

Section	Date	Commenter	Comment	Action	Rationale
§126-16-1 General	4/15/22 15:13	Christa Rucker, School Psychologist, Jackson County Schools, Ripley, WV	I like the update on the definition of the parent which can include the guardian or who the child is living with.	A/S	No change needed to accept the comment.
§126-16-1 General	5/11/22 9:42	Brian Booth Educational Diagnostician Putnam County Board of Education Winfield Unite	Policy 2419 and 2315 do not agree	N	There does not appear to be any conflict between the counseling policy and Policy 2419.
§126-16-1 General	5/16/22 9:26	Christy Black Advocacy Specialist WV Developmental Disabilities Council Charleston WV	Thank you for the opportunity to comment on Policy 2419 Regulations for the Education of Students with Exceptionalities. We appreciate the Department of Education soliciting input from both internal and external stakeholders. However, it was disappointing that no advocates and only one parent who is also a teacher were involved in the draft.	A/S	The public comment period allows anyone to voice concerns or suggest revisions any number of times. We will, however, consider your comment prior to the next revision cycle.
§126-16-1 General	5/16/22 14:21	Lori Waller Staff Attorney Disability Rights of West Virginia Charleston WV	<p>The single biggest issue regarding Policy 2419 is how the SEA ensures all LEAs follow this policy. In many sections, if the LEAs followed the policy as written, there would be no issues regarding the receipt of FAPE. However, many LEAs do not follow the policy as written and it is unclear how enforcement of the policy's requirements is to occur.</p> <p>Additionally, there must be mechanisms for tracking and correcting occurrences of abuse toward children with disabilities. These incidents occur too often; upon learning about an incident of abuse, it is strongly suggested swift action be taken to</p>	N	<p>34 CFR 300.600(a)(3)(b)(2) already provides authority in federal language for sanctions when noncompliance is identified.</p> <p>W. Va. Code §18-20-11 provides for a mechanism for tracking occurrences of abuse toward children with disabilities; Personnel decisions based on</p>

§126-16-1 General

		<p>ensure the safety of all affected students as well as appropriate consequences for the educational professional/personnel involved.</p>		<p>allegations of abuse are not within the scope of Policy 2419;</p>
		<p>Finally, it is strongly encouraged that the WVDE update the data collection system. WVEIS is no longer a functional system for collecting and analyzing data properly. If data is not collected and analyzed properly, violations will not be found and corrected, which hinders the provision of FAPE.</p>		<p>WVEIS has been updated to a new version effective July 1, 2022.</p>
	<p>5/16/22 15:32</p>	<p>Blaire Malkin Attorney Mountain State Justice Charleston WV</p>	<p>I am concerned that by adding the attainment of an alternate diploma to this standard, there is a risk that the students most in need of additional years of education will be unable to obtain it. There is no clear guidance on how a student meets the requirements of an alternate diploma and this may lead to different districts using different standards to determine which students have met those requirements and are ready to graduate. It also may contradict the mandate in WV Code 18-20-1 to provide special education until age 21.m</p>	<p>A/C</p> <p>Additional guidance was found in IDEA code that would support revising this language and WV Code 18-20-1© supports commenters notation about providing services until age 21. Changes have been made to the policy that support this comment. Federal language on regular vs alternate diplomas can be found in 34 CFR 300.102(a)(3)(iv); additionally, ESSA criteria for state defined alternate diplomas provides guidance on it being aligned with state requirements for regular diploma as well as FAPE availability. This is</p>

					addressed in glossary under alternate diploma.
§126-16-2 Purpose	5/11/22 9:42	Brian Booth Educational Diagnostician Putnam County Board of Education Winfield Unite	the requirements for a PEP for gifted in policy 2419 doesn't match policy 2315.	N	There is not a conflict between Policy 2315 and PEP developed in 8 <sup>th</sup> grade for all students, being used as part of the 8 <sup>th</sup> grade re-evaluation gifted meeting/exit meeting to develop an appropriate schedule of courses to challenge a student in high school. Policy 2315 discusses the PEP being developed in consultation with the student's parent and/or guardian, school counselor, and/or teacher advisor and is used to guide, personalize and maximize each student's learning experience. This is exactly the intent with the 8 <sup>th</sup> grade Gifted exit meeting. This is not a change in Policy 2419 and is aligned with language in Policy 2510.
§126-16-2 Purpose	5/16/22 14:21	Lori Waller Staff Attorney Disability Rights of	Subsection 2.3 It is suggested that a statement be included noting an education is a state constitutional right	A/S	Chapter 1 Section 2 A Article XII, Section 2 WV Code 18-20 et seq.

**§126-16-4  
Summary**

	West Virginia Charleston WV	Subsection 2.3 It is suggested that it be noted that Policy 2419 must be implemented and enforced in juvenile justice settings, youth shelters and all youth residential placements. This statement is important as children placed in these settings often do not receive an appropriate education; without an appropriate education, the ability of these children to transition into adulthood and be functional adults becomes less likely.		Chapter 1 Section 2 B Article XII, Section 2 WV Code 18-20 et seq.
5/11/2 2 9:42	Brian Booth Educational Diagnostician Putnam County Board of Education Winfield Unite	Policy 2315 details what is required in the PEP each year which is different than policy 2419.	N	There is not a conflict between Policy 2315 and PEP developed in 8 <sup>th</sup> grade for all students, being used as part of the 8 <sup>th</sup> grade re-evaluation gifted meeting/exit meeting to develop an appropriate schedule of courses to challenge a student in high school. Policy 2315 discusses the PEP being developed in consultation with the student's parent and/or guardian, school counselor, and/or teacher advisor and is used to guide, personalize and maximize each student's learning experience. This is exactly the intent with the 8 <sup>th</sup> grade Gifted exit meeting. This is not a change in Policy 2419 and

<p>§Acronyms and Abbreviations</p>	<p>5/11/22 9:42</p>	<p>Brian Booth Educational Diagnostician Putnam County Board of Education Winfield Unite</p>	<p>PEP Personalized Education Plan.</p>	<p>A/C</p>	<p>is aligned with language in Policy 2510.</p> <p>Added to the acronym list and Glossary.</p>
<p>§Acronyms and Abbreviations</p>	<p>5/16/22 3:33</p>	<p>Christina E. Smith Director Astrive Advocacy, Inc. Belleville WV</p>	<p>Policy 2419 is a document that parents of children who receive special education services, students with exceptionalities, and other stakeholders have to reference often. Parents and adult students are not familiar with many of the acronyms. The use of acronyms makes it very difficult to read and understand the policy. The acronym section should be before the purpose since the purpose uses acronyms and it is also believed that acronyms should be spelled out throughout the policy to make the policy easier to read and understand by parents and other stakeholders.</p>	<p>A/C</p>	<p>Acronym list is provided immediately after the table of contents and the purpose section spells out acronyms prior to using them; however, we agree that the use of acronyms throughout the policy make the document unclear and less usable to the public. In almost every case a specific section is accessed based on a current issue and the document is not used in a cover-to-cover manner.</p>

<p>§Acronyms and Abbreviations</p>	<p>5/16/22 9:26</p>	<p>Christy Black Advocacy Specialist WV Developmental Disabilities Council Charleston WV</p>	<p>Policy 2419 is a document that parents whose children that receive special education services reference often. Parents are not familiar with many of the acronyms. The use of acronyms makes it very difficult to read and understand the policy. The Council feels that the acronym section should be before the purpose since the purpose uses acronyms. The Council also believes that acronyms should be spelled out throughout the policy to make the policy easier to read and understand by parents and other stakeholders.</p>	<p>A/C</p>	<p>An acronym list is provided immediately after the table of contents and the purpose section spells out acronyms prior to using them; however, we agree that the use of acronyms throughout the policy makes the document unclear and less usable to the public. In almost every case a specific section is accessed based on a current issue and the document is not used in a cover-to-cover manner.</p>
<p>§Chapter 1 Free Appropriate Public Education (FAPE)</p>	<p>5/16/22 3:33</p>	<p>Christina E. Smith Director Astrive Advocacy, Inc. Belleville WV</p>	<p>Section 2. A. District Obligation. 2. – While it is understood that the term “regular” diploma is used in Federal IDEA, I am in opposition of using the term in WV based on the negative connotation of describing anything non-disability as “regular” and would prefer the use of “general” diploma.</p>	<p>N</p>	<p>“Regular” is the terminology used in both ESSA 2015 (Public Law 114-95), and IDEA (Public Law 94-142). While we do not disagree with this comment, using the language specified in federal policy is necessary for consistency and understanding.</p>
			<p>Section 2. E. Nonacademic Services – Because many WV Schools misinterpret “specially designed” in physical education classes to mean segregated and separate (as in some schools bring a gym teacher into the special education classroom for exercise or gym activities) it is recommended to include a directive that</p>	<p>N</p>	<p>We believe it would be redundant to include in Chapter 1 the language suggested by the commenter as Least Restrictive Environment (LRE) is sufficiently addressed in Chapter 5.</p>

§Chapter 1 Free Appropriate Public Education (FAPE)			states that the preference is “inclusive physical education services with their non-disabled peers” after - specially designed if necessary (Page 12)		
			Section 3. Exceptions to FAPE – Expectations for adherence to 504 Accommodations and Supplementary Aids should be outlined in Option Pathway program, and additional training provided to teams (Page 13)	N	Section 504 Plans do not apply to this policy; however, all students with disabilities receive 504 protections from discrimination. Furthermore, students with IEPs in Option Pathway programs, fall under the same IEP compliance parameters as any other student with an IEP that includes Supplementary Aids and Services.
	5/16/22 14:21	Lori Waller Staff Attorney Disability Rights of West Virginia Charleston WV	Section 1. Definition of Free Appropriate Public Education (FAPE) 1. It is suggested the statement be modified to say “provided without charge to the parent/guardian and at public expense” to make clear that the parent/guardian bears absolutely no expense for their child’s special education; many parents/guardians seem to think that their child cannot receive certain services unless the parent/guardian pay for the services themselves	N	See glossary for definition for FAPE which specifies at no cost to parent

		<p>Section 2. FAPE Considerations C. Using private and public insurance funds to provide FAPE The inclusion of a statement regarding the impact of the use of these funds on the parent's/guardian's ability to obtain home-based and/or community-based services is suggested, e.g., if therapy is provided in-school and billed to the insurance, the sessions provided do/do not (as consistent with insurance regulations) affect a parent's/guardian's ability to have sessions for the same service (i.e., counseling, speech, PT) in the home or in the community. Parents/guardians need to be aware of whether allowing the school to bill the child's insurance for services will impact the maximum number of service sessions the child may receive; there may be cases in which the school will need to pick up the cost of the child's services so that the parent/guardian can use the child's insurance benefits to get the child similar services outside of school. Likewise, parents/guardians need to know they are not required to give consent to bill the child's insurance in order for the child to receive school-based services as part of an IEP.</p>	N	Section 2. FAPE Considerations
--	--	---	---	--------------------------------

§Chapter 1 Free  
Appropriate Public  
Education (FAPE)

5/16/2  
2 15:32

Blaire Malkin  
Attorney  
Mountain State  
Justice  
Charleston WV

3. Exceptions to FAPE - As noted in the general-purpose section, I am concerned that without explicit standards on the requirements to obtain an alternate diploma, this amendment that includes obtaining both a standard and alternate diploma as no longer requiring further education could result in students who need further special education not being able to access needed services through age 21. It may also lead to standards being applied differently across districts and confusion for parents as to whether their child continues to be eligible for services after age 18 if they are on the alternate diploma track.

A/C

Language throughout the policy has been changed from "standard" to "regular" diploma in order to help clarify the difference between a diploma that is awarded to most students completing state and district high-school completion requirements (regular diploma) and diplomas that are aligned to general or alternate standards (standards-based diploma). The term regular versus general was used for consistency with federal guidelines in IDEA and ESEA. Based on additional guidance from OSEP on the provision of FAPE that was found in response to this comment, alternate diplomas were removed from this section and only regular diplomas remain.

<p>§Chapter 2 Child Find</p>	<p>4/20/22 10:26</p>	<p>Angela Hayes Coord of Psych Services, Monongalia County Schools, Morgantown, WV</p>	<p>On page 16 and 17 item D- Written referrals for Special Education. With this revision and the current interpretation of WVDE does the statement "2a.ii. review period shall not go beyond 45 school days only apply to written referral for special education" since it is under this heading? Students are in the SAT process for reasons other than suspected of a disability (attendance, health...) and I would like to have a bit more clarification of this timeline. Even though we practice the 45-day timeline across the board, this information under the heading is misleading. Thank for any clarification from the current administration</p>	<p>A/C</p>	<p>We have added a clarification for SAT review timelines under "C. Student Assistance Team (SAT) Membership and Responsibilities," stating that reviews should occur at least once per grading period. The timeline for review under "D. Procedures for Written Referrals for Special Education" remains unchanged (i.e., not beyond 45 days).</p>
<p>§Chapter 2 Child Find</p>	<p>5/1/22 19:52</p>	<p>Leigh ECCAT Huntington WV</p>	<p>Children are not identified until 3rd grade. They are put on SAT plans instead of being tested.</p>	<p>N</p>	<p>The exceptionalities described in this policy are wide-ranging, and the adverse educational impact experienced by individual students within each category varies considerably. Therefore, more severe cases may be detected much earlier than others, and less severe cases may be detected only when social or academic demands exceed the child's capacities, or when academic or behavioral interventions (provided</p>

§Chapter 2 Child Find

				through WVTSS) have not succeeded in meeting the child's needs. The Student Assistance Team (SAT) can make referrals for evaluations of students of any age or grade level suspected of having a disability. Parents can also request an evaluation in writing that the SAT must consider.
5/5/22 11:17	Brittany Gould, WV SDT, Education Recovery Specialist, Clarksburg, WV	Foster youth are required a SAT to assist in monitoring them academically until the school can determine need for further assistance.	N	We are not aware of a required SAT for foster youth; however, this could potentially be stipulated in another policy. The Student Assistance Team does handle various student issues, but discussion in this policy relates to student deficits in academics, behavior and/or mental health and referrals for students suspected of having a disability. The definition in the glossary states that SAT is "a school-based team consisting of at least three persons, including a school administrator or designee to serve as the chairperson, a current teacher(s), and other appropriate staff, who

			<p>have specialized training in procedures for multidisciplinary evaluations, multi-tiered systems of supports (MTSS), alternate education placements, disciplinary procedures, and other school processes. This team meets regularly to conduct the problem-solving process for any individual student whose academic, mental health, or behavior struggles are impeding their success in the school environment.”</p> <p>The members of this team could be beneficial in developing and monitoring interventions for a foster youth who may have various mental health, behavior, or academic needs.</p>
--	--	--	--

§Chapter 2 Child Find

5/9/22  
18:50

Paula Townsend,  
Speech Language  
Pathologist,  
Belington WV

Under Section 3 Referrals, B. Screening Process - #1 adds "who have not passed a relevant screening previously." I do not agree with this addition. Usually, the only screenings that have taken place are well child checks conducted in the doctor's office. Many, if not most, times this is done in a very quick manner by a nurse, not the doctor. The questions are asked in such a way to get to parents to agree that they have no concerns. Often, the parents are not aware of what is appropriate for this age so they cannot give a professional opinion about their child's abilities. Vision, hearing, and speech/language screenings need to be done for all preschoolers and kindergarteners by certified professionals at the time of entry into the school system. At one time in the past, I was witness to a well child check that was marked "pass" in all areas but then had a referral for the child to have a neurological evaluation for suspected autism. Clearly, the school professionals who are the experts in development need to be the ones completing screenings at this age.

N

The statement "who has not passed a relevant screening previously," refers to WV HealthCheck, which is part of WVBE Policy 2423, page 3, 4.14. WV HealthCheck is the name for West Virginia's Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. The EPSDT Program is a child preventive health component of Medicaid for children under 21 years of age. An annual comprehensive exam is recommended for all children ages 3-20 and more frequently if less than three. WV HealthCheck meets the requirements for vision, hearing, developmental, including speech and language, and oral health or other comprehensive health screening comparable to the WV HealthCheck protocol. The WV HealthCheck screening form is the preferred documentation method of licensed health care providers to record

§Chapter 2 Child Find

5/16/2023 3:33

Christina E. Smith  
Director  
Astrive Advocacy,  
Inc.  
Belleville WV

Section 3. C. Student Assistance Team (SAT) Membership and Responsibilities. 4.- Parents are a vital part of their child's education and input from the parent or guardian is critical. The statement of "when possible, solicit parent input to develop recommendations made by team regarding the child's program" is too objective and is not strong enough. It should state that "parent input SHOULD be solicited the SAT team REQUIRED to solicit parent input. (Page 16)

A/C

screenings but forms and electronic documentation may vary. The information contained in that policy is to promote establishing a "medical home" for all students. We cannot assume that parents and physicians are unaware of developmental milestones. This statement in policy does not preclude the county from doing additional screenings if they feel it is warranted.

"When possible" will be replaced with "when appropriate." The SAT team may function as a school problem solving mechanism that does not necessarily result in a referral to special education. Therefore, teachers may be working to plan programming appropriate for individual students. If the issues rise to the level that would warrant parent meetings, then they would be included.

§Chapter 2 Child Find

		<p>Section 3. C. Student Assistance Team (SAT) Membership and Responsibilities. 6&amp;7 – Additional training needed for SAT teams on timelines outlined in IDEA regarding requests for initial evaluations for eligibility for special education services. (Page 16)</p> <p>Section 3. D. Procedures for Written Referrals for Special Education Evaluation. 4.- The responsibility of the MDET team to request parental consent to conduct an evaluation needs additional clarification to specify the responsible party for requesting parental consent within five days should be a special education teacher or general education teacher as opposed to the “team”. (Page 17)</p>	<p>A/C</p> <p>N</p>	<p>Policy 2419 Chapter 2, Section C, #1 indicates the SAT is required to receive training in referral procedures. <b>The LEA is responsible for this training and a requirement will be added to this policy for training to occur annually.</b></p> <p>We believe it is best left to each district to decide the specific ways in which to follow the policy as written, such as the designation of responsibilities.</p>
<p>5/16/2022 9:26</p>	<p>Christy Black Advocacy Specialist WV Developmental Disabilities Council Charleston WV</p>	<p>Parents are a vital part of their child’s education. The Council believes that a parent’s input is vital. The Council disagrees with the comment of “when possible, solicit parent input to develop recommendations made by team regarding the child’s program.” The Council believes that it should be required of the SAT team to solicit parent input. (Page 16)</p>	<p>A/C</p>	<p>“When possible” will be replaced with “when appropriate.” The SAT team may function as a school problem solving mechanism that does not necessarily result in a referral to special education. Therefore, teachers may be working to plan programming appropriate for individual students. If the issues rise to the level that would warrant parent meetings,</p>

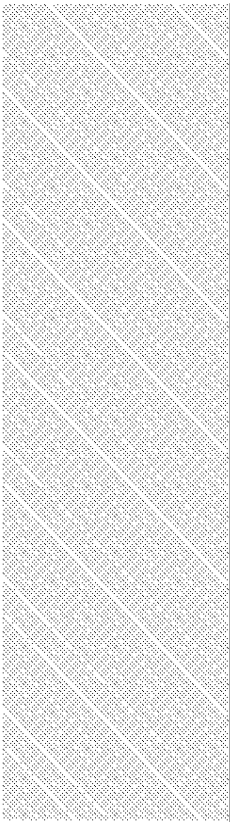


§Chapter 2 Child Find

				Section 3, Part L: Specific Learning Disability, under Parent Notice requirements.
5/16/22 15:32	Blaire Malkin Attorney Mountain State Justice Charleston WV	Initial Evaluations - The amendment under initial evaluation allowing a district to use past evaluations that are less than three years old for a student that is re-enrolling after being homeschooled is a positive change and should allow for more families to re-enroll without being concerned that they will have to wait to receive services and/or start the entire evaluation process over.	A/S	Thank you for your feedback regarding the added content.
		There is a typo in subheading B. reevaluation is spelled incorrectly.	A/C	This error, located in Chapter 3: Evaluation/Reevaluation has been corrected.

**§Chapter 3  
Evaluation/Reevaluation**

4/15/22 15:13	Christa Rucker, School Psychologist, Jackson County Schools, Ripley, WV	The 80-day timeline should still be extended on remote days when the school building is closed because the student would not be available to participate in the evaluation.	N	Several commenters have requested that the 80-day timeline for initial evaluation should be extended if a district is closed due to weather conditions with remote learning options. The timeline referenced in 34 CFR §300.301(c)(1)(i) states that initial evaluations “must be conducted within 60 days of receiving parental consent for the evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe.” Most states adhere to the 60-day timeline referenced in 34 CFR §300.301, while other states go as far as requiring the both the evaluation and IEP to be completed within 45 days. We believe West Virginia’s 80-day timeline to complete initial evaluations and the 30-day timeline to develop an IEP as defined in WVBE Policy 2419 are reasonable timeframes in which to determine
---------------	--	---	---	--



--

--

--

whether a student is a student with a disability and to determine and implement the services required. Further, the exceptions to the 80-day timeline regarding school closures allow each district superintendent the autonomy to decide whether remote options are required during a school closure. Therefore, schools or districts who may experience difficulties adhering to the 80-day initial evaluation timeline due to weather-related school closures during which remote learning is required are encouraged to communicate these difficulties to their respective superintendents.

§Chapter 3  
Evaluation/Reevaluation

4/21/22  
19:30

Pam Kinzer, Mrs.  
Mercer County  
Board of Education  
Princeton WV

If a district is closed due to weather conditions with remote learning options, the timeline is not extended. I do not agree with this. Students who are in special education testing cannot be tested remotely, and parents will not bring them into school to be tested if the weather is bad. If the district is closed due to weather conditions with remote learning options, the timeline SHOULD be extended. (Not yelling, I just wanted to make my change to the wording noticeable. Thank you.)

N

Several commenters have requested that the 80-day timeline for initial evaluation should be extended if a district is closed due to weather conditions with remote learning options. The timeline referenced in 34 CFR §300.301(c)(1)(i) states that initial evaluations “must be conducted within 60 days of receiving parental consent for the evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe.” The majority of states adhere to the 60-day timeline referenced in 34 CFR §300.301, while other states go as far as requiring the both the evaluation and IEP to be completed within 45 days. We believe West Virginia’s 80-day timeline to complete initial evaluations and the 30-day timeline to develop an IEP as defined in WVBE Policy 2419 are reasonable timeframes in which to determine

§Chapter 3  
Evaluation/Reevaluation

				<p>whether a student is a student with a disability and to determine and implement the services required. Further, the exceptions to the 80-day timeline regarding school closures allow each district superintendent the autonomy to decide whether remote options are required during a school closure. Therefore, schools or districts who may experience difficulties adhering to the 80-day initial evaluation timeline due to weather-related school closures during which remote learning is required are encouraged to communicate these difficulties to their respective superintendents.</p>
5/1/22 19:52	Leigh ECCAT Huntington WV	All preschoolers should be test for dyslexia the same time they are tested for speech. Let's get them help early.	N	Many school districts already have systems in place for screening preschoolers and kindergarteners to detect who may be at-risk for reading difficulty and providing targeted intervention to mitigate risk and improve outcomes. Districts have

§Chapter 3  
Evaluation/Reevaluation

				the authority to determine supplemental screenings as needed. Furthermore, WVTSS should address deficits through interventions and identify students who are not making appropriate progress.
5/5/22 11:17	Brittany Gould Education Recovery Specialist WV SDT Clarksburg WV	Assessments and evaluations for foster youth to be on a 30-day timeline.	N	While the American Academy of Pediatrics does advocate for mental health screening within 30-days of placement in foster-care, this is not common practice in public educational systems and would cause additional burden on the local educational agencies. This recommendation would better be addressed by the child's health care provider. The 80-day timeline for initial evaluation for special education referrals applies to all students. Refer to Chapter Section 3 D for cases that require immediate attention.

§Chapter 3  
Evaluation/Reevaluation

22022-  
05-05  
11:53:1  
5

Lynn Bayle  
Director of Special  
Director  
Mercer County  
Schools  
Princeton WV

Remote Learning Days should not be included in the testing timelines, unless the excuse "Parent did not produce" can be used. This would accompany the district documentation of direct contact with guardian, to ensure the parents/guardians were encouraged to bring the child in for testing but did not show.

