Revisions to Disability Category Criteria within a Comprehensive Special Education Evaluation

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Learning Objectives

- 1. Participants will identify how the disability category criteria fit within a comprehensive special education evaluation.
- 2. Participants will review updates to how disability category criteria is documented on IEP forms and documentation of the need for specially designed instruction.
- 3. Participants will learn which disability category criteria have been updated and added in the last year and what families need to know.

High Leverage Practices (HLPs) in Special Education

Today's presentation covers the following HLPs

- 1. Collaborate with professionals to increase student success.
- 4. Use multiple sources of information to develop a comprehensive understanding of a student's strengths and needs.
- 5. Interpret and communicate assessment information with stakeholders to collaboratively design and implement educational programs.
- 6. Use student assessment data, analyze instructional practices, and make necessary adjustments that improve student outcomes.

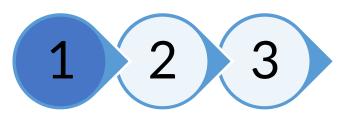






Learning Objective #1

Identify how disability category criteria should be considered in context of a comprehensive special education evaluation.



Legal Requirements

Both State and Federal Special Education Regulations Address Comprehensive Evaluation

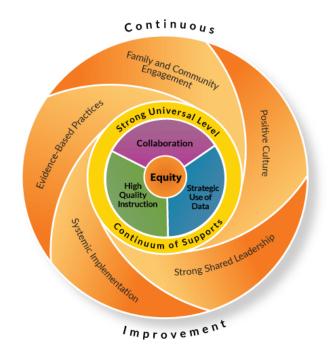


Individuals with Disabilities Education Act (IDEA)

Wisconsin State Statute CH 115 and PI 11 Rules

Equitable Multi-Level Systems of Support

A comprehensive evaluation exists within a district's equitable multilevel system of support (MLSS) and represents a collaborative effort between families, general educators, related services, and special educators to understand a student's needs.



Wisconsin's Framework for Equitable Multi-Level Systems of Supports

State Disability Criteria are Necessary but Not Sufficient

Special Education Evaluation <u>IS NOT</u> Disability Category Specific:

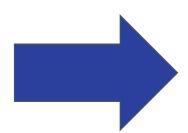
 "the evaluation is sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been classified."

34 CFR 300.304 (c)(6)

Words Matter

Move From:

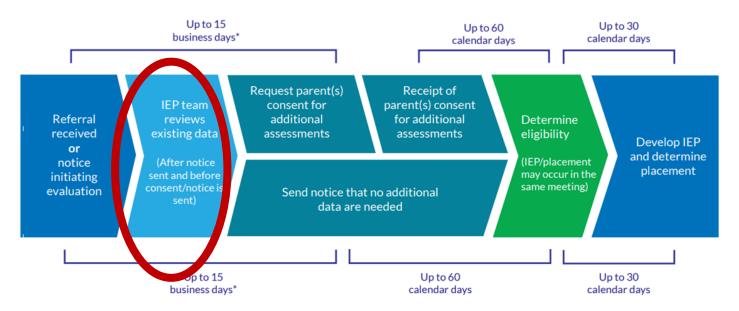
"We think this student has Autism. What assessments do we need to conduct to determine eligibility?"



Move To:

"What information do we need to gather so we can determine special education eligibility <u>AND</u> identify the needs of the student?"

Special Education Evaluation Timeline Requirements



<u>Special Education Evaluation Timeline Graphic</u> Special Education Evaluation Timeline Text

State Criteria are Necessary but Not Sufficient

The evaluation must provide sufficient information to determine:

- Whether the child is a child with a disability, and
- ii. The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum or age appropriate activities. 34 CFR 300.304(b)(1)

State Criteria are Necessary but Not Sufficient

Be Aware

Collecting information to meet disability category criteria only assists the IEP team with determining if a child is a child with a disability (i.), as the information collected to meet criteria is often not sufficient in completing a special education evaluation and developing a student's IEP.

Comprehensive Special Education Framework Documents

- Bulletin 21.01 Special Education Evaluation
- A Framework for Comprehensive Special Education Evaluation: Overview
- Comprehensive Special Education Evaluation within an Equitable Multi-Level
 System of Support (MLSS)
- Comprehensive Special Education Evaluation Why it Matters
- Addressing Bias in a Comprehensive Special Education Evaluation
- Comprehensive Special Education Evaluation Six Areas of Academic and Functional Skill
- Comprehensive Special Education Evaluation-Related Legal Citations

Wisconsin DPI Comprehensive Special Education Evaluation web page

Learning Objective #2

Review updates to how disability category criteria is documented on IEP forms and documentation of the need for specially designed instruction.



