old is eligible for special education and related services.

Responsiveness to Interventions Provided

The term intervention describes something provided to a student over and above typical core instruction. Interventions represent specific activities designed to enhance academic, behavioral and/or social emotional skills that are student specific and matched to their identified needs. Interventions are different from the use of strategies or accommodations. Examples of interventions include a token economy reinforcement schedule or targeted phonological awareness instruction. Formalized interventions should include documentation about the key distinctive features of the intervention provided as well as information on the frequency, intensity and duration with which they are provided. One model for selecting research and or evidence-based interventions is the [SISEP Hexagon Tool](#).

Progress monitoring is a scientifically-based process to provide ongoing, systematic assessment of a student's academic, social emotional, and behavioral performance over time. It assists in determining the extent to which a student is responding to an intervention either within the general curriculum or within specialized curriculum, placements or instructional approaches. Progress monitoring is not diagnostic; it does not tell you at what level a student may be performing or what skill deficits may require remediation. Instead, it is a brief probe or snapshot of an identified behavior/skill used to determine progress towards a goal. Implementation fidelity refers to the extent to which the intervention is being implemented in the way it was intended (i.e., as designed). Components of implementation fidelity to consider include: adherence; duration; quality of delivery; program specificity; and level of student engagement. Data-informed decision-making combines both progress monitoring and implementation fidelity to help school teams analyze student progress and make data-informed decisions regarding student growth.

Data-informed decision-making assists school teams to determine whether a student is responding to an intervention as expected. To do this effectively, school divisions should have a common understanding of what constitutes "responsiveness" when implementing interventions for a student. When an intervention is being implemented

with fidelity but the student is not making progress, this suggests that the intervention needs to be modified. There are several factors to consider when modifying an intervention, including: curriculum match; intensity and duration of intervention; alignment to concern; evidence-base of intervention selected; and closer examination of fidelity.

Progress monitoring and fidelity of implementation data can assist teams in making data-informed decisions related to evaluation referrals and eligibility decisions. Special Education regulations (8VAC20-81-50) state that when a team is reviewing a student's performance to assist in determining whether the team needs to make a referral for special education and related services, *"the team may use a process based on the child's response to scientific, research-based interventions."* When doing so, *"the team shall ensure that these interventions are well documented and do not needlessly delay a child suspected of having a disability from being evaluated for special education and related services. If the child has not made adequate progress after an appropriate period of time during the implementation of the interventions, the team shall refer the child to the special education administrator or designee for an evaluation to determine if the child needs special education and related services."*

Other Relevant Student Factors

Teams should consider other relevant data when meeting to review referrals for suspected disabilities or when determining eligibility. Other relevant factors include unique or individual factors that may contribute to or be the primary reason for the student's learning difficulties.

The following examples may indicate a need to consider other relevant factors for a student:

- Family changes that would contribute to a drop in academic or functional performance (e.g., death of family member, divorce of parent)

- Significant decline in academic performance in the last 6-12 months

Following are examples of relevant factors for the team to consider. In these cases, it is important to understand the child and family situation when making decisions around evaluation and when interacting with the child and family.

Trauma, Toxic Stress, and Adverse Childhood Experiences

Children may be exposed to experiences that may adversely affect cognitive and emotional development. Trauma results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or life threatening and that has lasting adverse effects (SAMHSA, 2014). Examples of traumatic events include physical assaults, natural disasters, accidents, life-threatening illness, or sudden loss of a family member. Adverse Childhood Experiences (ACEs) terminology originated in a study conducted in 1995 and referred to three types of adversity children faced in the home environment: abuse, neglect, and household challenges such as caregiver mental illness and household violence. This study found a correlation between the higher number of ACEs experienced and the greater chance of poor outcomes later in life. Toxic stress is a term coined to describe strong, frequent, and prolonged adversity without adequate adult support. These adversities extend beyond the categories that were the focus of the initial ACE study to include community and system causes such as community violence and experiences with racism and chronic poverty.

Emerging research has found that the excessive activation of the stress response systems (whether due to trauma, ACEs, or toxic stress) can affect the developing brain and result in long-term consequences for learning, behavior, physical health, and mental health. Although there are particular developmental risks associated with early childhood, traumatic experiences, ACEs, and toxic stress can impact any developmental stage as the brain continues to change and through adolescence. Consequences can include impairments in concentration, memory, executive

functioning skills, language development, the ability to self-regulate emotions and behaviors, and physical development. Some of these effects can present similarly to other conditions, such as attention deficit hyperactivity disorder (ADHD). Additionally, there are a range of responses to trauma, ACEs, and toxic stress depending on individual factors. Thus, a tiered system of supports may be beneficial in providing preventative strategies and interventions to support students who have experienced trauma, ACEs, or toxic stress.

Behavioral Concerns

When assessing children with behavioral concerns, it is important to remember that behavior is simply a way of communicating. It frequently serves as the primary form of communication, especially when young children display language-based disabilities or delays. For preschool aged children, challenging behavior may be common and expected as they are just beginning to develop self-control and learn important lifelong social-emotional skills. Young children are developing self-regulation, or the ability to calm or regulate themselves when they are upset. This process may lead to some challenging moments but should be differentiated from the presence of a disability.

Challenging behaviors may result from a number of other factors, such as exposure to adverse events or situations, a major change or disruption in the family, or stressors experienced by the child, parents, or caregivers. Teams should look beyond the behavior itself and identify the social, affective, cognitive, and/or environmental factors associated with the occurrence and non-occurrence of specific behaviors. This broader perspective will provide a better understanding of the behavior, not only for eligibility purposes, but in order to design supportive services for the child.

Determining Eligibility

Once all evaluation data is gathered, teams should not simply present data and results, but strive to combine and integrate data from various sources as they examine student performance, responsiveness related to core instruction and interventions, and any dynamic assessment conducted during the evaluation process.

Careful consideration of bias and diagnostic accuracy or error rates is suggested when examining performance on norm referenced or standardized tests. Research shows that cultural and linguistic differences may result in an impact of up to 35 standard score points depending on the particular test and individual student's cultural background and language skills. Teams should discuss the impact of regional dialectal differences, common family or cultural customs, lack of practice, and other factors that while appropriate for the individual student, may result in a lower score due to inappropriate comparison with the test norming population.

When results across student evaluation components are inconsistent or varied, the team should consider possible reasons or a combination of other explanations for the student's academic and/or behavioral difficulties. Discussion of why results differ may reveal additional explanations including lack of high-quality instruction due to ongoing teacher vacancies, implementation of interventions not matched to student area(s) of need, or cultural mismatch for classroom activities or evaluation tasks.

Adverse Effect on Educational Performance

The word "adverse" generally means causing harm, acting against, or preventing success. To "adversely effect" means to have a negative impact that is significantly more impeding than a minor hindrance. An adverse effect on educational performance does not include developmentally appropriate characteristics of the age or grade typically exhibited by same age peers. The adverse effect must be caused by the impairment or disability area being examined on the individual eligibility criteria

worksheet, not another disability area, or issue such as economic disadvantage, lack of instruction, poor attendance, or incomplete classwork or homework.

Although academic progress is one focus of school, groups should not consider grades or academic achievement to be the only demonstration of adverse impact on educational performance. Adverse effect on educational performance also includes social-emotional, functional, and behavioral skills. Students with passing grades might still have difficulty in the educational setting interacting with others, forming social relationships, and appropriately interacting with peers and adults. A focus on academic, social-emotional, functional, and behavioral skills is also true for preschool aged children and should include the impact on skills and knowledge a student needs to meet Virginia's Birth-Five Early Learning and Development Standards.

Data on student performance in the educational setting and responsiveness or modifiability should be considered when answering this eligibility criteria question. Unless otherwise defined by the LEA in local policy, the eligibility team's determination of adverse effect should be based upon three or more measures of the student's performance in the same area of concern. Data to document adverse effect may focus on academic, behavioral, social emotional, or functional data. The selection of data sources will vary based on the educational challenges the student is experiencing and the disabilities being considered. Teams should strive for diverse data sources and not simply utilize three work samples to document the adverse effect on educational performance.

Data sources may include a variety of measures including but not limited to:

- Standardized Test
- Norm Referenced
- Criterion Referenced Tests
- Curriculum-Based Measure
- Inventory or Checklist
- Dynamic Assessment
- Rating Scales
- Questionnaires & Interviews of teacher, student or parent
- Formal and Informal Observations
- Work samples
- Attendance records
- Behavior records

To conclude that there is an adverse effect on the students' educational performance, the eligibility team shall determine through documentation, that the student is functioning significantly below age or developmental expectations because of the suspected area of disability. Teams should use research to guide discussions about developmental expectations. Significantly below age or developmental expectations is defined by VDOE in this guidance document unless otherwise defined by the LEA in local policy.

When documenting educational impact, teams should consider student specific factors in relation to student performance. For example, while student A's poor attendance may impact their performance in school, student B may be avoiding school because of their academic, functional, or behavioral challenges, which results in poor attendance. While student A's attendance, not a suspected disability, may be found to be the primary cause of their educational impact, student B's adverse effect on educational performance is caused by their impairment and would not be an exclusionary factor. Teams should not only document if the student is not meeting expectations, but if there is a link between the suspected disability and the adverse effect on educational performance.

Need for Specially Designed Instruction (SDI)

Specially Designed Instruction (SDI) means to provide the child with a disability instruction that is required for that individual student to make progress. While all students may benefit from additional supports, this criteria question requires the team to determine if the SDI is required in order for the individual student. In the context of decision making for special education eligibility, "Specially designed instruction" is defined in Virginia regulations as "adapting, as appropriate to the needs of an eligible child under this chapter, the content, methodology, or delivery of instruction: (34 CFR 300.39(b)(3))

1. To address the unique needs of the child that result from the child's disability; and
2. To ensure access of the child to the general curriculum, so that the child can meet the educational standards that apply to all children within the jurisdiction of the local educational agency. (p 11)"

The eligibility team's determination of a student's need for specially designed instruction should be based upon three or more measures unless otherwise defined by the LEA in local policy. The selection of data sources will vary based on the educational challenges the student is experiencing and the disabilities being considered.

Some data sources to consider when determining student need for SDI include:

- Work samples
- Observations
- Assessment data
- School records
- Response to intervention data (progress monitoring and data on fidelity of implementation)
- Dynamic Assessment data from evaluations

Some examples of SDI include a functional curriculum to address developmental learning differences, specialized reading program by a trained instructor, one on one learning to provide explicit academic and social skills instruction, instruction of memory strategies to be able to access the curriculum, and instruction of social problem-solving skills.

It should be noted that specially designed instruction is fundamentally different from accommodations or differentiated instructional approaches. Because of their basic nature and ease of implementation, an individual does not have to have specialized training to provide accommodations or differentiated instruction. These include many common-sense approaches for responding to the learning needs of students with or without disabilities. The following examples are accommodations or differentiated instruction approaches that might include allowing additional movement breaks, reading of text to a student either by an adult or via computer software, allowing a

student to choose their partner on a project rather than being teacher assigned, providing enlarged print, offering repeated instructions, checking for understanding, providing help with organization (e.g., conducting more frequent checks of progress on lengthy assignments, allowing time to organize materials and backpack at the end of the day), allowing minimizing time near distractions (e.g., near a noisy hallway, excessive talking, close proximity to a heating/air source), and allowing additional wait time for a student to process information and/or formulate a response.

When eligibility teams or evaluators offer suggestions or recommendations for accommodations or differentiated instructional approaches for general or special education classroom teachers to implement, this is NOT specially designed instruction and is not sufficient for completion of this criteria question on eligibility criteria worksheets. When children are not eligible for special education and related services, these recommendations should be provided to the team and classroom teachers. If the student has an IEP, these supports may be documented as a support for school personnel in an IEP, an accommodation, or listed as an “indirect service.”

Students who are able to have their learning needs met effectively and sufficiently within the general education environment through the exclusive use of individual accommodations, rather than specially designed instruction, would not be considered to meet criteria for this eligibility question. The VDOE publication, [What Is “Special” About Special Education?: Specially Designed Instruction for Students With Disabilities Within a Multi-tiered System of Supports](#), provides an in depth explanation of the similarities and differences and the interrelatedness of Specially Designed Instruction, Core Instruction, and Interventions. Additional [Specially Designed Instruction Resources](#) are available on the VDOE website.

The general education curriculum for a preschooler is the same as it is for nondisabled children and should include the skills and knowledge a student needs to meet Virginia’s Birth-Five Early Learning and Development Standards.

Virginia special education regulations state that “General education qualified personnel who are knowledgeable about the students and their special education,

may implement special education services in collaboration with special education personnel. Special education services include those services provided directly to the student and those provided indirectly ([Regulations Governing Special Education Programs for Children with Disabilities in Virginia](#), p. 20).” Therefore, it is acceptable for qualified personnel to provide adaptations, as appropriate, to the needs of an eligible student with a disability with the content, methodology, or delivery of instruction. Additionally, under the guidance, supervision, and collaboration of qualified personnel, other staff (such as a general education teacher and/or paraprofessional), may provide and assist in providing specially designed instruction for students with disabilities.

Further explanation of modified content, methodology, and delivery are provided to assist teams in documenting the need for specially designed instruction which is required for each eligibility determination under Virginia regulations.

- Modified content means that knowledge and skills being taught to the student with a disability are different from what is being taught to typically developing same-aged peers unless otherwise defined by the LEA in local policy.
- Modified methodology means that different instructional strategies and approaches are being used to teach content to the student with a disability than are used with typically developing, same-aged peers unless otherwise defined by the LEA in local policy.
- Modified delivery means that the way in which instruction is delivered is different than what is provided to typically developing peers unless otherwise defined by the LEA in local policy.
- Accommodations are provided to support student access to the curriculum unless otherwise defined by the LEA in local policy. Accommodations do not change what is taught.

Significant Discrepancy

When considering if a student is eligible for special education under any category, documentation of a significant discrepancy from typical skills, age or developmental levels should be done using a variety of measures including but not limited to:

- Standardized Test
- Norm Referenced
- Criterion Referenced Tests
- Curriculum-Based Measure
- Inventory or Checklist
- Dynamic Assessment
- Rating Scales
- Questionnaires & Interviews
- Formal and Informal Observation

Significant discrepancy is generally a comparison to typical performance and is not determined by any single score or measure. A prescription or diagnosis from a medical professional is not sufficient to document a significant discrepancy. The presence of a discrepancy does not make a student eligible for a disability identification.

1. Teams should consider all possible causes for the discrepancy including the regulatory requirement to rule out Lack of appropriate instruction in reading, including the essential components of reading instruction;
2. Lack of appropriate instruction in math; or
3. Limited English proficiency as the primary or determinant factor.

Dynamic assessment measures may be administered to cross validate standardized testing and inform discussions related to reducing bias in assessment and identification of a student's true learning potential. Methods include test-teach-retest, graduated prompting, and testing limits. Data on student responsiveness or modifiability should be considered in conjunction with any standardized assessments when answering eligibility criteria questions.

Unless otherwise defined by the LEA in local policy, the eligibility team's determination of a significant discrepancy should be based upon three or more measures of the student's performance in the same area of concern as noted on the referral for suspected disability or student's last eligibility decision.

Use of Scores to Document a Significant Discrepancy

When norm referenced or standardized tests are used, reporting of confidence intervals is suggested to address issues with bias and reduce the risk of over-identification due to diagnostic accuracy issues. Use of tests with appropriate diagnostic accuracy are preferred. Diagnostic accuracy includes sensitivity, the measure of true impairments identified by a test, and specificity, the measure of true negatives. Some tests also report error rates which may represent a combination of

both over and under identification. The selection and use of diagnostically accurate tools is informed by current research and test administration manuals.

When considering scores from standardized and norm referenced measures, individual subtest scores should not be used in isolation. Scores within ± 1 standard deviation from the mean are generally considered within normal limits. In conjunction with guidance from the test administration manual, scores more than -1.5 standard deviations below the mean may be considered significant.

The use of full scale, composite, or comprehensive scores, rather than subtest scores, should be used when comparing a student's performance to the normative sample. Teams are encouraged to use test administration manuals and professional best practice when analyzing student evaluation data. When a score differs from what is typical in the normative sample, it is referred to as a normative weakness. Test administration manuals provide guidance for determining if the score differences are significant.

When student scores differ between subtests, this is referred to as a relative strength or relative weakness. A single relative weakness may be uncommon (e.g., statistically significant) but does not meet the requirement to document significant discrepancy on its own. Generally, comparison of subtest scores to identify a relative weakness is not recommended for purposes of disability identification unless noted in the test administration manual or as part of a formal Pattern of Strengths and Weakness (PSW) approach used for determining a Specific Learning Disability.

Order of Disability Identification: Primary, Secondary, and Tertiary

The IDEA and Virginia regulations permit students to be found eligible for more than one disability area. Teams should identify possible disability areas and address each one using the associated criteria worksheet or regulations. Note that the educational impact described on each sheet should pertain to the specific disability being considered. For example, if a student is suspected of having both blindness and

speech language impairment for dysfluency, the documentation of the educational impact of the blindness page would describe the impact of the vision loss on learning, while the documentation of the impact of the dysfluency may highlight the impact on communication with others.

After the team determines which disability areas the student is eligible for, they should order or prioritize the disability identifications. Teams should identify or begin with the disability areas that results in the greatest impact to the student (primary). The disability causing the second greatest impact is the secondary disability. The disability with the least impact is named as the tertiary disability. The team may review evaluation data and discuss educational need as they determine the order of disability areas and the impact on the student.

