

## The Severe Discrepancy Model

**A**s explained in Chapter 7, states are no longer required to use the severe discrepancy model to measure eligibility for children with learning disabilities. However, states are not prohibited from

continuing to use this model. As a result, you may find yourself arguing your child's eligibility under a severe discrepancy formula. This appendix explains how these formulas work.

### How States Define Severe Discrepancy

States have adopted many different ways to demonstrate a severe discrepancy. Although these requirements differ, they have at least one thing in common: They can confuse the heck out of anybody. Here are two examples:

- Under West Virginia law (Policy 2419), a severe discrepancy is determined by comparing age-based standard scores of ability and achievement. A regression formula is used to determine the severity of the discrepancy. A severe discrepancy is defined as “a minimum of 1.75 standard deviations difference, taking regression and 1.0 standard error of measurement into account.”
- Under California law (5 Cal. Code of Regulations § 3030(j)(4)(A)), a severe discrepancy “is demonstrated by: first, converting into common standard scores, using a mean of 100 and standard deviation of 15, the achievement test score and the ability test score to be compared; second, computing the difference between these common standard scores; and third, comparing this computed difference to the standard criterion which is the product of 1.5 multiplied by the standard deviation of the distribution of computed differences of students taking these achievement and ability tests. A computed difference which equals or exceeds this standard criterion, adjusted by one standard error of measurement, the adjustment not to exceed 4 common standard score points, indicates a severe discrepancy when such discrepancy is corroborated by other assessment data which may include other tests, scales, instruments, observations and work samples, as appropriate.”

At this point, you probably think you’ll have to hire a team of mathematicians to get your child into special education, but these equations aren’t as complicated as they seem. Generally, these state rules all boil down to the same thing: figuring out whether the difference between your child’s ability and achievement (as expressed in numerical test

scores) is large enough to show a severe discrepancy. This process involves three steps:

1. **Measuring** your child’s intellectual ability using an IQ test (commonly used IQ tests include the Kaufman Assessment Battery, Wechsler, and Stanford-Binet).
2. **Measuring** your child’s achievement in areas where learning disabilities are suspected (common achievement tests include the TOWL, Woodcock-Johnson, and Peabody Picture Vocabulary; see Chapter 6 for more information on achievement and IQ tests).
3. **Comparing** your child’s ability score with his achievement score to determine whether the difference meets the numeric “gap” that your state uses to define a severe discrepancy.

How many tests must show this “severe discrepancy”? States, school districts, and even schools can differ on this question. Because IDEA says that eligibility cannot be based on the results of one test (34 C.F.R. § 300.304), you should assume that your child will have to show a severe discrepancy on several tests to be eligible.

### State Formulas: Defining the Terms

Most state formulas for determining whether a child has a severe discrepancy use statistical terms like “mean score,” “standard deviation,” and “standard error.” What do they mean? A mean score (sometimes called an average score) is the standard score an average child in the appropriate age group will achieve on a test. For example, California refers to tests that have an average standard score of 100—this means that the average child will score 100 on that test.

The term “standard deviation” is a range (plus or minus) of numbers above or below the average, intended to reflect the fact that even average students do not get exactly the same scores on every test. Look at it this way: If a large number of average students took a test with an average score of 100, they would not all score exactly 100 points on the test. Instead, their scores would fall in a range from somewhere slightly above to somewhere slightly below the 100 average. This means the discrepancy in their test

scores—the difference between their ability test score and achievement test score—would also fall into a measurable range.

The standard deviation puts a number on that range of average scores. If the discrepancy in a student’s test scores fall outside of that range—in other words, if there is a greater-than-average gap between the student’s test scores—then the child is outside of the “standard deviation.”

States use the concept of standard deviation in a couple of ways. Some states simply assign a number to the standard deviation. In California, for example, the standard deviation is 15. This means that on tests with a mean score of 100, a discrepancy of up to 15 points would still fall within the realm of average (rather than severe) and therefore would not demonstrate that the student has a learning disability.

Other states don’t assign a fixed number to the standard deviation, but instead calculate it based on the actual spread in scores on particular tests. A child whose discrepancy is at least a certain number of standard deviations beyond the average will qualify on the basis of a learning disability. For example, in West Virginia, a child must score 1.75 standard deviations off the average to show a severe discrepancy. There is no universal standard deviation—each test will have its own number.

