



State of New Jersey
DEPARTMENT OF EDUCATION
PO Box 500
TRENTON, NJ 08625-0500

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

DAVID C. HESPE
Commissioner

October 6, 2015

TO: Chief School Administrators
Charter School and Renaissance School Project Lead Persons
Directors of Special Education
Administrators of a State Facility
Administrators of an Approved Private School for Students with Disabilities
Administrators of a College-Operated Program
Statewide Special Education Advisory Council
Agencies or Organizations Concerned with Special Education

FROM: Peggy McDonald, Executive Director
Office of Special Education Programs

A handwritten signature in cursive script that reads "Peggy McDonald".

SUBJECT: Clarification of N.J.A.C. 6A:14-3.5(c)4

I am writing to provide clarification with respect to the criteria for determining whether a student is eligible to receive speech-language services from a speech-language specialist in accordance with N.J.A.C. 6A:14-3.5(c)4 and N.J.A.C. 6A:14-3.6(a). N.J.A.C. 6A:14-3.5(c)4 provides with respect to eligibility under communication impaired:

4. "Communication impaired" corresponds to "communication handicapped" and means a language disorder in the areas of morphology, syntax, semantics and/or pragmatics/discourse which adversely affects a student's educational performance and is not due primarily to an auditory impairment. The problem shall be demonstrated through functional assessment of language in other than a testing situation and performance below 1.5 standard deviations, or the 10th percentile on at least two standardized language tests, where such tests are appropriate, one of which shall be a comprehensive test of both receptive and expressive language. When the area of suspected disability is language, assessment by a certified speech-language specialist and assessment to establish the educational impact are required. The speech-language specialist shall be considered a child study team member.
 - i. When it is determined that the student meets the eligibility criteria according to the definition in (c)4 above, but requires instruction by a speech-language specialist only, the student shall be classified as eligible for speech-language services.

- ii. When the area of suspected disability is a disorder of articulation, voice or fluency, the student shall be evaluated according to N.J.A.C. 6A:14-3.4(g) and, if eligible, classified as eligible for speech-language services according to N.J.A.C. 6A:14-3.6(a).

In accordance with this regulation, when assessing for a language disorder for purposes of determining whether a student meets the criteria for communication impaired, the problem must be demonstrated through functional assessment of language in other than a testing situation and performance below 1.5 standard deviations, or the 10th percentile on at least two standardized language tests, **where such tests are appropriate**, one of which shall be a comprehensive test of both receptive and expressive language.

When implementing the requirement with respect to “standardized language tests,” test selection for evaluation or reevaluation of an individual student is based on various factors, including the student’s ability to participate in the tests, the areas of suspected language difficulties/deficits (e.g., morphology, syntax, semantics, pragmatics/social language) and weaknesses identified during the assessment process which require further testing, etc. With respect to test interpretation and decision-making regarding eligibility for special education and related services and eligibility for speech-language services, the criteria in the above provision do not limit the types of scores that can be considered (e.g., index, subtest, standard score, etc.). Evaluators should review the pertinent examiners’ manual to determine which scores to utilize to determine eligibility. Test analyses, presented with the functional assessment of language and information about the educational impact of the communication difficulties on the student’s ability to be involved in academic, nonacademic, and extracurricular activities, assist in determining eligibility. In addition, if it is determined that standardized tests are not appropriate for assessing whether a particular student has a language disorder, the individualized education program team may utilize other factors to make such a determination, such as relying on a functional assessment in other than a testing situation.

I trust this information is helpful. Should you have any questions or require additional information, please contact John Worthington or Fran Leibner at 609-292-7602.

PM/JW/fl

c: Members, State Board of Education
Commissioner David C. Hespe
Senior Staff
Diane Shoener
John Worthington
Kathy Ehling
Fran Leibner

Executive County Superintendents
Executive Directors for Regional Achievement Centers
Executive County Business Officials
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Garden State Coalition of Schools
NJ LEE Group