Teams should refrain from the use of multiple disabilities as a catch-all for students who have more than one disability area (e.g., SLD and SLI or ED and SLD). Multiple Disabilities should be reserved for students whose combination of disabilities results in “such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments.” (8VAC20-81-10)

Additional Topics

Evaluating Young Children

For children with disabilities, early detection and response can significantly improve long-term developmental and learning outcomes. For preschoolers, the need for special education may be due to a delay in any area including physical development, cognitive development, communication development, social or emotional development, and/or adaptive development. It should be kept in mind that a child’s abilities and skills must be understood within the framework of the natural and cultural context. The evaluation considers a child’s development to be interrelated across domains, examining children’s functioning in all areas of development, rather

than evaluating them in isolation. It is recommended to use a dynamic assessment process since it is more naturalistic and provides more information about a child's abilities. Dynamic assessment measures a child's potential to learn, as opposed to a child's knowledge base or life experiences.

In addition, the Child Outcomes Summary (COS) discussion completed for Indicator 7 (Early Childhood Outcomes) of how functional skills and behaviors compare with age-expected, immediate foundational, or foundational development provides important information relative to the eligibility determination.

Evaluations Using Augmentative and Alternative Communication (AAC)

When evaluating students who use augmentative and alternative communication (AAC) devices, teams should ensure that evaluation reports clearly address the non-standard evaluation practices that were used, describe the devices and/or communication boards used, (including vocabulary set, alphabet style, and settings used in speech generating devices, such as word prediction) and any supports required.

In accordance with the [2014 Dear Colleague Letter Addressing Effective Communication](#) and the associated [Frequently Asked Questions](#) document, evaluators should consider and assess communication options and evidence based instructional strategies that use the student or family's preferred method of communication. In addition, evaluators are encouraged to also evaluate methods that will increase the student's independence, decrease reliance on others, and eliminate or reduce access issues across all settings and environments.

When a student's preferred methods of communication require assistance of another individual, authorship verification is suggested. Authorship verification will ensure to the extent possible that the message is truly that of the student and not influenced by the other individual. Verifying the authenticity of the message increases confidence in evaluation results that will be used for eligibility and IEP decision making.

Additionally, careful documentation of student's responses and types and amount/level of support, and setup of device or communication board should be included in the evaluation report. For example, when describing the set-up of the device, note if it is held by a communication partner or set up on a slant board or holder.

Understanding Modifications and Accommodations

The Virginia [K-12 Inclusive Practices Guide](#) and the [Standards-based Individualized Education Program \(IEP\) Guidance Document](#) provide information and examples of modifications and accommodations. Modifications require that students with disabilities perform objectives that are different from those of the rest of the class. The content or task may be reduced in depth and complexity. Accommodations do not change the content being taught to a student but may change the presentation or student's required response. Examples of accommodations include copy of notes, additional time to complete assignments, or presentation of questions or responses orally.

Evaluations may assist teams in identifying effective accommodations or supports for a student. The use of dynamic assessment and classroom observations may assist evaluators in the identification of effective strategies. After consent to evaluate is provided, evaluators may work with classroom teachers during the evaluation period to discuss implementation of strategies in the classroom. If this is done during the evaluation period, the team may use this data to inform eligibility criteria questions and gain further insight into the student's unique instructional needs.

Appendix A. Eligibility Guidance for Specific Disability Categories

When completing disability criteria worksheets, teams are encouraged to complete all questions and provide information about data sources used to inform the specific question. While not meeting the criteria for a question will result in the student being not eligible for that disability identification, the continued discussion may highlight techniques or examples that may inform completion of other criteria worksheets or assist classroom teachers in understanding strategies or interventions to support the student. Teams are strongly encouraged to answer all questions on the criteria worksheet.

The following disability specific guidance is incorporated into the revised disability criteria worksheets and is provided in this Appendix to assist teams, including parents, with understanding the eligibility process.

Autism

Autism is a clinical term as well as an educational disability identification. A clinical or medical diagnosis may inform the eligibility team, but does not equate to eligibility under IDEA. *Virginia Regulations Governing Special Education for Students with Disabilities* does not require a medical diagnosis for determining eligibility for special education services. While the Diagnostic and Statistical Manual Fifth Edition (DSM-V) may be used for medical or clinical diagnosis, educational identification is made using the Virginia eligibility criteria set forth in regulation which includes terms that differ from the current DSM.

Under Virginia regulations, educational eligibility under the category of autism includes students with Asperger's Disorder, Rhett's Disorder, Childhood Disintegrative Disorder, Pervasive Developmental Disorder - Not otherwise specified, and atypical autism. Criteria for autism under IDEA also requires documentation of adverse

educational impact and need for specially designed instruction. Documentation of characteristics, such as impairments in social interaction or communication, should describe or specify the significance of the impairment compared to typical peers. The description of the characteristics may also be used when documenting the adverse impact on the student's education.

Refer to the [Guidelines for Educating Students with Autism Spectrum Disorder](#) and [Models of Best Practice in the Education of Children with Autism Spectrum Disorder](#).

Deaf-Blindness (DB)

Deaf-Blindness is a clinical term as well as an educational disability classification under the IDEA. The eligibility criteria for Deaf-Blindness requires documentation of eligibility under the classifications of Deafness or Hearing Impairment (Hard of Hearing) and Visual Impairment including Blindness. Documentation of an adverse educational impact and the need for specially designed instruction are also required and are not based solely on a clinical or medical diagnosis. For additional guidance on evaluation and eligibility for Deaf-Blindness, refer to [Guidelines For Working With Students Who Are Deaf And Hard of Hearing in Virginia Public Schools](#); [Guidelines For Working With Students Who Are Blind or Visually Impaired in Virginia Public Schools](#); and [VDOE Clarification of Deaf-Blindness Eligibility](#).

Deafness & Hearing Impairment (HI) (Hard of Hearing)

Deafness and Hearing Impairment are clinical terms as well as separate educational disability classifications, under the IDEA. The eligibility criteria for both Deafness and Hearing Impairment requires documentation of an adverse educational impact and the need for specially designed instruction, which is not based solely on a clinical or medical diagnosis. The terms "deaf or hard of hearing" and "hearing loss" are now utilized within the *Code of Virginia* to replace the term "hearing impaired and its

variations.” The term “hard of hearing” may also be used in place of “hearing impairment” for the eligibility determination. Refer to, [Guidelines For Working With Students Who Are Deaf And Hard of Hearing in Virginia Public Schools](#), for additional guidance on evaluation and eligibility for Deafness and Hearing Impairment (Hard of Hearing).

Developmental Disabilities (DD)

Developmental Delay shall no longer be used beyond a child's seventh birthday. The use of developmental delay as a disability category is optional for local school districts. Other disability categories may be used if they are more descriptive of a young child's strengths and needs.

For preschoolers, the need for special education may be due to a delay in any area including physical development, cognitive development, communication development, social or emotional development, and/or adaptive development. This delay is to be identified through authentic assessments that measure a child's functioning in everyday environments. A deficit in academic skills is not required for eligibility and each of the developmental areas carries equal weight during eligibility discussions. For example, a child with social-emotional needs who meets the regulatory criteria for a developmental delay does not need to also present with a deficit in the cognitive domain.

Developmental Delay refers to children aged two by September 30 through six, inclusive who are experiencing developmental delays in one or more of the following areas: physical (gross motor and/or fine motor), cognitive, communication, social or emotional, or adaptive development. The presence of one or more documented characteristics of the delay has an adverse effect on educational performance and makes it necessary for the student to have specially designed instruction to access and make progress in the general educational activities for this age group. Additionally, a child may be found eligible if he/she has established physical or

mental condition that has a high probability of resulting in developmental delay. Examples may include chromosomal abnormalities; genetic or congenital disorders; or disorders secondary to exposure to toxic substances, including fetal alcohol syndrome.

The delay is to be measured by appropriate diagnostic instruments and procedures. This includes completing observations and using a dynamic assessment process that measure a child's functioning in natural environments. Natural environments may include the school, community-based child-care or preschool, home, and/or other community locations (e.g., park).

Because of the complex interactions among the various aspects of development in very young children, it is important to assess all five areas of development. A deficit in academic skills is not required for eligibility and each of the developmental areas carries equal weight during eligibility discussions. For example, a child with social-emotional needs who meets the regulatory criteria for a developmental delay does not need to also present with a deficit in the cognitive domain. The team should take great care to ensure the delay(s) is not primarily a result of cultural factors, environmental or economic disadvantage, or limited English proficiency.

Emotional Disability (ED)

The Federal Regulations and Virginia regulations do not define many of the terms used in the definition of Emotional Disability. The terms below are defined by the VDOE to bring consistency to the application of this criteria and reduce the potential for bias and inappropriate eligibility decisions. The presence of a clinical diagnosis is not required or sufficient to find a child eligible for an emotional disability. Similarly, a clinical diagnosis of a conduct disorder does not rule out an educational identification of emotional disability. It is important for teams to consider and rigorously apply the qualifying conditions or limiting criteria for ED (long period of time, marked degree, and adverse effect on educational performance) to avoid misidentification. Teams

should note that emotional disability does not apply to children who are socially maladjusted, unless it is determined that they also have an emotional disability.

The team's discussion of the student's cultural background is vital when considering specific eligibility criteria for emotional disability listed below. Some behaviors may be the result of a number of factors including trauma, communication differences, social maladjustment, and or an emotional disability. Behaviors that may be considered appropriate in one environment may be considered inappropriate in another. Additionally, the function of the behavior should be examined within the context of the student's experiences. Teams should consider the need for specialized instruction and data from instruction and interventions provided in core instruction to address social emotional skills and behavior. Functional Behavioral Assessment (FBA) and Behavior Intervention Plan (BIP) and other data from explicit behavior instruction should also be considered.

An inability to learn that cannot be explained by intellectual, sensory, or health factors:

This characteristic requires documentation that a student is not able to learn, despite appropriate instructional strategies and/or support services. Comprehensive evaluations and assessments should provide information that would allow teams to establish an "inability to learn" and rule out any other primary reasons for the suspected disability, such as intellectual disability, speech and language disorders, autism, learning disability, hearing/vision impairment, traumatic brain injury, neurological impairment or other medical conditions. If it is determined that these other conditions are the primary cause, then the team should review those disability criteria for possible eligibility. This does not necessarily rule out Emotional Disability as a secondary or tertiary disability.

An inability to build or maintain satisfactory interpersonal relationships with peers and teachers:

This characteristic requires documentation that the student is unable to initiate or to maintain satisfactory interpersonal relationships with peers and teachers. Satisfactory interpersonal relationships include the ability to demonstrate sympathy, empathy toward others, establish and maintain friendships, and work and play independently. These abilities should be considered when observing the student's interactions with both peers and teachers. It does not refer to the student who has conflict with only one teacher or with certain peers, rather it is a pervasive inability to develop relationships with others across settings and situations. The inability to build and maintain relationships with other others should not be due to an unwillingness or lack of social skills. Examples of behavioral characteristics that impact the ability to build/maintain relationships include but are not limited to: extreme social withdrawal, poor reality testing, disorganized or disoriented emotions towards others, or bizarre patterns of interpersonal reactions.

Inappropriate types of behavior or feelings under normal circumstances:

This characteristic requires documentation that the student's inappropriate behavior or feelings deviate significantly from expectations for the student's age, gender, and culture across different environments. Limited experience in a structured environment, lack of practice, or deficits in social skills may impact a student's behavior or feelings. The team should determine whether the student's inappropriate responses are occurring "under normal circumstances" for the student. When considering "normal circumstances," the team also should take into account whether a student's home or school situation is disrupted by stress, recent changes, or unexpected events.

Examples of inappropriate types of behavior or feelings under normal circumstances include but are not limited to: catastrophic reactions to every day occurrences, rapid or exaggerated changes in feelings (e.g., extreme emotional lability), overreaction to environmental stimuli, low frustration tolerance, severe anxiety, responses to delusions or hallucinations, or excessive or compulsive behaviors.

A general pervasive mood of unhappiness or depression:

This characteristic requires documentation that the student's unhappiness or depression is occurring across most, if not all, of the student's settings. This pattern is not a temporary response to situational factors or to a medical condition. The characteristics should not be a secondary manifestation attributable to substance abuse, medication, or a general medical condition (e.g., hypothyroidism). The characteristics cannot be the effect of normal grief associated with loss.

A tendency to develop physical symptoms or fears associated with personal or school problems:

Physical symptoms should suggest that physical disorders are present with no demonstrable medical findings (e.g., psychosomatic symptoms), evidence or strong presumption exists that these symptoms are linked to psychological factors, and the student is not conscious of intentionally producing these symptoms.

Long period of time:

Long period of time means based upon objective data gathered over a period of six months unless otherwise defined by the LEA in local policy. Decisions made based on data collected over a period of six months could be considered a starting point. Eligibility teams should consider the age of the child. For example, six months in the life of a five-year-old might be much more significant than six months of a 15-year old's life. The team should consider and rule out temporary adjustment reactions such as developmental changes or temporary reactions to psychosocial stressors (e.g., divorce death of a parent or sibling) and provide time and opportunities to utilize behavioral interventions.

Marked Degree:

Marked degree refers to the severity of the behavior and teams must also consider culture. The behaviors and/or emotions should be observed in a variety of settings, situations, and include a comparison with the students' appropriate age group. The intensity frequency and duration of the behaviors should be more severe and frequent than what is typically expected for individuals of the same age, gender, and culture. Demonstration of behaviors should be overt acute and observable. Additionally, the intensity of the behaviors should produce significant distress either to the student or to others in the school environment.

Social Maladjustment:

The term “social maladjustment” is not specifically defined in IDEA. In general, social maladjustment is viewed as a diagnostic category whose primary feature is that of conduct problems in which there is a persistent pattern of purposeful violation of societal norms, such as acts of truancy or substance abuse, and is marked by struggles with authority, poor motivation for schoolwork, and manipulative behaviors. Generally, behaviors associated with social maladjustment are situation specific rather than pervasive and are under the students control and responsive to behavioral interventions.

When considering Emotional Disability vs Social Maladjustment, certain characteristics (e.g., "inability to build or maintain satisfactory interpersonal relationships with peers and teachers" and "inappropriate types of behavior or feelings under normal circumstances") may be consistent with both social maladjustment and emotional disabilities. It is possible for a student to have an emotional disability along with social maladjustment. It is important for teams to consider the student's culture and home environment and rigorously apply the qualifying conditions or limiting criteria for ED (long period of time, marked degree and adverse effect on educational performance) to avoid misidentification of students. For additional information on differentiating between an emotional disability and social maladjustment (Sullivan,

2014; Tibbitts, 2013), examples of comparisons of characteristics are in Table 2. This table is not exhaustive and is intended to assist teams as they consider the student's behaviors. Table 2 is not intended to replace individualized data gathered by teams for decision making purposes.

Table 2. Comparison of Characteristics: Emotional Disability and Social Maladjustment

| Characteristic | Emotional Disability | Social Maladjustment |
|-------------------------------|---|---|
| Conscious Development | Self-critical, guilty, remorseful, overly serious | Little remorse; blaming; non-empathic; understands right from wrong, but chooses wrong |
| Reality Orientation | Fantasy, naive, gullible | Streetsmart, manipulates facts and distorts rules for own benefit |
| Adaptive Behavior | Consistently poor | Context and situationally dependent |
| Aggression | If present, self-injurious | Purposeful, premeditated aggression towards others |
| Anxiety | Tense, fearful, anxious | Appears relaxed, sullen, indifferent, not visible apprehension. Situational anxiety related to consequences faced |
| Affective Responses | Labile; disproportionate reactions, but not under student's control | Intentional with features of anger and rage; explosive |
| Peer Relations | Ignored or rejected, younger friends, social relationships not satisfying, inability to maintain relationships, withdrawn | Accepted by some groups, friends are same age or older, can be outgoing |
| Social Skills | Poorly developed; immature; difficulty reading social cues; difficulty entering groups | Well developed; mature; well attuned to social cues |
| School Behavior | Unable to comply, inconsistent achievement, needs lots of help or has difficulty asking for help | Seen as unwilling to comply most times, excessive absences, unresponsive, not receptive to help |
| Attitude Toward School | School is a source of confusion or angst; often responds well to structure | Tends to dislike school except as a social outlet; rebels against rules and structure. |
| Risk Taking | Avoids risks; resists making choices; seeks safety | Risk taking; thrill seeking; daring; challenging |
| School Attendance | Misses school due to emotional or psychosomatic issues | Misses school by choice (e.g., truant) |
| Perception of Peers | Perceived as bizarre or odd; often ridiculed | Perceived as cool, tough, charismatic |
| Interpersonal Dynamics | Poor self-concept; overly dependent; anxious; fearful; mood swings; distorts reality | Inflated self-concept; independent; underdeveloped conscience; blames others; manipulative |

Educational Impact of Emotional Disability

When documenting educational impact due to an emotional disability, teams should ensure that the impact documented is a result of the student's behaviors or characteristics that have been present to a marked degree or for a long period of time. When a team determines that the impact is caused primarily by a social maladjustment, documentation should also be included to describe the data sources used and rationale for the team's findings.

Intellectual Disability (ID)

Significantly sub average intellectual functioning, defined in regulation as two or more standard deviations below the mean on a standardized measure of intellectual functioning, existing concurrently with significantly impaired adaptive skills.

Significantly impaired adaptive skill is defined in regulation as two or more standard deviations below the mean on composite scores. There is no requirement as to how many subdomains or areas of adaptive skills need to be two or more standard deviations below the mean; the composite score or the overall measurement that combines the scores for all subdomains is the criterion measurement for adaptive skills. Assessment of adaptive skills focus on how well children can function independently and how well they meet the culturally imposed expectations of personal and social responsibility. The three areas of adaptive behavior include:

- Conceptual Skills - language and literacy, money, time, and number concepts;
- Social Skills - interpersonal skills, social responsibility, self-esteem, gullibility, social problem solving, and the ability to follow rules, obey laws, and avoid being victimized;
- Practical Skills - activities of daily living, occupational skills, healthcare, travel/transportation, schedules/routines, safety, use of money, use of the telephone.