The term “standard error” accounts for the inherent imperfections in any test. It means that for any child taking a test, the score could be “off” by a certain number of points because of the inherent inaccuracy of the test as a tool for measuring ability or achievement. California uses a standard error number of 4, which means that the child’s actual score could be off by up to 4 points in either direction, based on the inherent flaws of the test. Standard error varies from test to test—there is no universal number.

### State Formulas Applied: A Sample Calculation

Now that you’re familiar with some of the terminology, you’re ready to tackle your state’s formula. Let’s take California as an example. That formula requires you to compare the discrepancy between your child’s achievement and ability test

scores (using a mean of 100 and standard deviation of 15) to “the standard criterion which is the product of 1.5 multiplied by the standard deviation of the distribution of computed differences of students taking these achievement and ability tests. A computed difference which equals or exceeds this standard criterion, adjusted by one standard error of measurement, the adjustment not to exceed 4 common standard score points, indicates a severe discrepancy.”

### Feeling Confused?

Well, you’re not alone. These formulas can be complicated. But the concept behind them is fairly straightforward. They are all ways of measuring how far off the average the discrepancy in a child’s test scores must be before the state will attribute the difference to a learning disability.

Trying to figure out all of this math can drive parents a bit crazy. We have to rely on objective standards to prove a learning disability, but the language of these laws shows how easy it is to lose sight of the big picture when we reduce everything to numbers. Although your child’s eligibility for special education may depend, in some part, on numbers, your child’s life won’t be defined by them. As you try to understand and use this process to get help for your child, don’t give these tests and numbers more power than they deserve.

Despite the complicated verbiage, the key numbers are 100 (mean score), 15 (standard deviation), 1.5 (multiplier), and 4 (standard error). To find out how large the discrepancy between your child’s test scores must be, multiply the standard deviation (15) by the multiplier (1.5), for a total of 22.5 points. Then, add the standard error points (4) for a total of 26.5. This is the number that represents a severe discrepancy between a child’s ability and achievement. If your child’s ability test scores are at least 26.5 points higher than his or her achievement test scores, your child will be eligible for special education.

**TIP**

**Note to California parents:** There is some debate about California's eligibility formula. Some school districts do not add the four "error" points, which means that the gap must be at least 22.5 (1.5 times 15 standard deviation points). Because this is a lower "discrepancy" number, more children will qualify for special education using this test. You should also know that some school districts in California simply don't use this complicated formula—instead, they look at classroom performance to determine whether there is a severe discrepancy.

Using the 26.5 severe discrepancy number, a child whose ability (IQ) test score is 110 and achievement score is 96 won't qualify—the difference of 14 points is not "severe" enough. On the other hand, if the child's IQ score is 125, he or she would qualify: The point differential of 29 exceeds the state standard of 26.5. If the ability score is 110 and the achievement score is 81, the child would also qualify, because the difference is again 29. As you can see, the key is not how high or low either score is, but the difference between them.

**Alternative Tests for Proving a Severe Discrepancy**

IDEA no longer requires states to even consider whether there is a severe discrepancy in determining eligibility, let alone use a mathematical equation to calculate it. As noted, there are often alternatives to these complicated mathematical formulas. Many states have what is sometimes referred to as "bailout" language: provisions that set forth other ways to prove a severe discrepancy. Usually, you can find this language in or near the statutory section that includes your state's formulas for learning disability eligibility.

For example, California law provides that if the standardized tests are not valid for a particular student, the discrepancy shall be measured "by alternative means as specified on the assessment plan." The IEP team may also find that a discrepancy exists based on other standardized evaluation instruments,

information from the child's parent or teacher, the student's classroom performance (including work samples and observations), and any other relevant information. (5 Cal. Code of Regulations § 3030 (j)(4)(B) and (C).)

These alternative provisions stem from IDEA's requirement that the specific tests administered to your child must be valid for testing the areas of suspected disability. If your state does not offer an alternative way to show severe discrepancy, and you believe that the proposed tests aren't valid for your child or your child's disability, you can rely on IDEA and ask the IEP team to determine your child's eligibility based on federal law.

