

OPERATING PROCEDURES

DETERMINATION OF ELIGIBILITY

Goose Creek CISD

101911

Legal Framework: [Determination of Eligibility](#)

Category: Admission, Review, and Dismissal Committee

Template update Oct 2016

"It is important to note that under 34 CFR §300.8, a child must meet a two-prong test to be considered a child with a disability: (1) have one of the specified impairments (disabilities); and (2) because of the impairment, need special education and related services. If a child has one of the impairments, but needs only related services and does not need special education, the child is not a child with a disability [citations omitted]. However, . . . if . . . the related services required by the child, are considered special education rather than a related service under State standards, the child would be considered to be a child with a disability." [OSEP Letter to Clarke \(March 8, 2007\)](#).

"Whether a child has received 'appropriate instruction' is appropriately left to State and local officials to determine. While information regarding the quality of instruction a child received in the past may be helpful in determining whether a child is eligible for special education services, it is not essential. Schools, however, must ensure that the determinant factor in deciding that a child is a child with a disability is not a lack of appropriate instruction in reading and math." 71 Fed. Reg. 46646 (August 14, 2006).

"The eligibility group should work toward consensus, but under §300.306, the public agency has the ultimate responsibility to determine whether the child is a child with a disability. Parents and school personnel are encouraged to work together in making the eligibility determination. If the parent disagrees with the public agency's determination, under §300.503, the public agency must provide the parent with prior written notice and the parent's right to seek resolution of any disagreement through an impartial due process hearing, consistent with the requirements in §300.503 and section 615(b)(3) of the Act." 71 Fed. Reg. 46661 (August 14, 2006).

"The Act does not establish a timeline for providing a copy of the evaluation report or the documentation of determination of eligibility to the parents and we do not believe that a specific timeline should be included in the regulations because this is a matter that is best left to State and local discretion. It is, however, important to ensure that parents have the information they need to participate meaningfully in [individualized education program] IEP Team meetings, which may include reviewing their child's records. Section 300.613(a) requires a public agency to comply with a parent request to inspect and review existing education records, including an evaluation report, without unnecessary delay and before any meeting regarding an IEP, and in no case more than 45 days after the request has been made. This includes the right to a response from the public agency to reasonable requests for explanations and interpretations of records, consistent with § 300.613(b)(1). While it would be appropriate for parents to review documents related to the determination of eligibility prior to the eligibility determination, there is no requirement that eligibility be determined at an IEP Team meeting and it would not be appropriate for a public agency to provide documentation of the determination of eligibility prior to discussing a child's eligibility for special education and related services with the parent. Section 300.306(a)(1) and section 614(b)(4)(A) of the Act require that a group of qualified professionals and the parent determine whether the child is a child with a disability. Therefore, providing documentation of the eligibility determination to a parent prior to a discussion with the parent regarding the child's eligibility would indicate that the public agency made its determination without including the parent and possibly, qualified professionals, in the decision." 71 Fed. Reg. 46645 (August 14, 2006).

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Through the implementation of the Goose Creek CISD policies and procedures as outlined in the [Legal Framework](#) for the Child-Centered Special Education Process, the Goose Creek CISD ensures that eligibility determinations are made as required by the Individuals with Disabilities Education Act (IDEA) and its accompanying federal regulations, state statutes and regulations.

PERSONS RESPONSIBLE: Coordinator for Evaluation, and Coordinator for Compliance and Accountability, and Director of Special Education

TIMELINES: 2020-2021

MATERIALS: eSped forms to include eligibility report ARD

METHODS: Parents are provided copy of eligibility report and ARD

GENERAL INFORMATION

20 U.S.C. § 1401(3); 34 CFR §§ 300.8, 300.301-300.306 (Evaluations and Reevaluations), 300.307-

300.311 (Additional Procedures for Identifying Children with Specific Learning Disabilities), and 300.122; TEC §29.003; 19 TAC §§ 89.1040 (Eligibility Criteria), 89.1050 (The Admission, Review, and Dismissal Committee)

Special education services shall be provided to eligible students in accordance with all applicable federal law and regulations, state statutes and rules, school policies and procedures, and this Special Education Administrative Procedures.

Eligibility Determination

To be eligible to receive special education services, a student must be a "child with a disability." To qualify as a "child with a disability," a student must have been determined to:

1. have met the definition of one or more of the disabilities listed in federal regulations, state law, or both; **and**
2. need special education and related services as a result of the disability or disabilities.

The provisions in this Section specify criteria to be used in determining whether a student's condition meets one or more of the definitions in federal regulations or in state law. A student must be assessed in all areas of suspect disability.

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The student's Admission, Review, and Dismissal Committee (ARDC) determine whether a student is eligible for special education and related services. Any evaluation or re-evaluation of a student shall be conducted in accordance with all applicable law. The multidisciplinary team that collects or reviews evaluation data in connection with the determination of a student's eligibility must include, but is not limited to, the following:

1. A licensed specialist in school psychology (LSSP) or School Psychologist, an Educational Diagnostician, Speech/ Language Pathologist, or other appropriately certified or licensed practitioner with experience and training in the area of the disability; or
2. A licensed or certified professional for a specific eligibility category.

The student's disability condition must be documented in the Full and Individual Evaluation (FIE) and in the ARD/IEP report. There must be an Eligibility Report (Initial FIEs only) for each disability condition in the ARD/IEP reports. These reports must be kept in the eligibility file.