ELIGIBILITY CRITERIA

1. **How do you qualify for special education services under the IDEA?**

   To be eligible for special education services under the IDEA, the child must have a disability and a need for special education services.

   “Child with a disability means a child *evaluated in accordance with §§ 300.304 through 300.311 as having* intellectual disabilities [mental retardation], a hearing impairment (including deafness), a *speech or language impairment*, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as ‘emotional disturbance’), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, *and who, by reason thereof, needs special education and related services.*” 34 C.F.R. § 300.8(a)(1)(emphasis added).

2. **How is a speech or language impairment defined?**

   “Speech or language impairment means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, *that adversely affects a child’s educational performance.*” 34 C.F.R. § 300.8(c)(11)(emphasis added).

3. **What does it mean to need special education services?**

   “Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including— (i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and (ii) Instruction in physical education.” 34 C.F.R. § 300.39(a)(1).
“Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction—(i) To address the unique needs of the child that result from the child’s disability; and (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.” 34 C.F.R. § 300.39(b)(e).

4. **What does “adversely affects educational performance” mean in the context of a speech or language impairment?**

In *Letter to Clark*, 48 IDELR 77 (OSEP 2007), the Office of Special Education Programs (OSEP) explained:

It remains the Department’s position that the term “educational performance” as used in the IDEA and its implementing regulations is not limited to academic performance. Whether a speech and language impairment adversely affects a child's educational performance must be determined on a case-by-case basis, depending on the unique needs of a particular child and not based only on discrepancies in age or grade performance in academic subject areas. Section 614(b)(2)(A) of IDEA and the final regulations at 34 CFR § 300.304(b) state that in conducting an evaluation, the public agency must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information. Therefore, IDEA and the regulations clearly establish that the determination about whether a child is a child with a disability is not limited to information about the child's academic performance. Furthermore, 34 CFR § 300.101(c) states that each State must ensure that a free appropriate public education (FAPE) is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.

5. **Can a child qualify for services under the IDEA if by reason of the disability the child only needs a related service?**

No. If a child has a disability, and by reason thereof, only needs a related service, the child is not eligible for services under the IDEA, as provided in 34 C.F.R. § 300.8(a)(2)(i):

…if it is determined, through an appropriate evaluation under §§ 300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part.

6. **Are there cases on this issue?**

Yes, there is a recent Seventh Circuit case, *Marshall Joint School Dist. No. 2 v. C.D.*, 616 F.3d 632 (7th Cir. 2010).

**Fact Summary:** C.D. suffered from “Ehlers-Danlos Syndrome (‘EDS’), hypermobile type, which is a genetic disease that causes joint hypermobility, commonly called double jointedness. In C.D.’s case, the symptoms are serious: he has poor upper body strength and poor postural and trunk stability, and he suffers from chronic and intermittent pain. In 2006, he was also diagnosed with attention deficit hyperactivity disorder, inattentive type.” From kindergarten through most of C.D.’s second-grade year, “C.D. received adaptive physical education services, physical and occupational therapy, assistive technology, supplemental aids and services and program...
modifications at school” based on an eligibility classification of other health impairments. As a result of a reevaluation, the Team concluded:

CD was performing at grade level in his classes. He had met many of his specific IEP goals for gym, and he no longer had many of the original problems that prompted his need for special education in gym. After considering all the evidence, the team concluded that the EDS did not adversely affect his educational performance.

The parents challenged this decision, and the hearing officer (referred to as administrative law judge or ALJ) agreed with the parents and the child’s physician that C.D. continued to qualify for special education services. The District Court affirmed. The Seventh Circuit reversed.

**Key Quote:** “In her report, the ALJ concluded that the EDS adversely affects C.D.’s educational performance because it causes him to experience pain and fatigue and that when he does ‘experience [ ] pain and/or fatigue at school, it can affect his educational performance.’ [Citations omitted.] This is an incorrect formulation of the test. It is not whether something when considered in the abstract, can adversely affect educational performance, but whether in reality it does. [Citations omitted.] And it is clear from the record that this misstatement of the law affected the ALJ’s finding. The misstatement reflected the scant evidence on this point: little of the testimony and few of the exhibits cited by the ALJ stated or even suggested that C.D.’s educational performance was adversely affected by EDS.”

