

Gifted & Specific Learning Disability (Twice Exceptional)

Key Question: *Why might a student who has academic skill weaknesses in comparison to his/her areas of strength or tested IQ not be eligible for special education services in the disability category: Specific Learning Disability?*

The specific issue addressed here is related to the situation where a student has been identified as gifted, but who also displays one or more academic skill weaknesses in comparison to his/her strengths or assessed intelligence. The student may even have been diagnosed with a related disability, such as dyslexia. [See *SLD Topic Brief: Dyslexia and SLD* for further information on the relationship between the two.]

Certainly, a student who is gifted in some area(s) may also be identified as having a Specific Learning Disability and be found eligible for special education due to significant skill deficits, insufficient response to scientific, research-based intervention, and a determination of the need for special education and related services in order to benefit from general education.

However, disagreements sometimes arise when a parent or other advocate believes that a child should be eligible for special education services as a child with an SLD, even if the child is achieving at or near grade level in the area(s) of relative weakness. The expectation for achievement referenced in the identification of SLD was established in the 2004 reauthorization of the Individuals with Disabilities Education Act (IDEA 2004) and the regulations that followed at 34 C.F.R. §300.309 (2006) – which describe a comparison to the child’s age or grade-level standards. It is this comparison that guides the special education determination. *See “Change in Federal Language” at the end of this document.

The Colorado Rules for the Administration of the Exceptional Children’s Educational Act are consistent with the current federal language:

- 2.08(8)(b) A child may be determined to have a **Specific Learning Disability** that prevents the child from receiving reasonable educational benefit from general education if a body of evidence demonstrates the following criteria are met:
 - 2.08(8)(b)(i) The child does not achieve adequately for the child’s age or to meet state-Approved grade-level standards and exhibits significant academic skill deficit(s) 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(8)(b)(i)(A) Oral expression;
 - 2.08(8)(b)(i)(B) Listening comprehension;
 - 2.08(8)(b)(i)(C) Written expression;
 - 2.08(8)(b)(i)(D) Basic reading skill;
 - 2.08(8)(b)(i)(E) Reading fluency skills;
 - 2.08(8)(b)(i)(F) Reading comprehension;



- 2.08(8)(b)(i)(G) Mathematical calculation;
- 2.08(8)(b)(i)(H) Mathematics problem solving; and
- 2.08(8)(b)(ii) 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(8)(b)(i) when using a process based on the child’s response to scientific, research-based intervention.

Related Case Law Example: An Alaskan impartial hearing officer dismissed a due process complaint filed by parents who disagreed with the decision that their gifted child was not eligible for special education and related services. The officer stated that the student was not eligible because he did not need them to achieve adequately for his age or to meet state grade level standards. In this case, the student in a gifted program was meeting state standards and, therefore, it could not be determined that specialized instruction was needed to access the general education curriculum. The important consideration is how the student performs compared to age/grade-level peers rather than as compared to peers with similar intellectual ability. (*Anchorage Sch. Dist., 54 IDELR 67 – SEA AK 2010; IDELR Highlights, Vol. 54, Issue 2, 4/2/2010*)

Partnering with families to address academic concerns is essential, regardless of the eligibility decision that is made. The provision of specific instruction/intervention to address an identified need may be appropriately addressed through a general education problem-solving process (e.g., as part of a school- wide Response to Intervention approach) and/or an advanced learning plan as part of gifted programming. Furthermore, some students not found eligible for special education may be appropriately determined to require accommodations through a 504 Plan.

CHANGE IN FEDERAL LANGUAGE

- ▶ 1999 Regulations (34 C.F.R. §300.541)
 - A team may determine that a child has a specific learning disability if –
 - (1) The child does not achieve commensurate with his or her **age and ability levels** in one or more of the areas....
- ▶ 2006 Regulations (34 C.F.R. §300.309)
 - The group described in 300.306 may determine that a child has a specific learning disability, as defined in ..., if
 - (1) 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...

CDE Gifted and Talented webpage (<http://www.cde.state.co.us/gt>)

CDE *Twice-Exceptional Students -- Gifted Students with Disabilities: An Introductory Resource Book*

<http://www.cde.state.co.us/cdesped/SD-SLD> scroll to Twice Exceptional

CDE Specific Learning Disabilities webpage: <http://www.cde.state.co.us/cdesped/SD-SLD>

CDE Multi-Tiered System of Supports Response to Intervention webpage:

<http://www.cde.state.co.us/mtss/rti>

CDE **Section 504 information:** <http://www.cde.state.co.us/spedlaw/rules>, scroll down to Section 504



This CDE guidance document is meant for clarification, is not legally binding, and is not to be confused with legal advice. This guidance reflects CDE's recommendations, but Administrative Units (AUs) may have developed their own policies or procedures that differ from those described herein. Be sure to refer to your local AU's policies and procedures through the Director of Special Education. If you are seeking legal advice, please contact your legal counsel.

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