

581-015-2120 (IDEA compliance)

Determination of Eligibility

(1) Upon completion of the administration of assessments and other evaluation materials, as part of an initial evaluation or any reevaluation in accordance with OAR 251-015-2115, the school district must prepare an evaluation report. The evaluation report(s) must describe and explain the results of the evaluation conducted. Using the evaluation report and other available data, a team must determine whether the child is a child with a disability under OAR 581-015-2130 through 581-015-2180 and the educational needs of the child.

(a) The team, which includes a group of qualified professionals and the parent of the child, must determine

- (a) Whether the child is a child with a disability in accordance with OAR 581-015-2127 through 581-015-2180, OAR 581-015-2795, or OAR 581-015-2780; and
- (b) The educational needs of the child, in accordance with OAR 581-015-2190, and two or more qualified professionals, at least one of whom is knowledgeable and experienced in the evaluation and education of children with the suspected disability. This team may be the child's IEP team.

(2) The school district must provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

(b) For a child suspected of having a specific learning disability, the team must meet the requirements of OAR 581-015-2170.

(3) The team may not find a child must not be determined to be eligible for to receive special education services if:

- (a) The determinant factor for that eligibility decision determination is:
 - (A) A lack of appropriate instruction in reading, including the essential components of reading instruction (i.e., explicit and systematic instruction in phonemic awareness; phonics; vocabulary development; reading fluency, including oral reading skills; and reading comprehension strategies), or
 - (B) A lack of appropriate instruction in math; or
 - (B) Limited English proficiency; or
- (b) The child does not otherwise meet the eligibility criteria under OAR 581-015-2127 through 581-015-2180, OAR 581-015-2795, or OAR 581-015-2780.

(4) In interpreting evaluation data for the purpose of determining if a child is a child with a disability and the educational needs of the child, the school district must

- (a) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and
- (b) Ensure that information obtained from all of these sources is documented and carefully considered.

Formatted: Font: (Default) Arial, 10 pt

Formatted: Space After: 0 pt, Line spacing: 1.5 lines

Formatted: Font: (Default) Arial, 10 pt

Formatted: Font: (Default) Arial, 10 pt

Formatted: Font: (Default) Arial, 10 pt

Formatted: Indent: Left: 0", Space After: 0 pt, Line spacing: 1.5 lines

Formatted: Font: (Default) Arial, 10 pt

Formatted: Indent: Left: 0", First line: 0.5", Space After: 0 pt, Line spacing: 1.5 lines

Formatted: Font: (Default) Arial, 10 pt

Formatted: Font: (Default) Arial, 10 pt

Formatted: Font: (Default) Arial, 10 pt

Formatted: Space After: 0 pt, Line spacing: 1.5 lines

Formatted: Indent: Left: 0", Space After: 0 pt, Line spacing: 1.5 lines

Formatted: Indent: Left: 0", First line: 0.5", Space After: 0 pt, Line spacing: 1.5 lines

Formatted: Space After: 0 pt, Line spacing: 1.5 lines

Formatted: Indent: Left: 0", First line: 0.5", Space After: 0 pt, Line spacing: 1.5 lines

Formatted: Space After: 0 pt, Line spacing: 1.5 lines

Formatted: Indent: Left: 0.5", First line: 0.5", Space After: 0 pt, Line spacing: 1.5 lines

Formatted: Font: (Default) Arial, 10 pt

Formatted: Font: (Default) Arial, 10 pt

Formatted: Font: (Default) Arial, 10 pt

Formatted: Space After: 0 pt, Line spacing: 1.5 lines

Formatted: Indent: Left: 0.5", Space After: 0 pt, Line spacing: 1.5 lines

Formatted: Indent: First line: 0.5", Space After: 0 pt, Line spacing: 1.5 lines

~~(5) The team must determine a child to be eligible under this rule if the child has a disability and, by reason thereof, needs special education and related services.~~

Formatted: Space After: 0 pt, Line spacing: 1.5 lines

~~(26) The team must prepare an evaluation report and written statement of eligibility based on the team's determination. The written statement of eligibility must include:~~

Formatted: Font: (Default) Arial, 10 pt

~~(a) The evaluation report(s) must describe and explain the results of the evaluation conducted.~~

Formatted: Indent: Left: 0", First line: 0.5", Space After: 0 pt, Line spacing: 1.5 lines

~~(b) The written statement of eligibility must include:~~

~~(A) (a) A list of the evaluation data considered in determining the child's eligibility;~~

~~(B) A determination of whether the child meets the minimum evaluation eligibility criteria for one of the disability categories in OAR 581-015-2130 through 581-015-2180 or 581-015-2795;~~

~~(C) A determination of whether the primary basis for the suspected disability is:~~

~~(i) A lack of appropriate instruction in reading, (including the essential components of reading instruction); or~~

~~(B) A lack of appropriate instruction in math; or~~

~~(ii) Limited English proficiency;~~

~~(D) A determination of whether the child's disability has an adverse impact on the child's educational performance;~~

~~(E) A determination of whether, as a result of the disability, the child needs special education services; and~~

~~(F) The signature of each member of the team indicating agreement or disagreement with the eligibility determination. If a member of the team disagrees with the determination, they must submit a separate statement presenting their conclusions.~~

Formatted: Indent: Left: 0.5", Space After: 0 pt, Line spacing: 1.5 lines

~~(f) For a child suspected of having a specific learning disability, the team's written report and documentation of determination of eligibility must meet the requirements of OAR 581-015-2170.~~

Formatted: Indent: Left: 0", First line: 0.5", Space After: 0 pt, Line spacing: 1.5 lines

~~(7) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with OAR 581-015-2190 through OAR 581-015-2255, OAR 581-015-2735, and OAR 581-015-2090.~~

Formatted: Indent: Left: 0", Space After: 0 pt, Line spacing: 1.5 lines

~~(3) The team must determine a child to be eligible under this rule if the child has a disability and needs special education and related services, even though the child is advancing from grade to grade.~~

Formatted: Font: (Default) Arial, 10 pt, Not Highlight

Formatted: Font: (Default) Arial, 10 pt

Formatted: Space After: 0 pt, Line spacing: 1.5 lines

~~(4) For a child who may have disabilities in more than one category, the team need only qualify the child under one disability category. However, the child must be evaluated in all areas related to the suspected disability or disabilities, and the child's IEP must address all of the child's special education needs.~~

~~(5) The team may not find a child eligible for special education services if:~~

~~(a) The determinant factor for that eligibility decision is:~~

Formatted: Indent: Left: 0", First line: 0.5", Space After: 0 pt, Line spacing: 1.5 lines

~~(A) Lack of appropriate instruction in reading, including the essential components of reading instruction, or lack of appropriate instruction in math; or~~

~~(B) Limited English proficiency; and~~

~~(b) The child does not otherwise meet the eligibility criteria under OAR 581-015-2130 through 581-015-2180.~~

~~(6) The school district must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent at no cost.~~

Statutory/Other Authority: ORS 343.045, 343.146 & 343.157

Statutes/Other Implemented: ORS 343.035, 343.146, 343.157, 34 CFR 300.306, 300.308 & 300.111

History:

Renumbered from 581-015-0053, ODE 10-2007, f. & cert. ef. 4-25-07

ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03

ODE 12-2000, f. 5-3-00, cert. ef. 5-3-00

EB 22-1995, f. & cert. ef. 9-15-95

Formatted: Space After: 0 pt, Line spacing: 1.5 lines

Formatted: Font: (Default) Arial, 10 pt

Formatted: Space After: 0 pt, Line spacing: single

Formatted: Space After: 0 pt, Line spacing: 1.5 lines