Questions and Answers about State Policies Regarding Children with Disabilities under the Individuals with Disabilities Education Act Amendments of 2004
State Board Policy 7219
(referred to hereafter as State Policies)

Evaluation/Eligibility Frequently Asked Questions (FAQ)

Q1. What is the Multidisciplinary Evaluation Team (MET) and who are the members?

A1. The MET, as defined in State Policies §300.306, includes the parent and a group of qualified professionals that will vary from evaluation to evaluation, depending on the evaluations, assessments, observations, and procedures necessary for determining the eligibility and educational needs of the student. The Special Education Eligibility Determination Guidelines specify which qualified professionals are required for each eligibility category. [See State Policies, Special Education Eligibility Determination Guidelines - Disability Categories.]

Q2. If, after obtaining written parent consent to conduct an initial evaluation, the child’s parent does not respond after several documented attempts to involve the parent in the eligibility determination meeting, can the MET determine the child’s eligibility without the parent’s participation?

A2. The MET can determine eligibility without the parent’s participation if it has documented the public agency’s attempts to involve the parent in the meeting. However, the initial provision of special education services cannot be provided without the parent’s written parental consent for these services. [See State Policies §§300.300(b)(i) and 300.306(a)(1).]

Q3. If the Teacher Support Team (TST) makes a written request for an evaluation, can the MET decide not to test?

A3. Yes, when there is consistent and sufficient evidence to support the decision. However, Written Prior Notice (WPN) explaining the MET’s decision, along with procedural safeguards, must be given to the parents whether the MET decides to conduct or declines to conduct an evaluation. [See State Policies §300.306(b)(1)(i)(ii)(iii).]
Q4. When does the ten (10) school days timeline begin: (1) when the parent makes a written request for a special education evaluation, (2) when the TST makes a recommendation to refer to the MET, or (3) when the MET receives the request? What about verbal requests by parents or personnel?

A4. The timeline begins on the date agency personnel (teachers, administrators, other staff) receive the written request from a parent, public agency, or the TST. For written requests received during the summer when school is not in session, the MET must meet within two weeks of receipt of the request, which is equal to 10 school days. The public agency’s Child Find policies should include procedures for documenting verbal requests so these are treated as written requests, as well as the process for handling requests which are received when school is not in session. [See State Policies §300.301.]

Q5. If a parent requests an evaluation to determine whether the child has a disability and needs special education and related services, must the child go through the TST process?

A5. Neither State Board Policy 4300, Federal Regulations, nor State Policies require the TST process as a prerequisite to conducting an evaluation when a child is a child suspected of having a disability. When a child is suspected of having a disability, the Multidisciplinary Evaluation Team (MET) must proceed with a comprehensive evaluation to determine the educational needs of the child. However, the MET must assure that lack of appropriate instruction in reading and math is not the determinant factor for any eligibility category. Information obtained through a three-tier process can assist the MET in making appropriate determinations. If a public agency chooses to use a process based on the child’s response to scientific, research-based intervention for determining whether a child has a specific learning disability, that process may be carried out as a pre-referral process or as part of the evaluation process.

If the parent requests an evaluation of their child because of a suspected disability that requires special education and related services, the MET must meet within ten (10) school days to consider the request and give Written Prior Notice (WPN) to the parent within five (5) school/business days of the meeting. As noted in the response to Question #4 above, when a written request is made during the summer when school is not in session, the MET must meet within two weeks of receipt of the request. This allows the same time frame provided for the 10 school days when school is in session.

If the child is not suspected of having a disability, the MET will refer the child to the TST for interventions using the 3-Tier Instructional Model. If the child is suspected of having a disability, the MET must “make reasonable efforts to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.” [See State Policies §§300.300(a)(1)(iii) and 300.301(b)(1).]
Q6. If the parents disagree with the eligibility determination, do they need to write a dissenting statement?

A6. Yes. Parents are members of the MET determining eligibility. If any MET member disagrees with the consensus of the team, they must include a separate statement indicating their conclusions. The district may need to assist the parent in documenting their conclusions. [See State Policies, Special Education Eligibility Determination Guidelines – General Information.]

Q7. Are interventions required for a child who is suspected of having developmental delays or for other children who are under the age of five (5) or otherwise not enrolled in public school?