**So what was the evidence the ALJ relied upon?**

“…Dr. Trapanie was the main source of evidence cited for the proposition that the EDS adversely affects C.D.’s educational performance. And the sole basis of her information was C.D.’s mother. Dr. Trapanie evaluated C.D. for 15 minutes; she did not do any testing or observation of C.D. and his educational performance. In fact, ‘Dr. Trapanie admitted that she has no experience or training in special education and never observed C.D. in the classroom.’ [Citations omitted.] Her only familiarity with school curricula was with her own children. Such a cursory and conclusory pronouncement does not constitute substantial evidence to support the ALJ’s finding.”

**But shouldn’t the school follow the directive of the child’s physician?**

“It was the team’s position throughout these proceedings that physicians cannot simply prescribe special education for a student. Rather, that designation lies within the team’s discretion, governed by the applicable rules and regulations. We agree.”

7. **Is speech-language pathology services special education or a related service?**

Under federal law, speech-language pathology services are a related service unless the State has specified it is an instructional service. 34 C.F.R. § 300.39(a)(2)(i) states:

Special education includes each of the following, if the services otherwise meet the requirements of paragraph (a)(1) of this section—(i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards.
8. **What does this mean in New Mexico?**

In New Mexico, speech-language pathology services can be either special education or a related service. The criteria for speech-language pathology services as a special education service is set forth in State rule as follows:

**(b)** Speech-language pathology services must meet the following standards to be considered special education:

(i) the service is provided to a child who has received appropriate tier I universal screening under Subsection D of 6.29.1.9 NMAC as it may be amended from time to time, before being properly evaluated under 34 CFR Secs. 300.301-300.306 and Subsection D of 6.31.2.10 NMAC;

(ii) the IEP team that makes the eligibility determination finds that the child has a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, _that adversely affects a child’s educational performance_; and

(iii) the speech language pathology service consists of specially designed instruction that is provided to enable the child to have access to the general curriculum and meet the educational standards of the public agency that apply to all children; and

(iv) the service is provided at no cost to the parents under a properly developed IEP that meets the requirements of Subsection B of 6.31.2.11 NMAC.

**(c)** _If all of the above standards are met, the service will be considered as special education rather than a related service._

6.31.2.7(B)(19)(b)-(c) NMAC (emphasis added).

Speech-language pathology services may also be a related service if it is required to assist a child with a disability to benefit from special education even if he or she does not meet the state’s criteria to receive speech-language pathology services as a special education service. See _Letter to Goff_, 37 IDELR 187 (OSEP January 30, 2002).

9. **How do you provide Tier I universal screening to a pre-school age child?**

According to State rule, “Child find. … For preschool children, child find screenings shall serve as interventions under Subsection B of 6.31.2.10 NMAC.” 6.31.2.10(A) NMAC.

10. **Can a child be developmentally delayed and speech or language impaired?**

No. New Mexico’s criteria for developmentally delayed preclude classification as developmentally delayed if the child meets criteria under another eligibility criteria.

Developmentally delayed in New Mexico is defined as follows:

“Developmentally delayed” means a child aged 3 through 9 or who will turn 3 at any time during the school year: with documented delays in development which are at least two standard deviations below the mean on a standardized test instrument or 30 percent below chronological age; _and who in the professional judgment of the IEP team and one or more qualified evaluators needs special education and related services_ in at least
one of the following five areas: communication development, cognitive development, physical development, social or emotional development or adaptive development. Use of the developmentally delayed option by individual local educational agencies is subject to the further requirements of Paragraph 2 of Subsection F of 6.31.2.10 NMAC. Local education agencies must use appropriate diagnostic instruments and procedures to ensure that the child qualifies as a child with a developmental delay in accordance with the definition in this paragraph. 6.31.2.7(B)(4) NMAC (emphasis added).