Revised Evaluation Report (ER-1) IEP Form

- The ER-1 Evaluation Report IEP form was revised in June 2021.
- A major focus of revision was to better connect the ER-1 evaluation report to the I-4 linking form.
 - Effect of disability
 - Disability-related need(s)
 - Need for specially designed instruction
- Revisions were made after extensive stakeholder input via a statewide survey (181 respondents).

Stakeholder Input on Revised ER-1

- 71%: State they put ER-1 information directly into I-4.
- 91%: Links to present levels of academic/functional performance.
- 92%: Links to effects of disability.
- 89%: Links to disability-related needs.
- 90%: Identifies the need for specially designed instruction.
- 89%: Helps identify type of specially designed instruction.

DPI Survey: 181 respondents May 2021

Connection to Present Levels of Performance

I. INFORMATION FROM EXISTING DATA (Refer to the Existing Data Review (Form ED-1) to ensure the data is reflected in this section. Must include information about the student's academic and functional early literacy or reading skills. Include information from any relevant areas identified from the referral or during the review of existing data related to academic or functional skills such as achievement in content areas, social/emotional, physical/health, independence/self-determination, communication, or cognitive learning.)

A. Information provided by

Parent(s)/family:

Teachers, related service providers:

Other sources (e.g., postsecondary transition, medical, etc.):

B. Summary of previous assessments

Classroom-based, district-wide or state assessment results:

Other assessments:

Documenting a Student Meets Criteria for a Disability Category

- IEP teams must have documentation that a student meets criteria for at least one of Wisconsin's disability categories outlined in PI 11 before the student can be found eligible to receive special education services.
- DPI has created revised "worksheets" which summarize how a student meets criteria on the ER-1 evaluation report form.

Determination of Disability Category

A. DETERMINATION OF DISABILITY CATEGORY

1. When considering whether the student meets the criteria for one or more disability categories, the IEP team may not find the student eligible if the determining factor is due to a lack of appropriate instruction in reading or math, or due to limited English proficiency. If one of these reasons applies, describe:

□ Not Applicable

2. The district must take steps to address the lack of appropriate instruction or the student's limited English proficiency. Recommendations:

□ Not Applicable

This student meets the criteria for one or more of the following disability categories (check all that apply):

□ Autism

☐ Blind and Visually Impaired (complete ER-3, "Determining Braille Needs")

Deaf and Hard of Hearing

Deafblind

□ Emotional Behavioral Disability

Intellectual Disability

□ Orthopedically Impaired

Other Health Impairment

☐ Significant Developmental Delay (first consider other disability categories)

☐ Specific Learning Disability (complete ER-2A, 2B or 2C)

Speech or Language Impairment

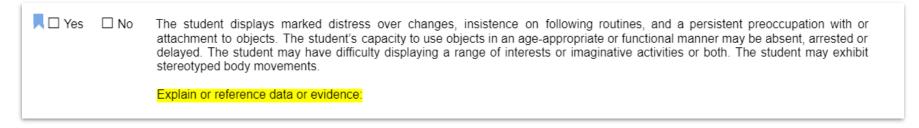
☐ Traumatic Brain Injury

None found (complete A.3.b. and A.4. below)

a. For each disability category identified, document how the student meets the criteria (attach eligibility criteria worksheet, if used):

Using a Criteria Worksheet to Document Disability Category

 On each worksheet, a prompt is provided to document how a student meets the required criteria.



The explanation <u>should summarize</u>, <u>not duplicate</u> a specialist's assessment report.

Documenting a Student Meets Criteria for a Disability Category

The evidence provided in this form should be:

- Concise
- Objective
- Parent Friendly
- Specific to the individual child

☐ Yes ☐ No There is a delay in communication that adversely impacts the student's educational performance or social, emotional, or vocational development. *Explain or reference data or evidence:*

What is meant by "needs special education"?

Having a need for special education means the IEP team documented that a student requires "specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability".

34 CFR §300.39

Wis. Stats §115.76(15)

Connection to Effect of Disability

Form ER-1	Name of Student		Page	_ of
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B. NEED FOR SPECIALLY DESIGNED INSTRUCTION

In order to be eligible for an IEP, the IEP team must determine that the identified disability(ies) adversely affects educational performance and the student needs special education/specially designed instruction as a result. Special education/specially designed instruction means adapting, as appropriate, the content, methodology, or delivery of instruction to address the unique needs of the student that result from the student's disability; and ensure access of the student to the general curriculum, so the student can meet the educational standards of the public agency that apply to all students.