The data collected from rating measures should be viewed and interpreted in light of the student's ethnic identity, ethnic expectations, and community customs since items may not be culturally relevant or appropriate even with norm-referenced measures. Additionally, different sources of adaptive behavior information should be considered across different reporters and in multiple settings. If there are significant discrepancies between scores from different reporters, it may be appropriate to gather additional information such as additional interviewing or have another rater to gain confidence in the data. The perspective of the rater may also need to be taken into consideration. The student's behavior may be different in different settings, or the rater's perceptions of the behavior may be different. Impaired skills in present functioning should be considered within the context of the individual's community environments typical of their age peers and culture. For more information, visit the [American Association on Intellectual and Developmental Disabilities](#) (AAIDD).

Multiple Disability Identification (MD)

The use of multiple disabilities is intended for use when the combination of disabilities causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. It should be noted that all federal examples for multiple disabilities include intellectual disabilities.

This term should not be used for students who have more than one disability, if the combination of disabilities does not create severe educational needs that cannot be accommodated using typical school programming. Example of combinations of disabilities that can generally be supported in the typical school setting include a student with a learning disability and emotional disability, a student with an intellectual disability and a speech and language impairment, or a student with a learning disability, emotional disability, and speech language impairment. A combination of deaf-blindness is not permitted for this disability category.

Other Health Impairment (OHI)

An Other Health Impairment (OHI) may be caused by chronic or acute health conditions, diseases, disorders, and injuries that substantially affect a student's strength, vitality, or alertness. This health impairment must also result in an educational impact and require specially designed instruction to meet the criteria for OHI. While no medical or outside diagnosis is required as a component of the evaluation process, the team should gather information to document the concerns that prompted the referral. In the absence of a medical or clinical diagnosis, the team should gather data to document the presence and severity of characteristics, symptoms, and or behaviors that are consistent with the suspected health condition. The team must consider any information provided by the family, and should have sufficient information to answer each eligibility question. Data to inform educational impact and need for specially designed instruction are important and should focus on a variety of settings and teachers as well as interventions provided and results.

If the school team determines that a medical is necessary, the cost of the medical evaluation must be covered by the LEA and completed within the evaluation timeline. If a medical is not included in the evaluation, it is important that the school teams or individual evaluators understand that they are not diagnosing, but identifying characteristics consistent with suspected health impairment.

Specific Learning Disability (SLD)

Virginia regulations governing eligibility permit the use of multiple approaches for identification of a specific learning disability (SLD). Each LEA must use at least one of the three federally and state permissible methods in the evaluation of a student who is suspected of having an SLD.

- IQ-Achievement Severe Discrepancy Method
- A process based on a child's response to scientific-based intervention

- Cognitive Pattern of Strengths and Weaknesses Methods

These permissible methods define SLD differently and, when used in the evaluation process, do not consistently identify the same group of children as being eligible under the SLD category (CASE et al. 2019). As such, it is incumbent upon the LEA to clearly identify the method(s) and associated procedures to be used in their division as to avoid identification discrepancies across schools.

Virginia regulations require that the team be able to substantiate each criteria question regardless of identification method selected. This includes documentation that “There is a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written (8VAC 20-81-80).”

IQ-Achievement Severe Discrepancy Method

The IQ-Achievement discrepancy method was included in IDEA in 1975. This framework for identifying SLD holds that academic deficits in children with SLD are unexpected because of the presence of average or strong cognitive abilities. This discrepancy between cognitive skills and academic achievement is a defining feature of this model and differentiates it from “regular” low achievement, which is low achievement that is commensurate with low cognitive ability.

In 2004, advances in research and best practice led to the addition of other methods for identification of specific learning disabilities and a movement away from the IQ-Achievement discrepancy method because of a lack of evidence for the validity of such procedures. Consequently, in IDEA 2004 Congress indicated that states could not require the use of a severe discrepancy between IQ and achievement as a method for SLD identification. While Virginia regulations does not prohibit the use of the IQ-Achievement discrepancy model, the limitations of this method are well documented (Fletcher & Miciak, 2019; NJCLD 2010). Specific concerns include that:

- Assessments may not differentiate between a true disability and impact of inadequate teaching

- Typically, students must first fail in order to qualify for special education services
- Results do not provide information to support the student’s instructional needs
- Students can be misidentified due to teacher or testing bias
- Validity studies show no practical differences (behavior, achievement, cognitive skills, response to instruction, and neurobiological correlates) between groups produced by the identification criteria

The IRIS Center, a national center funded by the U.S. Department of Education, published [What Is the IQ-Achievement Discrepancy Model?, a dialogue guide](#). This guide highlights many concerns related to the use of this model for identification of learning disabilities including:

- *“The information gathered from the IQ and achievement assessments does not indicate each student’s specific learning needs:*
 - *The assessment process does little to inform classroom instruction.*
 - *It also is unable to provide information about whether classroom instruction meets each student’s learning needs.*
- *The IQ-achievement discrepancy model can create inequitable treatment for students:*
 - *A variety of factors can cause students to be misidentified as having learning disabilities.*
 - *Many states and districts have experienced a disproportionate representation of students from culturally and linguistically diverse backgrounds, based on traditional identification methods”*

The IRIS Center guide also includes information about advantages that LEAs can consider related to the IQ-Achievement discrepancy model. These include:

- *“The IQ-achievement discrepancy model is an already established practice.*
- *It is relatively easy to employ.*
- *A teacher does not have to spend a great amount of time in the identification process because a certified diagnostician or school psychologist conducts the IQ and achievement tests.”*

Response to Scientifically-Based Intervention or RTI Method

In a method based on the student’s response to instruction and intervention (i.e., RTI method), the key attribute to identify a specific learning disability (SLD) is a student’s inadequate response. There is no universally agreed-upon criterion for operationalizing inadequate instructional response. Consequently, school divisions choosing to employ this method should ensure that local policies and procedures include a clear operational definition for what constitutes “inadequate response.” In general, an inadequate response may be defined based on three types of data: a) student growth over time; b) postintervention performance; or both (Fletcher & Miciak, 2019).

Proponents of the RTI method highlight that instruction and intervention response is educationally meaningful and it is strongly related to several educational relevant domains, including achievement, behavior, and cognitive functioning. Thus, data regarding a student’s response to instruction and intervention may prove extremely useful in guiding educational programming, regardless of whether the student is eligible to receive special education services or not.

Critics of the RTI method as a sole means to identifying an SLD note that successful implementation requires a multi-tiered systems of supports fully implemented with fidelity, which is practically challenging for schools to achieve and maintain. Additionally, critics note that methods based on RTI must still adhere to the 2004 IDEA requirements for a comprehensive evaluation.

While IDEA and Virginia regulations permit RTI as a method for identification of learning disability, data regarding a student's response to instruction and research-based intervention may be insufficient on its own for eligibility determination. Data to document the presence of the other required eligibility criteria and rule out exclusionary factors is required. Teams must have sufficient data to document each eligibility criteria question and may be required to gather additional data beyond what is provided solely through an RTI method.

Cognitive Pattern of Strengths and Weakness (PSW) Methods

The pattern of strength and weaknesses in cognitive processing methods draw a distinction between expected underachievement, which can be attributed to commensurate cognitive functioning and achievement, and unexpected underachievement, which is by marked an intraindividual pattern of strengths and weaknesses. PSW models hypothesize that low academic achievement is unexpected because of the presence of cognitive processing strengths, in combination with specific cognitive weaknesses that provide a potential explanation for specific academic weaknesses. Thus, methods based on this framework feature a comprehensive assessment that includes an extensive evaluation of achievement and cognitive processes.

Advocates for the use of a PSW framework to identifying SLD focus on the component of the statutory definition indicating that SLD involves psychological processes, arguing that these processes should be directly assessed. Considerable evidence shows that cognitive processes are associated with different types of SLD, especially when the definition specifies an academic component skill as a primary characteristic (Stuebing et al., 2012). It should be noted that Virginia regulations require that the team be able to substantiate "There is a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written (8VAC 20-81-80)" regardless of identification method selected.

There are several research-based methods that fall under the PSW framework, including but not limited to:

- Cross-Battery Assessment (“XBA”)
- Discrepancy/Consistency Method (DCM)
- Concordance-Discordance Method (C-DM)
- Milton Dehn’s Processing Model
- Core-Selective Evaluation Process (C-SEP)

In the article [Specific Learning Disability Identification: What Constitutes a Pattern of Strengths and Weaknesses?](#), Schultz, Simpson, & Lynch state “The essential steps in the process include (a) the identifying an academic need in one of the seven areas found in federal guidelines for SLD, (b) determining if there is an area or areas of cognitive weakness that have a research-based link to problems in the identified academic area, (c) establishing whether there are other cognitive areas which are average or above, and (d) analyzing these findings for a pattern that will rule out or confirm the presence of SLD (Schultz, Simpson, & Lynch, 2006, p.2).” Subtest scatter and visual inspection of scores does not constitute a pattern of strengths and weaknesses. LEAs that utilize PSW for SLD identification should identify a specific method for PSW and ensure staff have appropriate training and information for effective implementation.

Critics of the PSW model argue that this method provides limited data to inform classroom instruction and intervention. The PSW method allows academic interventions to be tailored to specific cognitive profiles (revealed through the PSW assessment process); however, there is little evidence supporting the effectiveness of academic interventions based on cognitive process profiles. School divisions choosing to use the PSW method for SLD identification should ensure that sufficient data is collected in the evaluation process to guide educational programming.

SLD and Sub average IQ

Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities; of intellectual disabilities; of emotional disabilities; of environmental, cultural, or economic disadvantage (§ 22.1-213 of the *Code of Virginia*; 34 CFR 300.8(c)(10)). Some methods for SLD identification are based on students having average intellectual functioning.

Schultz, Simpson, Lynch (2006, p. 92) state that “there are specific considerations that must be ruled out when determining SLD: a visual, hearing, or motor disability, intellectual disability, or emotional disturbance. The child should have a recent vision and hearing screening, and the IQ or other measure of General Intellectual Ability should be in the normal range to rule out intellectual disability.”

“Students with intelligence test scores between 70 and 85 frequently fall into the gap between general and special education.” While they may not qualify for special education, it is important to develop interventions within general education to address their needs. “Effective instructional practices can build academic resilience skills to ameliorate the important, but often-ignored, risk factor of borderline intellectual functioning. (Shaw, 2008, P. 291)”

Lack of Appropriate Instruction

As part of the eligibility criteria for Specific Learning Disability, teams must rule out that a student had a lack of appropriate instruction in the area of concern. Teams should be able to document that the student received high quality, research-based instruction in the area of academic need. There should be evidence that the regular curriculum allows for the majority of students to reach proficiency on grade level standards. Additionally, there should be evidence that the student participated in rigorous and differentiated instruction in the area of concern with the goal of accelerating achievement towards grade level standards. This may be supported by

evidence that the student received intervention in addition to core instruction. In order to rule out lack of appropriate instruction, teams must consider whether the student received sufficient intervention and if the intervention was implemented with fidelity.

Environmental, Cultural, or Economic Disadvantage

As part of the eligibility criteria for Specific Learning Disability, teams must discuss the exclusionary factor of environmental, cultural, or economic disadvantage. The presence of an environmental, cultural, or economic disadvantage does not automatically exclude a student from possible eligibility for learning disability. Eligibility teams should carefully examine individual student factors and data to determine the degree to which each factor adversely affects their educational performance. “Identifying and addressing the primary and contributory factors that create obstacles to learning, affect rates of progress and growth, and cause low achievement help education professionals design targeted interventions, provide quality instruction, and develop appropriate expectations—all of which are necessary to reduce over- and under identification of children for special education services. ([Whittaker & Ortiz](#), P.17)” A student may not be found eligible as a student with a Specific Learning Disability if the eligibility team determines that any of the exclusionary factors are the primary reason for the student’s learning difficulty.

For additional information on this topic, please review existing guidance on evaluation and eligibility and the [Virginia's Guidelines for Educating Students with Specific Learning Disabilities](#).

For additional guidance on specific learning disabilities, please refer to the following VDOE guidance:

- [Virginia's Guidelines for Educating Students with Specific Learning Disabilities](#)
- [Students with Disabilities in Mathematics: Frequently Asked Questions](#) (PDF)

- [Specific Learning Disability Supplementary Guide Dyslexia: Frequently Asked Questions](#) (PDF)

Speech Language Impairment (SLI)

Speech Language Impairment is a clinical term as well as a disability identification. Criteria for SLI under IDEA requires documentation of educational impact and need for specially designed instruction and is different from clinical or medical diagnosis. SLI includes impairments in articulation, language (e.g., expressive, receptive, and pragmatics or social language), voice, fluency, and swallowing when it impacts the student's education.

When the student's communication difficulties occur primarily because of another disability, such as Autism or Intellectual Disability, the team should consider the use of speech as a related service to address the deficits. Documentation of educational impact should clearly indicate that while a communication impairment exists, the primary cause is another disability area. The primary cause of the communication impairment should be described. Additionally, the team may document any recommendations to the IEP Team to consider speech language therapy as a related service or highlight areas of educational need. Refer to [SLP Services in the Schools: Guidelines for Best Practice \(2018\)](#) and [SLP Services in Schools 2020 Revisions](#) for additional guidance on Speech-Language Impairment evaluation and eligibility determinations.

When addressing the criteria question about socio-cultural dialect or limited English proficiency being the primary cause, teams should examine the contributions of student's dialect or English learner (EL) status to student communication issues. Features of some dialects or overgeneralization of features from another language (e.g., word order, marking plurals, tense, or gender) may mistakenly be viewed as an impairment when they are typical for that student's language system. The team should quantify the amount of impact that is dialect/LEP and what is thought to be a

result of a true speech-language impairment. Students may have both language difference and impairment (disorder within difference) and still be eligible if the SLI is a greater issue than dialect or other language difference.

Visual Impairment (VI) including Blindness

Visual Impairment and Blindness are clinical terms as well as an educational disability classification under the IDEA. The eligibility criteria for Visual Impairment including Blindness requires documentation of current or future adverse educational impact and the need for specially designed instruction, that is not based solely on a clinical or medical diagnosis. The eligibility criteria require documentation of visual acuity and visual field deficits, or a functional vision loss in which the visual acuity and visual field deficits alone may not meet the specified criteria. This may include vision conditions such as convergence insufficiency, if the aforementioned eligibility criteria are met. Refer to, [Guidelines For Working With Students Who Are Blind or Visually Impaired in Virginia Public Schools](#), for additional guidance on evaluation and eligibility for Visual Impairment including Blindness.

Appendix B. Sample Eligibility Process Forms and Disability Worksheets

These sample forms are provided to assist Local Educational Agencies (LEA) in documenting eligibility determinations in accordance with the criteria contained in the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, effective July 7, 2009, (the Virginia Regulations). Use of these forms and worksheets is optional. These forms and worksheets do not replace the Virginia Regulations, but may be used in conjunction with the Virginia Regulations. Information contained in this packet, includes both guidance and regulatory requirements and may be useful to document:

- Whether the student meets the eligibility criteria for special education and related services;
- The specific disability category(ies) for which the student has met the criteria;
- The date that initial eligibility and any re-evaluation and continued eligibility is established; and
- That the parent(s) was given an opportunity to participate in the eligibility process and was provided a copy of evaluation report(s), summary of meetings, and procedural safeguards.

Each LEA, in accordance with its policies and procedures, may require specific or additional measures as part of the evaluation, as long as these requirements do not exclude students from eligibility who would be eligible under the Virginia Regulations. If the team that reviews existing information determines that additional information is required, informed parental consent must be obtained prior to completing any assessments or tests. Any required evaluation components must be provided at no cost to the parent(s).

Sample Forms and Worksheets

- Referral Request for a Child Suspected of Having a Disability
- Team Review of Referral and Team Review of Existing Data Summary Form
- Parental Consent to Evaluate Form
- Eligibility Summary Form
- Observation Form
- Prior Written Notice Form
- Special Education Meeting Notice Form
- Special Education Meeting Notice Parent/Student Response Form

Disability Worksheets

1. Autism
2. Deafness
3. Deaf-Blindness
4. Developmental Delay
5. Emotional Disability
6. Hearing Impairment
7. Intellectual Disability
8. Multiple Disabilities
9. Other Health Impairment
10. Orthopedic Impairment
11. Specific Learning Disability
12. Speech-Language Impairment
13. Traumatic Brain Injury
14. Visual Impairment including Blindness

Directions for Referral Request for a Child Suspected of Having a Disability

The Referral Request for a Child Suspected of Having a Disability form may be used to document a request for evaluation to determine eligibility for special education and related services. Please note that a referral may be written, electronic, or oral, and that, if in writing it need not be completed on this form. Using the attached form, however, will assist the school division in documenting necessary information.

1. Describe why the evaluation is being requested. List qualitative and quantitative data and specific concerns in academic, behavioral, and/or social areas.
2. Describe any efforts made to address the concerns. Include qualitative and quantitative data, details of remediation efforts, staff involved, duration of efforts, and results.
3. Indicate name of person completing the form and date.
4. Indicate if the referral was given to the principal or special education administrator.
5. Indicate that parent(s) were provided procedural safeguards.

NOTE: Referrals may be given to either the Special Education Administrator or Principal, or their respective designee. The form should be signed and dated upon receipt. The 65 business day timeline for completion of the evaluation and eligibility determination begins on the date the referral is received by the special education administrator or designee.

If the referral form was received by the special education administrator or designee, within three business days after receipt of the form, that individual must either (i) initiate the initial evaluation process, (ii) refer the child to the

school-based team, or (iii) deny the request and provide prior written notice to the parent(s). If the decision is to refer the child to the school-based team, that group should document their review using the *Team Review of Referral and Team Review of Existing Data Summary* form. The team has ten (10) business days after receipt of the referral from the special education administrator or designee to meet and determine if the child should be referred for initial evaluation.

If the referral form was received by the principal or principal's designee, who is not also the special education administrator or designee, the school team (oval shape on the flow chart) shall meet within ten business days of the receipt of the referral. If the team determines that the child should be referred for initial evaluation, they shall refer the child to the special education administrator or designee within three business days of the meeting. If the team determines a referral for evaluation is not warranted, they must provide prior written notice.