The criteria are further spelled out below:

Optional use of developmentally delayed classification for children aged 3 through 9

(a) The developmentally delayed classification may be used at the option of individual local education agencies but may only be used for children who do not qualify for special education under any other disability category.

(b) Children who are classified as developmentally delayed must be reevaluated during the school year in which they turn 9 and will no longer be eligible in this category when they become 10. A student who does not qualify under any other available category at age 10 will no longer be eligible for special education and related services.

6.31.2.10(F)(2) NMAC.

SCOPE OF THE EVALUATION

11. What is the purpose and scope of an evaluation?

34 CFR § 300.304(b)(1) describes the function of an evaluation as follows:

In conducting the evaluation, the public agency must … [u]se a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining —

(i) Whether the child is a child with a disability under § 300.8; 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).

34 CFR § 300.304(c)(7) requires that, when conducting an evaluation, the public agency uses “assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child….”

34 CFR § 300.304(c)(6) requires that, when conducting an evaluation, the public agency must ensure that “[i]n evaluating each child with a disability under §§ 300.304 through 300.306, the evaluation is sufficiently comprehensive to address all of the child’s special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.”
12. Our evaluations do a good job of documenting eligibility, but do a poor job of documenting the child’s need for special education and related services, or the content of the IEP. Should we reevaluate these children?

Federal regulation, 34 C.F.R. § 300.303, requires the following with respect to reevaluations:

(a) General. A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with §§ 300.304 through 300.311—

(1) If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or

(2) If the child’s parent or teacher requests a reevaluation.

(b) Limitation. A reevaluation conducted under paragraph (a) of this section—

(1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and

(2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.

13. Does “reevaluation” mean that we have to re-test every child?

“Reevaluation” does not necessarily include testing. Every reevaluation must begin with a review of existing evaluation data (REED), as follows:

As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must —

(1) Review existing evaluation data on the child, including —

(i) Evaluations and information provided by the parents of the child;

(ii) Current classroom-based, local, or State assessments, and classroom-based observations; and

(iii) Observations by teachers and related services providers; and

(2) On the basis of that review, and input from the child’s parents, identify what additional data, if any, are needed to determine —

(i) (A) Whether the child is a child with a disability, as defined in § 300.8, and the educational needs of the child; or

(B) In case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child;

(ii) The present levels of academic achievement and related developmental needs of the child;

(iii) (A) Whether the child needs special education and related services; or

(B) In the case of a reevaluation of a child, whether the child continues to need special education and related services; and

(iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum. 34 CFR § 300.305(a).
14. **Does the REED have to take place in an IEP Team meeting?**

The REED does not have to take place in a meeting. The regulation states: “The group described in paragraph (a) of this section may conduct its review without a meeting.” 34 CFR § 300.305(b).

15. **What happens if the Team determines that no additional evaluation data are needed?**

The regulations set forth the “requirements if additional data are not needed” as follows:

1. If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, and to determine the child’s educational needs, the public agency must notify the child’s parents of—
   1. That determination and the reasons for the determination; and
   2. The right of the parents to request an assessment to determine whether the child continues to be a child with a disability, and to determine the child’s educational needs.
2. The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child’s parents.

34 CFR § 300.305(d).

“Please note that under this regulation, the parent must always be given the opportunity to request further assessment even if the public agency determines that no additional evaluation data are needed. If the public agency informs the parent that no additional data are needed to determine whether the child is a child with a disability and the child’s educational needs, but the parent requests that additional assessment be conducted, the public agency would be required to obtain parental consent prior to conducting that assessment. The purpose of the additional assessment would be to determine whether the child has a disability and the nature and extent of the child’s educational needs.” 34 CFR §§300.300(a)(1)(i) and 300.15. *Letter to Copenhaver*, 108 LRP 16368 (OSEP 2007).


16. **If no additional evaluation data are needed, then what constitutes our reevaluation?**

“If the parents do not request an assessment, then the review of existing data may constitute the reevaluation.” *Letter to Anonymous*, 48 IDELR 136 (OSEP 2007).