Describe how the student's disability affects their access, engagement and progress in the grade-level general
education curriculum, including how the disability affects reading. For preschool children, describe how the
disability affects participation in age-appropriate activities, including language development, communication and/or
early literacy.

College and Career Ready IEPs

Connection to Disability-related Needs

2. Describe the student's academic and/or functional **disability-related needs**. What skills and/or behaviors does the student need to develop and/or improve so the student can meet age/grade level standards and expectations?

Identifying the Need for Specially Designed Instruction

- 3. Can the student's disability-related needs be addressed without specially designed instruction? (Check Yes or No)
 - If Yes, the student does not need specially designed instruction. Describe other supports the student may need, such as accommodations through a Section 504 Plan or supports through the general education program, if any:
 - If No, explain why the student requires specially designed instruction <u>and</u>
 the adaptations to content, methodology or delivery of instruction needed
 to address the student's disability-related needs.

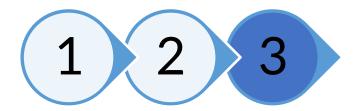
Identifying the Need for Specially Designed Instruction

4. By reason of the identified disability category(ies) that adversely affects the student's education performance, does the student **need specially designed instruction** or in the case of a reevaluation, continue to **need specially designed instruction**? Yes or No

Guide to Special Education Forms

Learning Objective #3

Identify key changes to disability category criteria in Wisconsin administrative rules and what families need to know.

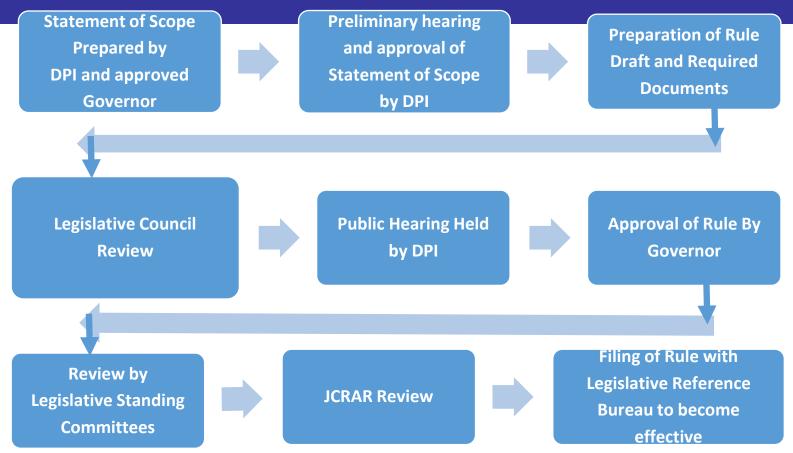


Wisconsin PI 11.36 Rule Changes

Disability Category	Date IEP Team Apply Revised Criteria	
Blind and Visually Impaired	August 1, 2021	
Deaf and Hard of Hearing	August 1, 2021	
Deafblind (New Category)	August 1, 2021	
Emotional Behavioral Disability	December 1, 2021	
Speech or Language Impairment	August 1, 2021	
Specific Learning Disability	Emergency Rule Effective December 5, 2021	

PI 11.36 Wis. Admin. Code

Rulemaking Steps



Wisconsin PI 11.36(3), Wis. Admin. Code

Wisconsin defines Blind and Visually Impaired as "even after correction a child's visual functioning adversely affects educational performance."

PI 11.36 (3), Wis. Admin. Code

What Families Need to Know

In addition to ensuring a student meets all of the criteria outlined in PI-11, IEP teams should pay specific attention to:

- An ocular report from an optometrist or ophthalmologist is still required.
- Any condition that adversely affects a child's visual functioning may be considered.
- A licensed orientation and mobility specialist conducts an O&M assessment.

What Families Need to Know

To identify a student with blindness or visual impairment, your child's IEP team will consider the following:

- Current ocular report
- Functional vision assessment
- Learning media assessment
- Expanded Core Curriculum (ECC)

Parent and Family Resources

- Department of Public Instruction: Blind and Visually Impaired
 - <u>Family Support and Professional Organizations for Students with</u>
 <u>Vision Needs | Wisconsin Department of Public Instruction</u>
 - Roles and Responsibilities of Teachers of the Visually Impaired And
 Orientation and Mobility Specialists
 - Ocular Report for Children with a Known or Suspected Visual Impairment
 - What is the Expanded Core Curriculum?