A7. As indicated in the response to question #5, there is no requirement that interventions occur prior to referral to the MET. If the MET decides that interventions are needed to determine eligibility and educational need, interventions can be implemented during the comprehensive evaluation as part of a dynamic assessment. For preschoolers, the MET needs to rule out lack of exposure and opportunity to participate in developmentally appropriate activities as the determinant factor. [See State Board Policy 4300.]

Q8. When we receive a written request for evaluation of a child birth-five (5) years old who is not enrolled in school, do we need the Developmental History, medical records, developmental screener, and the vision/hearing screening results before the MET meets to review the written request? It will be very difficult to gather all of this information within the ten (10) school day timeframe.

A8. No. If this information is not available as part of the pre-referral process, these data should be gathered after written parental consent is obtained as part of the comprehensive evaluation during the sixty (60) calendar day timeline. Developmental screeners are not a requirement for eligibility. If they are available as part of the pre-referral information, the MET may consider them along with other available information. Developmental screeners should never be used as the sole criterion for determining whether to refer for a comprehensive evaluation or to determine eligibility or ineligibility for special education. [See State Policies, Special Education Eligibility Determination Guidelines - General Information.]

Q9. Are interventions required for a student with a current eligibility determination in the area of Developmentally Delayed (DD) when the student is being reevaluated due to reaching the maximum age range for the DD category?

A9. No. As with any reevaluation, the Individualized Education Program (IEP) Committee must review and consider all previous data to determine if additional assessment is warranted. However, the IEP Committee may decide that interventions are necessary to determine if the child has a
specific learning disability. Since the child had an IEP developed specifically to meet his or her needs and had received a comprehensive assessment prior to the eligibility determination for DD, interventions do not have to be completed as part of the evaluation to determine eligibility for Specific Learning Disability (SLD). [See State Policies §300.305 and Disability Categories/Specific Learning Disability.]

**Q10. Can a child be ruled eligible for Developmentally Delayed with delays in the Social/Emotional/Behavioral area and the Adaptive area?**

A10. Yes. Social/Emotional/Behavioral is one area; Adaptive is another area. [See State Policies, Disability Categories/Developmentally Delayed.]

**Q11. If a child who is enrolled in a public school program has a language/speech ruling, but you suspect the child may have another disability, do you have to carry out interventions in the areas of difficulty or can you go straight to reevaluation?**

A11. Interventions may or may not be required to be implemented in the areas of difficulty since the child has an IDEA eligibility ruling and the public agency suspects this ruling may not be appropriate. The Individualized Education Program (IEP) Committee should consider a reevaluation to address all of the child’s deficit areas. As part of the reevaluation, the IEP Committee must review existing evaluation data on the child to determine the educational needs of the child, whether the child continues to be a child with a disability, whether he continues to need special education and related services, and the appropriate eligibility category. However, remember that lack of instruction in reading and math must be ruled out for all disability categories except Developmentally Delayed when the child is a preschool age child. [See State Policies §§300.305(a)(b)(c)(d), 300.306, 300.307 and page 272.]

**Q12. Must a Functional Behavior Assessment (FBA) be conducted or a Behavior Intervention Plan (BIP) be implemented prior to or as part of an evaluation when the student has exhibited difficult behaviors?**

A12. No. There are no Federal Regulations or State Policies requiring these specific assessments and interventions before a child suspected of a disability is referred for a comprehensive evaluation. If the MET decides an FBA and/or a BIP are necessary to inform the team’s decision and the FBA and/or BIP were not offered as part of the pre-referral information, the MET is obligated to conduct an FBA and/or write a BIP as part of the special education evaluation process. [See State Policies, Disability Categories/Emotional Disability.]
Q13. On page 153 of the State Policies under diagnostic personnel, “psychometrist” is in bold, blue italics. Does MDE prefer a psychometrist?

A13. No. Bold, blue italics in the State Policies indicate state-specific language that is different from language found in Federal Regulations. The term “psychometrist” does not appear in Federal Regulations, so it appears in the State Policies in bold, blue italics. Bold, blue italics are not used for the purpose of providing emphasis in the State Policies. [See State Policies, Foreward under Notes.]

Q14. Who is the qualified personnel that must observe the child, review all data, and review the eligibility criteria when significant social/emotional/behavioral issues adversely impacting the educational process have been identified and evaluated?