N

Several commenters have requested that the 80-day timeline for initial evaluation should be extended if a district is closed due to weather conditions with remote learning options. The timeline referenced in 34 CFR §300.301(c)(1)(i) states that initial evaluations "must be conducted within 60 days of receiving parental consent for the evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe." Most states adhere to the 60-day timeline referenced in 34 CFR §300.301, while other states go as far as requiring the both the evaluation and IEP to be completed within 45 days. We believe West Virginia's 80-day timeline to complete initial evaluations and the 30-day timeline to develop an IEP as defined in WVBE Policy 2419 are reasonable timeframes in which to determine

§Chapter 3  
Evaluation/Reevaluation

				<p>whether a student is a student with a disability and to determine and implement the services required. Further, the exceptions to the 80-day timeline regarding school closures allow each district superintendent the autonomy to decide whether remote options are required during a school closure. Therefore, schools or districts who may experience difficulties adhering to the 80-day initial evaluation timeline due to weather-related school closures during which remote learning is required are encouraged to communicate these difficulties to their respective superintendents.</p>
	5/11/22 21:52	Roseann L. Harvey Coordinator of SpEd Upshur Co. Schools Buckhannon WV	<p>In the SAT process, interventions are clearly a key component in closing the achievement gap for many students. We began with Rtl moved to SPL and then to MTSS. A few years ago, we moved to WVTSS. I noticed in the 2419 document that the process is being referred to as MTSS. IS IT WVTSS OR MTSS????? Every time we change the name, we lose credibility with teachers. They think the</p>	<p>N</p> <p>Multi-Tiered System of Support (MTSS) is a general framework for screening, progress monitoring, data-based decision making, and multi-level prevention and intervention. West Virginia Tiered System of Support (WVTSS) is WVDE's specific</p>

§Chapter 3  
Evaluation/Reevaluation

		intervention process went away! Please clarify		implementation strategy of an MTSS, and guidance and reference documents have been published on the WVDE website. This is explained in the "Eligibility Determination: Multi-Tiered System of Support (MTSS)," and "Parent Notice Requirements" sections in Chapter 4, Section 3, L. Specific Learning Disability (SLD).
5/13/22 15:28	Stephanie Richards Lead Therapist Harrison County Clarksburg WV	pg. 19 consider allowing extension of 80-day timeline in instances of remote closure by district superintendent as teachers and support often do not report in person. Therefore, it is difficult to reschedule meetings to allow for all appropriate members to be in attendance. In instances of weather, parents are unable/unwilling to bring students into buildings to complete evaluations	N	Several commenters have requested that the 80-day timeline for initial evaluation should be extended if a district is closed due to weather conditions with remote learning options. The timeline referenced in 34 CFR §300.301(c)(1)(i) states that initial evaluations "must be conducted within 60 days of receiving parental consent for the evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe." Most states adhere to the 60-day timeline referenced in 34 CFR §300.301, while other

			<p>states go as far as requiring the both the evaluation and IEP to be completed within 45 days. We believe West Virginia's 80-day timeline to complete initial evaluations and the 30-day timeline to develop an IEP as defined in WVBE Policy 2419 are reasonable timeframes in which to determine whether a student is a student with a disability and to determine and implement the services required. Further, the exceptions to the 80-day timeline regarding school closures allow each district superintendent the autonomy to decide whether remote options are required during a school closure. Therefore, schools or districts who may experience difficulties adhering to the 80-day initial evaluation timeline due to weather-related school closures during which remote learning is required are encouraged to communicate these difficulties to their</p>
--	--	--	--

				respective superintendents.
--	--	--	--	--------------------------------

§Chapter 3  
Evaluation/Reevaluation

5/13/2012 15:40

Diana Clemmons  
Speech Language  
Pathologist  
Berkeley County  
Schools  
MARTINSBURG WV

One standardized assessment, screenings, conversation sampling, teacher/parent report, and professional judgment are enough to make eligibility determination for speech and language. The speech language pathologist could perform more assessments if he/she feels they are necessary to gather additional information

N

It appears this comment addresses the proposed changes to Language Eligibility Criteria in Chapter 4 and not the general rules of evaluation and re-evaluation. Incorporating the use of standardized tests that have a good diagnostic accuracy and the use of comprehensive language evaluations was added to the policy updates to attempt to ensure that students are made eligible based on more than one test and SLP professional judgement. That practice has resulted in an overidentification of students with speech and language "disorders" instead of "disabilities" which must include the adverse educational impact, as part of the eligibility criteria. According to the American-Speech-Language-Hearing Association (ASHA) there are several components to a comprehensive language evaluation, which may include a case history,

			<p>standardized and non-standardized measures, observations, work samples, language sample analysis, dynamic assessment, and other measures. Research supports that not all standardized measures are specific and sensitive enough to identify a disorder. See <i>Assessment and Evaluation of Speech-Language Disorders in Schools</i> (<a href="http://asha.org">asha.org</a>)</p> <p>Screening information should be used to determine what additional probes or assessments to complete but cannot be used to determine eligibility. The SLP's professional judgement will be used to determine which tests to administer and which additional probes/assessments to use. Eligibility according to IDEA must be considered based on three-prongs of eligibility which includes academic impact. One test instrument may not be used to determine eligibility according to</p>
--	--	--	--

§Chapter 3  
Evaluation/Reevaluation

				IDEA, but we will not be requiring three.
5/14/2012 14:24	Heather Waselchalk Lead Speech-Language Pathologist Kanawha County Schools Charleston WV	Section 2 - Part C - Additional Evaluations Consider allowing the 60-day timeline for additional evaluations to stop during the summer months when school is not in session. This would alleviate some of the hardship districts have in attempting to complete evaluations that are requested during the last month of the school year	A/C	Policy will reflect the exceptions for the 60-day timeline to be consistent with the 80-day timeline exceptions. This does not apply for transition from part C to part B services.

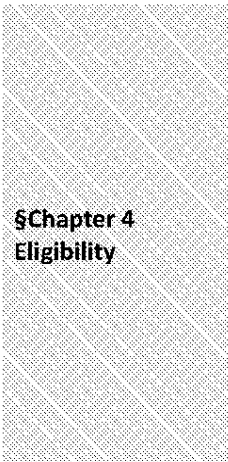
<p>§Chapter 3 Evaluation/Reevaluation</p>	<p>5/14/22 15:00</p>	<p>Karen M Underwood Special Education Specialist Fayette County Board of Education Fayetteville WV</p>	<p>Part C top of page 21. When a MDET is requested by the IEP team, but it is way before the triennial reevaluation due date, there needs to be clarification that it is still considered a Reevaluation even though it is to be completed before the triennial date. When it is a Reevaluation along those lines, and the student is determined eligible for services, the IEP written is then a REEVALUATION REVIEW IEP and not an INITIAL IEP. Consent to provide those new services is not needed.....right??</p>	<p>N</p>	<p>The current policy pertaining to multidisciplinary evaluation team (MDET) meetings referenced in Chapter 3, section 2, subparagraph B allow for reevaluation more frequently than every three years “if the parent or teacher requests or conditions warrant (p. 19).” These pertain to reevaluations. Subparagraph C pertains to additional evaluations once consent has been obtained during the initial evaluation or reevaluation and the eligibility and IEP meetings after the evaluation would follow guidelines for the type of evaluation that was conducted in accordance with subsection A for initial and B for reevaluation.</p>
<p>§Chapter 3 Evaluation/Reevaluation</p>	<p>5/16/22 3:33</p>	<p>Christina E. Smith Director Astrive Advocacy, Inc. Belleville WV</p>	<p>Section 2. A. Initial Evaluation. 4. – The statement clarifying timelines for evaluations due to weather conditions is appreciated as it is imperative that a student receives evaluations as soon as possible, and that the timeline will not be extended if a district is closed with remote learning options. (Page 19)</p>	<p>A/S</p>	<p>No change needed to accept the comment.</p>

		<p>Section 2. B. Additional Evaluations. – The policy states that in those instances when an additional evaluation to be completed by an outside agency has not been completed within 60 days, the district is required to document its reasonable efforts to obtain the additional evaluation within 60 days. If a district that has documented its reasonable efforts to obtain the evaluation within 60 days, the district is not considered to be in violation of the 60-day timeline. It is a fact that many districts enter into contractual agreements with services providers to fulfill the provision of special education services. Therefore, it is imperative that additional limitations on evaluation timelines be placed. To not hold a district accountable for an open-ended period of time is unacceptable. Therefore, stipulations should be outlined to address the length of time or number of occurrences that will be considered reasonable, although not in accordance with IDEA, before other sanctions are placed on the contractor. (Page 21)</p>	<p>N</p>	<p>Districts that utilize outside contractors who cannot comply with the 60-day timeline are responsible for determining and applying any consequences or sanctions to the contractors that they see fit.</p>
<p>5/16/2012 7:12</p>	<p>Nora Markland SLP Berkeley County Schools Bunker Hill WV</p>	<p>Requiring 2 standardized measures to evaluate receptive and expressive language in addition to observation and dynamic measures is very time consuming and does not enhance the evaluation.</p>	<p>A/C</p>	<p>It appears this comment addresses the proposed changes to eligibility criteria in Chapter 4 and not the general rules of evaluation and re-evaluation. The WVDE has received several comments about the Eligibility Criteria for language being confusing.</p>

			<p>As a result, the criteria will be reworded to clarify 2, 2a, and 2b. Only one norm-referenced test with &gt;80 diagnostic accuracy and two other components of the comprehensive language evaluation will be considered including Academic Activities and Academic Tests and Measurements to address the negative academic impact will be required.</p>
		<p>2 standardized assessments do not evaluate the student but simply measure the efficacy of the assessments. One comprehensive standardized language evaluation measure in addition to a language sample or dynamic assessment, and observations should yield results that reflect the student's needs. If other standardized tests need to be used, it should be at the discretion of the evaluator in the area of the student's weakness not a second general evaluation.</p>	<p>A/C</p> <p>Due to incorporating comprehensive language evaluations into the eligibility criteria and allowing flexibility based on the needs of the student for the SLP to use professional judgement to select other instruments, the comment is accepted if using a composite standardized assessment with at least 80% diagnostic accuracy. The other components of the comprehensive language assessment such as the Academic Activities and Academic tests and Measurements will be used to prove the</p>

				academic impact. A Language Assessment Summary will be available to consider all of the information gathered - see <i>Speech-Language Pathology Services in West Virginia: Guidelines for WV Schools and Districts, 2022.</i>
§Chapter 3 Evaluation/Reevaluation	5/16/22 9:26	Christy Black Advocacy Specialist WV Developmental Disabilities Council Charleston WV	The Council appreciates the statement clarifying timelines for evaluations due to weather conditions. The Council feels that it is imperative that a student receives evaluations as soon as possible, and that the timeline will not be extended if a district is closed with remote learning options. (Page 19)	A/S  No change needed to accept the comment.
§Chapter 3 Evaluation/Reevaluation	5/16/22 15:22	Lisa Price Speech-Language Pathologist Berkeley County Schools Martinsburg WV	Speech Pathologists are already pressed to complete all work tasks and do not have enough TIME to complete these tasks. It seems that things continue to be added to an SLPs to-do list, but nothing EVER gets taken away.	N  It appears this comment addresses the proposed changes to eligibility criteria in Chapter 4 and not the general rules of evaluation and re-evaluation. Training has been provided since 2019 regarding the 3:1 scheduling model as well as the other service delivery options to allow for extra time to complete comprehensive language evaluations, which began being trained in 2017.

		<p>I don't disagree with having two comprehensive tests to determine language eligibility. In fact, I know other states that have done this for many years but at this point in time, we do not have <b>TIME</b> to do everything that is asked of us. Some might say that our "to-do" list is a county level decision and to a point I would agree but someone, somewhere, needs to help us.</p>	<p>N</p>	<p>Instead of spending valuable time administering multiple standardized assessment without good diagnostic accuracy, the use of one composite standardized test and a choice of other supporting assessments or probes that address the needs of the students, like a narrative language sample analysis, which has a high indication of predicting and identifying language disorders, which may result in disabilities is left to the professional judgement of the SLP. The new guidelines are intended to help SLPs correctly identify students with speech-language disabilities by using more accurate indicators.</p>
		<p>Also, as far as a narrative language sample for every assessment, I find this to be unnecessary and something that was used a long time ago.</p>	<p>N</p>	<p>"Language sample analysis is considered the gold standard for accessing children's language production in everyday communication contexts." Murphy, K. A., Springle, A. P., Sultani, M. J., McIlraith, A., &amp; Language and Reading Research Consortium (LARRC).</p>



**§Chapter 4  
Eligibility**

			<p>(2022). Predicting Language Performance From Narrative Language Samples. Journal of Speech, Language, and Hearing Research, 65(2), 775-784. The analysis, which does take considerable time, is done free of charge through the WVU Speech and Language Acquisition and Disorders (SALAD Lab). It is an option and not required for every assessment, since some students will not be able to participate in the process.</p>
4/15/22 9:11	Autumn School psychologist Kanawha county schools South Charleston WV	I believe that the Developmental Delay category should be extended to 8 years old. This would prevent a lapse in services for a child who had preschool services but has not had enough intervention to qualify for another category	A/C <p>Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.</p>

§Chapter 4  
Eligibility

4/15/2  
2 9:26

Rachel Hendricks  
School Psychologist  
Nicholas County  
Schools  
Summersville WV

There is a discrepancy between the eligibility criteria listed in the official Policy 2419 Document versus what is indicated on the Eligibility Committee Report form. .... On page 33, under Intellectually Disabled, the eligibility criteria state: 1) Mild to Moderate Intellectual Disability has general intellectual functioning from TWO TO THREE SD below the mean (approx 70 down to 55); and 2) Moderate to Severe ID has a general intellectual functioning of MORE THAN THREE SD below the mean (IQ 55 and below). .... HOWEVER, on the official Eligibility Committee Report, the choices for Intellectual Disability request that we designate between three subcategories (MM, MD, and MS). This is confusing when coding the student's eligibility into WVEIS.

A/C

Although this would not be a change to policy, we understand how this could be confusing when coding eligibility for students in WVEIS. To simplify decision-making in this particular scenario and align the process forms with the eligibility criteria, we will remove the "MD" specifier from the EC Report so that "MM" (mild to moderate) and "MS" (moderate to severe) remain as the only two available codes. The feasibility of code changes in WVEIS is being explored as WVEIS codes are not technically part of policy either.

§Chapter 4  
Eligibility

4/15/2  
2 11:25

Deanna Bailey  
Director of Early  
Childhood  
Programs  
Wyoming County  
Board of Education  
Pineville West

I would like to see the eligibility for Developmental Delays be extended beyond preschool. Many children entering kindergarten exhibit difficulties as a result of developmental delays rather than a learning disability or behavior problem. If we could provide services to address developmental delays for eligible five and six-year-old children, we could potentially reduce the need for an academic IEP and increase student success.

A/C

Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.

§Chapter 4  
Eligibility

4/15/2 2 15:13	Christa Rucker, School Psychologist, Jackson County Schools, Ripley, WV	It is good that we are accepting medical documentation from nurses and physicians' assistants.	A/S	No change needed to accept the comment.
		Developmental Delay should be extended to 8 years old.	A/C	Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.
		EBD should remain Emotional Behavioral Disorder.	N	The only proposed change regarding "Emotional/Behavioral Disorder" is to align the terminology with that used in IDEA. The definition and eligibility criteria are otherwise unchanged.
		The MTSS framework should have more guidance	N	WVTSS guidance and reference documents can be found on the WVDE website and are updated regularly. Additionally, updated guidance regarding SLD identification and the role of MTSS in that process is forthcoming.

§Chapter 4  
Eligibility

4/19/2  
2 9:47

Karen Cummings  
School Psychologist  
Putnam County  
Schools  
Winfield WV

Eligibility criteria for Developmental Delay, Special Considerations 7. consider extending the age from 6 to 8 or 9 years. One of the biggest issues I see in early childhood (K-2) involves children who were identified as Developmental Delay and then lose all services when they turn 6 years old. Often, they do not meet the criteria for another eligibility category due to lack of data to support another eligibility category early on in their academic career. I also feel that this leads to over-identification of certain eligibility categories (i.e. SLD) at young ages. IDEA, Section 300.8 (b) states that "children age 3 through 9 experience developmental delays." Please consider extending the Developmental Delay age in WV beyond 6 years

A/C

Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.

§Chapter 4  
Eligibility

4/20/2  
2 14:09

Richard Ernest  
South Charleston  
WV

This section weighs the child's performance on an intellectual ability test over the evaluation and achievement in the classroom and evaluated by the teacher and other school personnel that have regular interaction with the child.

N

We do not believe it is necessary to change the definition or eligibility criteria for "Gifted, Grades One through Eight" because the "Special Considerations" section is sufficiently broad to allow districts to apply these considerations to specific students on a case-by-case basis in situations such as those mentioned by the commenter;

		<p>Teachers and multiple school personnel can identify a child with academic achievement, provider that child with additional "differentiated instruction and/or services beyond those normally provided in the classroom" but the child may be denied approval due to not meeting intellectual ability score.</p>	<p>The definition requires both intellectual ability and achievement components. The intellectual criterion is not limited to a full-scale IQ but can be an alternate general ability index which gives the school psychologist flexibility in considering various components of evaluation to determine the most appropriate intellectual composite to be used for eligibility. The first special consideration describes this in more detail.</p>
		<p>Special Considerations  This section States, "These data include, but are not limited to, individual achievement, group achievement, classroom performance, teacher input, inventories, scales, checklists, student product(s) and parent information. However, children are being denied the Gifted program based solely on not meeting the designated number on the intellectual ability score.</p>	<p>The second special consideration section starts with the phrase Historically Underrepresented Gifted Populations and includes alternate methods mentioned in the comments that can be used when the normal evaluation method would discriminate against the student. Ultimately the student has to qualify based on all the established criteria.</p>

§Chapter 4  
Eligibility

4/21/22 9:33	Jennifer Downward School Psychologist Harrison County Schools Clarksburg WV	E. Developmental Delay - It would better serve our younger students if they could have developmental delay services through age 6. This way teams could get a better understanding of their true abilities when making the best educational placement for them. Examples include placement for specific learning disability so that we know that appropriate knowledge has been given for a certain amount of time.	A/C	Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.
4/21/22 12:40	psychologist psychologist Lincoln County Schools Hamlin WV	For Global Developmental Delay guidelines in WV Policy 2419 to correspond with DSM-5 criteria of being under age 5, not 6. We have many kids in kindergarten who are 5 and too old for the DSM-5 diagnosis but too young to have a primary exceptionality other than PS according to current guidelines. This also leads to no one having the PS credentials as kindergarten teachers who can service them under this exceptionality.	A/C	Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.

§Chapter 4  
Eligibility

§Chapter 4  
Eligibility

4/21/2  
2 19:30

Pam Kinzer, Mrs.  
Mercer County  
Board of Education  
Princeton WV

Autism criteria - The diagnosis of Autism is very involved and should be left to those with very, very advanced degrees, and not an advanced practice registered nurse or a physician assistant. Please do not start accepting diagnosis for Autism from an APRN or PA. The same would be true for students under the exceptionality of Other Health Impairment

N

We realize the evaluation and diagnosis of autism spectrum disorder (ASD) is a complex procedure. However, the criterion that a student has an existing diagnosis is one of many criteria that must be met for a student to qualify for special education services under this exceptionality, and documentation of a diagnosis should never be used in isolation to determine eligibility for special education services under any eligibility category. Other Health Impairment similarly requires other criteria to be met before eligibility can be determined; This change was added to account for the many students who have challenges meeting eligibility requirements because services by individuals with advanced degrees are not available within a reasonable distance.

<p>§Chapter 4 Eligibility</p>	<p>4/29/22 10:04</p>	<p>Jennifer Queen Speech Pathologist Wayne WV</p>	<p>When considering Specific Learning Disability (SLD), I feel eligibility wording should include a clearly defined statement regarding attendance rates/chronic absenteeism. Currently, policy just states "underachievement is not due to lack of appropriate instruction in ELA, written expression, or mathematics". Many eligibility meetings I have participated in, SLD has been rejected due to having absences greater than 10%, due to "lack of appropriate instruction". If attendance is to be a primary, exclusionary factor, I feel the eligibility criteria should clearly state this, as to avoid confusion. Current wording is somewhat subjective, since definitive absence rates/chronic absenteeism is not stated. Additionally, eligibility should clearly state whether the attendance is for the current school year or for the historical/school career. This, too, is currently open to debate, as it is not clearly stated.</p>	<p>N</p>	<p>While IDEA or WVBE Policy 2419 does not use the word "attendance" in describing factors that would exclude a child from being considered eligible for special education as a student with a disability, many states across the country as well as many districts within West Virginia have come to interpret attendance as one of many facets of "appropriate instruction." Because students with disabilities, including specific learning disabilities, and students in general are heterogenous groups, we believe it would be inappropriate to establish parameters as specific as suggested for school attendance to determine whether a student should be excluded from eligibility consideration. Therefore, school-based teams will need to determine on a case-by-case basis whether attendance is the <i>primary</i> cause of a student's</p>
-----------------------------------	--------------------------	---	---	----------	--

				<p>academic problems, taking into consideration many different variables and how they may interact, such as the age and grade of the student, retention history, socioeconomic status, cumulative attendance as well as attendance rate proximal to the referral (i.e., attendance before and during the intervention process), the type and complexity of the academic skill deficits, and the student's response to intervention when attendance is consistent compared to when attendance is variable or poor, for example.</p>
--	--	--	--	--

			<p>For M. Speech or Language Impairment, I also have a few concerns. I do not understand the reason for increasing number of phonemic errors from 2 to 3, while decreasing number of phonological processes from 2 to 1. I do realize that some sound families include blends, such as /k, k blends, g, g blends/; however, there are some things that need be further considered. Current WV guidelines state that a student typically achieves /k, g/ by age 4, however, /l/ blends (including /kl/ or /gl/ blends are not typically achieved until age 6 and /r/ blends (/kr, gr/ are not typically achieved until age 7. So, new proposals would eliminate eligibility for a student who only has errors for /k, g/ before the age of 6 (despite them being 4-year-old sounds) and they would be unable to qualify services, based on proposed wording. Conversely, if a student was using the phonological process velar fronting (and no other processes), they could qualify for services because they are using one process.</p>	N	<p>When the developmental charts, reference charts, and other resources were removed from Policy 2419 and moved to the SLP guidance document, it was not part of the public comment period. The eligibility for any disability is a three-pronged process. So just one prong will not make a student eligible or ineligible, such as a misarticulation of /k/ and /g/ for a six-year old. Each case must be examined on an individual basis. The concern about the change in the number of speech sound errors is addressed in the Speech Production Assessment Summary that will be included in the updated <i>SLP Guidance Document – Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts, 2022</i>. The chart says that “1-2 sound that do not meet norms for acquisition” has a minimal impact on the student.” As far as the reduction from 2 phonological processes</p>
--	--	--	--	---	--

				<p>to 1, the Speech Production Assessment Summary, designates specific phonological processes that have a minimal, moderate, and substantial impact. The Speech Production Assessment Summary provides four areas that will be considered before a decision is made that a student has a “disability” which means that there is direct proof that it impacts academic achievement, as opposed to a “disorder”, which does not impact academics and is not educationally relevant. The four areas are “1) Academic Activities, 2) Academic Tests and Measures, 3) SLP Probes, 4) SLP Tests and Measures. The IDEA and Policy 2419 do not accept one measurement in determining a disability, so the concerns over specific numbers of sound errors still leaves the flexibility and use of professional judgement to address the other three</p>
--	--	--	--	---

areas. West Virginia has been moving toward the educationally relevant education model of identification and service delivery as opposed to the clinical model since 2018.

Also, the proposed statement about percentage of consonants correct being 84% or below requires further explanation. For example, there are 24 consonant sounds in the English language. Having only 3 sounds in error would yield an 87.5% of correct sounds, despite proposed eligibility stating both "3 or more sounds" AND "84% or less correct". These 2 proposals do not add up, at least the way I am understanding. For the proposed EC criterion, policy states that 3 or more of the following must be met:

- a. 3 or more phonemic errors not expected at student's age
- b. One or more phonological processes OR
- c. Less than 30% stimulable for age-appropriate sounds
- d. Intelligibility is below expected range
- e. Percentage of consonants correct is 84% or less

Based on this, a student with a phonological process would have great difficulty qualifying. If a student has 1 process, one could say yes to items B and possibly D (assuming intelligibility is below what is expected). This is only 2 of the criteria of the required 3. Item C would not be "yes" b/c students with phonological processes are typically intelligible for the sounds they are saying incorrectly. Item E would likely be "No", because a minimum of 4 sounds must be in error in order to meet the 84% or less criteria. Additionally, I think it needs to be a choice of either A or B- as in articulation or

A/C

The "percentage of consonants corrects" is misunderstood in this comment and demonstrates a need for clarification in policy. As mentioned above, the *SLP Guidance Document – Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts*, will be released in October of 2022. All charts, developmental norms, and adverse impact statements have been moved from Policy 2419 to the SLP Guidance document to allow for more frequent updates as new research-based information is released. As a part of that document, directions will be shared on the use of the Percentage of Consonants Correct (PCC) document, which yields severity ratings on a four-level scale that has been accepted as a valid index of severity in the field of speech-language pathology. A PCC score of 50-84% is considered in

phonology (as previous wording). I also think use of a required standard score is unnecessary. Sound errors/ages/developmental norms are the guiding force for placement. Proposed wording makes it extremely difficult to qualify a student for services, especially if they have less than 4 sound errors. We are to provide free and appropriate education, so I disagree with making requirements for a certain number of sounds to be in error before a child is permitted to be eligible for speech therapy services. I have worked with many students who have minimal sound errors (2) and fairly good intelligibility, but they cannot spell words correctly because of the sound errors. Yes, there should be guidelines, but not restrictions that will intentionally exclude students from therapy services. Speech-language pathologists are the experts in their field and know when a student needs therapy services, and the proposed changes are very restricting and don't allow for full professional judgement.

the Moderate Impact range, while a score of less than 50% is in the Substantial Impact Range. So, the score below 84% is listed as the score on the PCC that would fall within the range for the student to be considered for therapy under the SLP Probes, one of the four areas which will be considered for eligibility. There is not a required standard score for the speech sound disorder eligibility criteria. In the case of the choice of A or B, that would be the case. If the student has phonemic errors, you would use A, if the student has a phonological process disorder, you would use B. The intelligibility rating, and the Percentage Consonants Correct would be the other ratings used. There are four parts to the comprehensive assessment. Half of the assessment relies on Academic Activities and Academic Tests and Measure which will

--	--	--

provide the information needed to prove the academic impact. Simply doing a decontextualized test of articulation does not provide the proof of an academic impact which is the second prong of eligibility. Just using sound errors, ages and developmental norms as the guiding force for placement has led to overidentification of students with a disability, when they have an impairment that doesn't meet the second prong. We are to provide FAPE and the eligibility criteria will allow us to ensure the services are appropriate. If you have the support that the student meets the second prong of eligibility and you have the impairment eligibility criteria, you need only to show the need for specialized instruction to make a student eligible, not the number of sound errors. The guidelines are not in place to intentionally exclude anyone. They are in place

				<p>to avoid violating a student's civil rights by identifying them with a disability they may not have, strictly based on the sound errors. If they have spelling errors, and they are the sounds in error, they have an educational impact. The IDEA does not allow SLPs to use "full professional judgement" when making students eligible for services. Multiple factors have to be considered. You will see there are six different columns on the Speech Sound Assessment Summary form. If the student has a minimal impact in the number of errors, but has moderate to substantial impact in the others, the IEP Team can determine the student is eligible for services.</p>
<p>§Chapter 4 Eligibility</p>	<p>4/29/2022 21:28</p>	<p>Kara Combs Library Media Specialist - former WV PreK Special Berkeley County Schools Martinsburg WV</p>	<p>It is my suggestion that the age of developmental delay eligibility be extended in West Virginia. If students could be eligible for one additional year (from age 6 to age 7) it would bridge the gap and allow students an additional year of special education eligibility. As a PreK teacher, many of my students could have benefitted from an additional year of special education</p>	<p>A/C</p> <p>Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental</p>

§Chapter 4  
Eligibility

		eligibility in developmental delay. In my years of special education this is something many teachers and psychologists agreed upon.		delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.
5/2/2022 13:34	Becky Neal School Psychologist Jackson County BOE Ripley West	<p>Definitions and Eligibility Criteria</p> <p>E. Developmental Delay</p> <p>Definition: Developmental delays occur in students, ages three through five NINE who are functioning at, or lower than, 75 percent of the normal rate of development in two or more of the following areas:</p> <p>According to IDEA (last modified on May 2, 2017):</p> <p>(b) Children aged three through nine experiencing developmental delays. Child with a disability for children aged three through nine (or any subset of that age range, including ages three through five), may, subject to the conditions described in §300.111(b), include a child—</p> <p>(1) Who is experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: Physical development, cognitive development, communication development, social or emotional development, or adaptive development; and</p> <p>(2) Who, by reason thereof, needs special education and related services.</p>	A/C	Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.

