

Question and Answer Document on Implementing the *Michigan Administrative Rules for Special Education*

R 340.1708 - Visual Impairment

This Q&A document was developed to provide answers to questions on the implementation of R 340.1708 – Visual Impairment. This rule was updated in response to a memorandum issued on May 22, 2017, by the United States Department of Education (USDOE) Office of Special Education and Rehabilitative Services (OSERS).

[Eligibility Determinations for Children Suspected of Having a Visual Impairment Including Blindness under the *Individuals with Disabilities Education Act* \[PDF\]](https://sites.ed.gov/idea/files/letter-on-visual-impairment-5-22-17.pdf) (sites.ed.gov/idea/files/letter-on-visual-impairment-5-22-17.pdf). In this memorandum, OSERS indicates states are permitted to establish standards for eligibility for special education and related services and are not required to use the precise definition of a disability term in the *Individuals with Disabilities Education Act* (IDEA). However, OSERS also emphasizes State-established standards cannot narrow the federal eligibility definition for visual impairment (VI).

The IDEA definition of “visual impairment including blindness” does not contain a modifier; therefore, any impairment in vision, regardless of significance or severity, must be included in a State’s definition, provided such impairment, even with correction, adversely affects a child’s educational performance. States may not use criteria or other definitions for “visual impairment including blindness” resulting in the exclusion of children who otherwise meet the definition in 34 CFR § 300.8(c)(13). This definition states “any impairment in vision, regardless of significance or severity must be included in a State’s definition, provided that such impairment, even with correction, adversely affects a child’s educational performance.”

Convergence Insufficiency and Other Eye Conditions

1. **Q:** Does a student with convergence insufficiency qualify for VI services?

A: According to a [letter from the US Department of Education Office of Special Education and Rehabilitative Services dated November 12, 2014 \[PDF\]](https://bit.ly/3BkB0L0) (bit.ly/3BkB0L0), from Director Melody Musgrove, EdD, Office of Special Education Programs, state eligibility guidelines and definitions for visual impairment and blindness may not exclude a child with convergence insufficiency or other visual impairment from meeting the definition in the IDEA for visual impairment and blindness if that condition adversely affects that child’s educational performance.

R 340.1708 of the *Michigan Administrative Rules for Special Education* (MARSE) states that “‘Visual impairment including blindness’ means an impairment in vision that, even with correction, adversely affects a child’s educational performance. The term includes partial sight, blindness, and a progressively deteriorating eye condition.”

Convergence insufficiency is an impairment in vision.

[OSEP Letter to Kotler \[Word\]](https://bit.ly/3SmLd6z) (bit.ly/3SmLd6z)

2. **Q:** What is vision therapy?

A: The American Association for Pediatric Ophthalmology and Strabismus (AAPOS) states that “vision therapy” is a term used by optometrists. Optometrists define vision therapy as an attempt to develop or improve visual skills and abilities; improve visual comfort, ease, and efficiency; and change visual processing or interpretation of visual information. An optometric vision therapy program consists of supervised in-office and at-home reinforcement exercises performed over weeks to months.

3. **Q:** Who is the service provider responsible for providing vision therapy?

A: According to the AAPOS, “vision therapy is provided by pediatric ophthalmology and optometric offices by ‘orthoptists’ who work within such offices.”

4. **Q:** Does a school system have to wait to perform an evaluation until after a student has received therapy for convergence insufficiency?

A: No. If a school suspects a disability, there is an obligation to pursue evaluation to determine whether the student has a disability that may be adversely affecting the student’s educational performance, in accordance with the MARSE guidelines for compliance.

5. **Q:** What is the role of the teacher/teacher consultant to support a student with convergence insufficiency?

A: After a full and individual evaluation is completed, the results from the evaluation will be used to determine what individual supports, accommodations, and instruction the student needs.

6. **Q:** What assessments are required when a student with convergence insufficiency is suspected?

A: As stated in MARSE R 340.1708: A determination of eligibility must be based on a full and individual evaluation by a multidisciplinary evaluation team, which must include all the following:

- a) An eye report by an ophthalmologist or optometrist or a medical evaluation by a physician as that term is defined in article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.
- b) A functional vision assessment by a teacher of students with visual impairment.
- c) A learning media assessment by a teacher of students with visual impairment.

Determining Educational Impact (Eligibility)

1. **Q:** Will there be any changes to the eye report forms to help determine eligibility?

A: Individual local and county programs can continue to customize specific report forms to gather necessary information from the ophthalmologist or optometrist, or a medical evaluation by a physician as that term is defined in article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838. Updates to places on the form to report eye condition, acuity, visual field and whether an eye condition is thought to be progressive would be suggested.

2. **Q:** How is it determined whether it is the vision itself that is adversely impacting a child's education, specifically with visual tracking?