Parent and Family Resources

- Wisconsin Center for the Blind and Visually Impaired (WCBVI)
 - WCBVI Outreach Service Request
 - WCBVI Outreach Weekly Update
- Financial Aid for Eye Care

Wisconsin PI 11.36(4), Wis. Admin. Code

Wisconsin defines Deaf and Hard of Hearing as "a decreased ability to detect sound in one or both ears with or without amplification, whether permanent or chronically fluctuating, which adversely affects a child's educational performance. This includes academic performance, speech perception, speech production, or communication including language acquisition or expression."

PI 11.36 (4), Wis. Admin. Code

What Families Need to Know

Updated Terminology (August 2021)

- PI 11.36(4) disability category name changed from "Hearing Impairment" to "*Deaf and Hard of Hearing*."
- "Significant impairment in hearing" was changed to "decreased ability to detect sound."

What Families Need to Know

Wisconsin State Rule (as of August 2021)

Educational performance includes four sub-sections:

Previous Rule

- educational performance including academic performance
- speech perception and production
- language and communication skills

Current Rule

- academic performance
- speech perception
- speech production, or
- communication including language acquisition or expression

To identify a student who is deaf or hard of hearing, your child's IEP team will consider the following:

- Evaluation that includes a teacher of the deaf
- Current evaluation conducted by a licensed audiologist
- <u>Expanded Core Curriculum</u> (ECC)

Parent and Family Resources

- Department of Public Instruction: Deaf and Hard of Hearing
 - Family Support and Professional Organizations for Students who are Deaf or Hard of Hearing | Wisconsin Department of Public Instruction
 - Expanded Core Curriculum for Students who are Deaf or Hard of Hearing
 - <u>Deaf Mentor and Parent Mentor Program</u>
 - Wisconsin Families for Hands & Voices
 - Parent and Family Resources
- Hearing Aid Information
- <u>Telecommunications Equipment Purchase Program</u>
- Wisconsin Sound Beginnings

Wisconsin PI 11.36(4m), Wis. Admin. Code

Wisconsin defines Deafblind as "concomitantly deaf or hard of hearing and blind or visually impaired, the combination of which causes severe communication and other developmental and educational needs such that the individual disabilityrelated needs of the student extend beyond the instruction and supports required for a student who is solely deaf or hard of hearing or blind or visually impaired."

DPI Rule Change: PI 11.36 (4m), Wis. Admin. Code.

Required IEP Team Members

 A teacher for the deaf and hard of hearing licensed under s. PI 34.050 is required to be a member of the IEP team when determining if a student meets the disability criteria for Deaf and Hard of Hearing.

In addition to ensuring a student meets all of the criteria outlined in PI-11, IEP teams should pay specific attention to:

- PI 11.36(4m) Deafblind has been added as its own disability category area.
- Teams are required to refer to disability category criteria forms for Deaf and Hard of Hearing and Blind and Visually Impaired when considering Deafblind as a disability category.

- A student can be identified as deafblind if they meet <u>one of the following</u>:
 - Meets the criteria for both Deaf and Hard of Hearing specified in PI.36 (4) and Blind and Visually Impaired specified in PI 11.36 (3).

<u>or</u>

O Has documented hearing and vision losses that, if considered individually may not meet the requirements for Deaf and Hard of Hearing and Blind and Visually Impaired, but the combination of which causes severe communication and other developmental and educational needs such that the individual disability-related needs of the student extend beyond the instruction and supports required for a student who is solely deaf or hard of hearing or blind or visually impaired.

- Wisconsin Deafblind Technical Assistance Project (WDBTAP)
 - Federally funded technical assistance and dissemination grant through OSEP.
 - Wisconsin DPI coordinates this grant through the Wisconsin Educational Services Program for the Deaf and Hard of Hearing (WESP-DHH).
 - WDBTAP support families, school districts and agencies through training, consultations and resources.

Assessment and Data Collection

- If Deafblindness is suspected, the educational team may contact the Wisconsin Deafblind Technical Assistance Project, the Deaf and Hard of Hearing Outreach Program, or Wisconsin Center for the Blind and Visually Impaired Outreach Program for assistance with identifying appropriate assessments
- The Wisconsin Deafblind Technical Assistance Project is responsible for child find and child count for the Wisconsin Department of Public Instruction
- The Wisconsin Deafblind Technical Assistance Project supports children aged birth to 21

Wisconsin PI 11.36(5)(a), Wis. Admin. Code

"Speech or Language Impairment" means an impairment of speech or sound production, voice, fluency, or language that adversely affects educational performance or social, emotional or vocational development."