§Chapter 4  
Eligibility

		<p><a href="https://sites.ed.gov/idea/regs/b/a/300.8/b#">https://sites.ed.gov/idea/regs/b/a/300.8/b#</a></p>		
<p>5/3/20 22 15:13</p>	<p>Wendy Garrison Teacher of the Visually Impaired/ Certified Orient Putnam County Schools Red House WV</p>	<p>Changes in eligibility for students with a vision impairment is now very open ended and vague. Would a child with a corrected visual acuity of 20/25 qualify if they already have an IEP? The wording of this now implies that would be the case. I am not against changing the parameters for eligibility; however, this would definitely greatly increase the number of children who would be eligible for services, and what kind of services would they be in need of? They would certainly not need Braille Instruction, however currently the IEP states that Braille must be considered for any student who is eligible for services. Teachers of the visually impaired are specially trained and qualified to provide certain services and</p>	<p>N</p>	<p>Eligibility is three-pronged, and diagnosis of a visual impairment alone does not make the child eligible. The recommended changes are based on a memo from OSEP dated May 22, 2017. Appropriate evaluations are still required. Braille must still be considered as it is part of IDEA. This is still an IEP team decision and is based on appropriate evaluations.</p>

§Chapter 4  
Eligibility

		accommodations/modifications, among those, Braille, Large Print, and Electronic Magnification. A child whose vision is 20/70 or better would not require these things, therefore what is the teacher to provide to these students? How are teachers of the visually impaired trained? What kind of specialized knowledge do they have that enables them to provide services to a student whose visual impairment is "primarily perceptual in nature"? At this time, they do not have such training or expertise. I would advise that this issue be further investigated before any such changes are made.		
5/3/20 22 15:58	gia deasy Special Education Director Marion County School FAIRMONT WV	Will we continue to keep "gifted" within the scope of special education regulations when it is not federally mandated?	N	Services for exceptional children (Gifted/Exceptional Gifted and "handicapped") are included together by WV State Code §18-20-1 and will remain consistent with this state code in Policy 2419.

--	--

I think there are some concerns regarding eligibility criteria for Vision that should be further explored.

A/C

The recommended changes are based on a memo from OSEP dated May 22, 2017. Appropriate evaluations are still required. Based on the concerns it is proposed that under criteria 1 in eligibility that the following be put back in under the examples list: A functional vision evaluation conducted by a certified teacher of the visually impaired determines the student: 1) has limited ability in visually accessing program-appropriate educational media and materials including but not limited to textbooks, photocopies, chalkboards, computers or environmental signs without modification; 2) has limited ability to visually access the full range of program-appropriate educational media and materials without accommodations including but not limited to changes in posture, body movement focal distance or squinting;

§Chapter 4  
Eligibility

				<p>3) demonstrates variable visual ability due to environmental factors including but not limited to contrast, weather, color or movement, that cannot be controlled, or</p> <p>4) experiences reduced or variable visual ability due to visual fatigue or factors common to the eye condition.</p> <p>The 3-prong test of eligibility requires that the student need specialized instruction, therefore if they don't need special education services they would not qualify for an IEP.</p>
5/3/2022 18:15	Amanda Robinson parent/teacher n/a Martinsburg WV	Developmental delay should be extended until 8 years old to fill in the gap between preschool students with delays until they can be eligible for LD or other supports.	A/C	Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.

§Chapter 4 Eligibility	5/5/20 22 11:17	Brittany Gould Education Recovery Specialist WV SDT Clarksburg WV	Foster youth meetings to be scheduled accordingly after a 30-day timeline of evaluations so that eligibility for services, due to transient nature are not delayed.	N	These comments do not seem to apply to this policy. There are specific evaluation timelines already in place. In addition, there are timelines in place for transfer students. Other WVDE policies address homeless or transient students.
§Chapter 4 Eligibility	5/5/20 22 11:53	Lynn Bayle Director of Special Director Mercer County Schools Princeton WV	Advanced Practice Registered Nurse and Physician Assistant should not be acceptable certifications for an Autism diagnosis.	N	We realize the evaluation and diagnosis of autism spectrum disorder (ASD) is a complex procedure. However, the criterion that a student has an existing diagnosis is one of many criteria that must be met for a student to qualify for special education services under this exceptionality, and documentation of a diagnosis should never be used in isolation to determine eligibility for special education services under any eligibility category.
§Chapter 4 Eligibility	5/9/20 22 10:01	Ken Kinzer Citizen Princeton WV	I am concerned that behavior disorders are being removed from the ED/BD selection and it will only be emotional disorders. Students with behavior disorders should not be allowed with the general population. They are dangerous and a threat to others	N	The only proposed change regarding “Emotional/Behavioral Disorder” is to align the terminology with federal language. The definition

§Chapter 4  
Eligibility

		along with keeping other students from learning.		and eligibility criteria are otherwise unchanged.
5/9/2022 11:03	John P Shank Retired teacher special ed certification KCS Elkview WV	Consider expanding the age range of developmental delay to include year 6 up to year 7.	A/C	Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.
5/9/2022 11:06	John P Shank Retired teacher special ed certification KCS Elkview WV	For developmental delay, consider adding the option to use standard scores as an eligibility metric. For example, performing 1.5 or more standard deviations below the mean in two or more developmental areas could be used for eligibility rather than using only age equivalents to calculate the students rate of development	A/C	The language will be added to include both the standard deviation and age equivalent methods.

§Chapter 4  
Eligibility

§Chapter 4  
Eligibility

5/9/20  
22  
18:50

Paula Townsend  
Speech Language  
Pathologist  
Belington WV

M. Speech and Language Impairment,  
Eligibility Criteria for Speech Sound  
Disorders, 2d. - adds intelligibility rating as  
a diagnostic criteria. However, no specific  
cutoff or score is listed. This could be too  
subjective.

N

When the developmental charts, reference charts, and other resources were removed from Policy 2419 and moved to *Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts* which was not part of the public comment period. Ratings of speech intelligibility should be done in connected speech. The rating by the parent and the teacher can be more objective by using the Intelligibility in Context Scale, a free parent-tool that considers the children’s intelligibility with different communication partners. The test and its use will be explained in the *SLP Guidance Document – Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts* update, which is set for release in October of 2022. The Speech Production Assessment Summary will be included in the guidance document.

It provides four areas that will be considered before a decision is made that a student has a “disability” which means that there is direct proof that it impacts academic achievement, as opposed to a “disorder”, which does not impact academics and is not educationally relevant. The four areas are “1) Academic Activities, 2) Academic Tests and Measures, 3) SLP Probes, 4) SLP Tests and Measures. The intelligibility rating falls in the “Academic Tests and Measures” category. It includes intelligibility rating ranges for the Moderate and Substantial Impact categories which will be used as once piece of information to determine eligibility. The use of the Speech Production Assessment Summary will be trained as part of the overview of the new guidance document.

§Chapter 4  
Eligibility

5/10/2022 10:33	Shannon Noble Special Education Supervisor Mercer County Schools Princeton WV	<p>Eligibility Criteria for Autism (p. 30) - I have concerns about allowing a physician, advanced practice registered nurse and/or a physician assistant to identify a student as having autism. In my experience, students are often given a diagnosis of autism from someone in the medical field; however, there is no educational impact. Autism seems to be a buzz word with some medical personnel, and they don't appear to fully understand the impact of giving that diagnosis to a child. Parents often receive a medical diagnosis of autism for their child and believe that automatically entitles them to special education services. While the eligibility criteria specifically states that the students educational performance must be impacted and the child must need special education, I believe that allowing students to be diagnosed by medical personnel, specifically nurse practitioners and physician assistants, will create confusion and potentially impair working relationships between parents and school staff.</p>	N	<p>We realize the evaluation and diagnosis of autism spectrum disorder (ASD) is a complex procedure. However, the criterion that a student has an existing diagnosis is one of many criteria that must be met for a student to qualify for special education services under this exceptionality, and documentation of a diagnosis should never be used in isolation to determine eligibility for special education services under any eligibility category. Other Health Impairment similarly requires other criteria to be met before eligibility can be determined.</p>
		<p>Eligibility Criteria for Other Health Impairment (p. 37) - I have the same concerns about allowing advanced practice registered nurses and physician assistants to diagnose OHI, specifically as it relates to ADD/ADHD. In my experience, most medical personnel do not have the luxury of spending a great deal of time observing students and really determining the presence of ADD/ADHD. I feel that it is often diagnosed by a very brief observation</p>		

		<p>in the office of the medical practitioner and a checklist completed by the parent. While I am not trying to discount the parents or medical practitioners' expertise, I don't feel a diagnosis of OHI should be made in this fashion.</p>		
		<p>Eligibility Criteria for Emotional Disturbance/Behavioral Disorder (p. 33) - These are two distinctly different areas and should be treated as such. During my time teaching special education in Virginia, students with ED and BD were educated separately because they do not have the same characteristics. While I am glad to see Emotional Disturbance recognized, I am concerned about omitting Behavioral Disorder from the eligibility criteria. I feel that both areas should be addressed through special education. Does this change mean that the most involved students identified as having a behavioral disorder will now be educated in a setting with students who have no or few behavioral concerns? I feel that even less may be accomplished academically when these students with more significant behavioral issues are added to multi-cat classrooms.</p>	<p>N</p>	<p>The only proposed change regarding "Emotional/Behavioral Disorder" is to align the terminology with federal language. The definition and eligibility criteria are otherwise unchanged. Further, students with disabilities are to be educated according to their specific needs, and Least Restrictive Environment (LRE) and not based on a particular eligibility category.</p>

§Chapter 4  
Eligibility

5/11/2022  
9:09

Michelle  
Tissenbaum  
Teacher of Visually  
Impaired  
Cabell County  
Schools  
Huntington WV

As a teacher for students with visual impairments, I find it concerning that the recommended changes removed any type of threshold as a qualifier for eligibility from the Blindness/Low Vision category. The current thresholds allow a standard for provision of services. As an educator, these thresholds provide a significant base to begin in determining eligibility for services. Removal of the acuity and field requirements creates an extremely subjective process. There will be no consistent standard which can and will cause educational concerns and potential legal concerns. This changes can potentially overwhelm the caseloads in a field where there is already a shortage of teachers and cause teachers to leave the field as they may feel there is less support for the decisions they may. A parent or doctor of a student with a corrected acuity of 20/40 at distance which would be a difference of approx 1/4 inch in size, where 20/20 is considered "normal," could request services through school. If this child is denied services based on a functional vision assessment, the county/school could face legal and school challenges for denial of services or if the child is not progressing according to parent expectation or academic standards. If these changes occur to 2419 eligibility, where and how will the "standards" of qualification be taught to the current and new teachers to ensure all are determined based on objective vs subjective evaluation?

A/C

The proposed changes are based on an OSEP memo dated May 2017. In the guidance it discusses appropriate evaluations used to qualify students. These are the functional vision assessment and learning media assessments. These assessments will assist the IEP team in determining if the child's vision is impacting their education and if they qualify for special education. Based on the concerns it is proposed that under criteria 1 in eligibility that the following be put back in under the examples list: A functional vision evaluation conducted by a certified teacher of the visually impaired determines the student: 1) has limited ability in visually accessing program-appropriate educational media and materials including but not limited to textbooks, photocopies, chalkboards, computers or environmental signs without modification;

2) has limited ability to visually access the full range of program-appropriate educational media and materials without accommodations including but not limited to changes in posture, body movement focal distance or squinting;  
3) demonstrates variable visual ability due to environmental factors including but not limited to contrast, weather, color or movement, that cannot be controlled, or  
4) experiences reduced or variable visual ability due to visual fatigue or factors common to the eye condition.

The 3-prong test of eligibility requires that the student need specialized instruction, therefore if they don't need special education services they would not qualify for an IEP.

§Chapter 4  
Eligibility

5/11/2022 11:39	Melanie Place Speech-Language Pathologist Berkeley County Schools Martinsburg WV	Pg. 45 Section M. Speech or Language Impairment Language Disorder: Diagnostic Criteria should include function so that students that have social/pragmatic disorder in correlation with a diagnosis of Autism can receive these interventions from an SLP.	A/C  The Diagnostic Criteria for Language was taken from the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), which does include “function” in the description. Section M. 1.c. includes verbiage about ability to use vocabulary and connect sentences ... to have a conversation,” which would be the area of pragmatics, since ASHA includes discourse in their definition of pragmatics, <b>Language In Brief</b> <b>(asha.org)</b> , so it was not included in policy. However, considering the history of students with autism being denied therapy, the American Speech-Language-Hearing Associations (ASHA) definition of the “function” of language was added as M. 1. d. "impairment of the understanding of the social aspects of spoken language, including conversational exchanges (function)” will be added to the Language
--------------------	---	--	--

				Diagnostic Criteria to clearly define the role of pragmatics.
		<p>Pg. 46 Eligibility Criteria for Language Disorder</p> <p>The 1. statement is clear that two types of assessment must be used with one assessing receptive and expressive language and yielding a standard score. The next 2. Is confusing as to whether additional assessments three out of the four options are needed or are these the options for completing the first part. Part 2. should be under part 1. as what characteristics the student should demonstrate to qualify for a language impairment.</p>	A/C	<p>The WVDE has received several comments about the Eligibility Criteria for language being confusing. As a result, the criteria will be reworded to clarify the 2, 2a, and 2b.</p>

		<p>Pg. 46 Eligibility Criteria for Language Disorder</p> <p>In part 2, the criterion for selecting a valid test eliminates many of the assessments commonly used by SLPs in WV for language evaluations. If this is adopted many of the current test will need to be replaced to align with the new policy. Who will be purchasing these tests for assessments? County budgets are tight and cannot afford to purchase test that cost \$800-1000 a piece.</p>	A/C	<p>The WVDE has received several comments regarding the tests requirements. The WVDE has been training about the lack of sensitivity and specificity of speech-language evaluations for many years. The discussion started and the WVU SALAD Lab was initially created to offer tests that did have good sensitivity/specificity so lead SLPs could check out the test, examine them, and even try using them before purchasing. The need for at least one composite language assessment that is at least 80% accurate, using the tests recommended cut scores, counties are more than likely misidentifying students with language disorders, by over and/or under identifying. The WVDE will clarify the M. 2.a. by saying that at least one composite test will be used with at least 80% diagnostic accuracy, using the test cut scores. The updated <i>Speech-Language Pathology: Services in WV</i></p>
--	--	---	-----	---

			<p><i>Schools – Guidance for West Virginia Schools and Districts, will be released in October of 2022, and will contain a list of tests with specificity and sensitivity information and the suggested cut score for each. Special education directors have been made aware of the need for at least one testing instrument with the &gt;80% diagnostic accuracy.</i></p>
		<p>In part 2, b it is unclear what is meant by “measures of productivity and complexity”. If SLPs use the WVU SALT lab to aide in analysis of language samples it would be helpful to clearly understand what measures from this report should be used to determine eligibility for language disorder.</p>	<p>2.b. The WVDE has received several comments on this statement and will provide a clarification on what areas can be considered for the 1.5 SD to the document, Speech-Language Pathology Services in WV: Guidance for West Virginia Schools and districts to allow the flexibility that will be helpful in determining the scores in the analysis to use, since they can be different depending on</p>

N

			the student's performance.
		<p>In part 2, c the terms used for measuring eligibility based on “limited or very limited improvement” are vague and lead a large variety of interpretation by SLPs across the state. Criteria after a Dynamic Assessment should be more concrete such as “80% accuracy after test-teach-retest”.</p>	<p>2.c. The reason that the criteria for dynamic assessment is not more specific is it allows the SLP to use their professional judgement to determine progress made. Dynamic assessment can take many forms. It can be data collected during the STEPS Program, results of missed items on an evaluation after “test, teach, retest.” Putting a percentage which could be based on a variety of individualized information isn’t functional and will not result in a policy change. The way to evaluate the dynamic assessment improvement can be a training piece and part of the <i>Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts</i> document. SLPs</p>

N

§Chapter 4  
Eligibility

				<p>who use this procedure will have data to support whether or not the student learned the concepts quickly.</p>
<p>5/11/2022 14:18</p>	<p>Lisa Occupational Therapist UCS Buckhannon WV</p>	<p>It had been brought to my attention due to the wording of 2419 that my district will NOT allow occupational therapy or physical therapy to be part of an IEP for a student who qualified based on Speech only. This is not consistent throughout the state. My district states that OT and cannot be related to speech, which as an OT undermines my profession. There is data and research available as to this connection and it is common for OTs and SLPs to work together or even co-treat in other settings. We need some clarification other than stating that related services must be related to special education. Here is an example, a student scores a low IQ, but not low enough to qualify for an IEP. The student was evaluated by OT, PT and SLP as well and qualifies for both OT and SLP. The student receives a speech IEP but cannot receive OT even though their handwriting is not legible, they have poor self-regulation, and they are unable to independently feed themselves in the cafeteria. All three of those areas can be</p>	<p>N</p>	<p>It appears this comment addresses issues that are not included in the eligibility criteria in Chapter 4 section of Policy 2419. It is not stated in policy that a related services of occupational and/or physical therapy may not be part of a Speech Only IEP. Each decision should be made by the IEP Team based on an individual student's needs. The related service should be provided to assist the student to benefit from special education, which in this case is speech therapy. While OTs and PTs cotreat in other settings, in Policy 2419, we are referring to the educational setting. in some cases, co-treating</p>

		<p>addressed in a school setting by an OT, but excluding OT from a speech only IEP makes that impossible.</p>	<p>does occur in the educational setting, depending on the needs of the student; however, in most of those cases, the student is not speech only and has more complex communication needs. According to your example, the student could potentially receive OT due to the self-regulation and feeding issues, depending upon the type of speech therapy services the student receives. If it articulation, then the OT could help support the self-regulation of the student in therapy and the feeding skills could support the articulation because motor skills are involved in both.</p>
		<p>Secondly, the diagnosis on developmental delay ends at the age of 6. This is an arbitrary number. Students who are 6-7 are often more difficult to qualify for an IEP due to the nature of testing and diagnosis. This causes a gap in intervention for many students who deserve to have access to an IEP so that they can perform at their best. Extending the developmental delay diagnosis would help bridge this gap in access to free and public education</p>	<p>A/C</p> <p>Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning</p>

§Chapter 4  
Eligibility

				July 1, 2023, and will extend through age seven beginning July 1, 2024.
5/11/2022 21:52	Roseann L. Harvey Coordinator of SpEd Upshur Co. Schools Buckhannon WV	Developmental Delay - Serious consideration should be given to extend the age from 6 years old to 8 years old. This will cover students until @ 2nd grade where a specific learning disability can be clearly determined. Many students are dismissed at age 6 from DD but go right into the SAT process. They are later identified as SLD.	A/C	Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.

<p>§Chapter 4 Eligibility</p>	<p>5/12/2022 10:03</p>	<p>Ashley Matheney School Psychologist Jackson County Schools Ripley WV</p>	<p>CHAPTER 4. SECTION 3. DEVELOPMENTAL DELAY: IT WOULD BE MOST BENEFICIAL TO INCREASE THE AGE OF THE CLASSIFICATION OF DEVELOPMENTAL DELAY BEYOND 6 YEARS OF AGE. MANY TIMES, STUDENTS ARE RE-EVALUATED JUST PRIOR TO THEIR SIXTH BIRTHDAY AND EITHER 1) DO NOT MEET CRITERIA FOR ANOTHER DISABILITY BUT CONTINUE TO DEMONSTRATE A NEED FOR SPECIAL EDUCATION OR 2) PRESENT AS A STUDENT WITH AN INTELLECTUAL DISABILITY (SUBAVERAGE IQ AND CONCURRENT ADAPTIVE DEFICITS) THAT LATER IMPROVE. IN SCENARIO 2, IT IS DETRIMENTAL TO THE STUDENT AND THE PARENT TO ASSUME THAT THE CHILD IS INTELLECTUALLY DISABLED (A PERMANENT CONDITION) AND LATER (I.E., 3-YEAR RE-EVALUATION PERIOD) BE TOLD THAT THE CHILD HAS MADE IMPROVEMENTS IN IQ, ADAPTIVE SKILLS OR BOTH, AND CAN NOW MEET CRITERIA UNDER ANOTHER EXCEPTIONALITY LIKE SLD OR NO LONGER NEEDS SPECIAL EDUCATION SERVICES. I WOULD PROPOSE THAT DEVELOPMENTAL DELAY BE EXTENDED TO AGE 7 AT A MINIMUM, BUT PREFERABLY AGE 8, TO ALLOW FOR ADEQUATE INSTRUCTION IN READING AND MATHEMATICS (TO TEASE APART ID FROM SLD) AND TO ALLOW FOR IMPROVEMENT IN DEVELOPMENTAL DELAYS THAT ARE LATER DETERMINED TO NOT BE THE RESULT OF A DISABILITY</p>	<p>A/C</p>	<p>Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.</p>
-----------------------------------	----------------------------	---	--	------------	--

			<p>CHAPTER 4, SECTION 3:  EMOTIONAL/BEHAVIORAL DISTURBANCE:  ALTHOUGH THE TERM DISTURBANCE IS  USED IN IDEA/FEDERAL POLICY, MYSELF  AND MANY OTHER PSYCHOLOGISTS FEEL  THAT THIS TERM IS OFFENSIVE TO  CHILDREN AND FAMILIES WHO HAVE  STUDENTS SUFFERING FROM  EMOTIONAL/BEHAVIORAL DISABILITIES.  WHILE I UNDERSTAND THE CONVENIENCE  OF ALIGNING WITH IDEA TERMINOLOGY, I  FEEL AS THOUGH THIS CHANGE IN  TERMINOLOGY IS TAKING A STEP IN THE  WRONG DIRECTION.</p>	<p>N</p>	<p>The latest available research (Wery &amp; Cullinan, 2011) on state definitions of emotional disturbance suggests that nearly half (24) of all SEAs used the federal term “emotional disturbance,” while “emotional disability” was used by 9 states, “serious emotional disturbance” was used by 3 states, and “emotional impairment” was used by 2 states. Only 7 SEAs used a term that included both “emotional” and “behavior.” Absent state and/or national data supporting a change in terminology, or evidence of widespread adoption of an alternate term, we feel that aligning our language with federal policy is reasonable.</p>
<p>§Chapter 4  Eligibility</p>	<p>5/12/2022  11:15</p>	<p>Ann Osburn  Coordinator of  Special Education  Upshur County  Schools  Buckhannon WV</p>	<p>Please consider developmental delay going to age 8. I feel that if we provide more support longer, the child will be more successful.</p>	<p>A/C</p>	<p>Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning</p>