A14. “Qualified personnel for this purpose include at least one of the following: (1) School psychologist currently licensed by the MDE, (2) Board-licensed psychologist, or (3) Psychiatrist.” Qualified personnel must be a part of the MET, regardless of the eligibility category being considered when significant social/emotional/behavioral issues adversely impacting the educational processes have been identified and evaluated. [See State Policies, Special Education Eligibility Determination Guidelines - General Information.]

Q15. What are the qualifications of the nurse practitioner or physician who makes the statement that a child has Autism (Autism Spectrum Disorder) for the purposes of special education eligibility?

A15. The professional must be appropriately licensed as a nurse practitioner or physician. Psychometrists and school psychologists licensed by the Mississippi Department of Education (MDE) and board-licensed psychologists are also qualified to make the supporting statement. [See State Policies, Disability Categories/Autism.]

Q16. Must the psychologist or psychiatrist attend the eligibility determination meeting?

A16. No. There is no requirement that the psychologist or psychiatrist be physically present at the eligibility determination meeting. The members of the MET may provide information, review information, and participate in decision-making through alternate means, including written reports and recommendations, by telephone, or through other electronic communication devices. [See State Policies, Disability Categories/Emotional Disability.]
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<th><strong>Q17. Is a language/speech only ruling considered a disability?</strong></th>
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<td>A17. Yes! It is one of the thirteen (13) disability categories recognized by the Individuals with Disabilities Education Act (IDEA). Therefore students with a language/speech only (L/S) ruling are afforded all of the rights and protections as any other child identified as having a disability under IDEA. [See State Policies §300.8(11).]</td>
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<th><strong>Q18. Under the Language/Speech criteria, do “normative data” for articulation include public agency norms?</strong></th>
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<td>A18. For articulation eligibility “normative data” may include public agency norms, but more broadly refers to articulation norms from standardized instruments and/or current research. Recent research has moved away from using formal norms for articulation, as every child is different, and articulation disorders may manifest differently in each child. The normative data is just one component of a comprehensive assessment that includes a child’s articulatory stimulability, conversational speech intelligibility, and the educational impact of an articulation disorder on the child’s performance. Solely referencing public agency norms is too restrictive for a comprehensive assessment of a child’s communicative ability. If a public agency chooses to use norms, the norms should be current. There are no preselected norms from MDE, American Speech and Hearing Association (ASHA), or Mississippi Hearing and Speech Association (MSHA) that a public agency is required to use. [See <a href="http://www.asha.org/docs/html/PP2004-00191.html#sec1.3.15">http://www.asha.org/docs/html/PP2004-00191.html#sec1.3.15</a>, “ASHA’s Preferred Practice Patterns for the Profession of Speech-Language Pathology: Speech Sound Assessment”.]</td>
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<th><strong>Q19. What about a child who is non-verbal or whose language impairment is so severe that you cannot condition or assess stimulability?</strong></th>
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<td>A19. Sometimes you will be unable to assess stimulability in children who are low functioning and/or nonverbal. In that case, the Speech Language Pathologist (SLP) documents that “the examiner could not assess stimulability due to the child’s limited use of verbal language.” (If all data consistently support a disability, you could rule the child for Language Impairment and include both language and articulation skills on the IEP if the IEP Committee determines those are the child’s educational needs). One would neither conduct articulation testing nor obtain an articulation ruling for a child who is nonverbal. [See <a href="http://www.asha.org/docs/html/PP2004-00191.html#sec1.3.15">http://www.asha.org/docs/html/PP2004-00191.html#sec1.3.15</a>, “ASHA’s Preferred Practice Patterns for the Profession of Speech-Language Pathology: Speech Sound Assessment”.]</td>
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Q20. The criteria for Language/Speech no longer require a measure of higher ability. Please clarify.

A20. A measure of higher ability for language/speech eligibility is no longer needed. Determination of eligibility for language services should be based on an evaluation that includes observation in various educational settings, teacher and parent input, a Curriculum-Based Language Assessment, criterion-referenced test(s), and/or language sample(s), in addition to formal assessments yielding standard scores. The communication needs and demands made on the student and the educational impact in the academic, social and/or vocational settings must be considered prior to determining eligibility. The eligibility determination should be based on the preponderance of the data, including the performance on formal evaluation tools. ASHA does not support the use of cognitive referencing, as research has shown that results of language assessments can actually exceed scores obtained on measures of cognitive ability. For more information on this topic, refer to ASHA’s website at http://www.asha.org keywords “cognitive referencing.”