The completed form must be placed in the student's education record.

A sample form follows.

Referral Request for a Child Suspected of Having a Disability

Name: _____ School: _____
 Student ID: _____ D.O.B.: _____ Age: _____ Grade: _____

This form shall be completed when making a referral for a child suspected of having a disability. Children may be referred through a screening process, or by school staff, the parent(s), or other individuals. The referral may be in written, electronic, or oral form to the principal or designee of the school the child attends, or, if initially enrolling in the school division, in the school in the parent's district. If the referral is made to the special education administrator or designee, the administrator shall within three business days:

- (1) Initiate the evaluation eligibility process in accordance with Regulations Governing Special Education Programs for Children with Disabilities in Virginia;
- (2) Require that the school-based team review and respond to the request; or
- (3) Deny the request.

If the request is denied, prior written notice in accordance with 8VAC20-81-170 shall be given to the parent(s), including the parent's right to appeal the decision through the due process hearing procedures.

Referring Source: School Staff: _____ Screening Process IEP Team Other _____

Parent(s) Name: _____ Address: _____ Phone: _____

Description of why an evaluation is requested (include qualitative and quantitative data and attach pages if needed):

Description of efforts that have been made to address the concerns (include qualitative and quantitative data and attach pages if needed):

 Name of Person Completing Form

 Date of Referral

 Name of Person Receiving Form

 Date Received

Office Use Only:
Referral form received by: Principal/Designee Special Education Administrator/Designee

Procedural safeguards in determining eligibility and in ensuring the confidentiality of records were provided to the parent.

If form was given to the principal or designee, the school-based team must meet within ten (10) business days to review and respond to the request.

If form was given to the special education administrator or designee, within three business days the special education administrator or designee's decision was to:

- Begin the initial evaluation procedures
- Refer the child to the school-based team to review and respond to the request
- Deny the request, and provide prior written notice

 Special Education Administrator or Designee

 Date

Directions for Team Review of Referral and Team Review of Existing Data Summary

1. Complete Student Name, Student ID number, Age, Date of Birth, Meeting Date, Grade, and School.
2. Indicate if this meeting is to A) review a referral request provided to the team by the administrator of special education or B) as part of an evaluation or re-evaluation for a student suspected of having a disability, review existing data and determine if any additional data is needed.
3. If A (team review), review the referral request and data provided and determine if the team suspects a disability and an evaluation is warranted or if the team does not suspect a disability and no evaluation is warranted. Document the summary of discussion.
4. If B (evaluation or re-evaluation), review existing evaluation data on the child, including evaluations and information provided by the parent(s) of the child; current classroom-based, local, or state assessments and classroom-based observations; and observations by teachers and related services providers. On the basis of that review and input from the child's parent(s), identify what additional data, if any, are needed to determine: (1) Whether the child is, or continues to be, a child with a disability; (2) The present educational needs of the child; (3) The child's present level of academic achievement and related developmental needs; (4) Whether the child needs or continues to need special education and related services; and (5) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum. Summarize the discussion and indicate the determination of the group regarding the need for additional data. If additional data is required, obtain informed parental consent.
5. Indicate that parent(s) were provided procedural safeguards.

6. The form should be signed by all members of the team and must be placed in the student's education record.

NOTE: Parental consent is not required for a review of existing data. If the LEA determines that no additional data are needed, it shall provide prior written notice to the parent, including the reasons for the determination and information regarding the right of the parent(s) to request an evaluation to determine whether the child continues to be a child with a disability and the child's educational needs.

The local educational agency is not required to conduct a re-evaluation to gather additional information to determine whether the child continues to have a disability and to determine the child's educational needs, unless the child's parent(s) requests the evaluation for these specific purposes. The review of existing data may be done without a meeting if the school division provides notice and the parent has an opportunity to participate in the review.

A sample form follows.

Team Review of Referral and Team Review of Existing Data Summary

Name: _____ School: _____ Meeting Date: _____
Student ID: _____ D.O.B.: _____ Age: _____ Grade: _____

Meeting Type:

- Initial-Administrator of Special Education requires team to review and respond 8VAC20-81-50 D3b2 (Complete Part A)
- Initial-Administrator of Special Education decided to begin evaluation process (Complete only Part B)
- Re-evaluation (Complete only Part B)

Part A: Team Review of Referral

When the referral was received, the administrator of special education elected to require a team review and respond to the referral request. The team is comprised of the same individuals as an IEP team and other qualified individuals as appropriate (8VAC 20-80-70). **Document the summary of discussion and indicate the decision of the group in the Summary of Discussion section.**

The group determines that:

- A disability is suspected** and an evaluation is warranted. (Complete Part B of this form)
- A disability is not suspected** and an evaluation is not warranted. Provide the child's parent(s) with prior written notice, including information regarding the determination and the reasons for it.

Signatures of qualified professionals and the parent(s) of the child and student if appropriate.

| | |
|---------------------------|--|
| _____ | _____ |
| Parent(s) | Director of Special Education Designee or Representative of Local Education Agency |
| _____ | _____ |
| Special Education Teacher | General Education Teacher |
| _____ | _____ |
| Title: | Title: |

Part B: Evaluations and Re-Evaluations

A group that is comprised of the same individuals as an IEP team and other qualified professionals, as appropriate, shall review existing evaluation data on the child, including (check all that apply):

- Evaluations and information provided by the parent(s) of the child;
- Current classroom-based, local, or state assessments and classroom-based observations;
- Observations by teachers and related services providers
- Other:

On the basis of that review and input from the child's parent(s), identify what additional data, if any, are needed to determine: (1) Whether the child is, or continues to be, a child with a disability; (2) The present educational needs of the child; (3) The child's present level of academic achievement and related developmental needs; (4) Whether the child needs or continues to need special education and related services; and (5) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum. **Document the summary of discussion and indicate the decision of the group in the Summary of Discussion section.**

The group determines that:

- Additional data are needed to determine whether the child is or continues to be a child with a disability and to determine the child's educational needs and the other matters set forth above. Attach Parental Consent form.
- No additional data are needed to determine whether the child is or continues to be a child with a disability and to determine the child's educational needs and the other matters set forth above. Provide the child's parent(s) with prior written notice, including information regarding the determination and the reasons for it. For re-evaluations, include the right of the parent(s) to request an evaluation to determine whether the child continues to be a child with a disability and to determine the child's educational needs.

Procedural safeguards in determining eligibility and in ensuring the confidentiality of records were provided to the parent.

Summary of Discussion: Include information for Part A and B

Names and roles of qualified professionals and the parent(s) of the student present at the meeting.

Parent(s)

Special Education Teacher

Title:

Title:

Director of Special Education, Designee, or Representative of
Local Education Agency

General Education Teacher

Title:

Title:

Directions for Parental Consent to Evaluate

1. Complete Student Name, Student ID number, Age, Date of Birth, Meeting Date, Grade, and School.
2. Determine **Areas of Evaluation** and check the appropriate boxes and/or check “other” and write evaluation components in the space provided.
3. Enter name of LEA.
4. Indicate, by checking the box, that procedural safeguards were provided.
5. Indicate, by checking a box, if the parent gives or does not give consent for the evaluation.
6. The form must be signed by the parent(s) and placed in the student’s education record.

A sample form follows.

Parental Consent to Evaluate

Name: _____ School: _____ Meeting Date: _____
Student ID: _____ D.O.B.: _____ Age: _____ Grade: _____

I understand that parental consent is not required before reviewing existing data as part of an evaluation or administering a test or other evaluation that is administered to all children, unless parental consent is required before administration to all children. Parental consent for initial evaluation shall not be construed as consent for initial provision of special education and related services. (34 CFR 300.300)

I understand that a variety of assessment tools and strategies will be used to gather relevant functional, developmental, and academic information about my child.

Areas of Evaluation:

- An **Educational** Assessment to determine level of academic achievement and the nature of any problems related to learning
- A **Psychological** Assessment to determine strengths and weaknesses in areas that may include: social, motor, emotional, adaptive and intellectual ability
- A **Sociocultural** Assessment to obtain social, developmental, adaptive and health history information and any possible effect on learning
- A **Speech/Language** Assessment to determine current level of functioning in voice, fluency, articulation and/or language
- A **Developmental** Assessment to determine cognitive, perceptual, motor, and social functioning
- A **Hearing Screening** completed by school nurse, speech pathologist, audiologist or other trained staff to determine hearing acuity. This is a required component of all initial referrals for students suspected of a disability.
- A **Vision Screening** completed by nurses and other trained personnel to determine visual acuity.
- A **Medical Report** completed by a licensed physician to rule out and/or identify any medical problems related to the suspected disability.
- An **Occupational Therapy** Assessment to determine participation in daily classroom tasks, school roles and routines, and management of classroom tools and materials.
- A **Physical Therapy** Assessment to evaluate functional mobility, movement and motor performance in order to access and participate in the classroom and school physical environment.
- Functional Vision** Assessment completed by a teacher endorsed in the area of VI to determine strengths and weaknesses in a student's use of his/her vision and the impact on educational performance.
- Observation** (consent required for initial evaluations only)
- Other** _____

I consent for _____ (Local Education Agency) to conduct or administer the evaluation components listed above. The results of these evaluations may be used to determine:

1. whether my child is or continues to be a child with a disability
2. my child's educational needs
3. the other matters set forth on the attached Review of Existing Data Summary
4. IEP team decisions regarding related services or other supports and services.

I understand that the evaluation reports will be available to me two business days prior to the eligibility meeting. I understand that the evaluation will be completed at no cost to me and a written copy of the evaluation report(s) shall be available two days prior to the meeting. A copy shall be provided to me, at no cost, prior to or at the meeting where the eligibility group or IEP team reviews the evaluation report(s) or immediately following the meeting, but no later than ten (10) days after the meeting.

- Procedural Safeguards:** I understand my right to withhold consent for the school division to evaluate my child. I understand that my permission is voluntary and may be revoked at anytime.
 - I give consent for the evaluation.
 - I do not give consent for the evaluation.

Parent Signature

Date

Eligibility Summary and Disability Worksheets: Instructions, Regulations, and Guidance

1. Review all existing and newly gathered data. Include a written summary of the team's review of existing information, including information from the parent(s), the student's cumulative records, previous Individualized Education Programs (IEPs) or Individualized Family Service Plans (IFSPs), state assessment information, other relevant information, and a summary of the completed evaluation components.
2. Indicate, by checking the boxes, that the team reviewed the statements for determinant factor, high quality instruction, participation in response to intervention, completion of an observation and hearing screening, and recommendations provided to a team.
3. Complete and attach the specific disability worksheets for all categories that were considered. When completing disability worksheets:
 - a. Complete Student Name, Age, Date of Birth, and School.
 - b. Review the definition of the disability being considered and associated guidance and regulatory requirements.
 - c. Consider each step and indicate True or False. Note any additional information considered. All items on the sheet should be reviewed and documented. The student must meet all regulatory criteria in order to be found eligible under a specific disability category.
4. Indicate the determination of the group regarding if the child has or continues to have a disability or does not meet criteria to be found eligible or continue to be eligible for special education and related services. If eligible, list primary, secondary, and tertiary disability category(ies) in the space provided.
5. Indicate that parent(s), and adult student if appropriate, were provided procedural safeguards.

6. The form should include names of those present at the meeting and be placed in the student's education record. Indicate if any member's conclusions differ from the determination and attach a written statement.
7. Indicate consent for proposed change. Parents should check the appropriate box and sign.

A sample form follows.

NOTE: A copy of completed evaluation reports must be included in the student's education record. If the group does not reach consensus and the decision does not reflect a particular member's conclusion, then the group member shall submit a written statement presenting that member's conclusions. The written statement must be attached to the form and placed in the student's record.

If the child has participated in a response to scientific, research-based intervention process indicate and attach required documentation. Notification of Virginia's guidance document *Responsive Instruction, Refining Our Work of Teaching All Children* and monographs is included in this packet and can be provided to parents to meet the notification requirement.

Eligibility Summary

Name: _____ School: _____ Meeting Date: _____
Student ID: _____ D.O.B.: _____ Age: _____ Grade: _____
Meeting Type: Initial Re-evaluation

This form shall be completed when determining whether the child is, or continues to be, a child with a disability and the educational needs of the child. Attach specific disability worksheets completed during this meeting.

Summary of Discussion: The group shall draw upon information from a variety of sources, including but not limited to review of records, aptitude and achievement tests, parent input and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and ensure that information from all these sources is documented and carefully considered. Include the basis for making the determination, information from assessments, any educationally relevant medical findings, classroom observation and behavior noted during the observation and its relationship to academic functioning. (Attach additional pages as needed)

- The determinant factor in the eligibility decision is not based on a lack of appropriate instruction in a. reading, including the essential components of reading instruction; b. Lack of appropriate instruction in math; or c. Limited English proficiency.
 - The team shall consider data that demonstrates that prior to, or as part of the referral process, the child was provided appropriate high-quality, researched-based instruction in general education settings, consistent with § 1111(b)(8)(D) and (E) of the ESEA, including that the instruction was delivered by qualified personnel. There shall be data-based documentation that repeated assessments of achievement at reasonable intervals, reflecting that formal assessment of student progress during instruction was provided to the child's parents.
 - If the child has participated in a response to scientific, research-based intervention process attach: (1) The instructional strategies used and the student-centered data collected; (2) The strategies that were used to increase the child's rate of learning; and (3) The parent's right to request an evaluation. Provide notification that Virginia's guidance document, *Responsive Instruction, Refining Our Work of Teaching All Children* and monographs, are available from the Virginia Department of Education Web site at www.doe.virginia.gov.
 - The child was observed in the learning environment or an environment appropriate for a child of that age and the academic performance and behavior in the areas of difficulty was documented. The team has considered information from observations both before and after the child was referred for evaluation as required by the Virginia Regulations.
 - A hearing screening was conducted prior to the determination of eligibility (initial eligibility only unless requested by team).
 - Recommendations from evaluation reports and meeting discussion were provided to the school team or IEP team.
- Procedural safeguards in determining eligibility and in ensuring the confidentiality of records were provided. The team provides assurance that the determination has been made in accordance with the applicable provisions of the Virginia Regulations regarding determining eligibility and educational need.

As defined by Regulations Governing Special Education Programs for Students with Disabilities in Virginia, the team determined that:

- The child has or continues to have a disability under the disability category(ies) of (Drop down disabilities), _____, and _____ and by reason of the disability(ies) needs special education and related services,
or
- The child does not meet criteria to be found eligible or continue to be eligible for special education and related services.

Names and roles of qualified professionals and the parent(s) of the student present at the meeting

| | |
|------------------------------------|--|
| _____ Parent(s) | _____ Director of Special Education, Designee, or Representative of Local Education Agency |
| _____ Special Education Teacher | _____ General Education Teacher |
| _____ Role: | _____ Role: |
| _____ Role: | _____ Role: |

A written statement from the member(s) whose conclusion(s) differs from the other members' determination is attached.

Consent for Proposed Change:

If this eligibility decision proposes a change, parent consent is required. Description of proposed action (mark as appropriate):

- Initial eligibility for special education and related services.
- Change in identification for a child with a disability.
- Termination of all special education and related services because the child no longer meets eligibility criteria.

I give consent do not give consent for this action.

Parent/Guardian/Adult Student signature

Date

Response To Intervention (RTI) Parent Notification

What is Response to Intervention (RTI)?

Response-to-Intervention (RTI) is a comprehensive, data informed process that closely monitors how the student is responding to different types of instruction, supports and services. The RTI process uses a multi-tiered approach to providing instruction and interventions to students who struggle with learning at increasing levels of intensity based on progress monitoring and data analysis.

The RTI process encourages parent participation and requires that if a parent or educational professional suspects a disability, a referral for special education evaluation can be made at any time during the process.

The RTI process has the potential to limit the amount of academic failure that any student experiences and to increase the accuracy of special education evaluations. This could also reduce the number of children who have been mistakenly identified as having learning disabilities when their learning problems are actually due to cultural differences or lack of adequate instruction. Information and data gathered by an RTI process can lead to earlier identification of children who have true disabilities and are in need of special education services.

What are the VDOE's Policies related to RTI Implementation?

Virginia school divisions may use data collected during the RTI process to inform decisions related to special education evaluation and eligibility for special education services.

In reference to referrals requests for a child suspected of a disability, Virginia regulations ([8VAC20-81-50.D.4](#)) state that, *"In reviewing the child's performance, the team may use a process based on the child's response to scientific, research based interventions or other alternative research-based procedures."*

In relation to eligibility determination, Virginia regulations allow *"each local educational agency to use a process for determining whether a child has a disability based on the child's response to scientific, research-based intervention"* ([8VAC20-81-80.I](#)). Specifically, Virginia regulations governing eligibility under the specific learning disability (SLD) category ([8VAC20-81-80.T.2.B](#)) permit the use of *"a process based on a child's response to scientific-based intervention"* as a part of the evaluation procedures to determine which students may have a specific learning disability (SLD) and need special education.

If a referral to special education is made and the school division is using RTI in the special education eligibility process, the information collected during the RTI process should be documented and considered part of the comprehensive evaluation.

What Should I Expect to See if my Child's School is using RTI?

While RTI implementation may look slightly different in each locality, the following essential components are part of successful RTI implementation at the individual student level:

- Collaborative teaming structure that includes the student's parent, teacher(s), school administrator and specialists in the area of concern;
- Selection and implementation of an evidence-based/research-based intervention to address the student's identified area of need;
- Frequent progress monitoring of the student's response to the intervention;
- Evaluation of fidelity of implementation of the identified intervention(s); and
- Use progress monitoring and fidelity data to guide decision-making.

If your child's school is using an RTI process to address your child's difficulties, you should expect to receive a written intervention plan. This plan should include:

- A description of the specific research-based intervention, including amount and duration to be implemented;
- The persons responsible for providing the intervention;
- A description of the progress monitoring strategy (i.e., student performance data that will be collected and the progress monitoring schedule);
- Information on how fidelity of the implementation of intervention will be evaluated;
- The threshold or criteria that will be used to determine whether there is "adequate progress" or to determine whether the intervention has been effective; and
- The length of time (such as the number of weeks) that will be allowed for the intervention to have an effect.