				July 1, 2023, and will extend through age seven beginning July 1, 2024.
§Chapter 4 Eligibility	5/13/2022 13:56	Michelle Stickel Speech-Language Pathologist Berkeley County Schools Martinsburg WV	2 standardized tests that BOTH assess receptive and expressive language should not be required to diagnose a language disorder. Consider reducing from 3 required data sources to 2, in addition to teacher report, parent report, and observation.	A/C  The WVDE has received several comments regarding this section. Number 1 and 2 were clarified in policy, because two tests of receptive language and two tests for expressive language are not required. Through WVDE-provided training since 2018, the use of Comprehensive Language Evaluations has been discussed. While the eligibility requirements of 2.a. through 2.d. were reduced to two and reworded, the use of a dynamic assessment or narrative language sample will remain as options for a comprehensive language evaluation.
§Chapter 4 Eligibility	5/13/2022 14:08	Felicia Corley School Psychologist UCS Buckhannon WV	I am commenting to support delaying Developmental Delay exits until the age of eight when a full evaluation can be completed that includes the consideration of SLD. It is confusing to parents to be dismissed at 6 and then re-evaluated later and qualify under SLD. It is best practice	A/C  Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419

		and already in place in the majority of the country.		will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.
§Chapter 4 Eligibility		<p><b>Please allow Lee Ann to review and update the Speech and Language Impairment eligibility section per discussion(s) with stakeholders and Lead SLPs.</b> Our discussions addressed the following concerns: Language Disorders: Eligibility Criteria</p> <p>Criteria 1 and 2 are confusing. Consider combining or rewording them to clarify that 2 comprehensive standardized tests are not required and to reduce to 2 required sources of data rather than 3.</p>	A/C	There have been several comments that the Language Impaired Eligibility Criteria is confusing. The section was rewritten to clarify Eligibility Criteria 1 and 2. The number of additional sources of information was reduced to two.
§Chapter 4 Eligibility	5/13/2022 14:16	Sara Martin Lead SLP Berkeley County Schools Martinsburg WV		The simplification of the description of diagnostic accuracy has been mentioned in several comments and was changed. The wording also contains the use of a “composite assessment” that assesses both receptive and expressive language skills and has a diagnostic accuracy of 80% or higher using the recommended cut score. The use of an alternative or “functional” evaluation was included for those
		Currently under criterion 2a - Simplify the language about psychometric accuracy. Recommended wording: "The test must assess receptive and expressive language and have diagnostic accuracy (sensitivity and specificity) of 80% or higher	A/C	

§Chapter 4  
Eligibility

				students who require an alternative instrument.
		<p>Recommended wording to address comments above:</p> <p>1. At least two procedures have been used to assess the student’s expressive and receptive language skills, and the student exhibits</p>	A/C	The word “procedures” was replaced to avoid any confusion on what counts as a procedure.
		<p>a. At least one norm-referenced composite test score that aligns with scores of students with language disorders based on the test manual’s recommended cut score. The test must assess receptive and expressive language and have diagnostic accuracy (sensitivity and specificity) of 80% or higher. (If a student is unable to participate in a norm-referenced test, results of developmental scales or criterion-based assessments may be used. The evaluation report must document the evaluation procedures used, including the rationale for use of an alternative instrument.)</p>	A/C	The wording is accepted with some minor changes such as "composite" in addition to "receptive and expressive" language. The statement about the evaluation report will be added to the SLP guidance document, but not Policy 2419.
		<p>And at least one of the following:</p>	N	The number of additional components will be reduced from three to two, but not down to one. Adding just one additional measure would not result

			in a "comprehensive evaluation."
		b. Analysis of language discourse that is at least 1.5 standard deviations below same-aged peers on measures of productivity and/or complexity.	N This is a repetition of what is in the draft policy.
		c. Dynamic assessment that demonstrates limited or very limited improvement. (possibly refer to the guidance document).	A/C Reference to SLP Guidance document was added and a description of dynamic assessment provided with the Language Assessment Summary form.
		d. Assessments that indicate the student has difficulty understanding or expressing ideas and/or concepts to such a degree that it interferes with social interaction or educational progress, except for preschool which is determined by social-communicative impact.	A/C Comment accepted, except that including developmental scales or criterion-based tests will fall under "SLP Probes." Clarification was provided and will be supported in the SLP Guidance Document.
		Currently under 2b - Consider if Language Discourse should refer to "productivity and/or complexity" or reword to clarify how many skills must be at 1.5 SD or below (or above in the case of pauses/mazes, etc.) perhaps "outside of the normal range.	N The terms "productivity and complexity" allow for several scores to be used as determined by the SLP based on the individual needs of the student. A more specific description will be included in the SLP Guidance Document.
		Currently under 2c - Consider referencing Speech Language Pathology Guidance	A/C Reference to the SLP Guidance Document was included.

§Chapter 4  
Eligibility

		Document for details about dynamic assessment.	A/C	
		Currently 2d - Reword to allow for other types of assessment including informal language samples (wording included above)		Other types of informal assessments were included in the updated policy.
		Currently under 4b - "a disability" not "an disability"		The typo is corrected in policy.
		Formatting - check to make sure the capitalization of first lines matches the rest of the document for numbered and lettered items.		Format was corrected in policy.
		Speech Sound Disorders: In criterion 2c, refer to the stimulability measures in the SLP guidance document  In criterion 2e, capitalize PCC - to clarify that it is a specific measure found in the SLP guidance document  In criterion 3, add "in their primary/native language" or similar wording		Accepted the comment and made changes recommended by both comments
5/13/2022 14:17	Linda Soos SLP Berkeley County Schools Martinsburg WV	Language Disorders: Eligibility Criteria Criteria 1 and 2 are confusing. Consider combining or rewording them to clarify that 2 comprehensive standardized tests are not required and to reduce to 2 required sources of data rather than 3.	A/C	Language Eligibility Criteria – the WVDE has received many comments regarding Criteria 1 and 2, so those sections were rewritten and clarified.

		<p>Currently under criterion 2a - Simplify the language about psychometric accuracy. Recommended wording: "The test must assess receptive and expressive language and have diagnostic accuracy (sensitivity and specificity) of 80% or higher. Recommended wording to address comments above:</p> <ol style="list-style-type: none"> <li>1. At least two procedures have been used to assess the student's expressive and receptive language skills, and the student exhibits <ol style="list-style-type: none"> <li>a. At least one norm-referenced composite test score that aligns with scores of students with language disorders based on the test manual's recommended cut score. The test must assess receptive and expressive language and have diagnostic accuracy (sensitivity and specificity) of 80% or higher. (If a student is unable to participate in a norm-referenced test, results of developmental scales or criterion-based assessments may be used. The evaluation report must document the evaluation procedures used, including the rationale for use of an alternative instrument.)</li> </ol> </li> <li>And at least one of the following: <ol style="list-style-type: none"> <li>b. Analysis of language discourse that is at least 1.5 standard deviations below same-aged peers on measures of productivity and/or complexity.</li> <li>c. Dynamic assessment that demonstrates limited or very limited improvement. (possibly refer to the guidance document).</li> <li>d. Assessments that indicate the student</li> </ol> </li> </ol>	<p>A/C</p>	<p>The WVDE has received several comments about rewriting 2a to make it more easily understood, so it was rewritten. Reference to the SLP Guidance document was made – comment accepted. The complete language section was simplified and clarified. A statement was added to address the needs of students who cannot complete standardized tests by using the Functional Communication Assessment Summary. Details will be added to the SLP Guidance Document.</p>
--	--	---	------------	--

		<p>has difficulty understanding or expressing ideas and/or concepts to such a degree that it interferes with social interaction or educational progress, except for preschool which is determined by social-communicative impact.</p>		
		<p>Currently under 2b - Consider if Language Discourse should refer to "productivity and/or complexity" or reword to clarify how many skills must be at 1.5 SD or below (or above in the case of pauses/mazes, etc.) perhaps "outside of the normal range."</p>	<p>N</p>	<p>The use of productivity and complexity allow for several scores to be used as determined by the SLP based on the individual needs of the student. More clarification will be provided in the SLP Guidance Document.</p>
		<p>Currently under 2c - Consider referencing Speech Language Pathology Guidance</p>	<p>A/C</p>	<p>Referencing SLP Guidance document – comment accepted.</p>

§Chapter 4  
Eligibility

		Document for details about dynamic assessment.	A/C	Addition clarification was added to allow more informal assessments.
		Currently 2d - Reword to allow for other types of assessment including informal language samples (wording included above)		
		Currently under 4b - "a disability" not "an disability" Formatting - check to make sure the capitalization of first lines matches the rest of the document for numbered and lettered items.	A/C	Edited to the correct article.
		Speech Sound Disorders: In criterion 2c, refer to the stimulability measures in the SLP guidance document In criterion 2e, capitalize PCC - to clarify that it is a specific measure found in the SLP guidance document In criterion 3, add "in their primary/native language" or similar wording	A/C	Speech Sound Disorders – all three suggestions were accepted and added to policy.
5/13/2022 15:28	Stephanie Richards Lead Therapist Harrison County Clarksburg WV	pg 46 Language Disorders 1. Criteria 1 and 2 are confusing. Consider combining or rewording to clarify that 2 comprehensive standardized tests are not required and to reduce red sources	A/C	There have been several comments stating that Criteria 1 and 2 are confusing. The criteria was simplified and clarified with more complete explanations in the <i>Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts</i> – which will be released in October 2022.

		2. 2a simplify language about psychometric accuracy. example wording "The test must assess receptive and expressive language and have diagnostic accuracy (sensitivity and specificity) of 80% or higher.	A/C	There have been several comments made about the need to clarify the diagnostic accuracy section. The wording was clarified and simplified.
		3. 2b consider adding productivity and complexity to wording for language discourse or clarify how many skills must be at 1.5 SD or below	N	The use of productivity and complexity allow for several scores to be used as determined by the SLP based on the individual needs of the student. More clarification will be provided in the SLP Guidance Document
		4. 2c consider referencing SLP Guidance document for details on dynamic assessment	A/C	There have been several suggestions regarding adding a reference and clarification the document. That suggestion was accepted, and clarification will also be added ot the SLP Guidance Document.
		5. 2d reword to allow for other developmental scales or criterion-based assessments to include informal language samples	A/C	Suggestion for adding clarification for criterion referenced testing is accepted.
		6. 4b change to a disability instead of an disability	A/C	typo was corrected.
		7. add socio-economic status in the characteristics at beginning of section	A/C	Socio-economic status was added to the considerations at the beginning of the section.

§Chapter 4  
Eligibility

		<p>pg 47 Speech Sound Disorders</p> <ol style="list-style-type: none"><li>1. reference SLP guidance document for 2c and other appropriate sections</li><li>2. 2e: capitalize Percent Consonant Correct as it refers to specific test measure</li><li>3. criterion 3 add primary/native language or similar wording</li></ol>	A/C	Accepted and made changes recommended in all three comments.
5/13/2022 15:36	Stephanie Sada SLP Ohio County Schools Wheeling WV	<p>M. Speech or Language Impairment Eligibility Criteria for Language Disorder - 1. c. further description or definition of dynamic assessment versus MTSS data? (I've looked at M. Ireland and state info from Wisconsin and Virginia - will our guidance document include suggestions as theirs do? How do we choose which areas to assess/reassess for comparison?)</p>	A/C	The definition and difference between a dynamic assessment and MTSS data was clarified in the Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts, which will be released in October of 2022. The guidance document contains assessment summaries for each area of speech eligibility, except Social Communication Disorder. Through training, resources in the SLP Guidance document, and use of professional judgement, SLPS will understand which areas to access/reassess for comparison.

		<p>What is required for kindergarten or preschool or Birth to Three transition evaluations without any classroom data or observation available? Or students who transfer and clearly need services sooner rather than later? STEPS is great for speech sounds and mild language issues, but it does not cover every instance. Our incoming evaluations usually consist of one evaluation session with observation, checklists, parent report, some form of language sample, and a formal test or criterion-referenced assessment.</p>	<p>A/C</p>	<p>The Functional Assessment Summary, which is mentioned in Policy 2419 and is be part of the SLP Guidance document will address issues of not being able to complete full assessments on children. The description of your intake for incoming preschoolers sounds like you would have the information necessary to determine eligibility, since you will look at four areas: 1) Academic Activities, 2) Academic Tests and Measures, 3) SLP Probes, 4) SLP Tests and Measures. Remember that for preschoolers, the adverse impact is on social-communicative skills, not academics. It's always been that way.</p>
		<p>Eligibility is often held within a week or two; am I now expected to bring that child back for additional assessments within a classroom to document educational effect? I see "social-communicative" and "socio-economic" are factors to be considered, but are there specific ways to document these?</p>	<p>N</p>	<p>For preschoolers, socio-economic could be included in a case history or parent interview or recorded as part of an observation. Social-communicative information can be gathered from the parent, a Birth to Three provider,</p>

§Chapter 4  
Eligibility

				or preschool teacher. Academic impact is not a requirement for preschool.
5/13/2022 15:40	Diana Clemmons Speech Language Pathologist Berkeley County Schools MARTINSBURG WV	One standardized assessment, screenings, conversation sampling, teacher/parent report, and professional judgment are enough to make eligibility determination for speech and language. The speech language pathologist could perform more assessments if he/she feels they are necessary to gather additional information	N	Those things may be used as long as you meet the criteria for eligibility. The WVDE is been discussing comprehensive language evaluations for a long time. Criterion-referenced tests, checklists, developmental milestones, and dynamic assessment can also be used because they provide a comprehensive look at the student's language skills related to the educational environment as opposed to the clinical environment. [Evaluation and Eligibility for Speech-Language Services in Schools   Perspectives of the ASHA Special Interest Groups] Remember that you don't have to do all of them. You will only have to choose three of the five.

§Chapter 4  
Eligibility

5/13/2  
022  
16:53

June Kimberlin  
Speech Language  
Pathologist  
Harrison County  
Board of Education  
DELLSLOW West

Comment 1 - The recommendations for articulation eligibility make sense individually. However, when considered as a whole group, they do appear to offer some barriers against providing speech therapy services to students. For example, under articulation eligibility criteria when three out of five situations must exist for the student to qualify. "The student exhibits three out of five characteristics....", Characteristic A says that three phonemic errors must be heard during the test or in conversation.

What if the child has a distorted /R/ and a lateral /S/ in conversation however has no other sound errors?

Their speech will impact their ability to speak clearly and be understood by peers and staff in the general education classroom. Their spelling and reading can be impeded as well.

I believe that two phonemic errors should be sufficient to qualify.

Characteristics B and D regarding phonological processes and speech intelligibility are appropriate. Characteristic C refers to 30% stimulability of phonemic sound errors. This may work as a viable choice. Some of our articulation evaluations presently have stimulability components, such as the Goldman Fristoe Test of Articulation: Third Edition. Characteristic E which is to calculate the percentage of consonants correct in a given set of utterances, may work if it is viewed as an option instead of one of the required three

N

Comment 1 - Distorted R or Lateral S – The student must meet the three prongs of eligibility to qualify for services in the schools, according to IDEA. For years, comments like "their speech will impact their ability to speak clearly and be understood by peers we used, or "it could cause an academic impact. If that is true, and you have proof, like teacher evaluation reports, observations, parent information reports, grades, statewide assessments, then they meet that prong of eligibility. To say the spelling and reading can be impeded is not enough. There must be proof that clearly show that the student is experiencing a moderate to substantial impact academically to meet that prong of eligibility. A distorted R does not automatically qualify someone as a speech-language impaired student unless all three prongs are met. Lateral S

characteristics. I reviewed the example provided of the percentage of consonants correct sentence imitation scoring form in which 273 consonants occur. The formula to arrive at 84% correct or below would require the student to miss 43 consonants. The Goldman Fristoe Test of Articulation: Third Edition has a phonetic analysis section.

Comment 2 - reference to language eligibility, the recommendations include:

1. Two or more procedures, one of which will yield a standard score, are used to assess receptive and expressive language skills. I agree with the recommendation.
2. A student must exhibit three out of four characteristics to qualify for language therapy.

A. Language tests must have 80% or higher specificity and sensitivity. If tests are restricted to only evaluations that meet that criteria, then many diagnostic tests that we SLPS have in our test collection would be rendered unusable. A significant amount of money would be required to buy new tests and / or protocols. I understand that allowing us to test with the specificity and sensitivity criteria may be helpful in some cases. My concern is that we may be limited in what tests we can use. However, the TOLD Intermediate Fifth Edition has been released in 2020 and it states that “new extensive criterion-prediction validity studies were conducted to demonstrate the validity of the TOLD-I:5’s subtests and composites, including diagnostic

is a different sound, because it typically does not self-correct, so a student can be considered for service with that error if they meet the other two prongs of eligibility. When the developmental charts, reference charts, and other resources were removed from Policy 2419 and moved to the SLP guidance document which was not part of the public comment period. The eligibility for any disabilities is a three-pronged process. So just one prong will not make a student eligible or ineligible. Each case must be examined on an individual bases. The concern about change in the number of speech sound errors is addressed in the Speech Production Assessment Summary that will be included in the updated SLP Guidance Document – Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts, scheduled for release in

accuracy.... Diagnostic accuracy analyses are particularly rigorous techniques for establishing validity, involving the computation of a test's sensitivity index, specificity index...." I use this test and hope that it will be included.

Characteristics B, C, and D are appropriate. The barrier may be in having to use three out of the four given. Time constraints are a factor in testing and meeting compliance deadlines for eligibility. The choice of any two of the four characteristics would alleviate some of this. Thank you for all of the time and effort that each of you have invested in this process. Respectfully submitted.

October of 2022. The chart says that "1-2 sound that do not meet norms for acquisition" has a minimal impact on the student." The Speech Production Assessment Summary provides four areas that will be considered before a decision is made that a student has a "disability" which means that there is direct proof that it impacts academic achievement, as opposed to a "disorder", which does not impact academics and is not educationally relevant. The four areas are "1) Academic Activities, 2) Academic Tests and Measures, 3) SLP Probes, 4) SLP Tests and Measures. The IDEA and Policy 2419 do not accept one measurement in determining a disability, so the concerns over specific numbers of sound errors still leaves the flexibility and use of professional judgement to address the other three areas. It's difficult to read

with the strikethroughs, but with the new updated version, the SLP has the option to select 3 of the 5 options, not all of them. Comment 2) - There have been many comments on the Language Eligibility Criteria. The eligibility criteria was clarified and simplified. The number of items needed is now three total choices out of five. The WVDE has been talking about the lack of sensitivity and specificity of speech-language evaluations for many years, and the special education directors have been informed. The WVU SALAD Lab was initially created to offer tests that did have good sensitivity/specificity so lead SLPs could check out the test, examine them, and even try using them before purchasing, or therapists could check them out to use them for evaluations. The problem is that if we don't have at least one composite language assessment that is at least 80% accurate,

using the tests recommended cut scores, counties are more than likely misidentifying students with language disorders, by over and/or under identifying. Your other tests in your test battery may be utilized as way to identify specific areas of language deficits. The WVDE will clarify the M. 2.a. by saying that at least one composite test will be used with at least 80% diagnostic accuracy, using the test cut scores. The updated Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts, will be released in October of 2022, and will contain a list of tests with specificity and sensitivity information and the suggested cut score for each. Time constraints have been addressed through 3:1 Service Delivery Model, which is evidence-based and provides flexibility in the SLPs schedule.

§Chapter 4  
Eligibility

5/14/2022  
7:36

Erin Bashaw  
Teacher of the  
Visually Impaired  
Fairmont WV

It was brought to my attention from my elementary school special education liaison that Policy 2419 was under revision and up for comment. I have read through the proposed changes. I am highly concerned about these proposed changes specifically for the eligibility of Blindness and Low Vision. The significant reduction and vague eligibility criteria will allow students to qualify for a vision IEP with mild vision impairments. The proposed change that will qualify students with “convergence insufficiency” under the B/VI umbrella is the most concerning to me as a TVI. Convergence insufficiency requires a Vision Therapist for treatment. Teachers of the Visually Impaired are not trained in the area of Vision Therapy. This change in policy would require the counties to hire a Vision Therapist to provide Vision Therapy. The influx of students qualifying for B/VI will overwhelm the system and dilute the services to the students that truly need them.

A/C

The proposed changes are based on an OSEP memo dated May 2017. In the guidance, it discusses evaluations used to qualify students. These are the functional vision assessment and learning media assessments. These assessments will assist the IEP team in determining if the child’s vision is impacting their education and if they qualify for special education. A diagnosis of convergence insufficiency (CI) does not automatically establish eligibility. A TVI does not provide vision therapy but provides educational intervention around the Expanded Core Curriculum. Based on a memo from our Low Incidence Coordinator in 2019, the following options are to be considered:

- For a child with a diagnosis of CI from a physician who is found ineligible for special education services may be eligible for a 504 to

			<p>address accommodations such as: seat copies, extended time, short breaks, materials read aloud.</p> <ul style="list-style-type: none"><li>• For a child who is identified under another exceptionality and has CI will be provided vision services through the LEA based on IEP. Often it is an Optometrist or Occupational Therapist (trained in vision therapy) who provides this service.</li><li>• For a child who meets the disability definition (prong 1) and it is determined through a functional vision assessment (FVA) that student is in need of related services only (Vision Therapy), the child would be ineligible through IDEA and Policy 2419.</li></ul> <p>Based on the concerns it is proposed that under criteria 1 in eligibility that the following be put back in under the examples list: A functional vision evaluation conducted by a certified teacher of the visually impaired</p>
--	--	--	---

			<p>determines the student:</p> <ol style="list-style-type: none"><li>1) has limited ability in visually accessing program-appropriate educational media and materials including but not limited to textbooks, photocopies, chalkboards, computers or environmental signs without modification;</li><li>2) has limited ability to visually access the full range of program-appropriate educational media and materials without accommodations including but not limited to changes in posture, body movement focal distance or squinting;</li><li>3) demonstrates variable visual ability due to environmental factors including but not limited to contrast, weather, color or movement, that cannot be controlled, or</li><li>4) experiences reduced or variable visual ability due to visual fatigue or factors common to the eye condition. (DA)</li></ol> <p>he 3-prong test of eligibility requires that the student need specialized</p>
--	--	--	---

				<p>instruction, therefore if they don't need special education services they would not qualify for an IEP.</p>
--	--	--	--	--

§Chapter 4  
Eligibility

5/14/2  
022  
8:30

Melanie  
TVI  
Berkeley County  
Schools  
Martinsburg WV

I feel the proposed changes will greatly increase the number of students that qualify for VI services, even when they do not actually need services. This will take away resources for those that truly need them.