With that said, you no longer need a measure of higher ability for language/speech eligibility. If, after a multifaceted language evaluation has been completed and all data considered, the child has a significant discrepancy of 1.5 standard deviations below the mean of the language instrument, has a disability, and by reason thereof needs special education and related services, the child is eligible as a child with a Language Impairment. [See State Policies, Disability Categories/Language Speech or Speech Impairment.]

Q21. Does a student with a language/speech problem go through the TST process?

A21. There are no universal screeners for speech or language difficulties, nor do instruments exist that are designed for frequent progress monitoring for speech or language. Research-based interventions for language/speech difficulties by qualified personnel inherently require the services of an SLP, which would in effect be a provision of special education services without the benefit of evaluation, eligibility determination, IEP, or Procedural Safeguards. As a result, requiring language or speech interventions in general education does not appear feasible or practicable. [See http://www.rti4success.org/chart/screeningTools/screeningtoolschart.html.]

Q22. If we are conducting a language/speech evaluation, is it necessary to review data and information that relates to educational or developmental issues?

A22. Based on current policies, every evaluation should be a comprehensive evaluation. In evaluating each child, the evaluation must be sufficiently comprehensive to identify all of the child’s special education and related services needs, whether or not commonly linked to the disability category. It is the responsibility of the MET to review the request and all pertinent documentation to determine the need for an evaluation.
However, once the MET reviews all pertinent information about the child, including information provided by general education teachers and the parent, the MET may determine that the only problem area that needs assessment is language or speech. Language/Speech only evaluations are not referenced in Federal Regulations or State Policies. If the student is experiencing other educational difficulties in addition to language/speech problems, then the evaluation must be conducted in such a manner that a variety of assessment tools and strategies are used to gather functional, developmental and academic information.

[See State Policies, §§300.301-300.304.]

Q23. For Specific Learning Disability (SLD) criteria, the State Policies read, “Severe discrepancy is defined as 1.5 standard deviations below the mean of the standardized test measuring intellectual ability.” Please clarify.

A23. This was an inadvertent change in wording due to a word processing error which caused some confusion. The intent of the wording is as follows: “Severe discrepancy is defined as 1.5 standard deviations below the measure of intellectual ability.” [See State Policies, Disability Categories/Specific Learning Disability.]

Q24. Can a child ruled eligible for SLD (Oral Expression and/or Listening Comprehension) or ruled eligible for Language Impaired receive services from an SLP and a special education teacher if the IEP Committee determines a need for both?

A24. This is an IEP Committee decision. “Because language needs are inherent for the following primary disability categories, a secondary ruling for language is not required. The IEP Committee may decide the SLP is an appropriate provider of language as a related service for children who have been identified in any of these categories: 1.) Hearing Impairment, 2.) Autism (Autism Spectrum Disorder), 3.) Traumatic Brain Injury, 4.) Specific Learning Disability (Oral Expression and Listening Comprehension), or 5.) Developmentally Delayed, when Communication is one of those areas of delay.”

In any case, for any of these categories including the Language Impaired category, the IEP Committee may decide the SLP is the only provider needed, a special education teacher is the only provider needed, or both are needed. The SLP may function as a direct provider of services or as a consultant to other providers. You will only be able to enter the primary disability in MSIS. [See State Policies, Special Education Eligibility Determination Guidelines - General Information.]

Q25. Three possible criteria are listed for SLD. How many and which ones should a public agency use in determining eligibility for SLD?

A25. A public agency can use one, any combination of two, or all three criteria. Public agencies must first consider a process based on the child’s response to scientific, research-based interventions. They may also use a severe discrepancy and/or other
alternative research-based procedures. Eligibility determinations of SLD require the consideration of the child’s response to scientific research-based interventions while the additional use of alternative research-based procedures or a severe discrepancy between intellectual ability and achievement are left to the decision of the MET. [See State Policies, Disability Categories/Specific Learning Disability.]

**Q26. Is the consideration for SLD (Observation Form) still required?**

A26. There is no required observation form. The information outlined in the State Policies, Disability Categories/Specific Learning Disability, under Report Requirements must be provided in an appropriate format chosen by the public agency. Specifically, whenever eligibility under SLD is being considered, the eligibility determination report must include documentation of an observation of the child in the child’s learning environment (including the general education classroom setting) to document the child’s academic performance and behavior in the areas of difficulty. The observation may be conducted as part of the pre-referral process or following parental consent for evaluation. [See State Policies, Disability Categories/Specific Learning Disability.]