You can prove eligibility through the alternative methods—for example, by showing that grades, classroom behavior, performance, and work samples reveal the necessary discrepancy. Ask the classroom teacher whether your child's work reflects a gap between ability and actual achievement. Compare old and current work samples, grades, and other indicators showing that your child has not progressed at a pace consistent with his or her abilities. Show the IEP team writing, spelling, or math samples that reveal the struggle your child is having. Tell the team, directly and unequivocally, that these samples reveal a severe discrepancy every bit as valid as any specific testing results.

**Some States Don't Require You to Do the Math**

Not every state has adopted a complicated mathematical formula for measuring severe discrepancy. For example, Alaska provides that a child will be eligible based on a learning disability if he or she exhibits a specific learning disability as defined in IDEA. That's it—no standard deviations, no means, and no multipliers. If your state doesn't have a numerical requirement, the severe discrepancy determination will be based on work samples, classroom observations, tests, and other assessment tools, as discussed in this section.

## How to Argue Against a Mathematical Formula

If your state has a mathematical process for determining “severe discrepancy,” how do you argue that it should not be used? The first step is to make sure you have a copy of any state law that provides for an alternative method of proving eligibility (contact your state department of education to get a copy). If there is no state “alternative,” you can rely on IDEA. Argue that the federal law gives your child rights that state law can’t diminish—if your state law is making it more difficult for your child to be served, it violates IDEA.

The eligibility section of the current IDEA regulations provides that each school district must draw upon information from a variety of sources, “including aptitude and achievement tests, parent input, and teacher recommendations” when determining eligibility. (34 C.F.R. § 300.306.) The IEP team must also review all “existing evaluation data,” including “evaluations and information provided by the parents,” classroom-based and teacher observations. (34 C.F.R. § 300.305.) This clearly requires the IEP team

to look to input other than tests to determine eligibility. The regulations also prohibit school districts from relying on any single measure or assessment as the sole criterion for determining whether a child has a disability, and require the school district to use assessment tools and strategies that “provide relevant information that directly assists persons in determining the educational needs of the child.” (34 C.F.R. § 300.304.)

You can also argue that the standardized tests are not valid—for example, that they do not test for your child’s specific disabling conditions, that they were given by someone who lacked the necessary training, or that too few tests were administered, any of which violate 34 C.F.R. § 300.304. Taken together, these regulations clearly underscore the importance of alternative means of assessing a child. You should cite them when you argue that the state mathematical formula is not the only way to prove that your child is eligible under the learning disability category.

### How to Find Out About Your State’s Severe Discrepancy Law

As you can see, whether and how your state defines and measures a severe discrepancy is a crucial piece of the eligibility puzzle. To find out more about your state’s rules, start by asking your school district these questions:

- Do state law or regulations define “learning disability” and “severe discrepancy”? (Be sure to ask for a copy—the school district is required to give you one.)
- What tests are used to measure the severity of the discrepancy?
- What scores are used to measure the discrepancy? Some schools use the overall score for a test, while others use only parts or subtests.

- Do the tests used measure the impact of learning disabilities, particularly the skills and abilities listed in IDEA (reading comprehension, oral expression, mathematics calculation, and so on)?
- Are there mean or average test scores? If so, what are they?
- What is the standard deviation?
- Are there other components of the “severe discrepancy” formula, such as standard error?

Once you get this information, ask your school district, child’s teacher, special education administrator, or evaluator to go through the specific language and meaning of the “severe discrepancy” requirements with you. Ask whether they have any materials that will help you understand these concepts. The evaluator should be especially equipped to explain the “severe discrepancy”

language and numbers to you. If you are working with an independent evaluator or another learning disability specialist, he or she will also be able to explain how the formula works.

Don't be afraid to ask follow-up questions until you truly understand the eligibility rules. Remember, this language and how it is applied in your school district could determine whether your child qualifies for special education. It's worth taking some extra time to make sure that you understand the state's criteria.



## RESOURCE

**Finding state eligibility rules.** Get a copy of your state's requirements at your state department of education's website or call the department and ask them to send you a copy of the specific eligibility requirements for children with learning disabilities, including statutes, regulations, policies, and any explanatory materials. You can find the contact information through the U.S. Department of Education website at [www.ed.gov](http://www.ed.gov). You can also get state eligibility laws from other websites, such as Megalaw.com ([www.megalaw.com/top/education/php](http://www.megalaw.com/top/education/php)).