

the parent, including the documentation of determination of eligibility.

Proposed section §300.306(b) would include the provision in current §300.534(b)(2) that makes clear that a child must not be determined to be a child with a disability under this part if the determinant factor is lack of instruction in reading, lack of instruction in math, or limited English proficiency, and the child does not otherwise meet the eligibility criteria under 300.8(a).

Proposed paragraph (c) of §300.306 would replace §300.535 of the current regulations and would incorporate the longstanding regulatory requirements that public agencies use a multifaceted approach in determining eligibility and placement and develop an IEP for a child found eligible for services under the Act.

#### **Additional Procedures for Evaluating Children With Specific Learning Disabilities**

**Proposed §§300.307 through 300.311** would revise §§300.540 through 300.543 of the current regulations regarding additional procedures for evaluating children suspected of having specific learning disabilities and would implement the new requirements of section 614(b)(6) of the Act. **Proposed §300.307(a)** would generally require a State to adopt criteria for determining whether a child has a specific learning disability (SLD) as defined in **proposed §300.8**. Specifically, **proposed §300.307(a)(1)** would allow States to prohibit the use of a severe discrepancy between achievement and intellectual ability criterion for determining whether a child has an SLD. **Proposed §300.307(a)(2)** would make it clear that the State may not require LEAs to use a discrepancy model for determining whether a child has an SLD. In addition, **proposed §300.307(a)(3)** would require States to permit a process that examines whether the child responds to scientific, research-based intervention as part of the evaluation procedures. **Proposed §300.307(a)(4)** would allow States to permit the use of other alternative procedures for determining whether a child has an SLD as defined in §300.8. **Proposed §300.307(b)** would clarify that a public agency must use State criteria in determining whether a child has an SLD.

Recent consensus reports and empirical syntheses concur in suggesting major changes in the approach to the identification of an SLD. These reports recommend abandoning the IQ-discrepancy model and recommend the use of response to intervention

(RTI) models (Donovan & Cross, 2002; Lyon et al., 2001; President's Commission on Excellence in Special Education, 2002; Stuebing et al., 2002). These reports find that SLD is a group of heterogeneous disorders, but recommend changes in the seven domains identified in current §300.541(a)(2) because of areas of difficulty for students with SLD that have not been identified under current regulations (e.g., reading fluency).

There are many reasons why use of the IQ-discrepancy criterion should be abandoned. The IQ-discrepancy criterion is potentially harmful to students as it results in delaying intervention until the student's achievement is sufficiently low so that the discrepancy is achieved. For most students, identification as having an SLD occurs at an age when the academic problems are difficult to remediate with the most intense remedial efforts (Torgesen et al., 2001). Not surprisingly, the "wait to fail" model that exemplifies most current identification practices for students with SLD does not result in significant closing of the achievement gap for most students placed in special education. Many students placed in special education as SLD show minimal gains in achievement and few actually leave special education (Donovan & Cross, 2002).

The use of the IQ-discrepancy drives assessment practices for most special education services (President's Commission on Excellence in Special Education, 2002). Nationwide, virtually every student considered for special education eligibility receives IQ tests. This practice consumes significant resources, with the average cost of an eligibility evaluation running several thousand dollars (MacMillan & Siperstein, 2002; President's Commission on Excellence in Special Education, 2002). Yet these assessments have little instructional relevance and often result in long delays in determining eligibility and therefore services.

Alternative models are possible. The type of model most consistently recommended uses a process based on systematic assessment of the student's response to high quality, research-based general education instruction. The Department strongly recommends that States consider including this model in its criteria. Other models focus on the assessment of achievement skills identifying SLD by examining the strengths and weaknesses in achievement, or simply rely on an absolute level of low achievement. These models are directly linked to instruction. (Fletcher, et al., 2003). Other models use alternative approaches to determining aptitude-achievement discrepancies that do not involve IQ, including multiple