Autism: Instructions, Regulations, and Guidance

In application of the Virginia Department of Education's *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, these instructions, information, regulations, guidance, and criteria worksheet on Autism may assist the eligibility team in applying criteria for students who are being considered for eligibility under the category of Autism.

Autism is a clinical term as well as an educational disability identification. A clinical or medical diagnosis may inform the eligibility team, but does not equate to eligibility under IDEA. *Virginia Regulations Governing Special Education for Students with Disabilities* does not require a medical diagnosis for determining eligibility for special education services. While the Diagnostic and Statistical Manual Fifth Edition (DSM-V) may be used for medical or clinical diagnosis, educational identification is made using the Virginia eligibility criteria set forth in regulation which includes terms that differ from the current DSM.

Under Virginia regulations, educational eligibility under the category of autism includes students with Asperger's Disorder, Rhett's Disorder, Childhood Disintegrative Disorder, Pervasive Developmental Disorder - Not otherwise specified, and atypical Autism. Criteria for autism under IDEA also requires documentation of adverse educational impact and need for specially designed instruction. Documentation of characteristics, such impairments in social interaction or communication, should describe or specify the significance of the impairment compared to typical peers. The description of the characteristics may also be used when documenting the adverse impact on the student's education.

Guidance and Regulatory Language on Criteria Steps for Autism

Step 1. Review IDEA Definition

"Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, 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. Autism does not apply if a child's educational performance is

adversely affected primarily because the child has an emotional disturbance. A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in this definition are satisfied. (34 CFR 300.8(c)(1)) and [8VAC20-81-10](#).

Step 2. Identify Characteristics of Autism ([8VAC20-81-80](#))

The summary statement should provide a brief description of the characteristics of autism evident across multiple contexts or settings. List data sources used and describe findings.

“Children with Autism Spectrum Disorder demonstrate impairments in social interactions; restricted, repetitive and stereotyped patterns of behavior, interests, and activities; and impairments in communication across multiple contexts.

***Impairments in social interaction**, includes marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction; failure to develop peer relationships appropriate to developmental level (i.e., such as greeting and sharing information in a manner that is appropriate for the social context); a lack of spontaneous seeking to share enjoyment, interests, or achievements with other people (i.e., by a lack of showing, bringing, or pointing out objects of interest); or lack of social or emotional reciprocity are noted (i.e. abnormal social approach and failure of normal back and forth conversation).*

***Restricted, repetitive and stereotyped patterns of behavior, interests, and activities** includes encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus, apparently inflexible adherence to specific, nonfunctional routines or rituals, (i.e., difficulties adjusting behavior to suit various social contexts), stereotyped and repetitive motor mannerisms, persistent preoccupation with parts of objects.*

Impairments in communication, includes a delay in, or total lack of, the development of spoken language (not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime). In individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others, stated, stereotyped and repetitive use of language or idiosyncratic language (i.e., difficulties with understanding what is not explicitly stated, utilizing communication for social purposes, changing communication to match situational context, or following conversational rules), or lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level is noted.”

Step 3. Document Adverse Effect on Educational Performance

The summary statement should provide a brief description of the educational impact due to the documented characteristics of autism. List data sources used and describe findings.

Regulations require the team to rule out emotional disturbance as the primary cause of educational impact. If there are any indications that there may be emotional issues the team should document this in this step and also consider reviewing criteria for emotional disability.

Step 4. Document Need for Specially Designed Instruction

The summary statement should provide a brief description of the need for specially designed instruction. List data sources used and describe findings.

Additional Resources

Refer to the [Guidelines for Educating Students with Autism Spectrum Disorder](#) and [Models of Best Practice in the Education of Children with Autism Spectrum Disorder](#) for additional information.

A sample form follows.

Autism Criteria Worksheet

| | | | |
|-------------|---------|---------|--------|
| Name: | | School: | |
| Student ID: | D.O.B.: | Age: | Grade: |

After consideration of data from multiple sources, review the definition, consider the items below, and note any additional information. Attach this worksheet to the Eligibility Summary Form and include any necessary documentation. Complete all steps.

Step 1
 Team reviewed the IDEA definition of Autism.

Step 2
 True
 False

Characteristics of Autism:
Children with Autism Spectrum Disorder demonstrate the following characteristics across multiple contexts:

- " Impairments in social interaction
- " Restricted, repetitive and stereotyped patterns of behavior, interests, and activities
- " Impairments in communication

Children with Atypical Autism, Asperger's Disorder, or PDD-NOS may display any of the characteristics listed above without displaying all of the characteristics associated with Autism Spectrum Disorder. There is documented evidence of the following characteristics:

- Impairments in social interaction
- Impairments in communication
- Restricted, repetitive and stereotyped patterns of behavior, interests, and activities

Summary statement: (provide brief description of findings, including data sources used)

AND

Step 3
 True
 False

There is documentation of an adverse effect on educational performance due to one or more documented characteristics of autism and not primarily because the child has an emotional disturbance.

List and/or describe:

AND

Step 4
 True
 False

Due to the identified Autism, the student needs specially designed instruction.

List and/or describe:

Deaf-blindness: Instructions, Information, Regulations, and Guidance

In application of the Virginia Department of *Education's Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, these instructions, information, regulations, guidance and criteria worksheet on **Deaf-blindness** may assist the eligibility team in applying criteria for students who are being considered for eligibility under the category of **Deaf-blindness**.

Deaf-Blindness is a clinical term as well as an educational disability classification under the IDEA. The eligibility criteria for Deaf-Blindness requires documentation of eligibility under the classifications of Deafness or Hearing Impairment (Hard of Hearing) and Visual Impairment including Blindness. Documentation of an adverse educational impact and the need for specially designed instruction are also required and are not based solely on a clinical or medical diagnosis.

Guidance and Regulatory Language on Criteria Steps for Deaf-Blindness

Step 1. Review IDEA Definition

"Deaf-blindness" means simultaneous 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.

Step 2. Complete Required Criteria Worksheets

Complete the Visual Impairment including Blindness Worksheet and the Deafness or Hearing Impairment Worksheet. Student must be eligible for both disability categories.

Step 3. Complete Combination of Needs

The combination of the hearing and visual impairments causes such severe communication and other developmental and educational needs that cannot be accommodated in special education programs solely for children with deafness or children with blindness.

Additional Resources

For additional guidance on evaluation and eligibility for Deaf-Blindness, refer to [Guidelines For Working With Students Who Are Deaf And Hard of Hearing in Virginia Public Schools](#);

[Guidelines For Working With Students Who Are Blind or Visually Impaired in Virginia Public Schools](#); and [VDOE Clarification of Deaf-Blindness Eligibility](#).

A sample form follows.

Deaf-blindness Worksheet

Name: _____ School: _____ Meeting Date: _____
Student ID: _____ D.O.B.: _____ Age: _____ Grade: _____

In application of the Virginia Department of Education's Regulations Governing Special Education Programs for Children with Disabilities in Virginia, this worksheet may assist the eligibility group in applying criteria for students who are being considered for eligibility under the category of Deaf-blindness. A diagnosis included in a report from a medical professional is not sufficient to make an eligibility determination. After consideration of data from multiple sources, review the definition, consider the items below, and note any additional information. Attach this worksheet to the Eligibility Summary Form and include any necessary documentation.

| | |
|--|--|
| STEP 1. <input type="checkbox"/> | Team reviewed the IDEA definition of deaf blindness. |
| STEP 2. <input type="checkbox"/> True <input type="checkbox"/> False | There is documentation of Deaf-blindness. Complete and attach: <input type="checkbox"/> Visual Impairment including Blindness Worksheet <input type="checkbox"/> Deafness or Hearing Impairment Worksheet |
| AND | |
| STEP 3. <input type="checkbox"/> True <input type="checkbox"/> False | The combination of the hearing and visual impairments causes such severe communication and other developmental and educational needs that cannot be accommodated in special education programs solely for children with deafness or children with blindness. |

Deafness: Instructions, Regulations, and Guidance

In application of the Virginia Department of Education's *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, these instructions, information, regulations, guidance and criteria worksheet on **Deafness** may assist the eligibility team in applying criteria for students who are being considered for eligibility under the category of **Deafness**.

Deafness is a clinical term as well as an educational disability classification under the IDEA. A clinical or medical diagnosis may inform the eligibility team, but it does not equate to eligibility under IDEA. A diagnosis included in a report from a medical professional is not sufficient to make an eligibility determination.

Deafness and Hearing Impairment are clinical terms as well as separate educational disability classifications, under the IDEA. The eligibility criteria for both Deafness and Hearing Impairment requires documentation of an adverse educational impact and the need for specially designed instruction, which is not based solely on a clinical or medical diagnosis. The terms "deaf or hard of hearing" and "hearing loss" are now utilized within the *Code of Virginia* to replace the term "hearing impaired and its variations." The term "hard of hearing" may also be used in place of "hearing impairment" for the eligibility determination.

Guidance and Regulatory Language on Criteria Steps for Deafness

Step 1. Review IDEA Definition

"Deafness" means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects the child's educational performance.

Step 2. Document Deafness

Indicate characteristics that apply and describe the student's hearing loss.

Step 3. Document Adverse Effect on Educational Performance

The summary statement should provide a brief description of the educational impact due to the documented characteristics of Deafness. List data sources used and describe findings.

Step 4. Document Need for Specially Designed Instruction

The summary statement should provide a brief description of the need for specially designed instruction. List data sources used and describe findings.

Additional Resources

Refer to, [Guidelines For Working With Students Who Are Deaf And Hard of Hearing in Virginia Public Schools](#), for additional guidance on evaluation and eligibility for Deafness and Hearing Impairment (Hard of Hearing).

A sample form follows.

Deafness Worksheet

Name: _____ School: _____ Meeting Date: _____
Student ID: _____ D.O.B.: _____ Age: _____ Grade: _____

STEP 1.

Team reviewed the IDEA/ VA definition of deafness

STEP 2.

True

False

There is documentation of Deafness.

The child has (check all that apply):

- a bilateral hearing loss (sensorineural, or mixed conductive and sensorineural),
- a fluctuating or a permanent hearing loss,
- documented auditory dyssynchrony (auditory neuropathy), and/or cortical deafness

Describe:

AND

STEP 3.

True

False

There is documentation of an adverse effect on educational performance due to one of more of the documented characteristics of Deafness.

List and/or describe:

AND

STEP 4.

True

False

Due to the identified Deafness, the student needs specially designed instruction.

List and/or describe:

Developmental Delay: Instructions, Information, Regulations and Guidance

In application of the Virginia Department of Education's *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, these instructions, information, regulations, guidance and criteria worksheet on **Developmental Delay** may assist the eligibility team in applying criteria for students who are being considered for eligibility under the category of **Developmental Delay**.

Developmental Delay shall no longer be used beyond a child's seventh birthday. The use of developmental delay as a disability category is optional for local school districts. Other disability categories may be used if they are more descriptive of a young child's strengths and needs.

For preschoolers, the need for special education may be due to a delay in any area including physical development, cognitive development, communication development, social or emotional development, and/or adaptive development. This delay is to be identified through authentic assessments that measure a child's functioning in everyday environments. A deficit in academic skills is not required for eligibility and each of the developmental areas carries equal weight during eligibility discussions. For example, a child with social-emotional needs who meets the regulatory criteria for a developmental delay does not need to also present with a deficit in the cognitive domain.

Developmental Delay refers to children aged two by September 30 through six, inclusive who are experiencing developmental delays in one or more of the following areas: physical (gross motor and/or fine motor), cognitive, communication, social or emotional, or adaptive development. The presence of one or more documented characteristics of the delay has an adverse effect on educational performance and makes it necessary for the student to have specially designed instruction to access and make progress in the general educational activities for this age group. Additionally, a child may be found eligible if he/she has established physical or mental condition that has a high probability of resulting in developmental delay.

Examples may include chromosomal abnormalities; genetic or congenital disorders; or disorders secondary to exposure to toxic substances, including fetal alcohol syndrome.

The delay is to be measured by appropriate diagnostic instruments and procedures. This includes completing observations and using a dynamic assessment process that measure a child's functioning in natural environments. Natural environments may include the school, community-based child-care or preschool, home, and/or other community locations (e.g., park).

Because of the complex interactions among the various aspects of development in very young children, it is important to assess all five areas of development. A deficit in academic skills is not required for eligibility and each of the developmental areas carries equal weight during eligibility discussions. For example, a child with social-emotional needs who meets the regulatory criteria for a developmental delay does not need to also present with a deficit in the cognitive domain. The team should take great care to ensure the delay(s) is not primarily a result of cultural factors, environmental or economic disadvantage, or limited English proficiency.

Developmental Delay is a clinical term as well as an educational disability classification under the IDEA. A clinical or medical diagnosis may inform the eligibility team, but it does not equate to eligibility under IDEA. A diagnosis included in a report from a medical professional is not sufficient to make an eligibility determination.

Guidance and Regulatory Language on Criteria Steps for Developmental Delay

Step 1. Review IDEA Definition

"Developmental Delay" means a disability affecting a child ages two by September 30 through six, inclusive: (34 CFR 300.8(b); 34 CFR 300.306(b))

1. (i) Who is experiencing developmental delays, 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, or (ii) who has an

established physical or mental condition that has a high probability of resulting in developmental delay;

2. The delay(s) is not primarily a result of cultural factors, environmental or economic disadvantage, or limited English proficiency; and

3. The presence of one or more documented characteristics of the delay has an adverse effect on educational performance and makes it necessary for the student to have specially designed instruction to access and make progress in the general educational activities for this age group.

Step 2. Document Student Age

Step 3. Document Characteristics of Developmental Delay

Document characteristics of developmental delay or the established physical or mental condition that has a high probability of resulting in developmental delay. List data sources used and describe findings.

Step 4. Rule Out Exclusionary Factors

Document that the delay(s) is not primarily a result of cultural factors, environmental or economic disadvantage, or limited English proficiency. List data sources used and describe findings.

Step 5. Document Educational Impact and Need for Specially Designed Instruction

The presence of one or more documented characteristics of the delay has an adverse effect on educational performance and makes it necessary for the student to have specially designed instruction to access and make progress in the general educational activities for this age group.

The summary statement should provide a brief description of the educational impact and need for specially designed instruction. List data sources used and describe findings.

A sample form follows.

Developmental Delay Worksheet

Name: _____ School: _____ Meeting Date: _____
Student ID: _____ D.O.B.: _____ Age: _____ Grade: _____

STEP 1.
 Team reviewed the IDEA/ VA definition of Developmental Delay

STEP 2.
 True
 False
The child will be two by September 30 of the current school year through six, inclusive.

AND

STEP 3.
 True
 False
 There is documentation of a Developmental Delay, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas (check all that apply):
 Physical Development Cognitive Development Communication Development
 Social or Emotional Development Adaptive Development

 Established Physical or Mental Condition that has a high probability of resulting in developmental delay;
List and/or describe:

AND

STEP 4.
 True
 False
The delay(s) is not primarily a result of cultural factors, environmental or economic disadvantage, or limited English proficiency.
List and/or describe:

AND

STEP 5.
 True
 False
The presence of one or more documented characteristics of the delay has an adverse effect on educational performance and makes it necessary for the student to have specially designed instruction to access and make progress in the general educational activities for this age group.
List and/or describe:

Emotional Disability: Instructions, Regulations, and Guidance

In application of the Virginia Department of Education's *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, these instructions, information, regulations, guidance and criteria worksheet on **Emotional Disability** may assist the eligibility team in applying criteria for students who are being considered for eligibility under the category of **Emotional Disability**.

The Federal Regulations and Virginia Regulations do not define many of the terms used in the definition of Emotional Disability. The terms below are defined by the VDOE to bring consistency to the application of this criteria and reduce the potential for bias and inappropriate eligibility decisions. The presence of a clinical diagnosis is not required or sufficient to find a child eligible for an emotional disability. Similarly, a clinical diagnosis of a conduct disorder does not rule out an educational identification of emotional disability. It is important for teams to consider and rigorously apply the qualifying conditions or limiting criteria for ED (long period of time, marked degree, and adverse effect on educational performance) to avoid misidentification. Teams should note that emotional disability does not apply to children who are socially maladjusted, unless it is determined that they also have an emotional disability.

The team's discussion of the student's cultural background is vital when considering specific eligibility criteria for emotional disability listed below. Some behaviors may be the result of a number of factors including trauma, communication differences, social maladjustment, and or an emotional disability. Behaviors that may be considered appropriate in one environment may be considered inappropriate in another. Additionally, the function of the behavior should be examined within the context of the student's experiences. Teams should consider the need for specialized instruction and data from instruction and interventions provided in core instruction to address social emotional skills and behavior. Functional Behavioral Assessment (FBA) and Behavior Intervention Plan (BIP) and other data from explicit behavior instruction should also be considered.

An inability to learn that cannot be explained by intellectual, sensory, or health factors:

This characteristic requires documentation that a student is not able to learn, despite appropriate instructional strategies and/or support services. Comprehensive evaluations and assessments should provide information that would allow teams to establish an “inability to learn” and rule out any other primary reasons for the suspected disability, such as intellectual disability, speech and language disorders, autism, learning disability, hearing/vision impairment, traumatic brain injury, neurological impairment or other medical conditions. If it is determined that these other conditions are the primary cause, then the team should review those disability criteria for possible eligibility. This does not necessarily rule out Emotional Disability as a secondary or tertiary disability.

