

**Colorado Rules for the Administration of the
Exceptional Children's Educational Act (effective 12/30/07)**

2.08(6) Specific Learning Disability

2.08(6)(a) A child with a specific learning disability shall have a learning disorder that prevents the child from receiving reasonable educational benefit from general education.

2.08(6)(a)(i) Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific learning disability does not include learning problems that are primarily the result of: visual, hearing, or motor disabilities; significant limited intellectual capacity; significant identifiable emotional disability; cultural factors; environmental or economic disadvantage; or limited English proficiency.

2.08(6)(b) Alternative criteria. A child may be determined to have a Specific Learning Disability that prevents the child from receiving reasonable educational benefit from general education if the following criteria are met:

2.08(6)(b)(i) Criteria under the discrepancy model. <The "old" criteria, including aptitude/achievement discrepancy, are reiterated in this section.>

Administrative units and state-operated programs may continue to use the criteria set out in this Section 2.08(6)(b)(i) through August 14, 2009.

2.08 (6)(b)(ii) Criteria under the Response to Intervention model.

2.08 (6)(b)(ii)(A) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or state-approved grade-level standards:

- 2.08 (6)(b)(ii)(A)(I) Oral expression;**
- 2.08 (6)(b)(ii)(A)(II) Listening comprehension;**
- 2.08 (6)(b)(ii)(A)(III) Written expression;**
- 2.08 (6)(b)(ii)(A)(IV) Basic reading skill;**
- 2.08 (6)(b)(ii)(A)(V) Reading fluency skills;**
- 2.08 (6)(b)(ii)(A)(VI) Reading comprehension;**
- 2.08 (6)(b)(ii)(A)(VII) Mathematical calculation;**
- 2.08 (6)(b)(ii)(A)(VIII) Mathematics problem solving; and**

2.08 (6)(b)(ii)(B) The child does not make sufficient progress to meet age or state-approved grade-level standards in one or more of the areas identified

in section 2.08(6)(b)(i) when using a process based on the child's response to scientific, research-based intervention as determined by a body of evidence demonstrating:

2.08 (6)(b)(ii)(B)(I) Academic skill deficit(s); and

2.08 (6)(b)(ii)(B)(II) Insufficient progress in response to scientific, research-based intervention

The criteria set forth in this Section 2.08(6)(b)(ii) may be used as of the effective date of these Rules <December 30, 2007> but must be used by administrative units and state-operated programs no later than August 15, 2009. No later than August 15, 2008, each administrative unit and state-operated program shall submit a plan to the Department describing how the administrative unit or state-operated program will implement the criteria set forth in this Section 2.08(6)(b)(ii) by August 15, 2009.

4.02 (7) Additional procedures for identifying children with Specific Learning Disabilities
The definition and criteria for the Specific Learning Disability category are set forth in section 2.08(6) of these Rules. The additional requirements and procedures for identifying children with Specific Learning Disabilities shall be consistent with 34 CFR §300.307(B), §300.308, §300.309(B) – (C), §300.310 AND §300.311.

The following text in the shaded boxes is from the sections of the Federal Regulations pertaining to SLD as referred to above in section 4.02(7) of the Colorado Rules as also being applicable.

§ 300.307 Specific learning disabilities.

(b) *Consistency with State criteria.* A public agency must use the State criteria adopted pursuant to paragraph (a) of this section in determining whether a child has a specific learning disability. (Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))

§ 300.308 Additional group members.

The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in § 300.8, must be made by the child's parents and a team of qualified professionals, which must include—

- (a)(1) The child's regular teacher; or
- (2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or
- (3) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and
- (b) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher. (Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))

§ 300.309 Determining the existence of a specific learning disability.

(b) To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in §§ 300.304 through 300.306—

- (1) Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
- (2) 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.
- (c) The public agency must promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the timeframes described in §§ 300.301 and 300.303, unless extended by mutual written agreement of the child's parents and a group of qualified professionals, as

described in § 300.306(a)(1)—

- (1) If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction, as described in paragraphs (b)(1) and (b)(2) of this section; and
- (2) Whenever a child is referred for an evaluation. (Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))

§ 300.310 Observation.

- (a) The public agency must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.
- (b) The group described in § 300.306(a)(1), in determining whether a child has a specific learning disability, must decide to—
 - (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 group described in § 300.306(a)(1) conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent,

consistent with § 300.300(a), is obtained.
(c) In the case of a child of less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age.
(Authority: 20 U.S.C. 1221e-3; 1401(30);1414(b)(6))

§ 300.311 Specific documentation for the eligibility determination.

(a) For a child suspected of having a specific learning disability, the documentation of the determination of eligibility, as required in § 300.306(a)(2), must contain a statement of—
(1) Whether the child has a specific learning disability;
(2) The basis for making the determination, including an assurance that the determination has been made in accordance with §300.306(c)(1);
(3) The relevant behavior, if any, noted during the

observation of the child and the relationship of that behavior to the child's academic functioning;
(4) The educationally relevant medical findings, if any;
(5) Whether—
(i) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards consistent with §300.309(a)(1); and
(ii)(A) The child does not make sufficient progress to meet age or State approved grade-level standards consistent with §300.309(a)(2)(i)
(6) The determination of the group concerning the effects of a visual, hearing, or motor disability; mental retardation; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and
(7) If the child has participated in a process that assesses the child's response to scientific,

research-based intervention—
(i) The instructional strategies used and the student-centered data collected; and
(ii) The documentation that the child's parents were notified about—
(A) The State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
(B) Strategies for increasing the child's rate of learning; and
(C) The parents' right to request an evaluation.
(b) Each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.
(Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6))