17. **If additional data are needed, what are the next steps?**

“The public agency must administer such assessments and other evaluation measures as may be needed to produce the data identified under paragraph (a) of this section.” 34 CFR § 300.305(c).
**SCOPE OF SERVICES**

18. **Can the State limit services to students with disabilities based on label?**

No. In *Letter to Anonymous*, 51 IDELR 251 (OSEP 2008), OSEP states: “The Department’s longstanding policy is that special education and related services are based on the identified needs of the child and not on the disability category in which the child is classified.”

The U.S. Department of Education in its discussion of the IDEA 2004 implementing regulations had this to say regarding label and services:

The Act does not require children to be identified with a particular disability category for purposes of the delivery of special education and related services. In other words, while the Act requires that the Department collect aggregate data on children’s disabilities, it does not require that particular children be labeled with particular disabilities for purposes of service delivery, since a child’s entitlement under the Act is to FAPE and not to a particular disability label. 71 Fed. Reg. 46737 (August 14, 2006).

Special education and related services are based on the identified needs of the child and not on the disability category in which the child is classified. 71 Fed. Reg. 46549 (August 14, 2006).

As with all special education and related services, the student’s IEP Team determines the transition services that are needed to provide FAPE to a child with a disability based on the needs of the child, not on the disability category or severity of the disability. We do not believe further clarification is necessary. 71 Fed. Reg. 46579 (August 14, 2006).

19. **Can the State limit the provision of speech language pathology services to only those students who meet eligibility criteria as speech or language impaired?**

No. The OSEP found the Florida Department of Education in violation of the IDEA for limiting speech-language pathology services to students who are speech or language impaired and eligible to receive speech language pathology services as a special education service. In *Letter to Goff*, 37 IDELR 187 (OSEP January 30, 2002), OSEP stated:

The conclusion reached in the Florida Department of Education's (FDE) September 11, 2001 Report of Inquiry for this complaint states that "the State of Florida has determined that speech and language service is an Exceptional Student Education program rather than a related service. Thus, a student must be determined eligible under the criteria for the special programs for students who are speech and language impaired in order to receive direct services from a speech and language pathologist."

As you are aware, the Office of Special Education Programs' (OSEP) monitoring report (April 2001) of FDE contains a finding of noncompliance that school districts do not ensure that all children who need related services to benefit from special education receive that service. This finding was based on the fact that Part B of the Individuals with Disabilities Education Act (IDEA) requires public agencies to provide speech and language pathology as a related service to children with disabilities who need that service to benefit from special education. [Citations omitted.] As set forth in 34 CFR §300.26(a)(2)(i) the term "special education" includes speech-language pathology services, if the service consists of specially designed instruction, at no cost to the parents,
to meet the unique needs of a child with a disability, and is considered special education, rather than a related service under State standards. Each State must ensure, however, that any child with a disability who needs speech-language pathology services to benefit from special education receives that service, even if he or she does not meet the State's criteria to receive speech-language pathology services as a special education service.

OSEP believes that the standard that FDE applies as stated in the September 11, 2001 Report of Inquiry referenced above for the provision of speech and language services for children with disabilities continues to violate IDEA.

Note that the regulation discussed above (34 CFR §300.26(a)(2)(i)) is now at 34 CFR § 300.39(a)(2)(i) and contains slight wording changes that are not significant for purposes of this discussion.

PRESCCHOOL AGE CHILDREN WITH A SPEECH OR LANGUAGE IMPAIRMENT

20. **Who decides what special education and related services a preschool age child with a speech or language impairment requires for FAPE?**

The IEP Team determines the services necessary for FAPE. In *Letter to Anonymous*, 23 IDELR 342 (OSEP 1995), OSEP provided the following guidance:

Once a determination is made that a preschool child is eligible and needs special education and related services, the LEA must initiate and conduct a meeting to develop the IEP. [Citation omitted]. The IEP must be based on the individual needs of the child. Contents of the IEP are specified at [34 CFR § 300.320]. Among the required contents of the IEP is a statement of annual goals … and a statement of the specific special education and related services to be provided to the child and the extent to which the child will be able to participate in regular educational programs. [Citations omitted].