A: A thorough and comprehensive evaluation of the student's learning media and functional vision is used to determine whether the student's vision adversely affects educational performance.

3. **Q:** How does the rule change in MARSE affect babies 0-3 when the language states educational impact?

A: MARSE requires the provision of services to eligible children/students, birth to 26 years. R 340.1862, which addresses birth to three, states evaluations conducted to determine eligibility for Michigan special education services shall meet the requirements of 34 CFR part 303 and R 340.1705 to R 340.1717. This includes R 340.1708, which defines visual impairment as an impairment in vision that, even with correction, adversely affects educational performance. Because infants and toddlers are not typically in a school-based setting, examining how a child functions within his/her daily routines, while taking into consideration his/her family's culture, is necessary.

34 CFR §300.304 of the IDEA, clarifies that progress in the general curriculum for a preschool child is participation in age-appropriate activities. Therefore, "functional performance" for infants and toddlers is the equivalent of "educational performance" for school-age children. Determining if the child's disability affects his/her ability to fully participate within his/her daily activities is factored into determining how the disability adversely affects functional

performance. The adverse effect should be referenced in relationship to same-age peers.

4. **Q:** What services are available for students with disabilities under Section 504?

A: Section 504 requires recipient districts to provide students with disabilities appropriate educational services designed to meet the individual needs of such students to the same extent as the needs of students without disabilities are met. An appropriate education for a student with a disability under the Section 504 regulations could consist of education in regular classrooms, education in regular classes with supplementary services, and/or special education and related services. Here are some resources to help answer this question:

[Frequently Asked Questions About Section 504 and the Education of Children with Disabilities](http://ed.gov/about/offices/list/ocr/504faq.html) (ed.gov/about/offices/list/ocr/504faq.html)

[Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools \[PDF\]](http://bit.ly/3s1Eb64) (bit.ly/3s1Eb64)

[Section 504 Plans \[PDF\]](http://bit.ly/3unDVkZ) (bit.ly/3unDVkZ)

Federal Quota

1. **Q:** Will this affect the American Printing House for the Blind (APH) census and how students are identified as being eligible?

A: No, the criteria for receiving federal quota monies remains the same. If an acuity is not reported on the eye/medical report, then persons may use the results from the functional vision assessment.

Medical Reports

1. **Q:** Are medical reports required for a student to be determined eligible for visual impairment?

A: Yes, an eye report by an ophthalmologist or optometrist or a medical evaluation by a physician as that term is defined in article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838. In addition, a functional vision assessment and learning media assessment, conducted by a teacher of students with visual impairments, can be used.

2. **Q:** Which doctors can provide medical reports to determine eligibility for visual impairment?

A: As stated in MARSE R 340.1708, an ophthalmologist or optometrist, or a medical evaluation by a physician as that term is defined in article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

Other Questions

1. **Q:** Will a functional vision assessment (FVA) or learning media assessment (LMA) currently on file be sufficient during a Review of Existing Educational Data if the individualized education program (IEP) team determines further evaluations/testing are not needed?

A: Yes. However, best practice would indicate that ongoing evaluation of the student's functional vision and learning media be completed on a yearly basis or whenever there is a suspected or known change in the student's visual functioning or learning environment.

2. **Q:** What about dyslexia? Will those students now qualify because it is considered a "cerebral visual impairment?"

A: According to the International Dyslexia Association, dyslexia is "a specific learning disorder that is neurobiological in origin. It is characterized by difficulties with accurate and/or fluent word recognition and by poor spelling and decoding abilities..." Dyslexia is not considered a visual impairment.

Orientation and Mobility

1. **Q:** If a student's visual acuity is better than 20/200, including a student with a progressive eye condition, is that student eligible for an orientation and mobility evaluation?

A: An orientation and mobility evaluation and services can be provided to any student who is eligible as visually impaired. According to MARSE R 340.1708, a certified orientation and mobility specialist shall conduct an orientation and mobility evaluation that complies with subrule (4) of this rule for a student who satisfies the following:

- a) A visual acuity of 20/200 or less after routine refractive correction.
- b) A peripheral field of vision restricted to 20 degrees or less.
- c) A visual acuity of 20/200 or more and a recommendation by a teacher of students with visual impairment, an ophthalmologist, or an optometrist after an evaluation.

(4) The certified orientation and mobility specialist shall conduct the evaluation in familiar and unfamiliar settings and under a variety of lighting and terrain conditions and shall take into consideration the individual needs of the student.

2. **Q:** Will acuity measurements, restricted visual fields, or deteriorating vision diagnosis remain intact to mandate an orientation and mobility assessment?

A: Yes.

Acknowledgments

This Q&A document was developed by the Michigan Department of Education - Low Incidence Outreach in collaboration with the Office of Special Education and Office of Great Start.