

1.1 **Department of Education**

1.2 **Adopted Permanent Rules Relating to Special Education**

- 1.3 **3525.0210 DEFINITIONS.** [Withdrawn at 33 SR 167]
- 1.4 **3525.0300 PROVISION OF FULL SERVICES.** [Withdrawn at 33 SR 167]
- 1.5 **3525.0400 LEAST RESTRICTIVE ENVIRONMENT.** [Withdrawn at 33 SR 167]
- 1.6 **3525.0550 IEP MANAGER.** [Withdrawn at 33 SR 167]
- 1.7 **3525.0700 PARENTAL INVOLVEMENT.** [Withdrawn at 33 SR 167]
- 1.8 **3525.0750 IDENTIFICATION OF CHILDREN WITH DISABILITIES.** [Withdrawn
1.9 at 33 SR 167]
- 1.10 **3525.0755 EXTENDED SCHOOL YEAR SERVICES.** [Withdrawn at 33 SR 167]
- 1.11 **3525.0800 RESPONSIBILITY FOR PURCHASED SERVICES AND**
1.12 **DISAGREEMENTS.** [Withdrawn at 33 SR 167]
- 1.13 **3525.0850 POSITIVE BEHAVIORAL INTERVENTIONS AND SUPPORTS.**
1.14 [Withdrawn at 33 SR 167]
- 1.15 **3525.0855 BEHAVIORAL INTERVENTION PLANS.** [Withdrawn at 33 SR 167]
- 1.16 **3525.0860 REGULATED INTERVENTIONS.** [Withdrawn at 33 SR 167]
- 1.17 **3525.0865 PROHIBITED PROCEDURES.** [Withdrawn at 33 SR 167]
- 1.18 **3525.0870 EMERGENCY AND NOTICE OF PEACE OFFICER INVOLVEMENT.**
1.19 [Withdrawn at 33 SR 167]
- 1.20 **3525.1100 STATE AND DISTRICT RESPONSIBILITY FOR TOTAL SPECIAL**
1.21 **EDUCATION SYSTEM.** [Withdrawn at 33 SR 167]
- 1.22 **3525.1310 STATE AID FOR SPECIAL EDUCATION PERSONNEL.** [Withdrawn
1.23 at 33 SR 167]
- 2.1 **3525.1325 AUTISM SPECTRUM DISORDERS (ASD).** [Withdrawn at 33 SR 167]
- 2.2 **3525.1327 DEAF-BLIND.** [Withdrawn at 33 SR 167]
- 2.3 **3525.1329 EMOTIONAL OR BEHAVIORAL DISORDERS.** [Withdrawn at 33 SR
2.4 167]
- 2.5 **3525.1331 DEAF AND HARD OF HEARING.** [Withdrawn at 33 SR 167]
- 2.6 ^{3525.1341}**3525.1333 DEVELOPMENTAL COGNITIVE DISABILITY.** [Withdrawn at 33
2.7 SR 167]

2.14 language, spoken or written, that may manifest itself in the imperfect ability to listen,
2.15 think, speak, read, write, spell, or to do mathematical calculations, including conditions
2.16 such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and
2.17 developmental aphasia.

2.18 The disorder is:

2.19 A. manifested by interference with the acquisition, organization, storage,
2.20 retrieval, manipulation, or expression of information so that the child does not learn
2.21 at an adequate rate for the child's age or to meet state-approved grade-level standards
2.22 when provided with the usual developmental opportunities and instruction from a regular
2.23 school environment; and

3.1 B. demonstrated primarily in academic functioning, but may also affect other
3.2 developmental, functional, and life adjustment skill areas; and may occur with, but cannot
3.3 be primarily the result of: visual, hearing, or motor impairment; cognitive impairment;
3.4 emotional disorders; or environmental, cultural, economic influences, limited English
3.5 proficiency or a lack of appropriate instruction in reading or math.

3.6 Subp. 2. **Criteria.** A child is eligible and in need of special education and related
3.7 services for a specific learning disability when the child meets the criteria in items A, B,
3.8 and C or in items A, B, and D. Information about each item must be sought from the
3.9 parent and must be included as part of the evaluation data. ~~The child must receive two~~
3.10 ~~interventions prior to evaluation as defined in Minnesota Statutes, section 125A.56.~~ The
3.11 evaluation data must confirm that the effects of the child's disability occur in a variety
3.12 of settings. The child must receive two interventions, as defined in Minnesota Statutes,
3.13 section 125A.56, prior to evaluation, unless the parent requests an evaluation or the IEP
3.14 team waives this requirement because it determines the child's need for an evaluation
3.15 is urgent.

3.16 A. The child does not achieve adequately in one or more of the following areas:
3.17 oral expression, listening comprehension, written expression, basic reading skills, reading
3.18 comprehension, reading fluency, mathematics calculation, or mathematical problem
3.19 solving, in response to appropriate classroom instruction, and either:

3.20 (1) the child does not make adequate progress to meet age or state-approved
3.21 grade-level standards in one or more of the areas listed above when using a process based
3.22 on the child's response to scientific, research-based intervention (SRBI); or

3.23 (2) the child exhibits a pattern of strengths and weaknesses in performance,
3.24 achievement, or both, relative to age, state-approved grade-level standards, or intellectual
3.25 development, that is determined by the group to be relevant to the identification of a
3.26 specific learning disability.