An inability to build or maintain satisfactory interpersonal relationships with peers and teachers:

This characteristic requires documentation that the student is unable to initiate or to maintain satisfactory interpersonal relationships with peers and teachers. Satisfactory interpersonal relationships include the ability to demonstrate sympathy, empathy toward others, establish and maintain friendships, and work and play independently. These abilities should be considered when observing the student's interactions with both peers and teachers. It does not refer to the student who has conflict with only one teacher or with certain peers, rather it is a pervasive inability to develop relationships with others across settings and situations. The inability to build and maintain relationships with other others should not be due to an unwillingness or lack of social skills. Examples of behavioral characteristics that impact the ability to build/maintain relationships include but are not limited to: extreme social withdrawal, poor reality testing, disorganized or disoriented emotions towards others, or bizarre patterns of interpersonal reactions.

Inappropriate types of behavior or feelings under normal circumstances:

This characteristic requires documentation that the student's inappropriate behavior or feelings deviate significantly from expectations for the student's age, gender and culture across different environments. Limited experience in a structured environment, lack of practice, or deficits in social skills may impact a student's behavior or feelings. The team should determine whether the student's inappropriate responses are occurring "under normal circumstances" for the student. When considering "normal circumstances," the team also should take into account whether a student's home or school situation is disrupted by stress, recent changes, or unexpected events.

Examples of inappropriate types of behavior or feelings under normal circumstances include but are not limited to catastrophic reactions to every day occurrences, rapid or exaggerated changes in feelings (e.g., extreme emotional lability), overreaction to environmental stimuli, low frustration tolerance, severe anxiety, responses to delusions or hallucinations, or excessive or compulsive behaviors.

A general pervasive mood of unhappiness or depression:

This characteristic requires documentation that the student's unhappiness or depression is occurring across most, if not all, of the student's settings. This pattern is not a temporary response to situational factors or to a medical condition. The characteristics should not be a secondary manifestation attributable to substance abuse, medication or a general medical condition (e.g., hypothyroidism). The characteristics cannot be the effect of normal grief associated with loss.

A tendency to develop physical symptoms or fears associated with personal or school problems:

Physical symptoms should suggest that physical disorders are present with no demonstrable medical findings (e.g., psychosomatic symptoms), evidence or strong presumption exists that these symptoms are linked to psychological factors, and the student is not conscious of intentionally producing these symptoms.

Long period of time:

Long period of time means based upon objective data gathered over a period of six months unless otherwise defined by the LEA in local policy. Decisions made based on data collected over a period of six months could be considered a starting point. Eligibility teams should consider the age of the child. For example, six months in the life of a 5-year-old might be much more significant than six months of a 15-year old's life. We do not want to limit access to individualized specially designed instruction. The team should consider and rule out temporary adjustment reactions such as developmental changes or temporary reactions to psychosocial stressors (e.g., divorce death of a parent or sibling) and provide time and opportunities to utilize behavioral interventions.

Marked Degree:

Marked degree refers to the severity of the behavior and teams must also consider culture. The behaviors and/or emotions should be observed in a variety of settings, situations, and include a comparison with the students' appropriate age group. The intensity frequency and duration of the behaviors should be more severe and frequent than what is typically expected for individuals of the same age, gender, and culture. Demonstration of behaviors should be overt acute and observable. Additionally, the intensity of the behaviors should produce significant distress either to the student or to others in the school environment.

Social Maladjustment:

The term “social maladjustment” is not specifically defined in IDEA. In general, social maladjustment is viewed as a diagnostic category whose primary feature is that of conduct problems in which there is a persistent pattern of purposeful violation of societal norms, such as acts of truancy or substance abuse, and is marked by struggles with authority, poor motivation for schoolwork, and manipulative behaviors. Generally, behaviors associated with social maladjustment are situation specific rather than pervasive and are under the students control and responsive to behavioral interventions.

When considering Emotional Disability vs Social Maladjustment, certain characteristics (e.g., "inability to build or maintain satisfactory interpersonal relationships with peers and teachers" and "inappropriate types of behavior or feelings under normal circumstances") may be consistent with both social maladjustment and emotional disabilities. It is possible for a student to have an emotional disability along with social maladjustment. It is important for teams to consider the student's culture and home environment and rigorously apply the qualifying conditions or limiting criteria for ED (long period of time, marked degree and adverse effect on educational performance) to avoid misidentification of students.

Educational Impact of Emotional Disability

When documenting educational impact due to an emotional disability, teams should ensure that the impact documented is a result of the student's behaviors or characteristics that have been present to a marked degree or for a long period of time. When a team determines that the impact is caused primarily by a social maladjustment, documentation should also be included to describe the data sources used and rationale for the team's findings.

Emotional Disability is a clinical term as well as an educational disability classification under the IDEA. A clinical or medical diagnosis may inform the eligibility team, but it does not equate to eligibility under IDEA. A diagnosis included in a report from a medical professional is not sufficient to make an eligibility determination.

Guidance and Regulatory Language on Criteria Steps for Emotional Disability

Step 1. Review IDEA Definition

"Emotional Disability" 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: (34 CFR 300.8(c)(4))

- 1. An inability 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; or*

5. *A tendency to develop physical symptoms or fears associated with personal or school problems.*
Emotional disability includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disability as defined in the Virginia Regulations.

Step 2. Document Characteristics of Emotional Disability

Indicate characteristics present exhibited over a long period of time and to a marked degree. List data sources used and describe findings.

Step 3. Document Adverse Effect on Educational Performance

The summary statement should provide a brief description of the educational impact due to the documented characteristics of Emotional Disability. Regulations do not permit identification as a student with an emotional disability if social maladjustment is the primary cause. List data sources used and describe findings.

Step 4. Document Need for Specially Designed Instruction

The summary statement should provide a brief description of the need for specially designed instruction. List data sources used and describe findings.

A sample form follows.

Emotional Disability Worksheet

Name: _____ School: _____ Meeting Date: _____
Student ID: _____ D.O.B.: _____ Age: _____ Grade: _____

STEP 1.

Team reviewed the IDEA definition of Emotional Disability

There is documentation of an Emotional Disability.

One or more of the following characteristics, exhibited over a long period of time and to a marked degree (check all that apply):

STEP 2.

True

False

- An inability to learn that cannot be explained by intellectual, sensory, or health factors;
- An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- Inappropriate types of behavior or feelings under normal circumstances;
- A general pervasive mood of unhappiness or depression; or
- A tendency to develop physical symptoms or fears associated with personal or school problems.

List and/or describe:

AND

STEP 3.

True

False

There is documentation of an adverse effect on educational performance due to one or more documented characteristics of an Emotional Disability.

List and/or describe:

AND

STEP 4.

True

False

Due to the Emotional Disability, the student needs specially designed instruction.

List and/or describe:

Hearing Impairment: Instructions, Regulations, and Guidance

In application of the Virginia Department of Education's *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, these instructions, information, regulations, guidance and criteria worksheet on **Hearing Impairment** may assist the eligibility team in applying criteria for students who are being considered for eligibility under the category of **Hearing Impairment**.

Hearing Impairment is a clinical term as well as an educational disability classification under the IDEA. A clinical or medical diagnosis may inform the eligibility team, but it does not equate to eligibility under IDEA. A diagnosis included in a report from a medical professional is not sufficient to make an eligibility determination.

Deafness and Hearing Impairment are clinical terms as well as separate educational disability classifications, under the IDEA. The eligibility criteria for both Deafness and Hearing Impairment requires documentation of an adverse educational impact and the need for specially designed instruction, which is not based solely on a clinical or medical diagnosis. The terms "deaf or hard of hearing" and "hearing loss" are now utilized within the *Code of Virginia* to replace the term "hearing impaired and its variations." The term "hard of hearing" may also be used in place of "hearing impairment" for the eligibility determination.

Guidance and Regulatory Language on Criteria Steps for Hearing Impairment

Step 1. Review IDEA Definition

"Hearing impairment" means an impairment in hearing in one or both ears, with or without amplification, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness contained in the Virginia Regulations.

Step 2. Documentation of Hearing Impairment

Indicate characteristics, list data sources used, and describe findings.

Step 3. Document Qualitative

The hearing loss results in qualitative impairments in communication/educational performance.

Adverse Effect on Educational Performance

The summary statement should provide a brief description of the educational impact due to the documented characteristics of Hearing Impairment.

Step 4. Document Need for Specially Designed Instruction

The summary statement should provide a brief description of the need for specially designed instruction. List data sources used and describe findings.

Additional Resources

Refer to, [Guidelines For Working With Students Who Are Deaf And Hard of Hearing in Virginia Public Schools](#), for additional guidance on evaluation and eligibility for Deafness and Hearing Impairment (Hard of Hearing).

A sample form follows.

Hearing Impairment Worksheet

Name: _____ School: _____ Meeting Date: _____
Student ID: _____ D.O.B.: _____ Age: _____ Grade: _____

STEP 1.

Team reviewed the IDEA/ VA definition of hearing impairment

STEP 2.
 True
 False

There is documentation of a Hearing Impairment.

Characteristics include (check all that apply):

- unilateral hearing loss (conductive, sensorineural, or mixed), or
- bilateral hearing loss (conductive, sensorineural, or mixed), or
- a fluctuating or permanent hearing loss, and/or
- auditory dyssynchrony (auditory neuropathy)
- other: _____

List and/or describe:

AND

STEP 3.
 True
 False

The hearing loss results in qualitative impairments in communication/educational performance.

AND

STEP 4.
 True
 False

There is documentation of an adverse effect on educational performance due to one or more characteristics of the Hearing Impairment. List and/or describe:

AND

STEP 5.
 True
 False

Due to the identified Hearing Impairment, the student needs specially designed instruction. List and/or describe:

Intellectual Disabilities: Instructions, Information, Regulations and Guidance

In application of the Virginia Department of *Education's Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, these instructions, information, regulations, guidance and criteria worksheet on **Intellectual Disabilities** may assist the eligibility team in applying criteria for students who are being considered for eligibility under the category of **Intellectual Disabilities**.

Significantly sub average intellectual functioning, defined in regulation as two or more standard deviations below the mean on a standardized measure of intellectual functioning, existing concurrently with significantly impaired adaptive skills.

Significantly impaired adaptive skill is defined in regulation as two or more standard deviations below the mean on composite scores. There is no requirement as to how many subdomains or areas of adaptive skills need to be two or more standard deviations below the mean; the composite score or the overall measurement that combines the scores for all subdomains is the criterion measurement for adaptive skills. Assessment of adaptive skills focus on how well children can function independently and how well they meet the culturally imposed expectations of personal and social responsibility. The three areas of adaptive behavior include:

- Conceptual Skills - language and literacy, money, time, and number concepts;
- Social Skills - interpersonal skills, social responsibility, self-esteem, gullibility, social problem solving, and the ability to follow rules, obey laws, and avoid being victimized;
- Practical Skills - activities of daily living, occupational skills, healthcare, travel/transportation, schedules/routines, safety, use of money, use of the telephone.

The data collected from rating measures should be viewed and interpreted in light of the student's ethnic identity, ethnic expectations, and community customs since items may not be culturally relevant or appropriate even with norm-referenced measures. Additionally, different sources of adaptive behavior information should be

considered across different reporters and in multiple settings. If there are significant discrepancies between scores from different reporters, it may be appropriate to gather additional information such as additional interviewing or have another rater to gain confidence in the data. The perspective of the rater may also need to be taken into consideration. The student's behavior may be different in different settings, or the rater's perceptions of the behavior may be different.

Impaired skills in present functioning should be considered within the context of the individual's community environments typical of their age peers and culture. For more information, visit the [American Association on Intellectual and Developmental Disabilities](#) (AAIDD).

Intellectual Disabilities is a clinical term as well as an educational disability classification under the IDEA. A clinical or medical diagnosis may inform the eligibility team, but it does not equate to eligibility under IDEA. A diagnosis included in a report from a medical professional is not sufficient to make an eligibility determination.

Guidance and Regulatory Language on Criteria Steps for Intellectual Disability

Step 1. Review IDEA Definition

"Intellectual disability" means significantly sub average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance.

Step 2. Document Characteristics of Intellectual Disability

Indicate characteristics, list data sources used, and describe findings.

Step 3. Document Adverse Effect on Educational Performance

The summary statement should provide a brief description of the educational impact due to the documented characteristics of Intellectual Disability. Regulations require the team to rule out social maladjustment as the primary cause. List data sources used and describe findings.

Step 4. Document Need for Specially Designed Instruction

The summary statement should provide a brief description of the need for specially designed instruction. List data sources used and describe findings.

A sample form follows.

Intellectual Disabilities Worksheet

Name: _____ School: _____ Meeting date _____
Student ID: _____ D.O.B.: _____ Age: _____ Grade: _____

STEP 1.

Team reviewed the IDEA definition of Intellectual Disabilities.

Significantly impaired intellectual and adaptive behavior functioning (must be present concurrently):

Significantly impaired intellectual functioning: At least 2.0 standard deviations below the mean, on an individually administered, standardized measure of intellectual functioning with consideration given to the standard error of measurement for the assessment.

STEP 2.

True

False

Standardized instrument used: _____ Score/Results: _____

Significantly impaired adaptive behavior: At least 2.0 standard deviations below the mean on an individual standardized instrument of adaptive behavior.

Standardized instrument used: _____ Score/Results: _____

There is a developmental history (birth through 18) that indicates significant impairment in intellectual functioning and a current demonstration of a significant impairment is present. Age at Identification: _____

AND

STEP 3.

True

False

There is documentation of an adverse effect on educational performance due to the documented characteristics of an intellectual disability. List and/or describe:

AND

STEP 4.

True

False

Due to the intellectual disability, the student needs specially designed instruction. List and/or describe:

Multiple Disabilities: Instructions, Information, Regulations and Guidance

In application of the Virginia Department of Education's *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, these instructions, information, regulations, guidance and criteria worksheet on **Multiple Disabilities** may assist the eligibility team in applying criteria for students who are being considered for eligibility under the category of **Multiple Disabilities**.

The use of multiple disabilities is intended for use when the combination of disabilities causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. It should be noted that all federal examples for multiple disabilities include intellectual disabilities.

This term should not be used for students who have more than one disability, if the combination of disabilities does not create severe educational needs that cannot be accommodated using typical school programming. Example of combinations of disabilities that can generally be supported in the typical school setting include a student with a learning disability and emotional disability, a student with an intellectual disability and a speech and language impairment, or a student with a learning disability, emotional disability, and speech language impairment. A combination of deaf-blindness is not permitted for this disability category.

Multiple Disabilities is a clinical term as well as an educational disability classification under the IDEA. A clinical or medical diagnosis may inform the eligibility team, but it does not equate to eligibility under IDEA. A diagnosis included in a report from a medical professional is not sufficient to make an eligibility determination.

Guidance and Regulatory Language on Criteria Steps for Multiple Disabilities

Step 1. Review IDEA Definition

"Multiple disabilities" means simultaneous impairments (such as intellectual disability with blindness, intellectual disability with orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness.

Step 2. Document Characteristics of Multiple Disabilities

Document the simultaneous impairments (such as intellectual disability with blindness, intellectual disability with orthopedic impairment) that are present. Attach completed individual disability worksheets.

Step 3. Document Combination of Impairments

Document that the combination of impairments causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. List data sources used and describe findings.

Step 4. Document Student Does Not have Deaf-Blindness

Regulations do not permit students with Deaf-Blindness to be found eligible under the Multiple Disabilities category.

A sample form follows.

Multiple Disabilities Worksheet

Name: _____ School: _____ Meeting Date: _____
Student ID: _____ D.O.B. _____ Age: _____ Grade: _____

STEP 1.

Team reviewed the IDEA definition of Multiple Disabilities

There is documentation of multiple disabilities. Simultaneous impairments (such as intellectual disability with blindness, intellectual disability with orthopedic impairment) are present and individual specific disability worksheets are attached.

STEP 2.

- True
 False

Check all disability worksheets completed and determining the child is eligible:

- | | |
|--|---|
| <input type="checkbox"/> Autism | <input type="checkbox"/> Orthopedic Impairment |
| <input type="checkbox"/> Deafness | <input type="checkbox"/> Other Health Impairment |
| <input type="checkbox"/> Developmental Delay | <input type="checkbox"/> Specific Learning Disability |
| <input type="checkbox"/> Emotional Disability | <input type="checkbox"/> Speech-Language Impairment |
| <input type="checkbox"/> Hearing Impairment | <input type="checkbox"/> Traumatic Brain Injury |
| <input type="checkbox"/> Intellectual Disability | <input type="checkbox"/> Visual Impairment/Blindness |

AND

STEP 3.

- True
 False

There is documentation that the combination of impairments causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments.

List and/or describe:

AND

STEP 4.

- True
 False

The student does not have Deaf-blindness.

Orthopedic Impairment: Instructions, Regulations, and Guidance

In application of the Virginia Department of Education's *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, these instructions, information, regulations, guidance and criteria worksheet on **Orthopedic Impairment** may assist the eligibility team in applying criteria for students who are being considered for eligibility under the category of **Orthopedic Impairment**.

Orthopedic Impairment is a clinical term as well as an educational disability classification under the IDEA. A clinical or medical diagnosis may inform the eligibility team, but it does not equate to eligibility under IDEA. A diagnosis included in a report from a medical professional is not sufficient to make an eligibility determination.

Guidance and Regulatory Language on Criteria Steps for Orthopedic Impairment

Step 1. Review IDEA Definition

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

Step 2. Document Characteristics of Orthopedic Impairment

Indicate characteristics, list data sources used, and describe findings.

Step 3. Document Adverse Effect on Educational Performance

The summary statement should provide a brief description of the educational impact due to the documented characteristics of Orthopedic Impairment.

Step 4. Document Need for Specially Designed Instruction

The summary statement should provide a brief description of the need for specially designed instruction. List data sources used and describe findings.

A sample form follows.

Orthopedic Impairment Worksheet

Name: _____ School: _____ Meeting Date: _____
Student ID: _____ D.O.B.: _____ Age: _____ Grade: _____

STEP 1.

Team reviewed the IDEA definition of Orthopedic Impairment

STEP 2.

True

False

There is documentation of an Orthopedic Impairment (check all that apply):

- Congenital anomaly
- Impairments caused by disease (e.g., poliomyelitis, bone tuberculosis)
- Impairments from other causes

List and/or describe:

AND

STEP 3.

