

The following is a summary of the changes to Section 1 PI 11.36 (5) of the Wisconsin Administrative Rule addressing identification for Speech or Language Impairment. Individualized Education Program (IEP) teams must use the new criteria to identify a speech or language impairment for referrals for special education dated on or after August 01, 2021. The updated rule may be found at [Wisconsin Legislature: CR 20-074 Rule Text](#).

Definitions in Rule

Previous Rule

Speech or language impairment means an impairment of speech or sound production, voice, fluency, or language that significantly affects educational performance or social, emotional or vocational development.

Revised Rule

The definition of speech or language impairment remains the same.

The following definitions were added.

“Home languages” mean the languages used by the child or the parent of the child in their natural environment, or the modes of communication that are used by the child or the parent of the child in their natural environment, and may include languages other than English, sign language, Braille, or augmentative and alternative communication.

“Natural environment” means settings that are natural or typical for a same-aged child without a disability and may include school, home, or community.

“Significant discrepancy” means performance on a norm-referenced assessment that meets the cutoff score for a speech or language disorder and is significantly below age- or grade-level expectations relative to a normative sample, often reported as a percentile or standard score.

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Summary and Plain Language Description of Changes

Additional definitions were created to define what is meant by “home language,” “natural environment,” and “significant discrepancy.”

Natural environment is acknowledgment that location of where the student is located is not necessarily in the school (e.g. preschool-aged students).

Significant discrepancy was defined when the 1.75 standard deviation language in the rule was removed. Significant discrepancy was added to convey, when using a norm-referenced assessment, that the score must still indicate a significant delay outside of the expected range for the student’s age.

Home language is terminology used more often in the field compared to “native language” which exists in federal disability definitions.

DPI provides additional information and resources related to these definitions on the [DPI Speech or Language Impairment web page](#).

Assessments and Other Evaluation Material Requirements that Apply to all Speech or Language Impairment Identifications

Previous Rule

[As per definition of speech or language impairment, assessments and other evaluation materials must demonstrate] significant impact on educational performance or social, emotional, or vocational development.

Revised Rule

The following assessment and other evaluation material requirements **were added** when identifying a student with a speech or language impairment and are in addition to the requirement to demonstrate a significant impact on educational performance or social, emotional, or vocational development:

Consideration of the child’s age, culture, language background, and dialect.

Assessments and other evaluation materials used to conduct a comprehensive evaluation of a child’s speech and language development shall be provided and administered in the child’s home languages.

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Assessments and other evaluation materials shall be in the form most likely to yield accurate information unless it is not feasible to do so, and shall describe the child's speech and language abilities and how those abilities impact the child's progress in the general education environment relative to the speech and language demands of the classroom and curriculum.

Interpretation of assessments shall be based on the representativeness of the normative sample and the psychometric properties of the assessment.

Summary and Plain Language Description of Changes

Throughout the rule, an emphasis was placed on consideration of a child's age, culture, language background, and dialect to help ensure speech or language disability identification is based on a student's speech or language abilities and not ecological factors that are not related to ability.

Additional assessment and other evaluation material requirements were added to align with and reinforce assessment requirements included in the Individuals with Disabilities Education Act (IDEA). For example, IDEA requires assessments to be selected and administered not to be discriminatory on a racial or cultural basis and only used for the purposes for which the assessments or measures are valid and reliable. 34 CFR §300.304 (c)(1).

Speech Sound Disorders (Articulation)

Previous Rule

The following must be met:

- Conversational intelligibility affected.
- Child performs at least 1.75 SD below mean for their chronological age on norm-referenced test of articulation or phonology OR demonstrates consistent errors in speech sound production beyond the time when 90% of typically developing children have acquired the sound.

Revised Rule

The following **replaces** what must be met:

- The child's speech sound production is documented to be delayed, as evidenced through at least one observation in a natural environment.

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- The child's speech sound production is documented to be delayed, as measured by a criterion-referenced assessment, such as a developmental scale or a phonetic inventory, or significant discrepancy in performance from typical on a norm-referenced assessment.
- The child's intelligibility is below the expected range and not due to influences of home languages or dialect. Intelligibility ratings as documented by school staff or caregivers indicate an impact across environments.
- Speech sound production is less than 30% stimulable for incorrect sounds.