4.1 The performance measures used to verify this finding must be ~~both~~ representative
4.2 of the child's curriculum ~~and~~ or useful for developing instructional goals and objectives.
4.3 Documentation is required to verify this finding ~~and may include~~. Such documentation
4.4 includes evidence of low achievement from, ~~for example~~ the following sources,
4.5 when available: cumulative record reviews; classwork samples; anecdotal teacher
4.6 records; statewide and districtwide assessments; formal, diagnostic, and informal tests;
4.7 curriculum-based evaluation results; and results from targeted support programs in general
4.8 education.

4.9 B. The child has a disorder in one or more of the basic psychological processes
4.10 ~~and~~ which includes an information processing condition that is manifested in a variety
4.11 of settings by behaviors such as inadequate: ~~inadequate or lack of expected~~ acquisition
4.12 of information; ~~lack of organizational skills, for example, following written and oral~~
4.13 ~~directions;~~ organization; planning and sequencing; working memory, including verbal,
4.14 visual, or spatial arrangements; correct use of developmental order in relating events;
4.15 ~~transfer of information onto paper;~~ visual and auditory memory processing; speed of

4.16 processing; verbal and nonverbal expression; transfer of information; and motor control
4.17 for written tasks such as pencil and paper assignments, drawing, and copying.

4.18 C. The child demonstrates a severe discrepancy between general intellectual
4.19 ability and achievement in one or more of the following areas: oral expression, listening
4.20 comprehension, written expression, basic reading skills, reading comprehension, reading
4.21 fluency, mathematics calculation, or mathematical problem solving. The demonstration
4.22 of a severe discrepancy shall not be based solely on the use of standardized tests.
4.23 The group shall consider these standardized test results as only one component of the
4.24 eligibility criteria. The instruments used to assess the child's general intellectual ability
4.25 and achievement must be individually administered and interpreted by an appropriately
4.26 licensed person using standardized procedures. For initial placement, the severe
4.27 discrepancy must be equal to or greater than 1.75 standard deviations below the mean of
5.1 the distribution of difference scores for the general population of individuals at the child's
5.2 chronological age level.

5.3 D. The child demonstrates an inadequate rate of progress. Rate of progress
5.4 is measured over time through progress monitoring while using intensive ~~scientific,~~
5.5 ~~research-based interventions (SRBI)~~, which may be used prior to a referral, or as part of
5.6 an evaluation for special education. A minimum of 12 data points are required from a
5.7 consistent intervention implemented over at least seven school weeks in order to establish
5.8 the rate of progress. Rate of progress is inadequate when the child's:

5.9 (1) rate of improvement is minimal and continued intervention will not
5.10 likely result in reaching age or state-approved grade-level standards;

5.11 (2) progress will likely not be maintained when instructional supports
5.12 are removed;

5.13 (3) ~~the child's~~ level of performance in repeated assessments of achievement
5.14 falls below the child's age or state-approved grade-level standards; and

5.15 (4) ~~the~~ level of achievement ~~must be~~ is at or below the fifth percentile on
5.16 one or more valid and reliable achievement tests using either state or national comparisons.
5.17 Local comparison data that is valid and reliable may be used in addition to either state or
5.18 national data. If local comparison data is used and differs from either state or national
5.19 data, the group must provide a rationale to explain the difference.

5.20 Subp. 3. **Determination of specific learning disability.** In order to determine that
5.21 the criteria for eligibility in subpart 2 are met, documentation must include:

5.22 A. an observation of the child in the child's learning environment, including
5.23 the regular classroom setting, that documents the child's academic performance and
5.24 behavior in the areas of difficulty. For a child of less than school age or out of school,
5.25 a group member must observe the child in an environment appropriate to the child's
6.1 age. In determining whether a child has a specific learning disability, the parents and the
6.2 group of qualified professionals, as provided by Code of Federal Regulations, title 34,
6.3 section 300.308, must:

6.4 (1) use information from an observation in routine classroom instruction
6.5 and monitoring of the child's performance that was done before the child was referred for
6.6 a special education evaluation; or

6.7 (2) conduct an observation of academic performance in the regular
6.8 classroom after the child has been referred for a special education evaluation and
6.9 appropriate parental consent has been obtained; and

6.10 (3) document the relevant behavior, if any, noted during the observation
6.11 and the relationship of that behavior to the child's academic functioning;

6.12 B. a statement of whether the child has a specific learning disability;

6.13 C. the group's basis for making the determination, including that:

6.14 (1) the child has a disorder, across multiple settings, that impacts one
6.15 or more of the basic psychological processes described in subpart 1 documented by
6.16 information from a variety of sources, including aptitude and achievement tests, parent
6.17 input, and teacher recommendations, as well as information about the child's physical
6.18 condition, social or cultural background, and adaptive behavior; and

