Key Considerations for Determining a Disability

Several factors must be taken into consideration when determining if a learner has a disability. Teams must understand the types of evidence supporting a disability decision, including when intensive interventions may mask a disabling condition, and the use of discrepancy data as part of a disability decision.

Examples of Evidence Supporting a Disability Decision

Evidence supports the likelihood that the learner has a disability when:

- a learner makes less progress than expected during a scientific, research-based intervention and the concern is affecting the learner's involvement in age/grade activities, affecting other areas/expectations, limiting his/her access to age/grade activities, affecting his/her engagement, motivation, et cetera.
- a learner makes progress on a single concept/skill, but the focus was quite narrow and the learner will need duplication/similar instruction across many areas of concern/concepts while same age/grade peers have moved on to more advanced concepts.
- a learner makes some progress during scientific, research-based instruction but not at a rate similar to other learners receiving those same supports and the concern is affecting the learner's involvement in age/grade activities, affecting other areas/expectations, limiting his/her access to age/grade activities, affecting his/her engagement, motivation, et cetera.

Evidence supports the likelihood a learner does not have a disability when:

- the learner makes similar or more progress than expected
- the learner makes less progress than expected but the progress is not affecting the learner's involvement in age/grade activities, affecting other areas/expectations, limiting his/her access to age/grade activities, affecting his/her engagement, motivation, et cetera.
- the learner makes less progress than expected, but progress is similar to that of most age/grade level peers. These results support the likelihood that the learner was not receiving sufficient scientific, research-based instruction.
- the learner makes less progress than expected and there is evidence that the scientific, research-based instruction was not implemented as intended.

Note: This is not an exhaustive list of all situations.

Disability Masked by Intensive, Individualized Intervention

The full and individual evaluation must determine the educational interventions that are required to resolve the presenting problem, including whether the educational interventions are special education (IAC 281—41.301(6)). In the case in which a learner is performing adequately, yet evaluation data suggests the learner has in the past struggled to make adequate performance, teams must evaluate to determine if a learner's performance is being maintained/sustained because they are receiving instruction akin to specially designed instruction. If learning is sustained because of interventions that include adaptations to content, methodology or delivery of instruction, one would hardly say the learner's performance was adequate. This is particularly true if the concern impacts the learner such that he/she cannot progress without said instruction (A.W. vs Urbandale C.S.D., HAEA, IDOE, 2018).

The evaluation must consider those supports both provided in the educational setting and privately as provided by the family.

The team may consider the following factors:

- the learner's performance before, during, and after receiving the supports.
- the degree to which the supports are individualized versus routinely available through differentiation.
- the degree to which the content is aligned to the grade/age versus individualized for the learner.
- the intensity (i.e., duration, frequency, group size) of the supports in relation to the intensity of supports commonly provided through differentiation/remediation.
- the length of time the supports will be needed.
- the performance of the learner if the supports were to be removed.

Discrepancy Data & Disability Decisions

Discrepancy Required

A team must not determine that a learner is eligible unless they find that the learner does not perform adequately compared to age/grade standards in one or more of Iowa's performance areas (i.e., academics, behavior, physical, health, sensory [hearing and vision], adaptive behavior, communication) (41.306(3) and 41.50). If a learner's performance is being maintained by particularly intensive intervention, also see Disability Masked by Intensive, Individualized Intervention.

Multiple Measures Required

It is illegal for a learner to be determined eligible or ineligible based on a single measure or cut score or solely based on the evaluation of a learner's level of performance compared to expectations (i.e., discrepancy). Most disabling conditions are characterized by continuous variables with no natural threshold that separates individuals with and without a disability. Thus, rigid cut-points are problematic.

Comprehensiveness Required

Evaluations must be sufficiently comprehensive to evaluate the entirety of the domain/s of concern including concepts/skills that are strengths and weaknesses and not only isolated skills within the domain. Performing adequately in a single skill does not adequately represent the Standards/Expectations associated with Iowa's Performance Domains and IDEAs thirteen disabling conditions.