The child's IEP forms the basis for the child's placement decision. The placement decision must meet the requirements at [34 CFR § 300.116]. The requirements of [34 CFR § 300.116], as well as the other requirements of [§§ 300.114-300.120], apply to all preschool children with disabilities who are entitled to receive FAPE. Guidance for placement options of preschool-aged children with disabilities is provided in the Note following [] [referring to the old regulations]. That guidance is provided to assist public agencies in placing preschool-aged children with disabilities in the least restrictive environment when public preschool programs for nondisabled children are not available. One of the options is to locate programs for preschool-aged children in elementary schools.

21. **Is every preschool age child with a speech or language impairment entitled to participate in a center-based IDEA B preschool program?**

No. The IEP Team determines the child’s need for services on an individualized basis.
22. **What does OSEP say about “stand alone” services?**

In *Letter to Neveldine*, 20 IDELR 181 (OSEP 1993), OSEP stated:

Because the term "stand-alone" services is not used in either the Part B statute or regulations, we are unsure precisely what services are included, or how the determination of the extent to which a child is placed with nondisabled children when receiving the service is made. ...In those instances where the placement team has determined that provision of that service is all that is required to provide FAPE to the child, the public agency is only responsible for providing the required service. However, if the placement team determines that LRE requirements can only be met with a full-day or part-time private preschool placement that integrates disabled and nondisabled children, the public agency is responsible for all tuition costs associated with that placement, regardless of whether a single or multiple services are provided.

OSEP’s position in *Letter to Neveldine* was reaffirmed by OSEP in *Letter to Anonymous*, 50 IDELR 229 (OSEP 2008).

23. **If the eligible speech or language impaired child only requires speech-language pathology services for FAPE, how are those services funded?**

If the speech or language impaired child only requires speech-language pathology services for FAPE, the child is considered “speech only” and the services delivered by the speech-language pathologist would be funded under paragraphs (1)(minimal) or (2)(moderate) student/staff caseloads prescribed by 6.29.1.9(H) NMAC. See PED Memorandum 7/11/11. The child’s IEP would address the child’s need for “speech-only” services with IEP goals in the area of speech (oral motor). Under this scenario, per the PED, the speech-language pathologist would serve as the child’s case manager. See PED PowerPoint Presentation (Directors’ Academy 8/24/11). Presumably this would be for children whose individual evaluations and IEP-documented disability-related needs are limited to speech (oral motor).

24. **If the eligible speech or language impaired child requires centered-based special education services beyond speech-language pathology services for FAPE, how are those services funded?**

Presumably this would be for children whose individual evaluations and IEP-documented disability-related needs go beyond speech (oral motor) such as for a language impairment. It would appear that those center-based special education services specified in the IEP would be funded under (H)(5)(center-based special education services) or (H)(6) (center-based special education services for children with profound educational needs) of 6.29.1.9 NMAC. The child’s goals would need to address the child’s disability-related education and speech needs (e.g., receptive and expressive language needs). Per the PED, the special education teacher would serve as the child’s case manager, and the speech-language pathology would be considered a related service (required for the child to benefit from special education services). See PED PowerPoint Presentation (Directors’ Academy 8/24/11).
25. **What if the speech or language impaired preschool age child requires interaction with nondisabled peers to receive a FAPE?**

According to OSEP, the least restrictive environment (LRE) provisions apply to preschool age children with disabilities. This position has been a longstanding position of the U.S. Department of Education.

The U.S. Department of Education, in its discussion of the IDEA 2004 implementing federal regulations stated:

Section 300.116 clearly states that the requirements for determining the educational placement of a child with a disability include preschool children with disabilities and that such decisions must be made in conformity with the LRE provisions in §§ 300.114 through 300.118. This includes ensuring that a continuum of services is available to meet the needs of children with disabilities for special education and related services. 71 Federal Register 46587 (August 14, 2006).