Summary and Plain Language Description of Changes

Changes reflect additional consideration and evidence that the student's articulation ability has a documented adverse educational impact (versus a score on a single assessment measure). For example, emphasis is placed on exploring stimulability during the evaluation to rule out a minor condition.

Emphasis was placed on at least one observation in the student's natural environment (see definition above) and documentation from school staff or caregivers of an impact across environments and not due to home language differences.

Additional assessment measure options are referenced such as criterion-referenced assessment, developmental scale, or phonemic inventory.

Significant discrepancy definition (see above) was added to ensure the student's performance on a norm-referenced assessment meets the cutoff score for the assessment used to assess the student. A norm-referenced assessment score must still indicate a significant delay outside of the expected range for the student's age.

Speech Sound Disorders (Phonological)

Previous Rule

The following must be met:

- One or more of the child's phonological patterns of sound are at least 40% disordered or the child scores in the moderate to profound range of phonological process use in formal testing and the child's conversational intelligibility is significantly affected.

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Revised Rule

The following **replaces** what must be met:

- The child's intelligibility is below the expected range and not due to influences of home languages or dialect. Intelligibility ratings as documented by school staff or caregivers indicate an impact across environments.
- The child's phonological process use is documented to be non-developmental or outside of the expected developmental range, as evidenced through at least one observation in a natural environment, and by measurement of either the presence of one or more phonological processes occurring at least 40%, significant discrepancy in performance from typical on a norm-referenced assessment, or both.

Summary and Plain Language Description of Changes

Changes reflect additional consideration and evidence that the student's phonological pattern use has a documented adverse educational impact (versus a score on a single assessment measure). For example, emphasis is placed on documentation across adults that there is an adverse impact on the student's intelligibility across environments, including documentation of an observation in a natural environment (definition above).

Significant discrepancy definition (see above) was added to ensure the student's performance on a norm-referenced assessment meets the cutoff score for the assessment used to assess the student. A norm-referenced assessment score must still indicate a significant delay outside of the expected range for the student's age.

Voice Impairment

Previous Rule

The following must be met:

- The child's voice is impaired in the absence of an acute, respiratory virus or infection and not due to temporary physical factors such as allergies, short term vocal abuse, or puberty.
- The child exhibits atypical loudness, pitch, quality or resonance for his or her age and gender.

Revised Rule

The following replaces what must be met:

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- The child's voice is impaired in the absence of an acute, respiratory virus or infection and not due to temporary physical factors such as allergies, short term vocal abuse, or puberty.
- The child demonstrates characteristics of a voice impairment, which include any of the following:
 - The child's vocal volume, including loudness.
 - The child's vocal pitch, including range, inflection, or appropriateness.
 - The child's vocal quality, including breathiness, hoarseness, or harshness.
 - The child's vocal resonance, including hypernasality.

Summary and Plain Language Description of Changes

The exclusionary factors remain the same (i.e. temporary physical factors listed in rule).

Additional examples of voice impairment were included based on stakeholder requests for additional examples and recommendations from experts in the field.

Note that as for all areas of speech or language impairment identification there must be consideration of the child's age, culture, language background, and dialect.

Fluency Disorders

Previous Rule

The following must be met:

- The child exhibits behaviors characteristic of a fluency disorder.

Revised Rule

The following is **in addition to** what must be met:

- The evaluation shall include a variety of measures, including case history, observation in natural environment, norm-referenced assessment or disfluency analysis, and result in evidence of atypical fluency.
- The presence of one or more of the following characteristics shall indicate a fluency disorder:

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- Speech disfluencies associated with stuttering or atypical disfluency, which include repetitions of phrases, words, syllables, and sounds or dysrhythmic phonations such as prolongations of sounds or blockages of airflow typically in excess of 2% of total syllables, one second of duration, and two or more iterations in a repetition. Non-verbal physical movements, such as eye blinking or head jerking, may accompany the stuttering. Negative feelings about oral communication may be significant enough to result in avoidance behaviors in an attempt to hide or diminish stuttering.
- A speech rate that is documented to be rapid, irregular, or both and may be accompanied by sound or syllable omissions, sequencing errors, or a high number of non-stuttering speech disfluencies such as interjections, phrase and whole word repetitions, and revisions. The resulting speech fluency pattern is considered to be significantly disruptive to efficient communication. Negative feelings and attitudes about oral communication may or may not be present under this disfluency profile.

