

# Iowa Special Education Eligibility and Evaluation—Questions and Answers

## Issue 5: Disability Suspect

### Joint Guidance by Iowa Department of Education and Iowa AEA Special Education Directors

#### Overview

The below guidance is intended to dispel common myths pertaining to legal requirements for special education eligibility and evaluation. This joint guidance should be used in conjunction with Iowa Administrative Rules for Special Education (IAC § 281—41), Iowa Special Education Evaluation and Eligibility Standards (2015), and the AEA Special Education Procedures Manual (August, 2018). This guidance is part of a series. Topics included in the series scheduled to be released during the 2018-2019 school year include:

- Discrepancy Data & Disability Decisions
- Determining a Need for Special Education
- Eligibility on the Basis of Specific Learning Disability (SLD) and/or the Academic Domain
- Eligibility for Special Education
- Disability Suspect

This guidance is issued by the Iowa Department of Education (IDE) and Iowa's Area Education Agencies (AEA's). The IDE has statutory authority to exercise "general supervision" over Iowa's AEAs and school districts. Iowa's AEA's have authority to provide this guidance as they are required to be involved in systematic problem solving and general education interventions, and are responsible for child find. Additionally, the AEA Directors of Special Education certify special education eligibility determinations.

#### Authority

- Iowa Administrative Code Rules § 256.1
- Iowa Administrative Code Rules 281—41.402(2), 281—41.407, 281—41.306(4), 281—41.312-313



Iowa's Area  
Education  
Agencies

## Questions & Answers: Disability Suspect

### 1. Question: If a parent requests an evaluation for special education, is the team required to evaluate?

**Answer:** A parent request for an evaluation triggers the AEA in collaboration with the LEA to determine if they suspect a disability. The same standards for suspecting a disability apply when a parent requests an evaluation as do apply when a school or AEA suspects a disability.

Additionally, when a parent requests “testing” and/or an Individual Education Plan, teams must seek clarification from the parent regarding their specific request. Seeking clarification includes providing parents objective information about the purpose and process of a special education evaluation as well as other school processes the parent may be seeking.

In the event a disability is suspected, informed consent for a full and individual evaluation for special education must be sought and a full and individual evaluation completed. In the event a disability is not suspected and/or after clarification the parent decides they are not seeking a Full and Individual Evaluation for special education, a prior written notice must be completed and provided to the parent.

In situations where parents complete the Suspicion of a Disability form on their own or create their own “suspicion form”, the LEA and AEA will need to consider this as a request for evaluation and follow the suspicion standards. Simply completing the suspicion form or making up a suspicion form do not compel the LEA and AEA to consider the parental request differently.

### 2. Question: If a parent completes a Suspicion of Disability form, is the school required to complete an evaluation of all of the areas completed?

**Answer:** This question requires three important concepts to be considered.

First, while a parent may request an evaluation (See Question #1), it is the agencies’ (AEA in collaboration with the LEA) obligation to consider if a disability is suspected. The Suspicion of Disability form is a documentation of the process the AEA and LEA uses to assure they thoroughly review information necessary to determine if they suspect a disability. In the unlikely event that a parent completes a Suspicion of Disability form and provides it to the AEA/LEA, the AEA in collaboration with the LEA must consider this as a parent request for evaluation for special education and begin the disability suspect process which would include documenting information as necessary on the Suspicion of Disability form and seeking Consent for Full and Individual Evaluation (if a disability is suspected) or Prior Written Notice (if disability is not suspected).

Second, suspicion of a disability is not considered domain by domain. Once any domain or area of concern creates a suspicion by virtue of employing the suspicion standards, suspicion of a disability is over. This decision should be able to be made after review of existing data and in a matter of days. At that point the consideration turns to what areas need to be considered in the full and individual evaluation so that parents may provide for informed consent.

Third, once a disability is suspected the evaluation team is required to complete a comprehensive evaluation. The team must evaluate all areas related to the suspected disability as well as all of the special education and related service needs, whether or not commonly linked to the disability category. For example, when a disability is suspected in hearing and there are concerns in other performance domains (e.g., academics, behavior, adaptive behavior, communication etc.), all domains of concern must be evaluated to determine the extent of the concern and if the child needs special education services to address the concern/s.

**3. Question: When completing a consent for full and individual evaluation for special education, if the team is unsure if the child has needs in a certain performance domain, can they wait and further investigate this after the child is in special education?**

**Answer:** The AEA in collaboration with the LEA is required to complete a comprehensive evaluation for special education. Therefore, this consideration of areas for inclusion in the full and individual evaluation is quite important. It is at this point in the process that the area of suspected disability and all areas related to that disability must be duly considered and the need for further evaluation determined. A failure to properly consider all areas of needed evaluation is a breach of parent's due process and procedural safeguards. For example, let us assume we are concerned with a student's language development and reading skill. If we suspect a disability in speech/language but do not evaluate in the area of reading, we are not fulfilling the requirements for appropriate consideration around a full and individual evaluation.

Three things are very important to remember at this point.

1. Since the determination of what is included in the full and individual evaluation is made after the initial suspicion, suspicion by area is not appropriate. The process of determining the needed areas for the full and individual evaluation take care of the needed consideration of all areas. The presumption is that all areas of suspected disability as well as related areas to those concerns are included in the full and individual evaluation.
2. Trying to determine which areas a student might "qualify in" or "need goals" is not appropriate when considering areas for the full and individual evaluation. The full and individual evaluation must determine possible special education needs as well as what the problems or concerns are, why they exist, and what we need to do to resolve them. The eligibility determination team uses the full and individual evaluation to determine which needs are special education and related services and which needs may be met without special education services. After a disability is suspected no new information may be collected to determine possible areas of eligibility until after consent for full and individual evaluation is obtained from parents.
3. Third, it is not appropriate to screen or do "mini evaluations" to determine if a performance domain/specific team member should be included in a full and individual evaluation. This would constitute a breach of screening as defined in the Administrative Rules of Special Education, would suggest we are evaluating for possible special education purposes without consent, and could potentially lead to unilaterally deciding a child qualified for services outside of a proper evaluation or eligibility determination meeting. At the point when a disability is suspected, parental consent for an initial evaluation must be sought (IAC § 281—41.111(5)).

**4. Question: If we suspect that a student has a disability, should we also expect that the child will receive an IEP?**

**Answer:** No. Suspicion of a disability and determination of eligibility are two distinct decisions based on very different sets of information. Suspicion, by design, is a low stakes decision that requires far less information. An IEP is only available for students that are eligible and entitled to special education. The process of determining eligibility for special education is a high stakes decision that requires substantial data and detail. A student cannot be found to be eligible for special education unless they have both an educational disability and a need for specially designed instruction related to that disability. Determination of such need must be based on a full and individual evaluation for special education and by a team qualified to make eligibility decisions.

**5. Question: Since suspicion of a disability is a low threshold decision what evidence is needed?**

**Answer:** This question is best addressed by referring to the *Special Education Eligibility and Evaluation Standards*. There is an entire standard regarding suspicion; Standard 3. In this standard there are specific areas delineated for when a suspicion must be determined. In addition, there are many examples of what to think about when considering the need for suspicion as well as how to think about the concept of suspicion in general. The bottom line answer to this question is that if you aren't sure, can't tell, or can't agree on whether to suspect a disability, you have already answered the question. When in doubt, suspect. It is always better to complete a full and individual evaluation to comprehensively determine the issues at hand, why they are occurring, and what we need to do about them.