True

False

There is documentation of an adverse effect on educational performance due to one or more characteristics of the Orthopedic Impairment.

List and/or describe:

AND

STEP 4.

True

False

Due to the identified Orthopedic Impairment, the student needs specially designed instruction.

List and/or describe:

Other Health Impairment: Instructions, Regulations, and Guidance

In application of the Virginia Department of Education's *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, these instructions, information, regulations, guidance and criteria worksheet on **Other Health Impairment** may assist the eligibility team in applying criteria for students who are being considered for eligibility under the category of **Other Health Impairment**.

An Other Health Impairment (OHI) may be caused by chronic or acute health conditions, diseases, disorders, and injuries that substantially affect a student's strength, vitality, or alertness. This health impairment must also result in an educational impact and require specially designed instruction to meet the criteria for OHI. While no medical or outside diagnosis is required as a component of the evaluation process, the team should gather information to document the concerns that prompted the referral. In the absence of a medical or clinical diagnosis, the team should gather data to document the presence and severity of characteristics, symptoms, and or behaviors that are consistent with the suspected health condition. The team must consider any information provided by the family, and should have sufficient information to answer each eligibility question. Data to inform educational impact and need for specially designed instruction are important and should focus on a variety of settings and teachers as well as interventions provided and results.

If the school team determines that a medical is necessary, the cost of the medical evaluation must be covered by the LEA and completed within the evaluation timeline. If a medical is not included in the evaluation, it is important that the school teams or individual evaluators understand that they are not diagnosing, but identifying characteristics consistent with suspected health impairment.

Other Health Impairment is a clinical term as well as an educational disability classification under the IDEA. A clinical or medical diagnosis may inform the eligibility team, but it does not equate to eligibility under IDEA. A diagnosis included in a report from a medical professional is not sufficient to make an eligibility determination.

Guidance and Regulatory Language on Criteria Steps for Other Health Impairment

Step 1. Review IDEA 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 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 Tourette syndrome that adversely affects a child's educational performance.

Step 2. Document Characteristics of Other Health Impairment

Indicate the effect of the Other Health Impairment on student strength, vitality or alertness (including heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment). Also indicate the chronic or acute health condition. List data sources used, and describe findings.

Step 3. Document Adverse Effect on Educational Performance

The summary statement should provide a brief description of the educational impact due to the documented characteristics of Other Health Impairment.

Step 4. Document Need for Specially Designed Instruction

The summary statement should provide a brief description of the need for specially designed instruction. List data sources used and describe findings.

A sample form follows.

Other Health Impairment Worksheet

Name: _____ School: _____ Meeting Date: _____
Student ID: _____ D.O.B.: _____ Age: _____ Grade: _____

STEP 1. Team reviewed the IDEA definition of Other Health Impairment

STEP 2. True
 False

There is documentation of an Other Health Impairment. The effect of the Other Health Impairment limits are identified and impacts the students in the area of (check all that apply):

- Strength
- Vitality
- Alertness (including heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment)

Indicate chronic or acute health condition:

| | | |
|--|---|---|
| <input type="checkbox"/> Asthma | <input type="checkbox"/> Attention deficit disorder or attention deficit hyperactivity disorder | <input type="checkbox"/> Heart condition |
| <input type="checkbox"/> Diabetes | <input type="checkbox"/> Epilepsy | <input type="checkbox"/> Leukemia |
| <input type="checkbox"/> Hemophilia | <input type="checkbox"/> Lead poisoning | <input type="checkbox"/> Sickle cell anemia |
| <input type="checkbox"/> Nephritis | <input type="checkbox"/> Rheumatic fever | |
| <input type="checkbox"/> Tourette syndrome | <input type="checkbox"/> Other (describe): | |

List and/or describe:

AND

STEP 3. True
 False

There is documentation of an adverse effect on educational performance due to one or more documented characteristics of the Other Health Impairment.

List and/or describe:

AND

STEP 4. True
 False

Due to the identified Other Health Impairment, the student needs specially designed instruction.

List and/or describe:

Specific Learning Disability: Instructions, Regulations, and Guidance
In application of the Virginia Department of Education’s *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, these instructions, information, regulations, guidance and criteria worksheet on **Specific Learning Disability** may assist the eligibility team in applying criteria for students who are being considered for eligibility under the category of **Specific Learning Disability**.

Specific Learning Disability is a clinical term as well as an educational disability classification under the IDEA. A clinical or medical diagnosis may inform the eligibility team, but it does not equate to eligibility under IDEA. A diagnosis included in a report from a medical professional is not sufficient to make an eligibility determination.

Virginia regulations governing eligibility permit the use of multiple approaches for identification of a specific learning disability (SLD). Each LEA must use at least one of the three federally and state permissible method in the evaluation of a student who is suspected of having an SLD.

1. IQ-Achievement Severe Discrepancy Method
2. A process based on a child’s response to scientific-based intervention
3. Cognitive Pattern of Strengths and Weaknesses Methods

These permissible methods define SLD differently and, when used in the evaluation process, do not consistently identify the same group of children as being eligible under the SLD category (CASE et al. 2019). As such, it is incumbent upon the LEA to clearly identify the method(s) and associated procedures to be used in their division as to avoid identification discrepancies across schools.

Virginia regulations require that the team be able to substantiate each criteria question regardless of identification method selected. This includes documentation that “There is a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written (8VAC 20-81-80).”

IQ-Achievement Severe Discrepancy Method

The IQ-Achievement discrepancy method was included in IDEA in 1975. This framework for identifying SLD holds that academic deficits in children with SLD are unexpected because of the presence of average or strong cognitive abilities. This discrepancy between cognitive skills and academic achievement is a defining feature of this model and differentiates it from “regular” low achievement, which is low achievement that is commensurate with low cognitive ability.

In 2004, advances in research and best practice led to the addition of other methods for identification of specific learning disabilities and a movement away from the IQ-achievement discrepancy method because of a lack of evidence for the validity of such procedures. Consequently, in IDEA 2004 Congress indicated that states could not require the use of a severe discrepancy between IQ and achievement as a method for SLD identification. While Virginia regulations does not prohibit the use of the IQ-Achievement discrepancy model, the limitations of this method are well documented (Fletcher & Miciak, 2019; NJCLD 2010). Specific concerns include that:

- Assessments may not differentiate between a true disability and impact of inadequate teaching
- Typically, students must first fail in order to qualify for special education services
- Results do not provide information to support the student’s instructional needs
- Students can be misidentified due to teacher or testing bias

Validity studies show no practical differences (behavior, achievement, cognitive skills, response to instruction, and neurobiological correlates) between groups produced by the identification criteria.

The IRIS Center, a national center funded by the U.S. Department of Education, published [What Is the IQ-Achievement Discrepancy Model?, a dialogue guide](#). This guide highlights many concerns related to the use of this model for identification of learning disabilities including:

“The information gathered from the IQ and achievement assessments does not indicate each student’s specific learning needs:

- *The assessment process does little to inform classroom instruction.*

- *It also is unable to provide information about whether classroom instruction meets each student’s learning needs.*

The IQ-achievement discrepancy model can create inequitable treatment for students:

- *A variety of factors can cause students to be misidentified as having learning disabilities.*
- *Many states and districts have experienced a disproportionate representation of students from culturally and linguistically diverse backgrounds, based on traditional identification methods”*

The IRIS Center guide also includes information about advantages that LEAs can consider related to the IQ-Achievement discrepancy model. These include:

- *“The IQ-achievement discrepancy model is an already established practice.*
- *It is relatively easy to employ.*
- *A teacher does not have to spend a great amount of time in the identification process because a certified diagnostician or school psychologist conducts the IQ and achievement tests.”*

Response to Scientifically-Based Intervention or RTI Method

In a method based on the student’s response to instruction and intervention (i.e., RTI method), the key attribute to identify a specific learning disability (SLD) is a student’s inadequate response. There is no universally agreed-upon criterion for operationalizing inadequate instructional response. Consequently, school divisions choosing to employ this method should ensure that local policies and procedures include a clear operational definition for what constitutes “inadequate response.” In general, an inadequate response may be defined based on three types of data: a) student growth over time; b) post intervention performance; or both (Fletcher & Miciak, 2019).

Proponents of the RTI method highlight that instruction and intervention response is educationally meaningful and it is strongly related to several educational relevant domains, including achievement, behavior, and cognitive functioning. Thus, data regarding a student’s response to instruction and intervention may prove extremely useful in guiding educational programming, regardless of whether the student is eligible to receive special education services or not.

Critics of the RTI method as a sole means to identifying an SLD note that successful implementation requires a multi-tiered systems of supports fully implemented with fidelity, which is practically challenging for schools to achieve and maintain. Additionally, critics note that methods based on RTI must still adhere to the 2004 IDEA requirements for a comprehensive evaluation.

While IDEA and Virginia regulations permit RTI as a method for identification of learning disability, data regarding a student's response to instruction and research-based intervention may be insufficient on its own for eligibility determination. Data to document the presence of the other required eligibility criteria and rule out exclusionary factors is required. Teams must have sufficient data to document each eligibility criteria question and may be required to gather additional data beyond what is provided solely through an RTI method.

Cognitive Pattern of Strengths and Weakness (PSW) Methods

The pattern of strength and weaknesses in cognitive processing methods draw a distinction between expected underachievement, which can be attributed to commensurate cognitive functioning and achievement, and unexpected underachievement, which is by marked an intraindividual pattern of strengths and weaknesses. PSW models hypothesize that low academic achievement is unexpected because of the presence of cognitive processing strengths, in combination with specific cognitive weaknesses that provide a potential explanation for specific academic weaknesses. Thus, methods based on this framework feature a comprehensive assessment that includes an extensive evaluation of achievement and cognitive processes.

Advocates for the use of a PSW framework to identifying SLD focus on the component of the statutory definition indicating that SLD involves psychological processes, arguing that these processes should be directly assessed. Considerable evidence shows that cognitive processes are associated with different types of SLD, especially when the definition specifies an academic component skill as a primary characteristic (Stuebing et al., 2012). It should be noted that Virginia regulations require that the

team be able to substantiate “There is a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written (8VAC 20-81-80)” regardless of identification method selected.

There are several research-based methods that fall under the PSW framework, including but not limited to:

- Cross-Battery Assessment (“XBA”)
- Discrepancy/Consistency Method (DCM)
- Concordance-Discordance Method (C-DM)
- Milton Dehn’s Processing Model
- Core-Selective Evaluation Process (C-SEP)

In the article [Specific Learning Disability Identification: What Constitutes a Pattern of Strengths and Weaknesses?](#), Schultz, Simpson, & Lynch state “The essential steps in the process include (a) the identifying an academic need in one of the seven areas found in federal guidelines for SLD, (b) determining if there is an area or areas of cognitive weakness that have a research-based link to problems in the identified academic area, (c) establishing whether there are other cognitive areas which are average or above, and (d) analyzing these findings for a pattern that will rule out or confirm the presence of SLD (Schultz, Simpson, & Lynch, 2006, p.2).” Subtest scatter and visual inspection of scores does not constitute a pattern of strengths and weaknesses. LEAs that utilize PSW for SLD identification should identify a specific method for PSW and ensure staff have appropriate training and information for effective implementation.

Critics of the PSW model argue that this method provides limited data to inform classroom instruction and intervention. The PSW method allows academic interventions to be tailored to specific cognitive profiles (revealed through the PSW assessment process); however, there is little evidence supporting the effectiveness of academic interventions based on cognitive process profiles. School divisions choosing to use the PSW method for SLD identification should ensure that sufficient data is collected in the evaluation process to guide educational programming.

SLD and Sub average IQ

Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities; of intellectual disabilities; of emotional disabilities; of environmental, cultural, or economic disadvantage (§ 22.1-213 of the *Code of Virginia*; 34 CFR 300.8(c)(10)). Some methods for SLD identification are based on students having average intellectual functioning.

Schultz, Simpson, Lynch (2006, p. 92) state that “there are specific considerations that must be ruled out when determining SLD: a visual, hearing, or motor disability, intellectual disability, or emotional disturbance. The child should have a recent vision and hearing screening, and the IQ or other measure of General Intellectual Ability should be in the normal range to rule out intellectual disability.”

“Students with intelligence test scores between 70 and 85 frequently fall into the gap between general and special education.” While they may not qualify for special education, it is important to develop interventions within general education to address their needs. “Effective instructional practices can build academic resilience skills to ameliorate the important, but often-ignored, risk factor of borderline intellectual functioning. (Shaw, 2008, P. 291)”

Exclusionary Factors

Lack of Appropriate Instruction

As part of the eligibility criteria for Specific Learning Disability, teams must rule out that a student had a lack of appropriate instruction in the area of concern. Teams should be able to document that the student received high quality, research-based instruction in the area of academic need. There should be evidence that the regular curriculum allows for the majority of students to reach proficiency on grade level standards. Additionally, there should be evidence that the student participated in rigorous and differentiated instruction in the area of concern with the goal of accelerating achievement towards grade level standards. This may be supported by evidence that the student received intervention in addition to core instruction. In order to rule

out lack of appropriate instruction, teams must consider whether the student received sufficient intervention and if the intervention was implemented with fidelity.

Environmental, Cultural, or Economic Disadvantage

As part of the eligibility criteria for Specific Learning Disability, teams must discuss the exclusionary factor of environmental, cultural, or economic disadvantage. The presence of an environmental, cultural, or economic disadvantage does not automatically exclude a student from possible eligibility for learning disability. Eligibility teams should carefully examine individual student factors and data to determine the degree to which each factor adversely affects their educational performance. “Identifying and addressing the primary and contributory factors that create obstacles to learning, affect rates of progress and growth, and cause low achievement help education professionals design targeted interventions, provide quality instruction, and develop appropriate expectations—all of which are necessary to reduce over- and under identification of children for special education services. ([Whittaker & Ortiz](#), P.17)” A student may not be found eligible as a student with a Specific Learning Disability if the eligibility team determines that any of the exclusionary factors are the primary reason for the student’s learning difficulty.

Guidance and Regulatory Language on Criteria Steps for Specific Learning Disability

Step 1. Review IDEA 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 the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or

motor disabilities; of intellectual disabilities; of emotional disabilities; of environmental, cultural, or economic disadvantage.

Step 2. Document that Student Does Not Achieve Adequately

Document that the student does not achieve adequately for the student's age or to meet Virginia-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the student's age or Virginia-approved grade-level standards.

Step 3. Document Processing Disorder and Impact on Student

Identify a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written. Then identify the areas in which the processing disorder(s) impacts the student.

Step 4. Document Evaluation Method

Indicate at least one of the three federally and state permissible methods used in the evaluation:

- IQ-Achievement Severe Discrepancy Method
- A process based on a child's response to scientific-based intervention
- Cognitive Pattern of Strengths and Weaknesses Methods

Step 5. Document Learning Problems are Not Primarily a Result of Exclusionary Factors

“Rule out that the student does not have learning problems that are primarily the result of: 1. a visual, hearing, or motor impairment, 2. an intellectual disability, 3. an emotional disability, 4. cultural factors, an environmental or economic disadvantage, or 5. Limited English proficiency.”

Step 6. Document Adverse Effect on Educational Performance

The summary statement should provide a brief description of the educational impact due to the documented characteristics of Specific Learning Disability. List data sources used and describe findings.

Step 7. Document Need for Specially Designed Instruction

The summary statement should provide a brief description of the need for specially designed instruction. List data sources used and describe findings.

Step 8. Document High Quality Instruction and Documentation

“The eligibility group shall consider, as part of the evaluation, data that demonstrates that prior to, or as part of the referral process, the child was provided appropriate high-quality, researched-based instruction in general education settings, consistent with § 1111(b)(8)(D) and (E) of the Elementary and Secondary Education Act, including that the instruction was delivered by qualified personnel. There shall be data-based documentation that repeated assessments of achievement at reasonable intervals, reflecting that formal assessment of student progress during instruction, was provided to the child's parents. 34CFR §300.309 (b) (1-2)”

Additional Resources

For additional guidance on specific learning disabilities, please refer to the following

VDOE guidance:

- [Virginia's Guidelines for Educating Students with Specific Learning Disabilities \(PDF\)](#)
- [Students with Disabilities in Mathematics: Frequently Asked Questions \(PDF\)](#)
- [Specific Learning Disability Supplementary Guide Dyslexia: Frequently Asked Questions \(PDF\)](#)

A sample form follows.

Specific Learning Disability Worksheet

Name: _____ School: _____ Meeting Date: _____
 Student ID: _____ D.O.B.: _____ Age: _____ Grade: _____

STEP 1. Team reviewed the IDEA definition of Specific Learning Disability

STEP 2. True False
 The student does not achieve adequately for the student's age or to meet Virginia-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the student's age or Virginia-approved grade-level standards (check all that apply):
 Mathematics Calculations Oral Expression Listening Comprehension Written Expression
 Mathematics Problem Solving Reading Fluency Skills Reading Comprehension Basic Reading Skills

AND

STEP 3. True False
 There is a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written. Identify:
 Auditory Processing Fluid Reasoning Visual-Spatial Processing Working Memory
 Executive Functions Long-Term Recall Phonological Processing
 Auditory Memory Visual Memory Other _____
 The processing disorder(s) impacts the student in the area or areas of (check all that apply):
 Mathematics Calculations Oral Expression Listening Comprehension Written Expression
 Mathematics Problem Solving Reading Fluency Skills Reading Comprehension Basic Reading Skills

AND

STEP 4. True False
 Evaluation outcomes (check all that apply):
 IQ-Achievement Severe Discrepancy Method
 A process based on a child's response to scientific-based intervention
 Cognitive Pattern of Strengths and Weaknesses Methods

AND

STEP 5. True False
 The student does not have learning problems that are primarily the result of: 1. a visual, hearing, or motor impairment, 2. an intellectual disability, 3. an emotional disability, 4. cultural factors, an environmental or economic disadvantage, or 5. Limited English proficiency.