**Q27. How can we do Specific Learning Disability observations and Other Health Impaired/Attention Deficit Disorder observations in the summer?**

A27. Other Health Impaired/Attention Deficit disorder observations are no longer required for an eligibility ruling. If a child does not have an observation for Specific Learning Disability conducted prior to referral or following parental consent for evaluation, the child may be observed during testing. If the child is enrolled in summer school, the observation may be conducted in the summer school class setting. [See State Policies, Disability Categories: Other Health Impaired/Attention Deficit Disorder and Specific Learning Disability.]

**Q28. Can school personnel such as a teacher or principal who has been trained on diagnostic assessment serve as a committee member for Specific Learning Disability to explain testing results?**

A28. The professional must be qualified to conduct individual diagnostic examinations of children. The State Policies [§300.308(c) and Disability Categories/Specific Learning Disability, under Team Composition (E)] list school psychologists, psychometrists, speech-language pathologists, and remedial reading teachers as professionals who likely meet the qualifications. The professional who administered the evaluations would not only be qualified, but would have first-hand knowledge of the child’s performance on and behaviors during the assessment. If the teacher or principal meets the qualifications, including the user guidelines outlined in the manual for each test administered, then the individual could meet the qualifications. [See State Policies, §300.308(c) and Disability Categories/Specific Learning Disability.]
Q29. With the change in Specific Learning Disability criteria, do we have to reevaluate using the new criteria?

A29. That is an IEP Committee decision. As noted in State Policies §300.305(a)(1)(2), reevaluation may be conducted through review of existing data at which time, parental consent is not required. The public agency is not required to conduct an assessment unless requested by the child’s parents. If the child’s parents request an evaluation of intellectual ability and achievement as part of reevaluation, they should be informed of the changes in eligibility requirements and the possibility that their child may no longer be eligible for special education and related services as a result of information gained from testing. As noted in State Policies §300.303(b)(2), when the parent and public agency agree that a reevaluation is unnecessary, the continued eligibility ruling must be documented. [See State Policies §§300.303(b)(2) and 300.305(a)(1)(2).]

Q30. What is the role of progress monitoring in determining whether a child has a Specific Learning Disability?

A30. The Federal Regulations and State Policies say that the MET must consider, as part of the evaluation, “Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child’s parents. In addition, the Multidisciplinary Evaluation Team must: (1) Use information from an observation in routine classroom instruction and monitoring of the child’s performance that was done before the child was referred for an evaluation or (2) have at least one member of the Multidisciplinary Evaluation Team conduct an observation of the child’s academic performance in the general education classroom after the child has been referred for an evaluation and parental consent is obtained.” [See State Policies §§300.309(b)(2) and 300.310(b)(1)(2).]

Q31. Can achievement versus achievement be used to determine the presence of a severe discrepancy for SLD eligibility?

A31. No. If the district chooses to use a severe discrepancy as “part” of the data to determine if a child has a specific learning disability, the discrepancy must exist between the achievement test and the measure of intellectual ability. Therefore, comparing achievement scores cannot be used to determine a severe discrepancy. [See State Policies, Disability Categories/Specific Learning Disability.]

Q32. If a standardized measure of intellectual ability yields more than one score, which score can be used when determining a severe discrepancy for SLD?

A32. The district must consult the publisher’s manual to determine which scores are recommended. This may vary based on the tests utilized by the public agency [See State Policies, Disability Categories/Specific Learning Disability.]
Q33. How do you handle transfers of students who are eligible in other states?

A33. When a child with a disability (who had an IEP in effect in a previous public agency in another state) transfers to a public agency in Mississippi and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with a free appropriate public education (FAPE) (including services comparable to those described in the child’s IEP from the previous public agency), until the new public agency – (1) Conducts an evaluation pursuant to §§300.304 through 300.306 (if determined to be necessary by the new public agency); and (2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in §§300.320 through 300.324. [See State Policies §300.323(f).]

Q34. Would Extended School Year (ESY) apply to a student who has reached his or her twenty-first (21st) birthday?

A34. ESY decisions are made by the IEP Committee and are based on the individual needs of each student. “Students with disabilities who turn age twenty-one (21) during the school year and who are eligible for ESY services may be served in an ESY program as determined by the IEP Committee.” [See State Board Policy 7212 and State Policies §300.106(a)(2).]