Why the Change to PI-11 for Speech or Language Impairment?

- Accurate identification of students for services in the schools
 - -including students who are Culturally and Linguistically Diverse (CLD), historically misidentified (Farrugia-Bernard 2018)
 - -requiring observation in natural environments
 - -actually documenting educational impact
- To be in line with current research and best practices
 - -arbitrary cut off scores do not accurately identify students (Plante and Vance 1994; Spaulding et al. 2006)
 - -over-reliance on norm-referenced assessments (Fulcher-Rood, Castilla-Earls, & Higginbotham 2018; Ireland & Conrad 2016)



In addition to ensuring a student meets all of the criteria outlined in PI-11, IEP teams should pay specific attention to:

- Raising up assessment methods other than norm-referenced assessments
- An observation in the student's natural environment is required when identifying any type of Speech or Language Impairment
- Strong focus on determining language differences from language disorder ("disorder within diversity" Oetting 2018)
- Language addressing reevaluation

Impact

Impact on functional communication

- observation in natural environments
- interviewing classroom teachers and caregivers
- work samples
- language samples
- intelligibility



Speech-Language: Other Shifts in Rule Language

- Highlighted Augmentative and Alternative Communication (AAC) language already in the rule
- Added IEP team member requirement: educator with foundational knowledge in first and second language instruction and second language acquisition if the child is identified as an English Learner under 20 USC 7801 (20).
- Reevaluation determination: student continues to demonstrate educational impact and a need for special education



What difficulties does your child have with being a successful communicator?

- Do you have difficulty understanding what your child is saying?
- Do other family members who see your child less often than you see your child have more difficulty understanding your child?
- Do you have difficulty following your child's stories when they tell you about their day?



Wisconsin PI 11.36(7)(a), Wis. Admin. Code

Emotional behavioral disability, pursuant to s. 115.76 (5) (a) 5., Stats., means a condition in which a child demonstrates frequent and intense observable behaviors, either over a long period of time or of sudden onset due to an emerging mental health condition which includes a diagnosis by a licensed mental health professional, which adversely affects the child's educational performance. The behaviors shall occur in an academic setting in school, in a non-academic setting in school and in the child's home or community.

PI 11.36 (7)(a), Wis. Admin. Code

Why the Change?

- Remove subjective language within the rule and replace it with more objective (observable, measurable) language.
- Focus on data-based evaluation procedures to make more objective disability identification decisions.
- Limit deficit based language and utilize language that acknowledges the ecological factors that impact a student's social, emotional and behavioral functioning.

Ecological: of or relating to the environments of living things or to the relationships between living things and their environments.

Why the Change?

Racial Disproportionality 2018-2019 WISEdata reporting:

Race	Percent of Total Student Population	Percent of emotional behavioral disability Identifications	
White	69.1	62.0	
Hispanic	12.4	9.3	
Native American	1.1	2.3	
Two or More Races	4.2	8.5	
Black	9.1	17.3	

Disproportionality: Students labeled with Emotional Behavioral Disability

"As the data continue to show minority students with disabilities are at a greater risk for being suspended, school suspension increases the risk of school dropout, and school dropout increases the likelihood of incarceration, the pathway to incarceration seems to be evident for minority special needs students."

Bell, C. (2016). <u>Special needs under siege: from classrooms to incarceration</u>. Sociology Compass 10/8, 698–705, 10.1111/soc4.12392

The student must exhibit at least one of the seven defining, observable characteristics of Emotional Behavioral Disability

- The behaviors must occur in an in an academic setting in school, in a non-academic setting in school <u>and</u> in the student's home or community.
- The observable behaviors must be frequent and intense and adversely affect the student's educational performance
- The observable behaviors must occur either over a long period of time or of sudden onset due to an emerging mental health condition which includes a diagnosis by a licensed mental health professional

The IEP team must conduct a comprehensive special education evaluation and consider current data from the following (all must be checked):

- Evidence-Based Positive Behavioral Interventions
- ☐ Observations-Academic Settings
- Observations-Non-Academic Settings
- □ Interview-child
- ☐ Interview-parent
- ☐ Interview-teacher(s)
- ☐ Interview-Positive Adult
- ☐ Review of Records
- ☐ Standardized Rating Scales



IEP teams must consider ecological factors when observing and in interviews.