STEP 6. True False
 There is documentation of an adverse effect on educational performance due to one or more documented characteristics of a specific learning disability.
 List and/or describe:

AND

STEP 7. True False
 The student needs specially designed instruction.
 List and/or describe:

AND

STEP 8. True False
 Prior to, or as part of the referral process, the child was provided appropriate high-quality, researched-based instruction in general education settings delivered by qualified personnel. Formal assessment of student progress during instruction was provided to the child's parents.

Speech-Language Impairment: Instructions, Regulations, and Guidance
In application of the Virginia Department of Education's *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, these instructions, information, regulations, guidance and criteria worksheet on **Speech-Language Impairment** may assist the eligibility team in applying criteria for students who are being considered for eligibility under the category of **Speech-Language Impairment**.

Speech-Language Impairment is a clinical term as well as an educational disability classification under the IDEA. A clinical or medical diagnosis may inform the eligibility team, but it does not equate to eligibility under IDEA. A diagnosis included in a report from a medical professional is not sufficient to make an eligibility determination. Criteria for SLI under IDEA requires documentation of educational impact and need for specially designed instruction and is different from clinical or medical diagnosis. SLI includes impairments in articulation, language (e.g., expressive, receptive, and pragmatics or social language), voice, fluency, and swallowing when it impacts the student's education.

When the student's communication difficulties occur primarily because of another disability, such as Autism or Intellectual Disability, the team should consider the use of speech as a related service to address the deficits. Documentation of educational impact should clearly indicate that while a communication impairment exists, the primary cause is another disability area. The primary cause of the communication impairment should be described. Additionally, the team may document any recommendations to the IEP team to consider speech language therapy as a related service or highlight areas of educational need.

When addressing the criteria question about socio-cultural dialect or limited English proficiency being the primary cause, teams should examine the contributions of student's dialect or English learner (EL) status to student communication issues. Features of some dialects or overgeneralization of features from another language (e.g., word order, marking plurals, tense or gender) may mistakenly be viewed as an impairment when they are typical for that student's language system. The team

should quantify the amount of impact that is dialect/LEP and what is thought to be a result of a true speech-language impairment. Students may have both language difference and impairment (disorder within difference) and still be eligible if the SLI is a greater issue than dialect or other language difference.

Guidance and Regulatory Language on Criteria Steps for Speech-Language Impairment

Step 1. Review IDEA Definition

“Speech-Language Impairment” means a communication disorder, such as dysfluency (stuttering), impaired articulation, expressive or receptive language impairment or a voice impairment that adversely affects a child’s educational performance.

Step 2. Document Characteristics of Speech-Language Impairment

Indicate characteristics, list data sources used, and describe findings.

Step 3. Document Speech-Language Impairment Not Primarily a Result of Exclusionary Factors

Regulations require the team determine that the primary reason for the speech-language impairment is not due to Limited English Proficiency (LEP) and/or use of a sociocultural dialect.

Step 4. Document Adverse Effect on Educational Performance

The summary statement should provide a brief description of the educational impact due to the documented characteristics of Speech-Language Impairment. If the communication impairment exists primarily because of another disability area, the documentation of educational impact should include this information. List data sources used and describe findings.

Step 5. Document Need for Specially Designed Instruction

The summary statement should provide a brief description of the need for specially designed instruction. Students who are stimulable may not require specially designed instruction. List data sources used and describe findings.

Additional Resources

Refer to [SLP Services in the Schools: Guidelines for Best Practice \(2018\)](#) and [SLP Services in Schools 2020 Revisions](#) for additional guidance on Speech-Language Impairment evaluation and eligibility determinations.

A sample form follows.

Speech-Language Impairment Worksheet

Name: _____ School: _____ Meeting Date: _____
Student ID: _____ D.O.B.: _____ Age: _____ Grade: _____

STEP 1. Team reviewed the IDEA definition of Speech-Language Impairment.

STEP 2. True False
There is documentation of a significant discrepancy from typical communication skills in one of the areas below (check all that apply):
 Fluency
 Receptive or expressive language
 Articulation
 Voice
 Other
List and/or describe:

AND

STEP 3. True False
The student does not demonstrate Limited English Proficiency (LEP) and/or is not a speaker of a sociocultural dialect that is the primary reason for the speech-language impairment.

AND

STEP 4. True False
There is documentation of an adverse effect on educational performance due to one or more documented characteristics of Speech-Language Impairment. List and/or describe:

AND

Step 5: True False
Due to the identified Speech-Language Impairment, the student needs specially designed instruction. List and/or describe:

Traumatic Brain Injury Instructions, Regulations, and Guidance
In application of the Virginia Department of Education's *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, these instructions, information, regulations, guidance and criteria worksheet on **Traumatic Brain Injury** may assist the eligibility team in applying criteria for students who are being considered for eligibility under the category of **Traumatic Brain Injury**.

Traumatic Brain Injury is a clinical term as well as an educational disability classification under the IDEA. A clinical or medical diagnosis may inform the eligibility team, but it does not equate to eligibility under IDEA. A diagnosis included in a report from a medical professional is not sufficient to make an eligibility determination.

Guidance and Regulatory Language on Criteria Steps for Traumatic Brain Injury

Step 1. Review IDEA Definition

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.

Traumatic brain injury 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. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma. (34 CFR 300.8(c)(12))

Step 2. Document Characteristics of Traumatic Brain Injury

Indicate characteristics of the brain injury. (34 CFR 300.8(c)(12)) list data sources used, and describe findings.

Step 3. Document Adverse Effect on Educational Performance

The summary statement should provide a brief description of the educational impact due to the documented characteristics of Traumatic Brain Injury.

Step 4. Document Brain Injury is Not From Exclusionary Factors

To be eligible under this category, regulations require that the brain injury is not congenital, degenerative, or induced by birth trauma. (34 CFR 300.8(c)(12))

Step 5. Document Adverse Effect on Educational Performance

The summary statement should provide a brief description of the educational impact due to the documented characteristics of Traumatic Brain Injury. List data sources used and describe findings.

Step 6. Document Need for Specially Designed Instruction

The summary statement should provide a brief description of the need for specially designed instruction. List data sources used and describe findings.

A sample form follows.

Traumatic Brain Injury Worksheet

Name: _____ School: _____ Meeting Date: _____
 Student ID: _____ D.O.B.: _____ Age: _____ Grade: _____

STEP 1.

Team reviewed the IDEA definition of Traumatic Brain Injury

STEP 2.

True

False

There is documentation of a Traumatic Brain Injury. **List and/or describe:**

AND

There is documentation of impairments in one or more areas including (check all that apply):

STEP 3.

True

False

- | | | | | |
|---|---|--|------------------------------------|--|
| <input type="checkbox"/> Cognition | <input type="checkbox"/> Language | <input type="checkbox"/> Memory | <input type="checkbox"/> Attention | <input type="checkbox"/> Reasoning |
| <input type="checkbox"/> Abstract thinking | <input type="checkbox"/> Judgment | <input type="checkbox"/> Problem-solving | <input type="checkbox"/> Speech | <input type="checkbox"/> Psychosocial behavior |
| <input type="checkbox"/> Physical functions | <input type="checkbox"/> Information processing | <input type="checkbox"/> Sensory | | |
| <input type="checkbox"/> Perceptual | <input type="checkbox"/> Motor abilities | | | |

List and/or describe:

AND

STEP 4.

True

False

The brain injury is not congenital, degenerative, or induced by birth trauma. (34 CFR 300.8(c)(12))

AND

STEP 5.

True

False

There is documentation of an adverse effect on educational performance due to one or more documented characteristics of Traumatic Brain Injury. List and/or describe:

AND

STEP 6.

True

False

Due to the identified Traumatic Brain Injury, the student needs specially designed instruction. List and/or describe:

Visual Impairment including Blindness: Instructions, Regulations, and Guidance

In application of the Virginia Department of Education's *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, these instructions, information, regulations, guidance and criteria worksheet on **Visual Impairment including Blindness** may assist the eligibility team in applying criteria for students who are being considered for eligibility under the category of **Visual Impairment including Blindness**.

Visual Impairment and Blindness are clinical terms as well as an educational disability classification under the IDEA. A clinical or medical diagnosis may inform the eligibility team, but it does not equate to eligibility under IDEA. A diagnosis included in a report from a medical professional is not sufficient to make an eligibility determination.

The eligibility criteria for Visual Impairment including Blindness requires documentation of current or future adverse educational impact and the need for specially designed instruction, that is not based solely on a clinical or medical diagnosis. The eligibility criteria require documentation of visual acuity and visual field deficits, or a functional vision loss in which the visual acuity and visual field deficits alone may not meet the specified criteria. This may include vision conditions such as convergence insufficiency, if the aforementioned eligibility criteria are met.

Guidance and Regulatory Language on Criteria Steps for Visual Impairment including Blindness

Step 1. Review IDEA Definition

“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.

Step 2. Document Characteristics of Visual Impairment including Blindness

Indicate characteristics, list data sources used, and describe findings.

Step 3. Document Adverse Effect on Educational Performance

The summary statement should provide a brief description of the educational impact due to the documented characteristics of Visual Impairment including Blindness.

Step 4. Document Need for Specially Designed Instruction

The summary statement should provide a brief description of the need for specially designed instruction. List data sources used and describe findings.

Additional Resources

Refer to, [Guidelines For Working With Students Who Are Blind or Visually Impaired in Virginia Public Schools](#), for additional guidance on evaluation and eligibility for Visual Impairment including Blindness.

A sample form follows.

Visual Impairment including Blindness Worksheet

Name: _____ School: _____ Meeting Date: _____
Student ID: _____ D.O.B.: _____ Age: _____ Grade: _____

STEP 1.

Team reviewed the IDEA/ VA definition of Traumatic Brain Injury

STEP 2.

True

False

There is documentation of a visual impairment and the child demonstrates the characteristics of blindness or visual impairment (check all that apply):

A child with blindness has (check all that apply):

- Visual acuity in the better eye with best possible correction of 20/200 or less at distance or near; or
- Visual field restriction in the better eye of remaining visual field of 20 degrees or less.

A child with a visual impairment demonstrates the following (check all that apply):

- Visual acuity better than 20/200 but worse than 20/70 at distance and/or near; or
- Visual field restriction in the better eye of remaining visual field of 70 degrees or less but better than 20 degrees.

The child has any of these conditions:

- Oculomotor apraxia
- Cortical visual impairment
- A progressive loss of vision which may in the future, have an adverse effect on educational performance
- Other: _____

The student has a functional vision loss where field and acuity deficits alone may not meet the aforementioned criteria.

List and/or describe:

AND

STEP 3.

True

False

There is documentation of an adverse effect on educational performance due to one or more documented characteristics of the Visual Impairment. List and/or describe:

AND

STEP 4.

True

False

Due to the identified Visual Impairment, the student needs specially designed instruction.

List and/or describe:

Additional Sample Forms

Observation Form

Name: _____ School: _____
 Student ID: _____ D.O.B.: _____ Age: _____ Grade: _____

The purpose of this evaluation is to provide information regarding this student's classroom performance and behaviors in the area(s) of difficulty. Observe the student and provide the requested information. Attach additional sheet if necessary.

| | | |
|---|----------------------------|--------------------------|
| Date of Observation: | Start Time of Observation: | End time of Observation: |
| Setting of Observation: | # of Students in Setting: | # of Adults in Setting: |
| Describe the lesson/activities of the class during this observation session (e.g., lecture, discussion, independent seatwork, small group work) and the observed student level of participation and engagement. Include any special supports or conditions during this observation (e.g., student seated away from group, uses interpreter): | | |
| Identify any instructional strategies and/or behavior supports used during the instruction <input type="checkbox"/> wait time <input type="checkbox"/> repetition <input type="checkbox"/> visual supports <input type="checkbox"/> graphic organizers <input type="checkbox"/> rephrasing <input type="checkbox"/> manipulatives <input type="checkbox"/> positive reinforcement <input type="checkbox"/> re-direction <input type="checkbox"/> teacher proximity <input type="checkbox"/> other _____ | | |
| Describe the student's reaction to instructional strategy(ies) and/or the behavior supports provided: | | |
| Describe the student's behavior during the observation session and how the behavior compares to that of other students in the class at the same time: | | |
| Describe the student's academic performance during the observation session and how the performance compares to that of other students in the class at the same time: | | |
| Summary of additional comments or concerns: | | |

 Signature of Person Completing Observation

 Job Title

Prior Written Notice

Name: _____ School: _____ Meeting date _____
Student ID: _____ D.O.B.: _____ Age: _____ Grade: _____
Type of Meeting: IEP Eligibility Team Review Manifestation Other: _____

Describe the action that the school division proposes or refuses to take:

Explanation of why the school division is proposing or refusing to take action:

Description of each evaluation procedure, assessment, record or report the school division used in deciding to propose or refuse the action:

Description of any other choices that the team considered and the reasons why those choices were rejected:

Description of other reasons or other factors relevant as to why the school division proposed or refused the action:

Resources for the parent to contact for help in understanding the *Individuals with Disabilities Education Act* (IDEA) and the related federal and Virginia Regulations:

If this notice is not the initial referral for evaluation, explain how the parent was provided a copy of the procedural safeguards:

Special Education Meeting Notice

Date: _____

To: _____ and _____
 Parent(s)/Adult Student Student (if appropriate or if transition will be discussed)

You are invited to attend a meeting regarding _____
 Student's Name

PURPOSE OF MEETING (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Team Review of Referral | <input type="checkbox"/> IEP Development or Review |
| <input type="checkbox"/> Team Review of Existing Data | <input type="checkbox"/> IEP Amendment |
| <input type="checkbox"/> Team Determination of Needed Data | <input type="checkbox"/> Transition: Postsecondary Goals, Transition Services |
| <input type="checkbox"/> Eligibility Determination | <input type="checkbox"/> Manifestation Determination |
| | <input type="checkbox"/> Other: _____ |

The meeting has been scheduled for: _____
 Date Time Location

Meetings are scheduled at a mutually agreed upon place and time by you and the school division. If you are unable to attend this meeting you may request participation through other means. If you are unable to attend this meeting, please contact:

_____ Title _____ Phone _____
 Special Education Staff Contact / IEP Case Manager

You and the school division may invite individuals to participate in the team meeting who have knowledge or expertise about the student's educational needs. The determination of the knowledge or special expertise shall be made by the party who invited the individual. For IEP Meetings, if the division intends to invite a representative of an agency that is likely to be responsible for providing or paying for transition services to the IEP meeting, written consent of the parent or adult student is required.

Below is a list of the participants (by name or position) the division will be inviting to attend the meeting:

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

Please review and return the following page to assist the school staff in preparing for the meeting.

Special Education Meeting Notice Parent/Student Response Form

To the Parent(s) / Guardian(s) / Student:

Student: _____ Date of Meeting: _____

Please check your choice and **return this page to:** _____

at _____

I the parent student will attend the meeting as scheduled.

I the parent student cannot attend the meeting as scheduled. Please reschedule this meeting.

I can attend on _____ at _____
(date) (time and place)

Please contact me at _____

to determine a mutually agreeable date, time, and place for this meeting.

I the parent student **do not wish to attend** this meeting even though I understand the importance of attending.

I the parent student would like my preferences, interests, and concerns shared with the team. I will provide my input to you by:

Mail Telephone Other means: _____ prior to the meeting.

An IEP worksheet is enclosed.

I will need the following accommodations for this meeting:

I plan to bring _____ individuals that I believe have knowledge or expertise regarding my child.

Parent Signature Date

Date received by the school: _____

Whole Document References and Resources

- [Division for Early Childhood of the Council for Exceptional Children Recommended Practices \(See Assessment\)](#)
- Fletcher, J., & Miciak, J. (2019). [The identification of specific learning disabilities: A summary of research on best practices](#). Austin, TX: Texas Center for Learning Disabilities.
- Karla K. Stuebing, Jack M. Fletcher, Lee Branum-Martin, David J. Francis & Amanda VanDerHeyden (Action Editor) (2012) [Evaluation of the Technical Adequacy of Three Methods for Identifying Specific Learning Disabilities Based on Cognitive Discrepancies](#), School Psychology Review, 41:1, 3-22.
- [Principles for SLD Eligibility: Practice & Policy Considerations for States and School Districts](#). Joint Paper developed by Council of Administrators of Special Education (CASE), Council for Exceptional Children (CEC), Center for Learning Disabilities (CLD), Division for Learning Disabilities (DLD), National Association of State Directors of Special Education (NASDSE), National Association of School Psychologists, and National Center for Learning Disabilities (NCLD), 2019.
- National Joint Committee on Learning Disabilities (2010) [Comprehensive Assessment and Evaluation of Students With Learning Disabilities](#).
- Schultz, E. K., Simpson, C. G., & Lynch, S. (2006). [Specific learning disability identification: What constitutes a pattern of strengths and weaknesses](#). Learning Disabilities, 18(2), 87.
- Shaw, S. R. (2008). An educational programming framework for a subset of students with diverse learning needs: Borderline intellectual functioning. *Intervention in school and clinic*, 43(5), 291-299.
- Substance Abuse and Mental Health Services Administration. [SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach](#). HHS Publication No. (SMA) 14-4884. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2014.
- Sullivan, A. L., & Sadeh, S. S. (2014). Differentiating social maladjustment from emotional disturbance: An analysis of case law. *School Psychology*

Review, 43, 450-471.

- Tibbetts, T. J. (2013). Identifying & assessing students with emotional disturbance. Baltimore, MD: Brooks.
- Whittaker, M. & Ortiz, S. (2019) [What a Specific Learning Disability Is Not: Examining Exclusionary Factors](#). National Center for Learning Disabilities.
- [USDOE Office of Special Education Programs \(2014\). Policy Letter to M. Kotler, VI Eligibility](#).
- [USDOE Office of Special Education and Rehabilitative Services \(2016\). Policy Letter on Response to Intervention in Preschool](#)