A/C

The proposed changes are based on an OSEP memo dated May 2017. In the guidance, it discusses evaluations used to qualify students. These are the functional vision assessment and learning media assessments. These assessments will assist the IEP team in determining if the child's vision is impacting their education and if they qualify for special education. Based on the concerns it is proposed that under criteria 1 in eligibility that the following be put back in under the examples list: A functional vision evaluation conducted by a certified teacher of the visually impaired determines the student: 1) has limited ability in visually accessing program-appropriate educational media and materials including but not limited to textbooks, photocopies, chalkboards, computers or environmental signs without modification; 2) has limited ability to

			<p>visually access the full range of program-appropriate educational media and materials without accommodations including but not limited to changes in posture, body movement focal distance or squinting;</p> <p>3) demonstrates variable visual ability due to environmental factors including but not limited to contrast, weather, color or movement, that cannot be controlled, or</p> <p>4) experiences reduced or variable visual ability due to visual fatigue or factors common to the eye condition.</p> <p>Based on the concerns it is proposed that under criteria 1 in eligibility the following be put back in under the examples list:</p> <p>A functional vision evaluation conducted by a certified teacher of the visually impaired determines the student:</p> <p>1) has limited ability in visually accessing program-appropriate educational media and materials including but</p>
--	--	--	--

			<p>not limited to textbooks, photocopies, chalkboards, computers or environmental signs without modification;</p> <p>2) has limited ability to visually access the full range of program-appropriate educational media and materials without accommodations including but not limited to changes in posture, body movement focal distance or squinting;</p> <p>3) demonstrates variable visual ability due to environmental factors including but not limited to contrast, weather, color or movement, that cannot be controlled, or</p> <p>4) experiences reduced or variable visual ability due to visual fatigue or factors common to the eye condition.</p> <p>The 3-prong test of eligibility requires that the student need specialized instruction, therefore if they don't need special education services they would not qualify for an IEP.</p>
--	--	--	---

§Chapter 4  
Eligibility

		<p>Section 3-M: Speech/Language Impairment Language Disorders: Eligibility Criteria suggestions</p> <ul style="list-style-type: none"> <li>- Consider adding socio-economic status to considerations</li> </ul>	<p>A/C</p> <p>Socio-economic status was added to the considerations. Training and information added to the <i>Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts</i> document that will be updated and released in October of 2022 will be done to promote the consideration for each student.</p>
<p>5/14/2022 14:24</p>	<p>Heather Waselchalk Lead Speech-Language Pathologist Kanawha County Schools Charleston WV</p>	<ul style="list-style-type: none"> <li>-Criteria 1 and 2 are confusing. Consider combining or rewording them to clarify that two comprehensive standardized tests are not required and add language for an option for students who cannot participate in a standardized test.</li> </ul>	<p>A/C</p> <p>There have been several comments about the criteria being confusing so the diagnostic criteria for one 1 and two was simplified and clarified. The recommendation of using the Functional Communication assessment Summary for students who cannot participate in assessments was added to policy and is explained further in the <i>Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts</i> document that will be updated and</p>

			released in October of 2022.
		<p>And currently under criterion 2a, simplify the language about psychometric accuracy since the long sentence can be confusing. A re-wording similar to the following may be clearer for this entire section:</p> <ol style="list-style-type: none"> <li>1. At least two procedures have been used to assess the student’s expressive and receptive language skills, resulting in: <ol style="list-style-type: none"> <li>a. At least one norm-referenced composite test score that aligns with scores of students with language disorders based on the test manual’s recommended cut score. The test must assess receptive and expressive language and have diagnostic accuracy (sensitivity and specificity) of 80% or higher. (If a student is unable to participate in a norm-referenced test, results of developmental scales or criterion-based assessments may be used. The evaluation report must document the evaluation procedures used, including the rationale for use of an alternative instrument.) And at least one of the following:</li> </ol> </li> </ol>	<p>A/C norm-referenced test N</p> <p>The criterion for 2 a was simplified and clarified. The norm-referenced test was moved to one of the five options that the SLP can select to get the comprehensive language information necessary to determine eligibility for the specific student and parts of the suggested rewording were used, The recommendation of using the Functional Communication Assessment Summary was added to policy and is explained further in the Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts document that will be updated and released in October of 2022. The comment referring to documentation that</p>

				<p>should be added to the evaluation report were not placed in policy but will be explained as a best practice in the SLP Guidance Document.</p>
		<p>b. Analysis of language discourse that is at least 1.5 standard deviations below same-aged peers on measures of productivity and/or complexity. (or other language if there is no standard score obtained)  c. Dynamic assessment that demonstrates limited or very limited improvement. (possibly refer to the guidance document).</p>	<p>N and A/C</p>	<p>The use of language discourse was not changed so it would be flexible for the SLP based on the needs of the student. The clarification will be included in the SLP Guidance Document for the dynamic assessment and the way to determine limited or very limited improvement.</p>
		<p>d. Assessments that indicate the student has difficulty understanding or expressing ideas and/or concepts to such a degree that it interferes with social interaction or educational progress, except for preschool which is determined by social-communicative impact. (perhaps a clarification of what these assessments</p>	<p>A/C</p>	<p>Clarification was provided in policy and will be added to the SLP Guidance Document.</p>

		might be: criterion-based assessments, checklists, etc.)	
		<p>2. The student's disability adversely affects educational performance or social-communicative performance in the case of preschool students.</p> <p>3. The student needs special education. (Language disorder can be a primary special education or related service.</p> <p>a. A language disorder is not considered the primary disability when the symptoms are attributable to hearing or other impairments that are more appropriately defined under another eligibility category.</p> <p>b. A language disorder is considered a related service when services are required to assist an eligible student with a disability to benefit from special education.</p> <p>In addition:</p>	<p>2 and 3a, and 3b - No content changes are suggested to policy in the statements listed, only suggested changing the criteria numbers because one choice was eliminated. This comment did not result in a change in policy.</p>
		<p>Currently under 2b - Consider if Language Discourse should refer to "productivity and/or complexity" or reword to clarify how many skills must be at 1.5 SD or below (or above in the case of pauses/mazes, etc.) perhaps "outside of the normal range." The language sample taken may not always result in a standard score, so adding language to clarify this may help.</p>	<p>The use of productivity and complexity allow for several scores to be used as determined by the SLP based on the individual needs of the student. More clarification will be provided in the SLP Guidance Document.</p>
		<p>Currently 2d - Reword to allow for other types of assessment including informal language samples.</p>	<p>Other types of informal assessments were included</p>

§Chapter 4  
Eligibility

		Currently under 4b - "a" disability not "an" disability	A/C	Typo was corrected.
		Formatting - check to make sure the capitalization of first lines matches the rest of the document for numbered and lettered items.	A/C	Format – was corrected
		Eligibility for Speech Sound Disorders suggestions: In criterion 2c, refer to the SLP guidance document In criterion 2e, capitalize PCC - to clarify that it is a specific measure In criterion 3, add "in their primary/native language" or similar wording	A/C	Accepted and made changes recommended in all three comments.
5/14/2022 15:00	Karen M Underwood Special Education Specialist	Section 2 - Talks about EC meeting and EC members, but then jumps to IEP participants (probably should say EC participants instead of IEP)	A/C	Section 2 – EC/IEP. IEP Team changed to EC Team twice in this paragraph.

Fayette County  
Board of Education  
Fayetteville WV

Section M Speech Impairment Special Considerations: AAC evaluation MUST be completed on student who do not have effective verbal speech. I feel this evaluation needs to be ongoing and not just for eligibility purposes. You don't know if verbal speech will be an effective means of communicating until you work with the child and figure out which means is best for him/her.

N

If a student is nonverbal in preschool they do not have access to their educational environment or a way to practice language skills when compared to developmental norms. Providing access to AAC early on provides access, provides a way to practice language, and doesn't appear you are giving up on speech production if you might have to end up doing AAC. If the child begins talking, the AAC support can be removed. It can be part of your "total communication" approach. The reason the examination is required is that there needs to be an accurate assessment of receptive and expressive language skills to make a recommendation for AAC. The evaluation can be a dynamic assessment where information is gathered over time. An AAC evaluation includes a speech and language evaluation which should be part of the evaluation they receive for entering

§Chapter 4  
Eligibility

			<p>preschool. The Eligibility Committee can make them eligible for Speech-Language Impairment using the new Functional Language Assessment Summary criteria that will be added to the policy updates based on comments and the updated <i>Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts</i>, which will be released in October of 2022. An AAC evaluation can be ongoing while you are also providing some AAC support, either high tech or low tech. The special consideration does not say that the evaluation must be done before they enter preschool.</p>
5/15/2022 18:40	Heather Educator Public School Huntington WV	pg. 38 1) providing high-quality instruction matched to student needs Should this state provide high-quality instruction and/or intervention to match student academic, social/emotional, and behavior needs?	A/C  We believe that “student needs” is sufficiently broad to include the interpretation of student needs indicated by the commenter. Further, the total definition of MTSS on page 38 includes terms such as “academic,” “behavioral,”

§Chapter 4  
Eligibility

				“instruction,” and “interventions,” <b>but we will include the term “mental health” where appropriate in the definition to align with language in current WVTSS guidance.</b>
5/16/2022 3:33	Christina E. Smith Director Astrive Advocacy, Inc. Belleville WV	Section 1. Eligibility Determination. – As an advocate (and parent) who attends special education meetings throughout West Virginia, it is important to acknowledge that EC meetings are rarely attended by the required team members. Therefore, it is suggested that additional training be provided to districts, administrators, and special education teachers, on who should attend and conduct the meetings. (Page 26)	N	Section 1 – Training on Policy 2419 requirements can be provided as necessary or requested. Your perspective is appreciated and will be considered.
		Section 1. Eligibility Determination. - As an advocate (and parent) who attends special education meetings throughout West Virginia, it is appreciated that districts offer different methods of participation in eligibility and IEP meetings. That being said, it is imperative that districts should strive for in person meetings when possible. Cameras should be required to be on for video meetings and should be mandated by the meeting administrator, not only done when requested by a parent or adult student. If a school or family has poor internet, then a hotspot should be provided. Attendance should be taken at the beginning and end of any meeting done by phone. (Page 26)	N	Section 1 – Video or Phone Meetings - Regarding your suggestions to improve parent involvement in IEP/EC meetings: All parent participation is valued, and we do not want to exclude or discourage parents from participation due to camera requirements. These decisions appear to be within local district control rather than a policy requirement. These suggestions can be shared with the districts.

		<p>Section 2. Eligibility Committee (EC) Report for Evaluation/Reevaluation. – This proposed revision removes guardian from who is to be provided information pertaining to the WV Schools for the Deaf and the Blind and also neglects to include adult student. Guardian and adult student should be added. (Page 28)</p>	A/C	<p>Section 2 – The term parent as defined in the glossary includes guardians. Agree that adult students should be added.</p>
		<p>Section 3. State Eligibility Criteria. I. – Eligibility criteria should be updated in the WVEIS system so that it consistent with the terms on the IEP. (example: Current WVEIS does not have Intellectual Disability as an eligibility category so when an IEP is developed the category populates as MM.) (Page 36)</p>	A/S	<p>Section 3 – Policy 2419 terminology will be integrated into the new WVEIS system to the degree possible. Process forms will be revised based on the approved policy.</p>
		<p>Section 3. State Eligibility Criteria. K. – TYPO: Under “Eligibility Criteria for Other Health Impairment”, the first sentence second line says, “with another health impairment”. It should say “with another health impairment”. (Page 37)</p>	A/C	<p>Typo corrected.</p>

--	--

Section 3. State Eligibility Criteria. M. – TRAINING NEEDED: Under “Special Considerations” policy states that “When verbal communication is not an effective means of communication for the student, the student must receive an Augmentative/Alternative Communication Evaluation to determine the need for an alternative means of communication. All available means of communicating within the student’s ability level must be considered. This may include verbal, manual, pictorial, or electronic modes of communication.” There seems to be a systemic lack of knowledge in the area of Assistive Technology and how to appropriately and effectively evaluate students, acquire assistive technology, and incorporate assistive technology into the student’s IEPs for educational success. (Page 51)

N

M. As new SLPs enter into the public-school workforce, training on this special consideration has been provided from the responsibility, evaluations to use, trial use, writing the AAC Evaluation report, and incorporating the AT into the IEP. Lead SLPs have been trained, courses have been offered through WVU on doing AAC evaluations, over 40 SLPS received extensive training through the WVDE AT Boot Camp, and a Teams group was established this year to discuss AAC once per month. We have also had statewide trainings including hands-one trainings with equipment. Unfortunately, many SLP either don’t feel confident in doing AAC evaluations since they do them so infrequently, or they don’t have access to equipment, or tests to use to determine language function. Through the WVDE Technical Assistance Center for Accessibility and

§Chapter 4  
Eligibility

				Transitions, mentoring for AAC evaluations and implementation will be offered. There is a lending library of tests for non-verbal students, switches, switch toys and augmentative communication devices from low tech to high tech. There will also be training offerings regarding establishing an AAC Team, the AAC Evaluation Process, and establishing the AT Team. Recorded resources on the topics will also be available. Policy 2419 already provides for 12 hours of field specific training for SLPS.
5/16/2022 9:26	Christy Black Advocacy Specialist WV Developmental Disabilities Council Charleston WV	The Council appreciates that districts offer different methods of participation in eligibility and IEP meetings. However, the Council believes that districts should strive for in person meetings when possible. Cameras should be required to be on for video meetings. If a school has poor internet, then a hotspot should be provided. Attendance should be taken at the beginning and end of any meeting done by phone. (Page 26)	N	Section 1 – Video or Phone Meetings - Regarding your suggestions to improve parent involvement in IEP/EC meetings: All parent participation is valued, and we do not want to exclude or discourage parents from participation due to camera requirements. These decisions appear to be within local district

				control rather than a policy requirement. These suggestions can be shared with the districts.
		Page 28 removes guardian from who is to be provided information pertaining to the W Schools for the Deaf and the Blind. The Council believes adult student should be added.	A/C	The term parent as defined in the glossary includes guardians. Policy has been corrected to add adult student.
		Eligibility criteria should be updated in the WVEIS system so that it consistent with the terms on the IEP. (Page 36)	A/S	Section 3 – Policy 2419 terminology will be integrated into the new WVEIS system to the degree possible. Process forms will be revised based on the approved policy.
		On page 37 under “Eligibility Criteria for Other Health Impairment, there is a typo. The first sentence second line says, “with another health impairment”. It should say “with an other health impairment”.	A/C	Typo has been corrected.
		It is the Council’s understanding that the MTSS Framework is no longer part of the Policy 2419, but a guidance document. The Council believes that a statement about the framework and where someone can obtain it should be in the policy. (Page 39-41)	N	Chapter 4 Section 3.L – describes and defines MTSS and how it is used for referrals.

§Chapter 4  
Eligibility

5/16/2  
022  
11:41

TAYLER DYE  
SPEECH-LANGUAGE  
PATHOLOGIST  
BERKELEY COUNTY  
SCHOOLS  
MARTINSBURG  
West

The wording for Language Impairments could be interpreted as needing TWO standardized assessments that BOTH address receptive AND expressive language. This is redundant and will result in SLPs not being able to test as many students per year due to time constraints. The standardized assessments should be chosen by the SLP and left to their judgement. An SLP will often choose a 2nd assessment in order to look at a SPECIFIC area, which may not divide receptive and expressive language for that area. Additionally, there is some research which suggests that dividing receptive and expressive language into "categories" is not only INACCURATE but also LACKING EVIDENCE OF EFFICACY. Some tests are extremely accurate WITHOUT dividing receptive and expressive vocabulary. For example, the SPELT is an expressive language test which is 90-100% accurate at determining language disorders. More tests would NOT improve accuracy and at worst, takes time away from the students! Do not waste our students time by making them slog through test after test for information we DONT NEED. We know that nonword repetition and grammatical ability are reliable indicators of language disorders - neither of which are wholly receptive or expressive. Moreover, many tests that claim to divide receptive and expressive language do not hold up under scrutiny of the skills measured and question presentation.

A/C

The confusion regarding how many language tests will be needed was clarified and updated in Policy 2419 to composite language test with a diagnostic accuracy of at least 80% which is now one of the five options SLPs have to select to provide a comprehensive look at the student's language skills. It will be up to the SLPs professional judgement to select the test(s) they use, unless the student cannot access a test and functional communication needs to be utilized. Additional tests that address specific components of language can also be used to provide support of a language disability. In the past, some counties have relied solely on a receptive and expressive vocabulary test to make students eligible as a student with a language disability. That is not sound diagnostic practice. There needs to be other information than

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2718760/>  
<https://pubs.asha.org/doi/epdf/10.1044/1092-4388%282006/086%29>

standardized tests considered because students are being given IEPs as a student with a language disability, not a language disorder. All components of language, plus the other two prongs of eligibility need to be considered. Identifying a student with a disability who doesn't truly have one, is a civil rights violation. The issues we are trying to alleviate with the new eligibility criteria by using a comprehensive assessment approach is the fact that just doing receptive and expressive testing with tests with a poor diagnostic accuracy with a set standard score that is not based on individual test manufacturer's cut scores inaccurately identifies students. We will be examining spoken and written language and their associated receptive and expressive components. The articles you shared were examined. Here is an article you might want to read that includes

			<p>information about the components of comprehensive language evaluations that is not simply adding more standardized testing.</p> <p><i>[Evaluation and Eligibility for Speech-Language Services in Schools   Perspectives of the AGHA Special Interest Groups]</i></p> <p>Since 2018, the WVDE has provided training on the use of comprehensive language evaluations, including dynamic assessments and narrative language sample analysis. The language sample analysis has a high diagnostic accuracy for distinguishing a language difference from a disorder (Horton-Ikard, 2010, p. 17.) The comprehensive evaluation components have been listed in the Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts since 2015. Since the developmental charts, reference charts, and other resources were removed from Policy 2419</p>
--	--	--	---

			<p>and moved to Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts which was not part of the public comment, some of the support materials for language disorder were not available for review. The updated SLP guidance document will be released in October of 2022, and will have the Language Assessment Summary, which provides four areas that will be considered before a decision is made that a student has a language “disability” which means that there is direct proof that it impacts academic achievement, as opposed to a “disorder”, which does not impact academics and is not educationally relevant. The four areas are: 1) Academic Activities, 2) Academic Tests and Measures, 3) SLP Probes, 4) SLP Tests and Measures. So you can see that SLP Tests and Measures is only one part.</p>
--	--	--	---

§Chapter 4  
Eligibility

				<p>To prepare for doing more time for doing comprehensive evaluations, there has been 3:1 training for service delivery, as well as STEPS training, both which will provide schedule flexibility complete the comprehensive language evaluations. Spending the time to correctly identify a student with a disability is not a waste of the student's or therapists time.</p>
	<p>5/16/2022 11:41</p>	<p>TAYLER DYE SPEECH-LANGUAGE PATHOLOGIST BERKELEY COUNTY SCHOOLS MARTINSBURG West</p>	<p>The standard deviation and cut score for eligibility should not be same for every test. Some tests are more accurate at different cut scores. The SPELT is 90-100% accurate with a cut score of 90. SLPs should read the test MANUAL to tell if a student has a language disorder or not.</p>	<p>N</p> <p>The new eligibility criteria for language supports your statement. The WVU SALAD Lab is creating a test card for SLPs to use with all of the language tests listed with their cut scores, including the diagnostic accuracy for each test. It will be in the</p>

§Chapter 4  
Eligibility

				updated <i>Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts</i> that will be released in October of 2022, and available on the WVDE website under Speech-Language Impairment.
5/16/2022 11:42	TAYLER DYE SPEECH-LANGUAGE PATHOLOGIST BERKELEY COUNTY SCHOOLS MARTINSBURG West	Language samples should NOT be a requirement. Many tests ALREADY have story retell subtests which ARE language samples, so why do another one just so we can say we did? Many students are struggling so much that that they cannot tell a story or hold a conversation at all - putting them through an assessment measure that we KNOW does not even come close to measuring their ability is wrong. Also, sending a sample to WVU for analysis requires us to wait to finish eligibility.	N	Language samples, either formal or informal, are not required at this time, even though there is research to support the use of both spoken and written language samples as a some of the tools in our diagnostic toolkit as a gold standard. Research shows that the diagnostic accuracy of narrative retells is high in addition to being a sensitive indicator of language impairment (Ireland & Conrad, 2016; Horton-iKard 2010; Peña, Gilliam, & Bedore, 2004.) They are one of the additional assessments you can choose. IDEA requires that you prove what the student is doing through data collection and assessment, not just what

§Chapter 4  
Eligibility

				you know. Sending the sample to WVU when you first get the referral doesn't require you to wait.
5/16/2022 11:42	TAYLER DYE SPEECH-LANGUAGE PATHOLOGIST BERKELEY COUNTY SCHOOLS MARTINSBURG West	For speech - clarify wording that three phonemic errors are required to indicate if this counts sound pairs (k,g) as one or as two moving forward.	A/S	When the developmental charts, reference charts, and other resources were removed from Policy 2419 and moved to the SLP guidance document which was not part of the public comment period. The eligibility for any disabilities is a three-pronged process. So just one prong will not make a student eligible or ineligible. Each case must be examined on an individual basis. The concern about change in the number of speech sound errors is addressed in the Speech Production Assessment Summary that will be included in the updated <i>SLP Guidance Document – Speech-Language Pathology: Services in WV Schools –</i>

			<p><i>Guidance for West Virginia Schools and Districts</i>, scheduled for release in October of 2022. The chart says that “1-2 sound that do not meet norms for acquisition” has a minimal impact on the student.” The counting of speech sound errors is based on phonemic or segmental errors and should not be used when a phonological process is present. Therefore, k/g would be counted as one phonological process most likely because other phonological errors may be present, and a misarticulated /k/ would be counted as one segmental phonemic error.</p>
		<p>What does 30% stimulable mean? Does it mean 3/10 correct? With what cues allowed? What about for R? 30% of a rhotic quality? Is this at the word level? Please be specific.</p>	<p>N</p> <p>As a part of the Speech Production Assessment Summary, the use of the Miccio Probes is one measures that can be used for stimulability. The cues that you would use for stimulability would be up to the SLPs professional judgement. It only tests the sounds that were found to be in</p>

			<p>error and has specific instructions for use which will be added to the <i>Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts</i>, that will be released in October 2022 and trained during training for the new guidance document. There was, however, an error in the percentage. It was changed to 59%.</p>
		<p>What developmental scales will be used for both language and speech? WV has previously used the Iowa-Nebraska Norms which many consider to project speech development much later than other norms.</p>	<p>N</p> <p>the speech sound development norms have been moved to the <i>Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts</i>. The speech sound norms used in the document are the McLeod &amp; Crowe norms. The SLP Guidance Document is not policy or law, so the norms are suggested based on most recent research and data. Each county can select the normative chart they choose to use that best meets the needs of their students.</p>

§Chapter 4  
Eligibility

5/16/2022 11:47	TAYLER DYE SPEECH-LANGUAGE PATHOLOGIST BERKELEY COUNTY SCHOOLS MARTINSBURG West	Social Pragmatic Disorder is extremely difficult to pick up on norm referenced tests, so we should be able to qualify a student based on a variety of measures, not hinging standardized performance. <a href="https://pubs.asha.org/doi/abs/10.1044/2020_PERSP-20-00172?af=R">https://pubs.asha.org/doi/abs/10.1044/2020_PERSP-20-00172?af=R</a> Additionally, using a 1.5 SD and cut score of 78 instead of what is in the MANUAL can make it even harder to identify kids who have SPC.	N	This comment does not seem to be relevant to the current way the Eligibility Criteria was listed in the draft on public comment. Multiple assessments including standardized tests, checklists, observations, and structured tasks must be utilized for an eligibility of Social Communication Disorder utilized and a score of 1.5 standard deviations is not mentioned the use of 1.5 standard deviations on assessments as well as the 78 standard score were removed in the draft that went out for comment. The policy calls for the use of tests with at least 80% sensitivity and specificity and the test publisher's cut scores.
--------------------	---	--	---	---

§Chapter 4  
Eligibility

5/16/2022 11:48	Susan Vance Coordinator of Special Education Services Mineral County Schools Keyser WV	Eligibility Criteria for Blindness and Low Vision: The elimination of a measured acuity opens this category wide open for interpretation. Measured acuity is a critical component of visual impairment and the extent to which it impacts a student's performance within the education environment.	A/C	The proposed changes concerning Blindness and Low Vision are based on an OSEP memo dated May 2017. In the guidance, it discusses evaluations used to qualify students. These are the functional vision assessment and learning media assessments. These assessments will assist the IEP team in determining if the child's vision is impacting their education and if they qualify for special education. Based on the concerns it is proposed that under criteria 1 in eligibility that the following be put back in under the examples list: A functional vision evaluation conducted by a certified teacher of the visually impaired determines the student: 1) has limited ability in visually accessing program-appropriate educational media and materials including but not limited to textbooks, photocopies, chalkboards, computers or environmental signs without modification;
--------------------	--	---	-----	---

			<p>2) has limited ability to visually access the full range of program-appropriate educational media and materials without accommodations including but not limited to changes in posture, body movement focal distance or squinting;  3) demonstrates variable visual ability due to environmental factors including but not limited to contrast, weather, color or movement, that cannot be controlled, or  4) experiences reduced or variable visual ability due to visual fatigue or factors common to the eye condition.</p>
		<p>Eligibility for Developmental Delay: The current eligibility continues to categorize this eligibility area for students ages 3 through 5 only. The limitations of ending this eligibility at age 5 leaves the most vulnerable students at high risk for a gap in special education and related services at a critical developmental period. Extending the Developmental Delay category to age 9 reduces inaccurate disability categories being determined for children between the ages of 5 and 8 years. A young child’s brain is still developing through the early elementary years and one area of</p>	<p>A/C</p> <p>Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.</p>

§Chapter 4  
Eligibility

		<p>development can significantly impact other areas of development. This makes it difficult for an evaluation team to be clear about a child’s true capabilities and area(s) of delay and disability. In order for this area to be extended, a change must also occur with required certification to serve an expanded population. Multicategories teacher certification would need to be able to serve students with this eligibility.</p>	<p>The WVDE Office of Certification has confirmed that special educators with a Multi-Categorical endorsement can have students eligible for developmental delay on their caseloads and provide specialized instruction once an adjustment is made to the Course Code Manual.</p>
<p>5/16/2022 11:49</p>	<p>TAYLER DYE SPEECH-LANGUAGE PATHOLOGIST BERKELEY COUNTY SCHOOLS MARTINSBURG West</p>	<p>Language disorder criteria should change the wording to say that at least one of the tests used must be at LEAST 80% specific and sensitive at detecting language disorders, at the MANUALS distinction, if standardized testing is possible. Let the SLPs decide what other measures need looked at to help them determine clinical treatment.</p>	<p>A/C</p> <p>The Language Disorder criteria was changed. There are now five criteria to choose from, which includes the composite test with the 80% specificity and sensitivity. The SLP does decide which tests, checklists, additional information to use to provide “educational treatment,” not clinical treatment. The student also must meet the other two prongs of eligibility, not just having a language disorder.</p>

--	--

Dynamic assessment sounds nice but without extremely detailed wording, is too vague to be a requirement instead of an option. What will the state accept as dynamic assessment? Will it rely on clinical judgement of what indicates a failed dynamic assessment vs a successful one? What is "little improvement" going to mean?