6.19 (2) the child's underachievement is not primarily the result of visual,
6.20 hearing, or motor impairment; developmental cognitive disabilities; emotional or
6.21 behavioral disorders; environmental, cultural, or economic influences; limited English
6.22 proficiency; or a lack of appropriate instruction in reading or math, verified by:

6.23 (a) data that demonstrate that prior to, or as part of, the referral
6.24 process, the child was provided appropriate instruction in regular education settings
6.25 delivered by qualified personnel; and

7.1 (b) data-based documentation of repeated assessments of achievement
7.2 at reasonable intervals, reflecting formal assessment of the child's progress during
7.3 instruction, which was provided to the child's parents;

7.4 D. educationally relevant medical findings, if any;

7.5 E. whether the child meets the criteria in subpart 2, either items A, B, and C or
7.6 items A, B, and D; and

7.7 F. if the child has participated in a process that assesses the child's response
7.8 to SRBI, the instructional strategies used and the child-centered data collected, the
7.9 documentation that the parents were notified about the state's policies regarding the
7.10 amount and nature of child performance data that would be collected and the general
7.11 education services that would be provided, strategies for increasing the child's rate of
7.12 learning, and the parent's right to request a special education evaluation.

7.13 Subp. 4. **Verification.** Each group member must certify in writing whether the
7.14 report reflects the member's conclusion. If it does not reflect the member's conclusion, the
7.15 member must submit a separate statement presenting the member's conclusions.

7.16 The district's plan for identifying a child with a specific learning disability consistent
7.17 with this part must be included with its total special education system (TSES) plan. The
7.18 district must implement its interventions consistent with that plan. The plan should detail
7.19 the specific SRBI approach, including timelines for progression through the model;
7.20 any SRBI that is used, by content area; the parent notification and consent policies for
7.21 participation in SRBI; procedures for ensuring fidelity of implementation; and a district
7.22 staff training plan.

- 7.23 **3525.1343 SPEECH OR LANGUAGE IMPAIRMENTS.** [Withdrawn at 33 SR 167]
- 7.24 **3525.1345 BLIND OR VISUALLY IMPAIRED.** [Withdrawn at 33 SR 167]
- 7.25 **3525.1348 TRAUMATIC BRAIN INJURY (TBI).** [Withdrawn at 33 SR 167]
- 8.1 **3525.1350 EARLY CHILDHOOD: SPECIAL EDUCATION.** [Withdrawn at 33
8.2 SR 167]
- 8.3 **3525.1352 DEVELOPMENTAL ADAPTED PHYSICAL EDUCATION: SPECIAL**
8.4 **EDUCATION.** [Withdrawn at 33 SR 167]
- 8.5 **3525.1354 TEAM OVERRIDE ON ELIGIBILITY DECISIONS.** [Withdrawn at 33
8.6 SR 167]
- 8.7 **3525.1400 FACILITIES, EQUIPMENT AND MATERIALS.** [Withdrawn at 33 SR
8.8 167]
- 8.9 **3525.1550 CONTRACTED SERVICES.** [Withdrawn at 33 SR 167]
- 8.10 **3525.2325 EDUCATION PROGRAMS FOR K-12 CHILDREN WITH**
8.11 **DISABILITIES AND REGULAR STUDENTS PLACED OUTSIDE THE NORMAL**
8.12 **SCHOOL SITE FOR CARE AND TREATMENT.** [Withdrawn at 33 SR 167]
- 8.13 **3525.2335 EARLY CHILDHOOD PROGRAM SERVICES, ALTERNATIVES,**
8.14 **AND SETTINGS.** [Withdrawn at 33 SR 167]
- 8.15 **3525.2340 CASE LOADS.** [Withdrawn at 33 SR 167]
- 8.16 **3525.2350 MULTIDISABILITY TEAM TEACHING MODELS.** [Withdrawn at 33
8.17 SR 167]
- 8.18 **3525.2440 SURROGATE PARENT APPOINTMENT.** [Withdrawn at 33 SR 167]
- 8.19 **3525.2445 CONSULTATION WITH COUNTY SOCIAL SERVICES.** [Withdrawn
8.20 at 33 SR 167]
- 8.21 **3525.2450 REMOVAL OF SURROGATE PARENT.** [Withdrawn at 33 SR 167]
- 8.22 **3525.2455 SURROGATE PARENT KNOWLEDGE AND SKILLS.** [Withdrawn
8.23 at 33 SR 167]
- 8.24 **3525.2550 EVALUATION REPORT AND TIMELINE.** [Withdrawn at 33 SR 167]
- 9.1 ~~3525.2720~~ **CRITERIA UPON REEVALUATION.** [Withdrawn at 33 SR 167]
- 9.2 **3525.2810 DEVELOPMENT OF INDIVIDUALIZED EDUCATION PROGRAM**

9.19 ~~3525.2710; 3525.2810, subparts 3, 4, and 5; 3525.2900, subpart 5; and 3525.3900, subpart~~
9.20 ~~3, are repealed.~~