Summary and Plain Language Description of Changes

Additional measures were included to ensure a comprehensive special education evaluation when identifying a fluency disorder. Additional measures are provided as examples such as a student's case history, observation in a natural environment (definition above), norm-referenced assessment, and disfluency analysis.

Furthermore, additional examples of characteristics of a fluency disorder were included based on stakeholder requests for additional examples. These characteristics were recommendations from experts in the field and include examples of assessment components to support documentation of a fluency disorder that significantly affects educational performance or social, emotional or vocational development.

Language Impairment

Previous Rule

The following must be met:

The child's oral communication or, for a child who cannot communicate orally, his or her primary mode of communication, is inadequate, as documented by all of the following:

- Performance on norm referenced measures that is at least 1.75 standard deviations below the mean for chronological age.

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- Performance in activities is impaired as documented by informal assessment such as language sampling, observations in structured and unstructured settings, interviews, or checklists.
- The child's receptive or expressive language interferes with oral communication or his or her primary mode of communication. When technically adequate norm referenced language measures are not appropriate as determined by the IEP team to provide evidence of a deficit of 1.75 standard deviations below the mean in the area of oral communication, then 2 measurement procedures shall be used to document a significant difference from what would be expected given consideration to chronological age, developmental level, and method of communication such as oral, manual, and augmentative. These procedures may include additional language samples, criterion referenced instruments, observations in natural environments and parent reports

Revised Rule

The following replaces what must be met:

A language impairment in the area of language form, content or use, as evidenced through an observation in a natural environment and by measurement of at least two of the following:

- Language sample analysis.
- Dynamic assessment.
- Developmental scales or another criterion-referenced assessment.
- Significant discrepancy from typical language skills on a norm-referenced assessment of comprehensive language.

Summary and Plain Language Description of Changes

Changes reflect additional consideration and evidence that the student's language has a documented adverse educational impact (versus a score on a single assessment measure). For example, in addition to developmental scales, criterion-referenced assessments, and norm-referenced assessments, other optional measures to determine a student's language ability are included (i.e. dynamic assessment, language sample analysis).

Requiring at least two measures to document a language impairment reduces the likelihood of relying on a single measure for determining if the student meets the criteria for the disability category. In addition, this shift was made due to limitations of norm-referenced tests in accurately identifying students with a language disorder.

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An emphasis is also placed on the requirement of an observation in the student's natural environment (definition above) to ensure there is an adverse educational impact on the student's learning.

Exclusionary Criteria and Considerations Prior to Identification

Previous Rule

The IEP team could not identify a child who exhibited any of the following as having a speech or language impairment:

- Mild, transitory, or developmentally appropriate speech or language difficulties that children experience at various times and to various degrees.
- Speech or language performance that is consistent with developmental levels as documented by formal and informal assessment data unless the child requires speech or language services in order to benefit from his or her educational programs in school, home, and community environments.
- Speech or language difficulties resulting from dialectical differences or from learning English as a second language, unless the child has a language impairment in his or her native language.
- Difficulties with auditory processing without a concomitant documented oral speech or language impairment.
- A tongue thrust which exists in the absence of a concomitant impairment in speech sound production.
- Elective or selective mutism or school phobia without a documented oral speech or language impairment.

Revised Rule

The following replaces the exclusionary criteria and considerations prior to identifying a student with a speech or language impairment.

A student cannot be identified as having a speech or language impairment when differences in speech or language are based on home languages, culture, or dialect unless the child has a speech or language impairment within the child's home languages, culture, or dialect.

In determining whether the child has a speech or language impairment, the IEP team shall consider all of the following:

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1. The child's background knowledge, stage of language acquisition, experience with narratives, and exposure to vocabulary to discern speech or language ability from speech or language difference, such as differences due to lack of exposure, stage of language acquisition, cultural or behavioral expectations.
2. Based on information and data collected, the IEP team must determine whether the child's speech or language skills are a result of a speech or language impairment or a difference due to culture, language background, or dialect.