N

Dynamic assessment has been an accepted practice and term used in the field for several years. The WVDE also provided a webinar on dynamic assessment with Dr. Jayne Brandel from WVU. The reason that the criteria for dynamic assessment is not more specific is it allows the SLP to use her professional judgement to determine progress made. Dynamic assessment can take many forms. It can be data collected during the STEPS Program, results of missed items on an evaluation after "test, teach, retest." Putting a percentage which could be based on a variety of individualized information isn't functional and will not result in a policy change. The way to evaluate the dynamic assessment improvement can be a training piece and part of the *Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts* document. The dynamic

§Chapter 4  
Eligibility

				assessment is an option, not a requirement.
5/16/2022 12:53	Shannon Lambert Speech Language Pathologist Kanawha County Schools Hurricane WV	So, criteria for speech are 3 or more sound errors, less than 30% stimulability, and percentage of consonants correct is 84% or below. There are 24 consonant sounds so 3 errors would be 87% consonants correct, so they wouldn't meet those criteria. Am I understanding this correctly?	N	Your understanding of the way the new criteria identifies Speech Sound Error eligibility is incorrect, but understandable. When the developmental charts, reference charts, and other resources were removed from Policy 2419 and moved to the SLP guidance document which was not part of the public comment period. The eligibility for any disabilities is a three-pronged process. So just one prong will not make a student eligible or ineligible for services. Each case must be examined on an individual bases. The concern about change in the number of

			<p>speech sound errors is addressed in the Speech Sound Production Assessment Summary that will be included in the updated <i>SLP Guidance Document – Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts</i>, scheduled for release in October of 2022. The chart says that “1-2 sound that do not meet norms for acquisition” has a minimal impact on the student.” As far as the reduction from 2 phonological processes to 1, the Speech Production Assessment Summary, designates specific phonological processes have a minimal, moderate, and substantial impact. The Percentage Consonants Correct is a probe that is based on the production of 273 consonants in imitated sentences. The test emulates production in conversational speech and is an option, not a mandatory evaluation.</p>
--	--	--	---

				<p>The Speech Production Assessment Summary provides four areas that will be considered before a decision is made that a student has a “disability” which means that there is direct proof that it impacts academic achievement, as opposed to a “disorder”, which does not impact academics and is not educationally relevant. The four areas are “1) Academic Activities, 2) Academic Tests and Measures, 3) SLP Probes, 4) SLP Tests and Measures. The IDEA and Policy 2419 do not accept one measurement in determining a disability, so the concerns over specific numbers of sound errors still leaves the flexibility and use of professional judgement to address the other three areas.</p>
		<p>-Consider combining Criteria 1 and 2 to clarify that only one comprehensive standardized test is needed.</p>	<p>A/C</p>	<p>Language the Eligibility Criteria for one and two were clarified and simplified.</p>

		<p>Consider adding an option for students who cannot participate in a norm-referenced test.</p>	<p>A/C</p>	<p>A Functional Assessment Summary was added for students who cannot participate in testing. It is mentioned in Policy 2419, and a more specific description and a Functional Assessment Summary will be located in the new SLP Guidance Document mentioned above.</p>
		<p>And currently under criterion 2a, simplify the language about psychometric accuracy since the long sentence is confusing. Remove the language discussing limitations in functional language, etc. since this section is focused on testing results.</p> <ul style="list-style-type: none"> <li>- Add language to specify what to consider if a standard score is not obtained from a language sample (therapist does their own without sending for SALT analysis)</li> <li>- Consider adding information to clarify dynamic assessment (or refer to guidance document).</li> </ul>	<p>A/C</p>	<p>There have been several comments about this section. The section describing the tests that can be used will be simplified and clarified. The use of an informal language sample can be considered a Speech-Language Pathology Probe and not a Speech-Language Pathology Norm-Referenced Test or Measurement, which is one of the four categories of information that can be used to determine language disabilities. The chart will be part of the updated SLP guidance document and designates four areas that will be considered. When the developmental charts,</p>

			<p>reference charts, and other resources were removed from Policy 2419 and moved to the SLP guidance document which was not part of the public comment period, those documents were not shared. The four areas are 1) Academic Activities, 2) Academic Tests and Measures, 3) SLP Probes, 4) SLP Tests and Measures. The reason that the criteria for dynamic assessment is not more specific is it allows the SLP to use her professional judgement to determine progress made. Dynamic assessment can take many forms. It can be data collected during the STEPS Program, results of missed items on an evaluation after "test, teach, retest." Putting a percentage which could be based on a variety of individualized information isn't functional and will not result in a policy change. The way to evaluate the dynamic assessment improvement can be a training piece and part of</p>
--	--	--	--

			<p>the Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts document.</p>
	<p>- Currently 2d - Reword to allow for other types of assessment including informal language samples that don't have standard scores</p>	<p>N</p>	<p>The use of an informal language sample can be considered a Speech-Language Pathology Probe and not a Speech-Language Pathology Norm-Referenced Test or Measurement, which is one of the four categories of information that can be used to determine language disabilities. The chart will be part of the updated SLP guidance document and designates four areas that will be</p>

§Chapter 4  
Eligibility

			<p>considered. When the developmental charts, reference charts, and other resources were removed from Policy 2419 and moved to the SLP guidance document which was not part of the public comment period, those documents were not shared. The four areas are 1) Academic Activities, 2) Academic Tests and Measures, 3) SLP Probes, 4) SLP Tests and Measures.</p>
<p>5/16/2022 13:16</p>	<p>Kelsey Blaine Speech/Language Pathologist Berkeley County Schools Inwood West</p>	<p>The requirements for language eligibility are too repetitive and time consuming for the SLP and student. One standardized test addressing receptive/expressive language is plenty of information to determine eligibility. There is no need for two standardized tests. 5 data sources for language eligibility (observation, 2 standardized tests, language sample, and dynamic assessment data) are also highly unnecessary and time consuming. These sources are in addition to a teacher report and parent information.</p>	<p>N</p> <p>IDEA and Policy 2419 prohibit students being identified based on one test. As an educational speech-language pathologist, remember that the students also have to meet the three prongs of eligibility. Research for almost 10 years has shown that comprehensive language assessments provide the information needed to determine that a student has a language disability. By considering the information gathered through dynamic assessment and language</p>

§Chapter 4  
Eligibility

			<p>sample analysis you can determine whether a student has a language difference (disorder) or a language disability, which is what we treat as educational speech-language pathologists. As far as SLP's time constraints, since 2018 the WVDE has trained on the service delivery models, the STEPS Program, and educational relevance. You might want to read this article [Evaluation and Eligibility for Speech-Language Services in Schools   Perspectives of the ASHA Special Interest Groups ]</p>
<p>5/16/2022 13:16</p>	<p>Leah Tokar Speech Language Pathologist Harrison Co Schools, WV Clarksburg WV</p>	<p>Speech language impairment language eligibility- How is the dynamic assessment going to be a standard measure? This seems like a subjective statement because dynamic assessment could be short or a progress over time. Is there going to be a specific measure to be used for dynamic assessment? What test should be used to meet the specificity and sensitivity criteria for students younger than 3? It's my understanding that the Preschool Language Scales-5 does not meet these specificity and sensitivity requirements.</p>	<p>N</p> <p>The reason that the criteria for dynamic assessment is not more specific is it allows the SLP to use her professional judgement to determine progress made. Dynamic assessment can take many forms. It can be data collected during the STEPS Program, results of missed items on an evaluation after "test, teach, retest." Putting a percentage which could be based on a</p>

				<p>variety of individualized information isn't functional and will not result in a policy change. The way to evaluate the dynamic assessment improvement can be a training piece and part of the <i>Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts</i> document.</p>
--	--	--	--	--

		<p>What if something happens to the SALT lab associated with WVU for language discourse analysis? SLPs are not going to have the time in their schedules and evaluations to complete a discourse analysis.</p> <p>Articulation-</p> <p>Is there an intelligibility rating scale that will correspond with criterion 2D?</p> <p>With these new standards many students who may only have /k/ and /g/ or /l/ errors will no longer qualify according to these guidelines. What about if these errors are impacting their educational performance but they only have limited sound errors? Can we consider /k/ and /g/ errors to be one phonological process for fronting? Percent consonants correct and stimulability will not qualify a student if they only have specific errors (i.e /k/ and /g/, /l/ and /l/ blends, /s/ and /z/)</p>	<p>N</p>	<p>The WVU SALAD Lab is creating a test card with all speech and language tests listed with diagnostic accuracy and cut scores. For the preschool population, you will have two options - if a preschool test is found that has a diagnostic accuracy of at 80% you can use it, or you can use the Functional Assessment Summary. The development charts and additional resources that were removed from Policy 2419 will be in the <i>Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts</i> document. There are more resources such as the Language Assessment Summary that will provide a way to determine the information needed. Informal language sample analysis is an option as a speech probe. The narrative analysis is an option, not mandatory. It's confusing with the strikethroughs; all five components are not</p>
--	--	--	----------	---

			<p>required. Ratings of speech intelligibility should be done in connected speech. The rating by the parent and the teacher can be more objective by using the Intelligibility in Context Scale, a free parent-tool that considers the children's intelligibility with different communication partners. The test and its use will be explained in the SLP Guidance Document – Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts update, which is set for release in October of 2022. The Speech Production Assessment Summary will be included in the guidance document. It provides four areas that will be considered before a decision is made that a student has a “disability” which means that there is direct proof that it impacts academic achievement, as opposed to a “disorder”, which does not impact</p>
--	--	--	--

			<p>academics and is not educationally relevant. The four areas are “1) Academic Activities, 2) Academic Tests and Measures, 3) SLP Probes, 4) SLP Tests and Measures. The intelligibility rating falls in the “Academic Tests and Measures” category. It includes intelligibility rating ranges for the Moderate and Substantial Impact categories which will be used as one piece of information to determine eligibility. The use of the Speech Production Assessment Summary will be trained as part of the overview of the new guidance document. Sound Error Qualifications – Students who only exhibit /k/, /g/, or /l/ should not have qualified in the past for one or two sound errors, if they didn’t meet the other two prongs of eligibility. As educational speech-language pathologists, we don’t identify students with speech sound disorders (clinical), we</p>
--	--	--	--

				<p>identify them if they have speech sound disabilities (educational). There must be proven impact on academics and require specialized instruction. As mentioned above, there will be four areas on the Speech Sound Assessment Summary that will assist the IEP Team in making a determination about eligibility. Remember that you are using normative data, test results, academic information, as well as the percentage of consonants correct, stimulability, and intelligibility. If there is an academic impact that is proven and not projected, the student meets that prong of eligibility. Students have never been placed based on the scores on one articulation test or only developmental norms.</p>
§Chapter 4 Eligibility				
§Chapter 4 Eligibility	<p>5/16/2022 14:21</p> <p>Lori Waller Staff Attorney Disability Rights of West Virginia Charleston WV</p>	<p>Section 2. Eligibility Report</p> <p>The policy states “participate meaningfully in the IEP Team meeting” – should this read “EC meeting” instead?</p>	<p>A/C</p>	<p>Both instances of “IEP Team” in that section should be changed to “EC.” This correction has been made in policy.</p>

		<p>Section 3. State Eligibility Criteria Definitions and Eligibility Criteria A. Autism – it is suggested that the definition use “Autism Spectrum Disorder” rather than “Autism”; It is a spectrum disorder because there is wide variation in the type and severity of symptoms people experience. It is suggested additional characteristics be listed: “Difficulty with communication and interaction with other people; restricted interests and repetitive behaviors, and symptoms that affect their ability to function in school, work, and other areas of life.” Eligibility Criteria for Autism Spectrum Disorder (ASD) rather than “Autism” and then make the labeling the same throughout the section [“ASD” instead of “Autism”].</p>	<p>A/S; N to additional characteristics</p>	<p>The comment suggesting that the term “Autism” be replaced with “Autism Spectrum Disorder” (pg 28) and to use the “ASD” acronym where appropriate is consistent with contemporary terminology used by several major national organizations, including the Center for Disease Control, the American Psychiatric Association, the American Psychological Association, and the National Association of School Psychologists. We will include that Autism is also referred to as Autism Spectrum Disorder. However, to be consistent with IDEA reporting requirements, we will continue to use Autism as the disability category. Additional characteristics: The criteria for Autism are adapted from the DSM-5 criteria for Autism Spectrum Disorder. The additional characteristics for Autism as mentioned by the commenter are</p>
--	--	--	---	---

				<p>already covered by criteria 1a, 1b, 1d, and 3</p>
		<p>F. Emotional Disturbance Eligibility Criteria for Emotional Disturbance:</p> <ol style="list-style-type: none"> <li>1. How many or how much targeted and intensive interventions must occur before a child will be referred for an evaluation for eligibility? It is suggested the policy provide more specific information about this issue.</li> <li>2. It is suggested the policy define what a “long period of time” is.</li> </ol>	<p>N</p>	<p>Because the definition and eligibility criteria for “Emotional Disturbance” do not precisely align with any specific condition or diagnosable disorder, we cannot establish absolute parameters in policy regarding the type, length, or quantity of pre-referral interventions, or the exact length of time during which the characteristics listed in the definition should occur. These decisions should be made on an individual basis depending on the nature of the characteristics observed, with consideration to relevant case law, and with input</p>

			<p>from members of school-based teams (e.g., SAT, MDET, EC) who have experience and training relevant to the assessment and identification of emotional disturbance, related disorders, and relevant legal issues.</p>
		<p>L. Specific Learning Disability Parent Notice Requirements Rather than simply saying “evaluation”, it is suggested (and recommended) that the text be changed to “request an evaluation for special education services.”</p>	<p>N We believe the use of the term “evaluation” is sufficient as this term is already explicitly defined in Chapter 3: Evaluation/Reevaluation, Section 2. Planning, Conducting, and Timelines for a Multidisciplinary Evaluation, and in the Glossary.</p>
		<p>N. Traumatic Brain Injury Under what category do children with congenital or degenerative brain injuries and children with brain injuries induced by birth trauma fall if they are eligible for special education services? It is suggested this information is made clearer in this section.</p>	<p>N Since a child with congenital or degenerative brain injuries or brain injuries induced by birth trauma do not qualify as Traumatic Brain Injury (TBI), they may be referred for multidisciplinary evaluation due to a suspected disability under other eligibility categories such as Developmental Delay, Intellectual</p>

§Chapter 4  
Eligibility

				Disability, Other Health Impairment, or Specific Learning Disability may be considered by the Eligibility Committee, provided that the student meets the requirements of the three-prong test of eligibility for one or more eligibility categories (i.e., the student meets the criteria, experiences an adverse effect on educational performance, and needs special education).
5/16/2022 14:23	Sarah Reggi Speech-Language Pathologist Ohio County Schools Wheeling WV	Pertaining to language evaluations to qualify under Speech/Language Impaired: Will counties be provided with a list of norm-referenced receptive & expressive language evaluations that have sensitivity & specificity of 80% or higher?	N	As a matter of fact, a test card that details not only the diagnostic accuracy of speech and language evaluations, but the cut score for each test is being prepared by the WVU SALAD Lab. The document will be available in the Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts that will be released in October of 2022.

		<p>Pertaining to Eligibility for Language Impairment: I question the consideration of a child's socio-economic status when considering eligibility as it will be likely to under identify children in the low socio-economic group who may need language intervention. Or am I not understanding something?</p>	<p>N</p>	<p>The impact of socio-economic should be considered. Identifying a student with a language disability based on socio-economic status unfairly penalizes the student for being poor. "SLPs should examine background knowledge, experience with narratives, exposure to Tier II vocabulary, understanding abstract and decontextualized language, and perseverance and self-efficacy skills carefully to discern lack of exposure (e.g., difference) from disorder" (Ireland &amp; Conrad, 2016).</p>
		<p>For Dynamic Language Assessment, what is meant by "limited or very limited improvement" when considering eligibility? Is this based on SLP judgment or some other measurement that calculates improvement levels?</p>	<p>N</p>	<p>Dynamic Assessment -2. c. The reason that the criteria for dynamic assessment is not more specific is it allows the SLP to use her professional judgement to determine progress made. Dynamic assessment can take many forms. It can be data collected during the STEPS Program, results of missed items on an evaluation after "test, teach, retest." Putting a percentage</p>

				which could be based on a variety of individualized information isn't functional and will not result in a policy change. The way to evaluate the dynamic assessment improvement can be a training piece and part of the <i>Speech-Language Pathology: Services in WV Schools – Guidance for West Virginia Schools and Districts</i> document.
§Chapter 4 Eligibility	5/16/2022 15:47	Adanne Gibbs Speech Language Pathologist Berkeley County Schools Martinsburg WV	It is not appropriate or feasible for use of 2 tests for language for students. Many of the language tests that are given to students for CD eligibility when the test already assesses both expressive and receptive language.	A/C  Two tests are not required based on feedback during the public comment period. It's a misinterpretation of the meeting of the eligibility requirement.
§Chapter 5 Individualized Education Programs (IEPs)	4/21/2022 7:15	Belinda Baker Special Ed Teacher/Math Wetzel County Schools Paden City WV	Under Services we have to give how many minutes a student will need in the GEE with an inclusion teacher or SEE with a special education teacher. It is hard to get exact minutes per week when we have various things that need to be addressed a month (Advisor/Advisee) etc. It would put us on an alternate schedule therefore our classes would not be 47 mins. However, if we factor in something like that a couple times a month and that for some reason gets cancelled or an extra one is added that would be impossible to add to those minutes when you are writing an annual IEP. I feel it would be easier to be under in	N  Per federal IDEA guidelines and language, a student's special education and related services must be written with specific minutes and a specific time frame and then provided per that framework set in the agreed-upon IEP. Minutes may be written by month (or other interval) rather than weekly to accommodate alternating schedules.

			<p>minutes than over in minutes. To be exact, it is nearly impossible. Please look at how the minutes should be calculated and give us some lead way on how to calculate them. Trying to have exact minutes is nearly impossible. We are in a shortage of special Ed teachers as it is. We don't want to lose anymore with added stress and extra meetings.</p>		
<p>§Chapter 5 Individualized Education Programs (IEPs)</p>	<p>5/11/2022 14:18</p>	<p>Lisa Occupational Therapist UCS Buckhannon WV</p>	<p>It had been brought to my attention due to the wording of 2419 that my district will NOT allow occupational therapy or physical therapy to be part of an IEP for a student who qualified based on Speech only. This is not consistent throughout the state. My district states that OT and PT cannot be related to speech, which as an OT undermines my profession. There is data and research available as to this connection and it is common for OTs and SLPs to work together or even co-treat in other settings. We need some clarification other than stating that related services must be related to special education. Here is an example, a student scores a low IQ, but not low enough to qualify for an IEP. The student was evaluated by OT, PT and SLP as well and qualifies for both OT and SLP. The student receives a speech IEP but cannot receive OT even though their handwriting is not legible, they have poor</p>	<p>N</p>	<p>It appears this comment addresses issues that are not included in the eligibility criteria in Chapter 4 section of Policy 2419. It is not stated in policy that a related services of occupational and/or physical therapy may not be part of a Speech Only IEP. Each decision should be made by the IEP Team based on an individual student's needs. The related service should be provided to assist the student to benefit from special education, which in this case is speech therapy. While OTs and PTs cotreat in other settings, in Policy</p>

self-regulation, and they are unable to independently feed themselves in the cafeteria. All three of those areas can be addressed in a school setting by an OT, but excluding OT from a speech only IEP makes that impossible.

2419, we are referring to the educational setting. In some cases, co-treating does occur in the educational setting, depending on the needs of the student; however, in most of those cases, the student is not speech only and has more complex communication needs. According to your example, the student could potentially receive OT due to the self-regulation and feeding issues, depending upon the type of speech therapy services the student receives. If it articulation, then the OT could help support the self-regulation of the student in therapy and the feeding skills could support the articulation because motor skills are involved in both.

Secondly, the diagnosis on developmental delay ends at the age of 6. This is an arbitrary number. Students who are 6-7 are often more difficult to qualify for an IEP due to the nature of testing and diagnosis. This causes a gap in intervention for many students who deserve to have access to an IEP so that they can perform at their best.

A/C

Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age

			Extending the developmental delay diagnosis would help bridge this gap in access to free and public education.		range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.
§Chapter 5 Individualized Education Programs (IEPs)	5/14/2022 14:14	Dana Sine Capon Bridge WV	Policy should require that PLEP statements be written for all classes/subjects that the student is currently taking or has taken within the current school year. This would allow the IEP team to determine the educational needs of the student in all classes/subjects instead of being limited to just ELA and Math exclusively. Also, parent(s)/adult student(s) should be given the opportunity to provide PLEP statements to include in the IEP.	N	Training on writing PLEP narratives and impact statements include directives that information should be applicable towards other subject areas as (for example...) a student's potential reading disability could negatively impact across the education environment rather than just manifesting in an ELA classroom. Training also includes directives that parent input be solicited and included throughout the IEP-creating process and updated at each annual review.
			IEP Amendments - states, "The amendment process should be used only when minor changes to the IEP are warranted. The need for more substantial changes should result in scheduling an IEP Team meeting." What are minor changes and what are substantial changes?	N	Training provides guidance on what is considered to be a "minor change" while permitting LEAs to also have the flexibility in determining what might be a "substantial change". According to IDEA, an

				<p>amendment may not be used to change the annual IEP meeting date, must be agreed upon by parents, prior written notice is required, and a parent can request a copy of the revised changes. At any point, a parent or district may request an IEP team meeting rather than an amendment.</p>
			<p>C. Other IEP Reviews - Since parent(s)/adult student are equal members of the IEP team, the district should not have the discretion to deny a request for an IEP team meeting made by a parent/adult student for any reason. Is this condition allowing the district to deny a IEP meeting request in compliance with IDEA?</p>	<p>N</p> <p>Yes. The district can only deny unreasonable requests for an IEP Team meeting. Policy 2419 states: "If the parent/adult student believes that the student is not progressing satisfactorily, he or she may request an IEP Team meeting. <u>The district will grant any reasonable request for such a meeting.</u> If the district refuses to convene an IEP meeting requested by the parent or adult student, the district must provide Prior Written Notice (PWN) to the parent/adult student, including an explanation of why the meeting is unnecessary." The IDEA</p>

				<p>does not address this issue. Although the Commentary to IDEA (Federal Register, volume 71, page 46676) states that parents can request an IEP Meeting at any time, there is no language requiring that each request be granted. The IDEA states that “[t]o the extent possible, the public agency must encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.” 300.324(a)(5)</p>
			<p>Section 2. Provision of IEP Information - states, "Each teacher and provider must be informed of specific responsibilities related to implementing the students IEP and acknowledgement of receipt must be documented." How is it documented? Signatures should be required and if requested, a copy provided to the parent(s) and/or adult student.</p>	<p>N</p> <p>General education teachers are provided with updated, finalized copies of the IEP via the READ.IEP app in which they must indicate that they have read and understand the IEP through an electronic verification process. Building administrators have access to reports from this program to document that educators are reading and have verified receipt of the IEPs. LEA special education directors have</p>

				oversight to ensure that all IEPs have been read by implementers. Whether teachers comply with the responsibilities of their employment is a personnel issue and not the responsibility of the parent. Parents or adult students have access to dispute resolution options if they believe that teachers are not following IDEA or Policy 2419 with regard to the delivery of special education services.
			Co-taught classrooms - Co-taught classrooms need to be provided for all core classes and electives instead of being available for Math and ELA exclusively.	<p><b>N</b></p> <p>Policy 2419 does not prohibit co-teaching in any course. The only restrictions on co-teaching in Policy 2419 pertain to the ratio of students with disabilities in the classroom for the academic subjects of ELA, science, social studies, or mathematics.</p>

Part VIII: Annual Goals - Progress: Districts should be required to provide IEP Progress Reports with backing data. This will allow parent(s)/adult student the opportunity to review the data that was used to determine the amount of progress for each of the annual goals/objectives.

N

The Online IEP program provides for the electronic creation of progress reports regarding student's IEP goals in compliance with IDEA. These reports are attached to the current IEP and are printable for sharing with the appropriate parties. The Online IEP also provides a report for the completion of the electronic progress reports which can be monitored at the county level. IDEA requires "periodic reports on the child's progress towards meeting annual goals". It does NOT require report cards or quarterly report cards. These are just examples. The Commentary to IDEA states: "The specific times that progress reports are provided to parents and the specific manner and format in which a child's progress toward meeting the annual goals is reported is best left to State and local officials to determine. In addition, under 614(d)(1)(A)(ii)(I) of

					the Act we cannot interpret section 614 of the Act to require additional information in a child’s IEP that is not specifically required by the Act.”
§Chapter 5 Individualized Education Programs (IEPs)	5/14/2022 14:24	Heather Waselchalk Lead Speech-Language Pathologist Kanawha County Schools Charleston WV	Section 1, Part C, #1 Consider clarifying that the IEP must be written within 30 CALENDAR days of the eligibility rather than just 30 days.	N	The glossary defines “Day” as calendar day unless otherwise indicated as school day or business day.
§Chapter 5 Individualized Education Programs (IEPs)	5/14/22 15:00	Karen M Underwood Special Education Specialist Fayette County Board of Education Fayetteville WV	G. #3 - Assistive Technology indirect services should be considered in the next section for Related Services	N	According to IDEA, assistive technology can be a special education service or a related service, or as a supplementary aid or service.

§Chapter 5 Individualized Education Programs (IEPs)	5/15/2022 18:40	Heather Educator Public School Huntington WV	pg.53 The definition of special education also includes instruction in physical education, speech-language therapy, transition services, travel training, assistive technology services, and vocational education. Should related services such as vision services, OT/PT, orientation and mobility, or sign support be listed in this section?	N	While this comment is accurate, we believe the definitions of special education and related services as defined in the glossary are sufficiently broad enough to include the services mentioned in the comment.
			pg. 64 Statewide and District-wide achievement testing: Policy 2340 does not allow for students the opt out as federal policy does. Should Policy 2419 state there is not an opt out option according to Policy 2340?	N	Policy 2340 addresses assessment procedures for all students. Policy 2419 does not apply to this question.
§Chapter 5 Individualized Education Programs (IEPs)	5/16/2022 3:33	Christina E. Smith Director Astrive Advocacy, Inc. Belleville WV	It is appreciated the Endrew F. v. Douglas County School District decision is addressed in the policy and includes a statement about its impact on the implementation of IDEA. It is critically important for parents, teachers, and other education professionals need to be aware that the law states that programming and IEPs must be appropriately ambitious and have the opportunity to achieve challenging goals. It would be beneficial to develop a guidance document to address examples and strategies that could be used to support a student in making substantial progress and methods on how to monitor and report that progress. (Page 53)	A/S	As part of WVDE technical assistance, we are in the process of developing guidance in this area.
			Section I. IEP Initiation. D. – The numeration is incorrect. The page starts with the numbers 1., 2., and then goes to a., b., through h. The list should be only	A/C	The numbering has been corrected.