In *Letter to Wessels*, 24 IDELR 1043 (OSEP 1996), OSEP clarified that “a public agency must make FAPE available to a preschool-aged child with a disability regardless of whether the LEA provides regular education or free preschool programs to nondisabled children. The obligation to provide FAPE includes the obligation to provide special education and related services in the LRE necessary to implement the child's IEP.”

Therefore, if a preschool age child requires interaction with nondisabled peers to receive a FAPE, the district must include such a placement in the child’s IEP and provide such a placement at no cost to the parent and child. In *Letter to Neveldine*, 24 IDELR 1042 (OSEP 1996), referring to preschool age children, OSEP stated:

However, if the placement team determines, based on the child's IEP, that in addition to what you define as stand-alone services, the child needs interaction with nondisabled peers, the public agency is responsible for making available an appropriate program in the least restrictive environment, and ensuring that tuition costs associated with that placement for the period of time necessary to implement the IEP are at no cost to parents. *(See OSEP letter to Neveldine, January 25, 1995, p. 3.)*

**PRACTICAL NEXT STEPS**

1. Review the evaluation reports of your preschool age children with speech or language impairments, and ask:
   - Is there a connection between the needs identified in the child’s current evaluation and the services contained in the child’s IEP?
     - **RED FLAG:** The assessment tools and strategies are limited to an examination of whether the child has a speech (oral motor) impairment but the IEP contains goals beyond speech (oral motor) and places the child in a center-based preschool special education services.
   - Does the evaluation do an adequate job of documenting the child’s need for special education and related services including the content of the IEP?
     - **RED FLAG:** The child’s test results indicate a speech (oral motor) and language (receptive and expressive) impairment but the evaluation report does a poor job of
describing the implications of the evaluation results for special education and related services including the content of the IEP; and the child is receiving significant special education services as part of the child’s IEP.

- Was the child assessed in all areas of suspected disability?
  - RED FLAG: The evaluation report describes the child in a manner that suggests the child might qualify for special education services under disability categories other than speech or language impairment (e.g., autism or other health impairment) but the child was only evaluated for a speech or language impairment.

(2) If the evaluation report is inadequate to support the child’s disability determination, educational need for special education and related services, or the content of the child’s IEP, conduct a reevaluation beginning with a review of existing evaluation data (REED).

(3) If the existing data are sufficient to determine whether the child continues to be a child with a disability and the child’s educational needs (need for special education and related services, content of the IEP), complete your reevaluation using existing data, unless the parent requests formal assessment.

- When considering eligibility, the EDT should distinguish between “speech only” (i.e., the nature of the child’s speech impairment is such that the child only requires speech-language pathology services for FAPE such as in the case of a child whose speech-language impairment is limited to oral-motor) and “speech-language impairment” (i.e., the nature of the child’s speech-language impairment is such that the child requires special education and related services beyond speech-language pathology services for FAPE). The EDT’s designation of “speech only” or “speech-language impairment” should be supported by the evaluation data.

(4) If as a result of the review of existing evaluation data, the Team determines that additional data are needed to complete the reevaluation, the district must administer the assessments and other evaluation measures as may be needed to produce the data identified through the REED process. When considering eligibility based on the assessment results, the EDT should distinguish between “speech only” (the nature of the child’s speech impairment is such that the child only requires speech-language pathology services for FAPE) and “speech-language impairment” (the nature of the child’s speech-language impairment is such that the child requires special education and related services beyond speech-language pathology services for FAPE).

- When considering eligibility, the EDT should distinguish between “speech only” (i.e., the nature of the child’s speech impairment is such that the child only requires speech-language pathology services for FAPE such as in the case of a child whose speech-language impairment is limited to oral-motor) and “speech-language impairment” (i.e., the nature of the child’s speech-language impairment is such that the child requires special education and related services beyond speech-language pathology services for FAPE). The EDT’s designation of “speech only” or “speech-language impairment” should be supported by the evaluation data.

The information in this handout was created by Walsh, Anderson, Brown, Gallegos & Green, P.C. It is intended to be used for general information only and is not to be considered specific legal advice. If specific legal advice is sought, consult an attorney.