

1 Department of Education

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3 Adopted Permanent Rules Relating to Special Education; Revision
4 of Certain Criteria

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6 Rules as Adopted

7 3525.1329 EMOTIONAL OR BEHAVIORAL DISORDERS.

8 [For text of subpart 1, see M.R.]

9 Subp. 2. Criteria. The team shall determine that a pupil
10 is eligible as having an emotional or behavioral disorder and in
11 need of special education and related services when the pupil
12 meets the criteria in items A to D.

13 [For text of items A and B, see M.R.]

14 C. The combined results of prior documented
15 interventions and the assessment data must establish significant
16 impairments in one or more of the following areas: personal,
17 social, academic, or vocational skills. This finding must be
18 supported by data from two or more of the following procedures:
19 adaptive behavior scales, sociometric or social skill measures,
20 achievement or cognitive tests; grades, systematic behavioral
21 checklists or observations, vocational skill inventories, or
22 reports. The data must document that the impairment:

23 (1) severely interferes with the pupil's or other
24 students' educational performance;

25 [For text of subitems (2) to (4), see M.R.]

26 [For text of items D and E, see M.R.]

27 3525.1333 MENTALLY IMPAIRED: MILD-MODERATE/MODERATE-SEVERE.

28 [For text of subps 1 and 2, see M.R.]

29 Subp. 3. Criteria for moderate-severe. The team shall
30 determine that a pupil is eligible as having a moderate-severe
31 mental impairment and is in need of special education
32 instruction and service if the pupil meets the criteria of both
33 items A and B.

34 A. Performance that falls below the 10th percentile
35 in the following adaptive behavior domains measured in both

1 school and home or community on nationally-normed, technically
2 adequate measures of adaptive behavior:

3 (1) personal or independent functioning, personal
4 or social functioning, functional academic competencies, or
5 vocational or occupational competencies; and

6 (2) the data is supported by written evidence
7 drawn from two or more of the following sources:

8 [For text of units (a) to (h), see M.R.]

9 [For text of item B, see M.R.]

10 3525.1341 SPECIFIC LEARNING DISABILITY.

11 [For text of subpart 1, see M.R.]

12 Subp. 2. **Criteria.** The team shall determine that a pupil
13 has a specific learning disability and is in need of special
14 education and related services when the pupil meets the criteria
15 described in items A through C. Information about each item
16 must be sought from the parent and included as part of the
17 assessment data. The assessment data must confirm that the
18 disabling effects of the pupil's disability occur in a variety
19 of settings.

20 [For text of items A to C, see M.R.]

21 3525.1343 SPEECH OR LANGUAGE IMPAIRMENTS.

22 Subpart 1. **Fluency disorder; definition and criteria.**

23 "Fluency disorder" means the intrusion or repetition of sounds,
24 syllables, and words; prolongations of sounds; avoidance of
25 words; silent blocks; or inappropriate inhalation, exhalation,
26 or phonation patterns. These patterns may also be accompanied
27 by facial and body movements associated with the effort to
28 speak. Fluency patterns that can be attributed only to
29 dialectical, cultural, or ethnic differences or to the influence
30 of a foreign language should not be identified as a disorder.

31 The team shall determine that a pupil has a fluency
32 disorder and is eligible for speech or language special
33 education when the pupil meets the criteria in both items A and
34 B:

35 [For text of items A and B, see M.R.]

1 **Subp. 2. Voice disorder; definition and criteria.** "Voice
2 disorder" means the absence of voice or presence of abnormal
3 quality, pitch, resonance, loudness, or duration. Voice
4 patterns that can be attributed only to dialectical, cultural,
5 or ethnic differences or to the influence of a foreign language
6 should not be identified as a disorder.

7 The team shall determine that a pupil has a voice disorder
8 and is eligible for speech or language special education when
9 the pupil meets the criteria in both items A and B:

10 [For text of items A and B, see M.R.]

11 **Subp. 3. Articulation disorder; definition and criteria.**
12 "Articulation disorder" means the absence of or incorrect
13 production of speech sounds that are developmentally
14 appropriate. Articulation patterns that can be attributed only
15 to dialectical, cultural, or ethnic differences or to the
16 influence of a foreign language should not be identified as a
17 disorder.

18 The team shall determine that a pupil has an articulation
19 disorder and is eligible for speech or language special
20 education when the pupil meets the criteria in item A and either
21 item B, C, or D:

22 A. the behavior interferes with communication as
23 judged by a teacher of communication disorders and either
24 another adult or the child; and

25 B. test performance falls 2.0 standard deviations
26 below the mean on a technically adequate, norm-referenced
27 articulation test; or

28 C. performance on a pressure consonant test indicates
29 problems in nasal resonance; or

30 D. a pupil is nine years of age or older and a sound
31 is consistently in error as documented by two three-minute
32 conversational speech samples.

33 **Subp. 4. Language disorder; definition and criteria.**
34 "Language disorder" means a breakdown in communication as
35 characterized by problems in expressing needs, ideas, or
36 information that may be accompanied by problems in

1 understanding. Language patterns that can be attributed only to
2 dialectical, cultural, or ethnic differences or to the influence
3 of a foreign language should not be identified as a disorder.

4 The team shall determine that a pupil has a language
5 disorder and is eligible for speech or language special
6 education services when the pupil meets the criteria in items A
7 and B and either C or D:

8 [For text of items A to D, see M.R.]

9 3525.2925 USE OF BEHAVIORAL INTERVENTIONS WITH PUPILS.

10 [For text of subps 1 to 4, see M.R.]

11 Subp. 5. **Assessment.** An assessment must be performed
12 consistent with the requirements in parts 3525.2500 to 3525.2750
13 before recommending or initiating a behavioral intervention
14 using a regulated procedure. The assessment shall include an
15 analysis of purpose and the effect of the behavior and the
16 seriousness of the behavior to warrant the use of a regulated
17 procedure. A minimum of two positive behavioral interventions
18 must be attempted and documented as part of an assessment. The
19 assessment summary report shall include:

20 [For text of items A to C, see M.R.]

21 D. review of frequent use of exempted procedures;

22 E. documentation that the assessment team has ruled
23 out any other treatable cause such as a medical or health
24 condition for the interfering behavior;

25 F. a description of the alternative procedures that
26 have been considered and an explanation for why these are not
27 expected to work; and

28 G. the proposed regulated procedures for the
29 behavioral intervention planning.

30 If the use of a regulated procedure is being considered, a
31 professional whose background and expertise in the use of
32 positive approaches to behavioral intervention and the use of
33 aversive and deprivation intervention must be on the pupil's
34 team.

35 If a pupil's behavior is such that positive behavioral

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1 intervention has not been effective in achieving the goals of
2 the IEP and the team recommends that a regulated procedure be
3 used, an IEP team meeting must be scheduled to review the
4 student's IEP. The team must specify what assessment data
5 exists and if additional assessment is needed to determine
6 which, if any, regulated procedure would be appropriate.

7 [For text of subps 6 to 10, see M.R.]