Interpretation of assessments shall be based on the representativeness of the normative sample and the psychometric properties of the assessment.

Summary and Plain Language Description of Changes

Stakeholder input recommended removing previous exclusionary criteria as that exclusionary criteria was duplicative of requirements that already exist within the rule, as the rule outlines specific criteria that must be met for a speech or language impairment to be identified. In addition, cognitive referencing is specifically called out by the American Speech-Language-Hearing Association (ASHA) as not appropriate, so the rule change reflects this recommendation from this national organization.

The revised exclusionary criteria emphasize that differences in a student's home language, culture, or dialect cannot be a causal and sole factor for identifying a student with a speech or language impairment.

Furthermore, additional emphasis is placed on the IEP team to consider the whole student including the student's previous exposure to language and vocabulary, stage of language acquisition, and cultural and behavioral expectations. Based on understanding the whole student, IEP teams can better ensure that the student meets the criteria for speech or language impairment and do not identify students with a speech or language impairment due to a difference in the student's culture, language background, or dialect.

Substantiation of a Speech or Language Impairment

Previous Rule

The IEP team shall substantiate a speech or language impairment by considering all of the following:

- Formal measures using normative data or informal measures using criterion referenced data.

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- Some form of speech or language measures such as developmental checklists, intelligibility ratio, language sample analysis, minimal core competency.
- Information about the child's oral communication in natural environments.

Revised Rule

The requirements from the previous rule were incorporated throughout the new rule.

Summary and Plain Language Description of Changes

Stakeholders recommended incorporating important requirements from the previous rule (e.g. use of formal and informal measures, multiple types of assessment information, information about the child's natural environments) into the specific areas of identifying a speech or language impairment. Thus, these requirements can be seen in the revised descriptions for language impairment, articulation, fluency, etc).

Augmentative and Alternative Communication (AAC) Considerations

Previous Rule

The IEP team shall substantiate a speech or language impairment by considering all of the following:

- Information about the child's augmentative or assistive communication needs.

Revised Rule

The IEP team shall evaluate a child's language by assessing the child's augmentative and alternative communication skills, when appropriate to determine the child's needs.

Summary and Plain Language Description of Changes

Emphasis was placed on determining if the IEP team needs to request an assessment of a student's augmentative and alternative communication (AAC) skills.

For students using little or no verbal communication to communicate, an AAC assessment is often required to determine the student's augmentative and alternative communication needs as well as the devices, supports, and services required to support the student's communication.

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IEP Team Members

Previous Rule

An IEP shall include a department-licensed speech or language pathologist and information from the most recent assessment to document a speech or language impairment and the need for speech or language services.

Revised Rule

In addition to the requirement of a licensed speech or language pathologist, the following was added:

An educator with foundational knowledge in first and second language instruction and second language acquisition if the child is identified as an English Learner under 20 USC 7801 (20).

Summary and Plain Language Description of Changes

There continues to be a requirement for a speech-language pathologist as a member of the IEP team when considering speech or language impairments.

To ensure the IEP team clearly understands language differences due to home language or dialect, the addition of an educator with foundational knowledge in first and second language instruction was added to assist the IEP team in making special education eligibility decisions for English Learners or potential English Learners as defined under 20 USC §7801 (20).

This addition may also assist the IEP team with coordinating special education services with other services the student may be receiving as an English Learner.

Special Education Reevaluation

Previous Rule

No reference to conducting a special education reevaluation.

Revised Rule

The following was added:

Upon re-evaluation, a child who met initial identification criteria and continues to demonstrate a need for special education under s. PI 11.35, including specially designed instruction, is a child with a disability under this section.

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Summary and Plain Language Description of Changes

Stakeholder input favored allowing IEP teams to make the decision of whether or not specially designed instruction continues to be needed to address a student's speech or language development.

Thus, a student may have progressed to the point in speech or language skills to not meet all of the initial criteria for a speech or language impairment but based on the student's pattern of growth, the IEP team may feel the student's impairment continues to have an adverse educational impact.

When conducting a comprehensive special education reevaluation, IEP teams may continue to collect all relevant information based on a review of existing data and with parent consent, including additional information required to meet initial criteria for speech or language impairment.