			<p>comprised of numbers and no indentations with letters. (Page 55)</p>		
			<p>Section 2. IEP Development. B. – The policy states “The district must ensure the attendance and participation of the IEP Team members at the IEP meeting. Signatures and positions of team members document attendance. Team members participating through an alternate method, such as by telephone or virtually, may be documented without signature in the appropriate section.” As previously stated in the Eligibility comment section, as an advocate (and parent) who attends special education meetings throughout West Virginia, it is appreciated that districts offer different methods of participation in eligibility and IEP meetings. That being said, it is imperative that districts should strive for in person meetings when possible. Cameras should be required to be on for video meetings and should be mandated by the meeting administrator, not only done when requested by a parent or adult student. If a school or family has poor internet, then a hotspot should be provided. Attendance should be taken at the beginning and end of any meeting done by phone. (Page 57)</p>	<p>N</p>	<p>Thank you for the suggestions to improve parent involvement in IEP/EC meetings. All parent participation is valued, and we do not want to exclude or discourage parents from participation due to camera requirements. These decisions appear to be within local district control rather than a policy requirement. These suggestions can be shared with the districts.</p>

		<p>Section 2. IEP Development. E. – Goals and objectives should be developed in conjunction with the parent and student when the student is attending the IEP meeting. The verbiage “and be developed in conjunction with the parents and considerate of the unique needs of each student” should not be removed from the policy. In addition, additional training should be conducted for special education teachers and administrators on how to write appropriate and individualized goals and objectives. (Page 59)</p>	A/C	Parent input is valued, and this language has been restored in Policy 2419.
		<p>Section 2. IEP Development. F. – There are many districts who are gravely lacking in knowledge on conducting transition assessments, developing transition goals, and implementing transition strategies. In addition, there are few educators who utilize the sample Summary of Performance documents to develop meaningful SOPs in adherence with the timelines outlined in policy. Therefore, it is appreciated that additional language has been added to Policy 2419 detailing requirements and expectations for Secondary Transition Services and Summary of Performance. (Page 60)</p>	A/S	Summary of Performance has been relocated to highlight the importance of these IDEA and Policy requirements.

			<p>Section 2. IEP Development. F. – As a parent and advocate who has worked on Supported Decision-Making programs, I was thrilled to see supported decision-making acknowledged in policy. That being said, it is important for supported decision-making to be defined, and the NOTE should read as follows: “IEP teams should consider alternatives to guardianship such as supported decision-making.” Also, when discussing the Transfer of Rights Alternatives to Guardianship, supported decision-making should be included. Multiple calls regarding guardianship and alternatives to guardianship are made to my agency, and the consistent reports are that the school told the parents they must apply for guardianship in order to come to their child’s IEP. (Page 61 &amp;119)</p>	<p>A/C</p>	<p>The language has been adjusted for clarity. A new definition has been added in the Glossary.</p>
			<p>Section 2. IEP Development. I. –The clarification that accommodation needs for statewide testing must align with documented and justified accommodations in the supplementary aids, services, and program accommodations, modifications and supports section and/or in the PLEP is appreciated. However, additional training for Special Education Teachers and Administrators on this topic is needed statewide. (Page 65)</p>	<p>A/S</p>	<p>Counties are responsible for providing staff training. WVDE will update guidance to counties based on revisions to Policy 2419. In addition, counties receive monthly universal supports through special education director calls highlighting resources and training tools and opportunities.</p>

			<p>Section 2. IEP Development. J. – Because the phrase “similar age peers” and how that is to be used in determining placement is in desperate need of defining. Clarification is needed to establish an appropriate age “range”. There are multiple examples of students receiving special education being clumped together in classrooms with multiple age and grade spans. I am aware of 1st graders being taken to high school special education classrooms, students who should be transitioning to middle school being held in elementary schools until 9th grade because the middle school didn’t have the appropriate level of services, and students as young as 5 years old being in classroom with students who were significantly older. (Page 66)</p>	N	<p>Policy 2419 glossary defines age appropriate as “the term applies to peers of similar chronological ages or settings in which peers of similar chronological ages without exceptionalities are served.” In addition, Chapter 6, sec. 3, items 2&amp;3 - states that the district must provide “services in school facilities that serve age-appropriate non-disabled peers” and “classrooms for eligible school age students with exceptionalities in close proximity to classrooms for age-appropriate non-disabled peers.”</p>
			<p>Section 2. IEP Development. J. –Placement Decisions – Policy states “Regardless of placement, the student must be given access to the general education curriculum unless the IEP Team determines it to be inappropriate.” Training is needed for Special Education Teachers and Administrators on the importance of this factor and how this should be accomplished because it is systemically violated throughout the state. (Page 66)</p>	A/S	<p>According to IDEA and Policy 2419, each student with a disability must be provided services and supports in the least restrictive environment. Counties are responsible for providing staff training. WVDE will update guidance to counties based on revisions to Policy 2419. In addition, counties receive monthly universal</p>

				<p>supports through special education director calls highlighting resources and training tools and opportunities.</p>
			<p>Section 2. IEP Development. J. –Placement Decisions – Additional training is needed for Special Education Teachers and Administrators on the term and placement option of Out of School Environment. The description in this policy is appreciated, as it is incorrectly used interchangeably with “homebound” services. A guidance document outlining the two and their differences would be beneficial for both school personnel and families. In addition, it has been demonstrated statewide, that OSE services are overwhelmingly not providing access to the appropriate level of services of neither general education nor special education. (Page 67-68)</p>	<p>N</p> <p>In the special education out-of-school environment option the student’s specialized instruction and services may be temporarily delivered in the home. Counties are responsible for providing staff training. WVDE will update guidance to counties based on revisions to Policy 2419. In addition, counties receive monthly universal supports through special education director calls highlighting resources and training tools and opportunities.</p>

Section 2. IEP Development. M. – Policy states “At the conclusion of the IEP Team meeting, PWN and a copy of the IEP must be provided to the parent/adult student.” In addition, this section also states that the “district must ensure that the student’s IEP is accessible to each service provider who is responsible for its implementation” with details as to how that must be documented to adhere to WV Code.

It is imperative that this directive be made for substitute teachers and aides, both short-term and long-term, and documented in policy, and that training be conducted for Special Education Teachers and Administrators on these two points as it is consistently and egregiously not happening throughout the state in every district. (Page 70)

N

With the exception of long-term substitutes who may obtain access to student IEPs, teacher sub plans should include how to provide accommodations for students with disabilities on a short-term basis. All other special education service providers already have access to IEPs as per Policy 2419. Parents have access to dispute resolution options if they believe that teachers are not following IDEA or Policy 2419. Counties are responsible for providing staff training. WVDE will update guidance to counties based on revisions to Policy 2419. In addition, counties receive monthly universal supports through special education director calls highlighting resources and training tools and opportunities.

			<p>Section 3. IEP Reviews. B. – The phrase “may request” should be changed to “will receive” a copy of the revised IEP. In addition, under this section the phrase “minor changes” should be defined as it has been demonstrated in multiple instances that the amendment process and targeted reviews are being used inappropriately. Training needed on the appropriate use of IEP Amendments (Page 71)</p>	<p>N</p>	<p>Training provides guidance on what is considered to be a “minor change” while permitting LEAs to also have the flexibility in determining what might be a “substantial change”. According to IDEA, an amendment may not be used to change the annual IEP meeting date, must be agreed upon by parents, prior written notice is required, and a parent can request a copy of the revised changes. At any point, a parent or district may request an IEP team meeting rather than an amendment or targeted review.</p>
			<p>Section 3. IEP Reviews. C. – The description and guidance on Targeted IEP Meetings is appreciated as there is much confusion and misuse in many districts. Training is needed for Special Education Teachers and Administrators on the use of Targeted Reviews. (Page 72)</p>	<p>A/S</p>	<p>Counties are responsible for providing staff training. WVDE will update guidance to counties based on revisions to Policy 2419. In addition, counties receive monthly universal supports through special education director calls highlighting resources and training tools and opportunities.</p>

§Chapter 5  
Individualized  
Education  
Programs (IEPs)

5/16/2022  
9:26

Christy Black  
Advocacy Specialist  
WV Developmental  
Disabilities Council  
Charleston WV

The Council appreciates that a statement about IDEA in conjunction with Endrew F. v. Douglas County School District decision is included in the policy. We believe it is important for parents, teachers, and other education professionals need to be aware that the law states that programming and IEPs must be appropriately ambitious and have the opportunity to achieve challenging goals. (Page 53)

A/S

As part of WVDE technical assistance, we are in the process of developing guidance in this area.

On Page 55 the numeration is incorrect. The page starts with 1., 2., and then goes to a., b., etc. when it should be numbers and no letters.

A/C

The typo related to numeration was corrected.

The Council believes that goals and objectives should be developed in conjunction with the parent and student when the student is attending the IEP meeting. We feel this should not be removed from the meeting. We feel that more training should be done around how to write good goals and objectives. (Page 59)

A/C

Parent input is valued, and this language has been restored in Policy 2419. Counties are responsible for providing staff training. WVDE will update guidance to counties based on revisions to Policy 2419. In addition, counties receive monthly universal supports through special education director calls highlighting resources and training tools and opportunities.

<p>The Council appreciates the added language and on Secondary Transition Services and Summary of Performance. (Page 60)</p>	<p>A/S</p>	<p>Summary of Performance has been relocated to highlight the importance of these IDEA and Policy requirements.</p>
<p>The Council was thrilled to see supported decision-making in the document. However, we feel supported decision-making should be defined, and the NOTE she read as follows: IEP teams should consider alternatives to guardianship such as supported decision-making. Also, when discussing the Transfer of Rights Alternatives to Guardianship including supported decision-making should be included. The Council has received multiple calls regarding guardianship and alternatives to guardianship. The common theme we hear is that schools told the parents they must apply for guardianship in order to come to their child's IEP. (Page 61 &amp; 119)</p>	<p>A/C</p>	<p>The language has been adjusted for clarity. A new definition has been added in the Glossary.</p>
<p>The Council appreciates the clarification that accommodation needs for statewide testing must align with documented and justified accommodations in the supplementary aids, services, and program accommodations, modifications and supports section and/or in the PLEP. However, we feel there still needs to be training around this area. (Page 65)</p>	<p>A/S</p>	<p>Counties are responsible for providing staff training. WVDE will update guidance to counties based on revisions to Policy 2419. In addition, counties receive monthly universal supports through special education director calls highlighting resources and training tools and opportunities.</p>

			<p>On page 66 “similar age peers” needs defined. The Council knows of instances when students as young as 5 being in a classroom with much older students.</p>	<p>N</p>	<p>Policy 2419 glossary defines age appropriate as “the term applies to peers of similar chronological ages or settings in which peers of similar chronological ages without exceptionalities are served.” In addition, Chapter 6, sec. 3, items 2&amp;3 - states that the district must provide “services in school facilities that serve age-appropriate non-disabled peers” and “classrooms for eligible school-age students with exceptionalities in close proximity to classrooms for age-appropriate non-disabled peers”.</p>
			<p>The Council appreciates that out of school environment is defined on page 67, and while homebound services is not necessarily special education services there needs to be a statement clarifying the difference or referring the reader to another document on homebound services. School personnel often use the two interchangeably and do not know the difference.</p>	<p>N</p>	<p>In the special education out-of-school environment option the student’s specialized instruction and services may be temporarily delivered in the home. Counties are responsible for providing staff training. WVDE will update guidance to counties based on revisions to Policy 2419. In addition, counties</p>

					receive monthly universal supports through special education director calls highlighting resources and training tools and opportunities.
			The Council believes that “may request” should be changed to “will receive” a copy of the revised IEP on page 71 under the title IEP Amendments. Also, under this section “minor changes” should be defined because the Council believes that the amendment process and targeted reviews are being used inappropriately. Training is needed in this area.	N	Training provides guidance on what is considered to be a “minor change” while permitting LEAs to also have the flexibility in determining what might be a “substantial change.” According to IDEA, an amendment may not be used to change the annual IEP meeting date, must be agreed upon by parents, prior written notice is required, and a parent can request a copy of the revised changes. At any point, a parent or district may request an IEP team meeting rather than an amendment.
§Chapter 5 Individualized Education Programs (IEPs)	5/16/2022 12:10	Caitlin Morgantown Wv	Chapter 5 Section 1 D (page 55) IEP Team Membership: The list of required IEP members starts with numbers 1 and 2 but switches to a.-h. instead of continuing 3-10.	A/C	Enumeration was corrected.

			<p>Chapter 5 Section 2 J (Page 67) Acronyms GEFT and GEPT should be removed. These are not familiar acronyms, not included in the acronym and abbreviation section and only used in the body of the policy once on page 80.</p>	A/C	<p>Acronyms GEFT and GEPT –The definition has been added to the Glossary and Acronym List in policy.</p>
			<p>Chapter 5 Section 5 B (Page 73) Title of the section IEP or Individual Family Service Plan (IFSP) Required needs to be changed to IEP Required. The proposed change has deleted all reference to IFSP as an option for a child transitioning from WVBTT after their third birthday.</p>	A/C	<p>This title has been corrected as proposed.</p>
<p>§Chapter 5 Individualized Education Programs (IEPs)</p>	<p>5/16/2022 14:21</p>	<p>Lori Waller Staff Attorney Disability Rights of West Virginia Charleston WV</p>	<p>Section 1. IEP Initiation D. IEP Team Membership Required members of the IEP Team: Suggested addition: 2.e. The student should be encouraged to participate in the students IEP as a team member as soon as possible, even if it is only for a portion of the meeting. Self-advocacy is an important skill all students need to develop.</p>	A/S	<p>The proposed language in 2419 is consistent with federal guidance from IDEA. Training and support from WVDE emphasize that students should be invited to all meetings and provide input as appropriate and becomes a required team member once the IEP will address transition services.</p>
			<p>F. Invitation to IEP Team Meetings Suggested modification: 6. All efforts should be made to ensure the parent/guardian not only understands the IEP, but also is encouraged to (and feels welcome to) participate in the IEP meeting</p>	A/S	<p>WVDE believes that Chapter 5, Section 1.F.2 sufficiently addresses the concern raised by the commenter with regard to parent/guardian encouragement and support to participate in the IEP process.</p>

			<p>Section 2. IEP Development</p> <p>E. Goals and/or objectives</p> <p>1. It is suggested that “appropriately ambitious” not be included in this sentence; when included, the sentence does not make sense. The WVDE is encouraged to provide a separate statement about goals being “appropriately ambitious” to signify the importance of having appropriately ambitious goals.</p>	A/C	Rephrased statement for clarity.
			<p>G. Statement of Special Education and Related Services</p> <p>Under “The description of services in the IEP must identify:”</p> <p>4. Related Services</p> <p>q. Parental counseling and training – every effort must be made to see that these services are provided; to my knowledge, very few parents receive training on how to implement their child’s IEP and things they can do to maintain consistency between home and school</p>	N	<p>Individual counties are responsible for providing parental support through processes which best match their population. The inclusion of parental counseling and training in the IEP as a related service would be based on an individualized need for that individual student’s program. This section does not address training that would be appropriate for all parents.</p>

\*\*Consistently say “disability” instead of “exceptionality” unless “exceptionality” is truly the appropriate word to use\*\*

N

The varied but specific use of the terms “disability,” “exceptionality,” and “eligible students with exceptionalities” within Policy 2419 is intentional and consistent with the definitions of each term located in the Glossary, and used to differentiate the specific rights and protections afforded to students with “disabilities” and associated procedures which are codified in federal and state law, as opposed to rights and protections afforded to students identified as exclusively gifted or exceptional gifted, which are codified in state law only. In other words, where “disability” is used, the information is not necessarily applicable to gifted or exceptional students who cannot be found eligible for special education services under an IDEA disability category. When “exceptionality” is used, the information pertains to students with

					disabilities as well as those identified as gifted or exceptional gifted. The use of the terms disability and exceptionality is appropriate, and this is explained in "§126-16-4. Summary" of Policy 2419.
§Chapter 5 Individualized Education Programs (IEPs)	5/16/2022 15:32	Blaire Malkin Attorney Mountain State Justice Charleston WV	Inclusion of Endrew F. - This is a positive change and brings the standards in policy 2419 in alignment with the Supreme Court decision in Endrew F. and provides good guidance to IEP teams on making appropriately ambitious goals.	A/S	Thank you for your comment.
			J. Least Restrictive Environment - the definition of a self-contained classroom added here may be in conflict with the definition that is contained in 18-20-11 which states that a "Self-contained classroom" means a classroom at a public school in which a majority of the students in regular attendance are provided special education instruction and as further defined in state board policy." The definition included in 2419 is difficult to apply and relies on the placement of each individual student in the classroom, which leads to the possibility that if one student in	A/C	The definition for self-contained classroom proposed in the revision of Policy 2419 is found in Policy 2510 and was previously developed with the inception of the camera law (WV Code 18-20-11) to delineate in which classrooms cameras are required. Although the definition of self-contained classroom in 18-20-11 uses the term

			<p>a classroom is only placed there 55% of the time, then the entire classroom is no longer considered "self-contained." The definition also does not define "students with the most significant disabilities." It would be helpful if this provision was clarified to define and use the language in the statute - "special education instruction" to ensure alignment with the language of the state law.</p>		<p>"majority" it also states , "as further defined in state board policy." The definition that specifies 60% aligns with the LRE options for students with disabilities and encompasses the students with the most significant disabilities. "Students with the most significant disabilities" has been added to the glossary.</p>
<p><b>§Chapter 6 Administration of Services</b></p>	<p>4/21/2022 19:30</p>	<p>Pam Kinzer Mrs. Mercer County Board of Education Princeton WV</p>	<p>I am in support of the changes on page 84 to pre-k classrooms. I do wonder about staffing for Special Education Pre-k for 9 students. The information provided is not clear.</p>	<p>A/S</p>	<p>In regard to a classroom with 9 students the staffing is looking at a maximum so 9 students would be more than 8 so that would require 1 teacher and 2 additional staff members. This is not a change.</p>
<p>§Chapter 6 Administration of Services</p>	<p>5/1/2022 19:52</p>	<p>Leigh ECCAT Huntington WV</p>	<p>Class size should add in consideration ADHD and SAT students to class size and special ed ratio. Having 10 kids in a classroom is too much for one teacher and not lre.</p>	<p>N</p>	<p>Ten is the maximum number of students with disabilities allowable for PK caseloads. For universal PK classrooms with fewer than 20 students, the maximum allowable number of students with IEPs is 50% of total classroom enrollment in order for the classroom to be considered a regular early</p>

				<p>childhood program. If children do not have an IEP in place, they are not considered in that 50%. Counties must each have a transparent enrollment process in place within the parameters of Policy 2419 and 2525. County policies may allow for fewer than 10 students with IEPs per classroom.</p>
<p>§Chapter 6 Administration of Services</p>	<p>5/3/20 22 15:58</p>	<p>gia deasy Special Education Director Marion County School FAIRMONT WV</p>	<p>The class size limits (30% and 50%) will present challenges given the drop in enrollment. Most LEAs are experiencing a significant drop in enrollment of GE students while IEP student numbers remain stable and/or increasing. This poses a significant concern in creating a master schedule. Concerns are also evident in balancing a PreK inclusive setting. Numbers of SWD are increasing at the PreK level. I have concerns regarding PreK CD only students being counted as a IEP number especially when they become eligible later in the school year when the PreK percentages of SWD/nonhandicapped peer were already determined.</p>	<p>N</p> <p>Integrated and co-taught settings are designed to include students with disabilities in the general education environment. Increasing the number of students with IEPs would be inconsistent with the intent of inclusive practices and may have an unintentional impact on differentiated instruction. The pre-k enrollment process and team must take into consideration the number of children with existing IEPs, the number of children typically identified after the school year begins, and the number of children transitioning from birth to three prior to making classroom</p>

					assignments. The 50% is the least restrictive environment which is not eligible to be waived.
§Chapter 6 Administration of Services	5/3/20 22 18:15	Amanda Robinson parent/teacher n/a Martinsburg WV	Coordinators and teachers need to be made aware of policy manuals regarding assessment and so forth, so students are served correctly. For instance, my son was initially denied alternative assessment based solely on his IQ rather than using the proper rubric in the assessment manual put out by the state. I had to bring the rubric to the coordinator and insist it be used. These tools need to be presented to coordinators and they need to be trained how to use tools set forth by the state.	A/S	Counties are responsible for providing staff training. WVDE will update guidance to counties based on revisions to Policy 2419. In addition, counties receive monthly universal supports through special education director calls highlighting resources and training tools and opportunities.
§Chapter 6 Administration of Services	5/9/20 22 18:50	Paula Townsend Speech Language Pathologist Belington WV	Section 2: Provision of IEP Information, paragraph 3. Sentences 3 and 4 seem to say the same thing in a slightly different way.	A/C	Redundant sentences will be amended.

<p>§Chapter 6 Administration of Services</p>	<p>5/10/2022 10:33</p>	<p>Shannon Noble Special Education Supervisor Mercer County Schools Princeton WV</p>	<p>Section 2: Provision of IEP Information (p. 76) - "The IEP should be finalized and each implementer should be given access to the document in the online IEP system at the conclusion of the IEP Team Meeting." The next statement says, "The online IEP must be finalized, and each implementer must be given access to the IEP in the online IEP system within five days following the IEP Team meeting." The first statement seems to say that the IEP must be finalized at the end of the meeting, while the second statement indicates the IEP should be finalized within five days of the meeting. For clarification purposes, would you consider replacing "finalized" in the first statement with "completed" or some other word that is different from finalized but indicates the IEP should be completed with all corrections made at the conclusion of the meeting?</p>	<p>A/C</p>	<p>The suggested language was adopted.</p>
<p>§Chapter 6 Administration of Services</p>	<p>5/11/2022 10:33</p>	<p>Jessica R. Floyd Teacher of Gifted Fayette County Gifted Oak Hill WV</p>	<p>I would like to comment on the deletion: "When gifted services are delivered in a special education setting no more than fifteen students may be scheduled in an instructional period." This needs to be left in policy. I have taught gifted students for 20 years. In order to properly challenge, instruct, enrich, and accelerate these students, there must be a limit to class size. More than 15 students do not allow the teacher to give the students the individual attention and care that is needed to adequately deliver gifted services. The type of instruction required for this special</p>	<p>A/S</p>	<p>This statement was not removed from the chapter, it was just relocated to the end of the chapter and therefore is still in policy.</p>

			<p>population of learners (individualized projects, exploration, and developing unique interests) requires a smaller class size.</p> <p>Please reconsider leaving this 15-student limit in policy. I fear that students will not get what they need if it is removed.</p>	
<p>§Chapter 6 Administration of Services</p>	<p>5/11/2022 11:54</p>	<p>Carla Brigandi Dr. West Virginia University Morgantown WV</p>	<p>I strongly oppose the proposed deletion of the following: "Special Education classroom for students with giftedness--When gifted services are delivered in a special education setting no more than fifteen students may be scheduled in an instructional period." (pg. 83) Teachers will not be able to deliver adequate instruction to gifted students if the 15-student maximum limit is eliminated. This statement needs to be left in policy.</p>	<p>A/S</p> <p>This statement was not removed from the chapter, it was just relocated to below the table on page 82 and therefore is still in policy.</p>
<p>§Chapter 6 Administration of Services</p>	<p>5/11/2022 12:02</p>	<p>MICHELLE M BARTLETT Teacher of Gifted Fayette County Board of Education Oak Hill WV</p>	<p>I strongly oppose the proposed deletion of the following: "Special Education classroom for students with giftedness--When gifted services are delivered in a special education setting no more than fifteen students may be scheduled in an instructional period." (pg. 83) Teachers will not be able to deliver adequate instruction to gifted students if the 15-student maximum limit is eliminated. This statement needs to be left in policy. This scares me...Directors will take advantage of teacher's, just like they</p>	<p>A/S</p> <p>This statement was not removed from the chapter, it was just relocated to below the table on page 82 and therefore is still in policy.</p>

			have done with the number students we have served. I can't imagine having a class of 29/33 gifted students at one time. They will make this work to their advantage and not to the student's education.		
§Chapter 6 Administration of Services	5/11/2 022 12:49	Marsha Lockhart- Norris Teacher of Gifted McDowell County BOE Welch WV	I strongly oppose the proposed deletion of the following: "Special education classroom for students with giftedness – When gifted services are delivered in a special education setting, no more than fifteen students may be scheduled in an instructional period." As a teacher of gifted students, I do not believe that adequate instruction can be delivered if the 15-student maximum limit is eliminated from the policy. Please leave the statement in the policy. Thank you.	A/S	This statement was not removed from the chapter, it was just relocated to end if the chapter and therefore is still in policy.
§Chapter 6 Administration of Services	5/11/2 022 12:50	Jennifer Pitts Teacher Board of Education Morgantown WV	I strongly oppose the proposed deletion of the following: "Special Education classroom for students with giftedness--When gifted services are delivered in a special education setting no more than fifteen students may be scheduled in an instructional period." (pg. 83) Teachers will not be able to deliver adequate instruction to gifted students if the 15-student maximum limit is eliminated. This statement needs to be left in policy.	A/S	This statement was not removed from the chapter, it was just relocated to the end of the chapter and therefore is still in policy.