The RIOT/ICEL Matrix

	Review	Interview	Observe	Test
Instruction				
Curriculum				
Environment				
Learner				

Ecological: of or relating to the environments of living things or to the relationships between living things and their environments.

Additional Requirements:

- The IEP team considered the effects of any known history of trauma or mental health disorder on the student's functioning and did not identify or refuse to identify emotional behavioral disability based solely on a known history of trauma or mental health disorder.
- The IEP team discussed and determined, based on information and data collected, whether behaviors are a result of a difference between the norms of the child's family and community or an emotional behavioral disability. The IEP team did not identify a student as a student with an emotional behavioral disability when there is evidence that the difference is the primary causal factor of the behaviors.

Consideration:

 The IEP team for a child being evaluated for emotional behavioral disabilities may include the LEA staff member, identified by the child when possible, as having a positive or the most positive relationship with the child.



- SAFETY
- TRUST
- CHOICE
- COLLABORATION
- EMPOWERMENT
- CULTURAL RESPONSIVENESS

Specific Learning Disability Emergency Rule 2129

 An emergency rule related to Wisconsin's

- The specific learning disability rule requires all students to receive two scientific research-based interventions in the area of suspected specific learning disability.
- If you are a parent with a child enrolled in a private school, the IEP team may use significant discrepancy to determine if your child has a specific learning disability.

 Significant discrepancy compares assessments of child's intellectual ability, or IQ, with how much progress they are making academically (academic achievement)

Adapted from <u>understood.org</u>

Resources





Updated PI 11 Rule Change Guidance

Updated Guidance on New Rules Includes:

- 1. Speech or Language Impairment Rule Change Comparison Chart
- 2. Summary of Changes for Speech or Language Impairment
- 3. <u>Speech or Language Impairment Criteria within a Comprehensive Special</u>
 <u>Education Evaluation</u> (video playlist)
- 4. Summary of Changes for Blind and Visual Impairment Rule Change
- 5. Blind and Visual Impairment Rule Change Comparison Chart
- 6. Deaf and Hard of Hearing Rule Change Comparison Chart
- 7. Required Documentation for Criteria for Deaf and Hard of Hearing
- 8. Required Documentation for Criteria for Deafblind

Additional resources on <u>Wisconsin DPI Special Education</u> <u>Professional Learning Events webpage</u>.

Updated PI 11 Rule Change Guidance

Go to Wisconsin DPI disability category criteria web page for links to each disability page to locate new guidance.

Special Education Disability Categories

- Autism
- Blind and Visually Impaired
- Deaf and Hard of Hearing
- Deafblind
- Emotional Behavioral Disability
- Intellectual Disability
- Orthopedic Impairment

https://dpi.wi.gov/sped/program

Deaf and Hard of Hearing Criteria

Deaf and Hard of Hearing Criteria

§300.304 of the Individuals with Disabilities Education Act (IDEA) outlines two purpose of special education evaluations (i) Whether the child is a child with a disability; and (ii) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities). The disability category criteria worksheets only assist IEP teams with (i) and are not sufficient in completing an evaluation and developing a student's IEP. To ensure compliance with implementing a full, individual, and comprehensive evaluation, go to the WI DPI Comprehensive Special Education Evaluation web page.

Worksheets and Guidelines

 Revisions to Wisconsin's Administrative Rule Identifying Students as Deaf or Hard of Hearing - Comparison Chart

https://dpi.wi.gov/sped/program/deaf-hard-of-hearing

DPI and **OSEP** Resources

DPI Information Update 21.01: Special Education Evaluation

<u>DPI Information Update 18.02: Free Appropriate Public</u> Education

DPI Resources on Culturally Responsive Problem Solving

DPI Resources Relating to Educational Equity

DPI Sample Special Education IEP Forms

<u>DPI Disability Categories</u> (link to disability pages)

DPI College and Career Ready (CCR) IEP Learning Resources

DPI Special Education Professional Learning Events

DPI Comprehensive Special Education Evaluation Resources Page (coming September 2021)

IDEA Q&A on Free Appropriate Public Education following Endrew F. Supreme Court Decision



Collaborative Support Email List

Encourage staff supporting students with disabilities to this open email list:

1) Go to the DPI email list web

6/

Thank you!



Please fill out the following survey:

http://bit.ly/widpisurvey

Enter code "Bulletin82916"