<p>§Chapter 6 Administration of Services</p>	<p>5/11/2022 13:59</p>	<p>Michelle Sites Gifted Education Co-Teacher Pendleton County Schools Franklin WV</p>	<p>I strongly oppose the proposed deletion of the following: "Special Education classroom for students with giftedness--When gifted services are delivered in a special education setting no more than fifteen students may be scheduled in an instructional period." (pg. 83) The idea of deleting this cap on students is ridiculous! Special education teachers have to serve monthly special education minutes, and there is no way that anyone can successfully fulfill the individualized instruction required to meet specific education goals in a special education environment, given that you could potentially have a group larger than fifteen. Any experienced educator understands that with larger class sizes, there cannot be individualization unless students are working completely independently, which is not often possible at primary levels, especially if they are working with hands-on materials or learning new skills. Please keep groups small. Smaller groups allow teachers to plan more elaborate activities and gives students the opportunities to be taught, seen, and heard as individuals. You will be hurting teachers and denying children the level of focus and support that they deserve in gifted education in order to reach their educational goals, if you eliminate this classroom size limit.</p>	<p>A/S</p>	<p>This statement was not removed from the chapter, it was just relocated to the end of the chapter and therefore is still in policy.</p>
--	----------------------------	--	--	------------	---

<p>§Chapter 6 Administration of Services</p>	<p>5/11/2 022 14:48</p>	<p>Kimberly Nelson teacher of gifted Berkeley County Schools Martinsburg WV</p>	<p>Teaching gifted students is quite individualized and would be extremely difficult to give specialized instruction to a group over 15. (It is difficult enough with 8 and one teacher.) Please do not delete "Special Education classroom for students with giftedness—When gifted services are delivered in a special education setting no more than fifteen students may be scheduled in an instructional period." (pg. 83) Thank you.</p>	<p>A/S</p>	<p>This statement was not removed from the chapter, it was just relocated to the end of the chapter and therefore is still in policy.</p>
<p>§Chapter 6 Administration of Services</p>	<p>5/14/2 022 14:14</p>	<p>Dana Sine Capon Bridge WV</p>	<p>Training - Training should not be required for staff personnel exclusively. Continual training by the district should be required to be provided/offered for all parent(s)/adult students with an IEP. This will allow parent(s)/adult student(s) to have a better understanding and fully participate as equal members of the IEP team.</p>	<p>N</p>	<p>Chapter 6 speaks directly to "Provisions of Staff."In accordance with IDEA, various training is available through school districts' Parent Education Resource Centers (PERC) and family engagement programs. Each WV school district provides parent training throughout the school year for parents of students with exceptionalities. Additionally, the OSEP funds the West Virginia Parent Training and Information Center (Parent) as a source of support for families of children with disabilities and youth with disabilities under Sections 1470-1473 of the Individuals with Disabilities Education Act</p>

					(IDEA). The purpose WVPTI is to: Provide parents with training, information, and resources that assist families in: a.) making informed decisions; b.) helping their children meet developmental and academic goals; c.) helping their children meet challenging expectations; and d.) preparing their children to achieve positive postsecondary outcomes, and Provide youth with disabilities with training, information, and resources that help them understand their rights and responsibilities and learn self-advocacy skills to prepare them to lead productive lives as independently as possible.
§Chapter 6 Administration of Services	5/14/2022 14:24	Heather Waselchalk Lead Speech- Language Pathologist Kanawha County Schools Charleston WV	In Section 2 on document pages 76-77 in the underlined paragraph, I believe a sentence was repeated with slight rewording. I'm not sure if both are needed: The IEP should be finalized and each implementer.....The online IEP must be finalized and each implementer...	A/C	Redundant sentences will be amended.

<p>§Chapter 6 Administration of Services</p>	<p>5/14/2 2 15:00</p>	<p>Karen M Underwood Special Education Specialist Fayette County Board of Education Fayetteville WV</p>	<p>Page 84 - Universal PreK with Students with IEPs: 2419 currently states 2 staff persons per classroom with no more than 9 students with IEPs then 3 staff persons per classroom required for 10 students with IEPs. DRAFT states 2 staff persons per classroom with no more than 8 students with IEPs, then goes on to 3 staff persons with 10 IEPs. What happened to 9? If draft continues as is, what happens when we get IEP #9?</p>	<p>A/C</p>	<p>In regard to a classroom with 9 students the staffing is looking at a maximum so 9 students would be more than 8 so that would require 1 teacher and 2 additional staff members. This is not a change. Language has been adjusted for clarity.</p>
<p>§Chapter 6 Administration of Services</p>	<p>5/15/2 022 18:40</p>	<p>Heather Educator Public School Huntington WV</p>	<p>pg. 80 There is a concern about the 30% as the enrollment of students continues to decrease and the classrooms decrease. Concern about completing a waiver or starting school within compliance. Can districts not submit waivers if the students are divided equally among all available GEE rooms? Can gifted or speech be excluded from the 30%?</p>	<p>N</p>	<p>Integrated and co-taught settings are designed to include students with disabilities in the general education environment. Increasing the number of students with IEPs would be inconsistent with the intent of inclusive practices and may have an unintentional impact on differentiated instruction. Policy currently states when integrated classrooms are established in academic or core subjects, special education students requiring accommodations must not exceed 30% of the total class enrollment. Therefore, gifted or speech students who do not require</p>

				accommodations in the core course would not be included in the 30%.
§Chapter 6 Administration of Services	5/16/2022 3:33	Christina E. Smith Director Astrive Advocacy, Inc. Belleville WV	Section 2. Provision of IEP Information. – As previously stated in the Chapter 5 IEP Comment Section, policy states that the “district must ensure that the student’s IEP is accessible to each service provider who is responsible for its implementation” with details as to how that must be documented to adhere to WV Code. This is referenced here in this section as well but does not provide the actual code number. It is imperative that this directive be made for substitute teachers and aides, both short-term and long-term, and documented in policy, and that training be conducted for Special Education Teachers and Administrators as it is consistently and egregiously not happening throughout the state in every district. Finally, this required documentation should be available to the parent/adult student as part of their IEP records so that they can be assured that all involved understand the support and specially designed instructional needs of the student. (Page 76)	A/C  With the exception of long-term substitutes who may obtain access to student IEPs, teacher sub plans should include how to provide accommodations for students with disabilities on a short-term basis. All other special education service providers already have access to IEPs as per Policy 2419. Parents have access to dispute resolution options if they believe that teachers are not following IDEA or Policy 2419. WVDE added WV Code 18-20-1c(a)(2) reference on page 76 as suggested.

			<p>Section 3. Provision of Services. 7. – It is appreciated that details are provided for the appropriate grouping of students with disabilities.</p>	A/S	<p>Thank you for your comment on the clarity of detail we have provided.</p>
			<p>Further clarification would be beneficial, however, to address the practice of entire segregated/self-contained classrooms going to lunch or gym/“specials”/electives as a pod or entire class. (Page 77)</p>	N	<p>According to IDEA and Policy 2419, each student with a disability must be provided services and supports in the least restrictive environment. This refers to all activities within the school day including lunch, electives, etc.</p>
			<p>Section 3. Provision of Staff. B. – Policy states that there must be two adults in a pre-k classroom with one of whom is a teacher. Clarification should be made about the qualifications of the second person as with it being only “an adult” does that imply that it can be a parent, volunteer, or any other school personnel who works in the building but has no training or specialization in early-childhood? (Page 79)</p>	N	<p>This is consistent with WVBE Policy 2525. WVBE Policy 2510 delineates current personnel requirements.</p>
			<p>Section 3. Provision of Staff. B. –The explanation of integrated, co-taught, and special education classrooms is appreciated. However, there needs to be more in-depth training regarding appropriate practices in the integrated and co-taught classrooms and the roles of the teachers in each. (Page 80)</p>	A/S	<p>Counties are responsible for providing staff training. WVDE provides training statewide and upon request of LEAs. Any updates to Policy 2419 will be shared with districts and training will be provided as needed. In addition, monthly</p>

					<p>supports are provided through special education director calls highlighting resources and training tools and opportunities.</p>
			<p>Also, the process of determining if a student has Level I, II, or III needs varies widely throughout the state. It would be highly beneficial to parents, guardians, and students to be able to reference these categories and know where they can be found. We are requesting to having a directive in policy that identifies what that level is, how it was determined for the student, and where it should be documented. (Page 80)</p>	<p>A/S</p>	<p>Chapter 6. Sec. 4.b clarifies the characteristics of students with level I, II, and level III needs. It also states that the special education administrator (or designee) determines the level of need for the student based on the guidance provided in this section of Policy 2419. The level is documented in WVEIS as part of the student’s educational record. WVDE will provide guidance to special education administrators as part of General Supervision to increase consistency in assigning levels.</p>
<p>§Chapter 6 Administration of Services</p>	<p>5/16/2022 9:26</p>	<p>Christy Black Advocacy Specialist WV Developmental Disabilities Council Charleston WV</p>	<p>The Council appreciates the reference of State code throughout the document. On page 76 WV code is referenced. However, the code number needs to be added. It should also state long term substitute and understand needs to be added to the acknowledgement. The documentation should be a part of the IEP record so that</p>	<p>A/C</p>	<p>WVDE added WV Code 18-20-1c(a)(2) reference on page 76 as suggested. With the exception of long-term substitutes who may obtain access to student IEPs, teacher sub plans should include how</p>

			<p>the parent is aware that the staff understands and acknowledges their responsibility.</p>	<p>to provide accommodations for students with disabilities on a short-term basis. All other special education service providers already have access to IEPs as per Policy 2419. Parents have access to dispute resolution options if they believe that teachers are not following IDEA or Policy 2419.</p>
			<p>The Council feels that on page 79 that the document clarifies who the two adults are in a pre-k classroom. The policy states that one is a teacher, but is the other a volunteer, a janitor, an aide, or a secretary?</p>	<p>N</p> <p>This is consistent with WVBE Policy 2525. WVBE Policy 2510 delineates current personnel requirements.</p>
			<p>The Council appreciates the explanation of co-taught classrooms. However, we feel there needs to be more training around co-taught classrooms and the roles of the teachers.</p>	<p>A/S</p> <p>Counties are responsible for providing staff training. WVDE provides training statewide and upon request of LEAs. Any updates to Policy 2419 will be shared with districts and training will be provided as needed. In addition, monthly supports are provided through special education director calls highlighting resources and training tools and opportunities.</p>

§Chapter 6 Administration of Services	5/16/2 022 12:10	Caitlin Morgantown Wv	Chapter 6 Section 4 (Page 80) Replace GEFT with General Education: Full-Time and replace GEPT with General Education: Part-Time. If these acronyms will be left in this section of policy, they should be added to the acronym and abbreviation section since the original reference is located in a different chapter.	A/C	The acronyms were added to the Acronym List and Glossary.
			Chapter 6 Section 4 B (Page 82) *Special education classroom for students with giftedness. Suggest removing the asterisk. The asterisk applies to Level II services within the chart. Gifted students are not disabled so are not leveled by directors. This should be a stand-alone statement.	A/C	The asterisk (*) was removed and this language was relocated to the end of the chapter.
§Chapter 6 Administration of Services	5/16/2 022 12:28	Tiffany Barnett Director Of Exceptional Student Education Monongalia County Schools Morgantown West	P. 79- Maximum caseload limits including both duplicated and unduplicated students should be removed. It is likely that this change in policy will result in caseload overages and put undo strain on school systems requiring them to hire additional teachers due to caseload when class size requirements are being met.	A/C	This is not a change for prek; it is a change for speech, although it was previously specified in guidance; for consistency with speech and to allow for the inclusion of duplicated gifted/exceptional gifted students, the limit has been adjusted to 50 for gifted caseloads as a result of this comment.
§Chapter 6 Administration of Services	5/16/2 022 15:32	Blaire Malkin Attorney Mountain State Justice Charleston WV	Co-taught classrooms - The amendment clarifying that both teachers are assigned to the classroom for the full instructional period is beneficial for staffing purposes and for making those classrooms work efficiently and to the greatest benefit for the students in those classrooms.	A/S	The change states that both teachers <u>should</u> be assigned to the classroom for the full instructional period.

**§Chapter 7  
Discipline**

4/21/2022  
19:30

Pam Kinzer  
Mrs.  
Mercer County  
Board of Education  
Princeton WV

A weapon such as a knife that is 2 1/2 inches long is long enough and should not be in school. Please do not change to 3 1/2 inches.

N

A student is still not allowed to bring a knife to school and can be disciplined for it. This specific section of policy addresses actions that fall under the 45-day placement without regard to the behavior being a manifestation of the student's disability.

Although IDEA allows for implementation of this requirement at 2 ½ inches [ § 300.530 (i) and 18 US Code § 930 (g) 2], this change aligns with WV state code Appendix A: Behaviors and Definitions. Possession of Knife not meeting Dangerous Weapon Definition. (W. Va. Code §61-7-2)

This change also aligns with WVBE Policy 4373 which governs discipline of students refers to W. Va. Code Sec.61-7-2. 2 and clarifies that a pocket knife with a blade 3½ inches or less in length, a hunting or fishing knife carried for sports or other recreational uses, or a knife designed for use as a

					<p>tool or household implement shall not be included within the term knife as defined as a deadly weapon unless such knife is knowingly used or intended to be used to produce serious bodily injury or death.</p> <p>To hold a student with a disability accountable to a stricter standard than a non-disabled student would be inappropriate and could be viewed as discriminatory.</p>
§Chapter 7 Discipline	5/10/2022 10:33	Shannon Noble Special Education Supervisor Mercer County Schools Princeton WV	Definition of Weapon (p. 88) - Why increase the length of a knife blade from 2 inches to 3.5 inches? I don't think we should be relaxing our expectations here. A knife with a 2-inch blade could inflict serious bodily injury if that is the intent.	N	This aligns with state code and Policy 4373. See comment above for further detail.
§Chapter 7 Discipline	5/15/2022 18:40	Heather Educator Public School Huntington WV	pg.89 3. Serious bodily injury: Is this portion of Policy 2419 in alignment with Policy 4373, which defines battery?	N	Serious bodily injury is the term used federally and with which we must report yearly as a part of 618 reporting. Battery and SBI are not synonymous. Policy 4373 is going up for review shortly and should align.
§Chapter 7 Discipline	5/16/2022 3:33	Christina E. Smith Director Astrive Advocacy,	TYPO – “disciplinary” misspelled in second paragraph. It should be “disciplinary”. (Page 85)	A/C	The misspelling has been corrected.

	Inc. Belleville WV	<p>Section 2. District Actions When Considering a Disciplinary Change of Placement. 1. – Policy states “provide same-day written notice of the removal, PWN, and the procedural safeguards notice to the parent/adult student of the disciplinary action to be taken”. Clarification in policy on what are acceptable methods of providing those documents would be beneficial as many schools will not provide hard copies to families when they arrive to pick up the student, but will send an email with documents attached, or links to a website that contains the procedural safeguards, both of which are unacceptable if the school did not determine that that was the preferred method for the family. (Page 87)</p>	A/C	<p>The Disciplinary Action Review form specifies hand-delivered or e-mail as the only two acceptable communication modes. The statement that “the parent/adult student must give prior approval for electronic notification” was added to policy to ensure that the communication can be received.</p>
		<p>Section 2. District Actions When Considering a Disciplinary Change of Placement. C. 3. –Policy states that School personnel may remove a student to an IAES for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability” in certain circumstances. It is our opinion that suspension should not be considered when bodily injury occurs if the behavior has already been identified and addressed in a positive behavior support plan and/or the IEP, and the bodily injury occurred as a result of the PBIP or IEP not being followed.</p>	N	<p>There are specific instances in which students would not be protected under Policy 2419 and IDEA § 300.530 (g). Parents have access to dispute resolution options if they believe that LEAs are not following IDEA or Policy 2419.</p>
		<p>Furthermore, school personnel should NOT be allowed to file assault charges on a student when a positive behavior support</p>	N	<p>The decision to file legal charges is not in the purview of this Policy.</p>

			plan and/or IEP is not being followed. (Page 88-89)		School administrators have the authority to suspend students for specific infractions as long as they are following the protections in IDEA.
			Section 3. Additional Disciplinary Considerations. B.1.b.2. – TYPO – “cumulative” is misspelled. It should be “cumulative”. (Page 90)	A/C	Typo was corrected.
§Chapter 7 Discipline	5/16/2022 9:26	Christy Black Advocacy Specialist WV Developmental Disabilities Council Charleston WV	Page 87 on Section 2 District Actions When Considering a Disciplinary Change of Placement. 1. - Policy states "provide same day written notice of the removal, PWN, and the procedural safeguards notice to the parent/adult student of the disciplinary action to be taken. The Council feels that clarification is needed on what are acceptable methods of providing those documents would be beneficial as many schools will not provide hard copies to families when they are arriving to pick up the student, but will send an email with documents attached, or links to a website that contains the procedural safeguards, both of which are unacceptable.	A/C	The Disciplinary Action Review form (DARF) specifies hand-delivered or email as the only two acceptable communication modes. The statement that “the parent/adult student must give prior approval for electronic notification” was added to policy to ensure that the communication can be received.
			The Council feels that on Page 89 a statement should be added stating that suspension should not be considered when DARF occurs when a positive behavior support plan and/or the IEP is not being followed.	A/C	There are specific instances in which students would not be protected under Policy 2419 and IDEA § 300.530 (g). Parents have access to dispute resolution options if they believe that teachers are not following IDEA or Policy 2419.

			Furthermore, school personnel should not be allowed to file assault charges on a student when a positive behavior support plan and/or IEP is not being followed. (page 89)	N	The decision to file legal charges is not in the purview of this Policy. School administrators have the authority to suspend students for specific infractions as long as they are following the protections in IDEA
§Chapter 7 Discipline	5/16/2022 14:21	Lori Waller Staff Attorney Disability Rights of West Virginia Charleston WV	Under "Disciplinary Removals": It is suggested that in-school suspension be considered as a removal as there is a lack of services in ISS, which means the student is missing out on educational time/services/interventions.	N	We believe the policy as written sufficiently describes the conditions under which an in-school suspension (ISS) would not be considered a change of placement. If the listed conditions are not met, then ISS would be considered a change of placement.
§Chapter 7 Discipline	5/16/2022 15:21	Angela Sullivan School Psychologist Putnam County Schools Winfield WV	This suggestion pertains to: "When considering a disciplinary action that will result in a change of placement, the district must: Provide same-day written notice of the removal, PWN, and procedural safeguards notice to the parent/adult student of the disciplinary action to be taken." Suggestion: Specify whether the same-day written notice has to be hand-delivered or can be mailed or what to do if the parent can be contacted. There are instances in which a parent takes their child home after an incident and the administrator needs additional time to fully investigate the situation before making the decision to	N	[§ 300.530 (h) and § 300.504] IDEA requires LEAs to provide same-day written notification. The current Disciplinary Action Review Form allows for hand-delivered or e-mailed as the only methods allowable. Mailing the documents does not satisfy the requirement of notifying the parent on the same day. LEAs must provide students due process and

			<p>recommend expulsion. Once the decision is made to recommend expulsion, the parent will need to be provided with the above-mentioned documentation. However, it is common in these situations for the parent to not return to the school to get the documents or to not answer the phone. Therefore, it is difficult to provide same day written notice of a recommendation for expulsion.</p>		<p>should have completed their investigations prior to suspending or recommending a student for expulsion. If at the time of the suspension the LEA is considering recommending expulsion, this should be documented in the suspension paperwork and PWN which can be provided on the same day.</p>
§Chapter 7 Discipline	5/16/2022 15:32	Blaire Malkin Attorney Mountain State Justice Charleston WV	<p>Paragraph 1- the additions regarding the mandatory nature of the use of a tiered system of supports and positive behavior intervention system are useful changes that should help decrease exclusionary discipline incidents for children with disabilities and help to effectively address challenging behaviors.</p>	A/S	Thank you for your comments.
			<p>Paragraph 2 contains a typo - disciplinary is spelled incorrectly.</p>	A/C	The misspellings has been corrected.
			<p>C1. - The change to reconcile the definition of knife with the definition in the criminal code is a good change that improves consistency.</p>	A/S	Thank you for your comments.

			<p>Expedited Hearing - This section offers a new option to districts under the outcomes that may occur in an expedited hearing. The first two options are that a hearing officer may return to the student to their original placement or order a change in placement for 45 days. The new third option allows districts to file for a new hearing if it believes a student may be dangerous. It is unclear what the purpose of this third option is and it raises due process concerns. It appears that it would allow the district to simply request a new hearing with a hearing officer if it disagrees with the first ruling. Parents are not offered a similar option. Additionally, it appears it could interfere with the appellate rights of parents after a decision is made as to placement by the hearing officer. I am concerned that this addition gives the district a second avenue of appeal that is not offered to parents.</p>	N	<p>The legal citation is IDEA Section 300.532(b)(3). The word “dangerous” will be changed to track the language in IDEA: “if the LEA believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.” This third option would occur only after an initial placement in an IAES has concluded and the district remains concerned that the child’s return may cause injury to the child or to others.</p>
			<p>B.1(2) - The change to clarify that a student cannot have services cease for more than 10 cumulative days is a positive change that also ensures consistency with the manifestation section.</p>	A/S	<p>This is not a change.</p>
			<p>In B.1(2) In this section cumulative is spelled incorrectly.</p>	A/C	<p>The misspelling was corrected.</p>
<p><b>§Chapter 9 General Supervision and Accountability for Performance and Compliance</b></p>	<p>5/1/20 22 19:52</p>	<p>Leigh ECCAT Huntington WV</p>	<p>State complaints and due process means nothing to schools. They are not held accountable for anything. Policy 2419 need to enforce accountability and sanctions.</p>	N	<p>Policy 2419 Chapter 11 Section 2 B. explains that the district’s failure to implement a due process hearing officer’s decision can be addressed through the state complaint</p>

					process. Districts are also subject to enforcement sanctions if they fail to respond to and implement corrective actions in a state complaint Letter of Findings from the OFPS.
§Chapter 9 General Supervision and Accountability for Performance and Compliance	5/15/2 022 18:40	Heather Educator Public School Huntington WV	pg. 107 District Responsibility on testing- Should a statement be made that Policy 2340 does not allow an opt-out option?	N	This does not fall under our policy. See Policy 2340.
§Chapter 9 General Supervision and Accountability for Performance and Compliance	5/16/2 022 3:33	Christina E. Smith Director Astrive Advocacy, Inc. Belleville WV	Section 1. General Supervision. B. 31. - The word “may” should be changed to “will” require an onsite visit when a LEA requests a waiver to exceed staffing ratios. (Page 104)	N	Staffing ratios can be monitored offsite by requesting the class lists and rosters to verify. Onsite visits will be conducted if needed.
§Chapter 9 General Supervision and Accountability for Performance and Compliance	5/16/2 022 9:26	Christy Black Advocacy Specialist WV Developmental Disabilities Council Charleston WV	The Council believes that the word “may” should be changed to “will” require an onsite visit when a LEA requests a waiver to exceed staffing ratios. (Page 104)	N	Staffing ratios can be monitored offsite by requesting the class lists and rosters to verify. Onsite visits will be conducted if needed.

<p>§Chapter 9 General Supervision and Accountability for Performance and Compliance</p>	<p>5/16/2022 14:21</p>	<p>Lori Waller Staff Attorney Disability Rights of West Virginia Charleston WV</p>	<p>Section 1. General Supervision C. Responsibilities of Districts Under “Districts are responsible for ensuring the following:” Suggested Addition: 7. Tracking and monitoring of allegations of abuse toward children receiving special education services **there appears to be an increase in abuse events and the safety and well-being of children receiving special education services is a key piece of implementing the child’s IEP; more needs to be done to protect these children and ensure an appropriate environment in which these children can thrive**</p>	<p>A/S</p>	<p>School employees are mandated reporters and always keep the safety of students as a top priority. Safety and abuse allegations fall under the purview of other policies and agencies, unless the allegations impact FAPE. Parents may access their Procedural Safeguards for any allegations of violations of state or federal special education regulations.</p>
			<p>Section 2. State Performance Plan A. Performance Goals and Indicators WVDE Responsibility The WVDE is strongly encouraged to update the WVEIS system to collect and analyze data appropriately 1. The WVEIS system is very old 2. There is better technology available 3. The WVDE will not be able to identify and correct problems efficiently unless the WVEIS system is updated or changed in its entirety 4. Not having accurate data available impedes the WVDE’s ability to improve and advance the State’s special education system</p>	<p>A/S</p>	<p>WVEIS has been updated to a new version effective July 1, 2022.</p>

			<p>The WVDE also is encouraged to monitor system updates more closely to ensure information is added to the website in a timely manner. For example, it is suggested that the WVDE needs to ensure due process hearing decisions are posted to its website in a timelier manner.</p>	N	The system is currently being upgraded and updates will be added in a timely manner.
			<p>Section 3. Personnel</p> <p>The section on continuing education for psychologists was removed. It is important that the continuing education requirements for all personnel be written in at least one of the WVDE's policies. If the requirements are in a different WVDE policy, it is suggested that that policy be referenced in this section.</p> <p>It is suggested the requirements for ongoing education and training for paraprofessionals, assistants and aides be written out and, if not placed in Policy 2419, it is suggested that the policy containing the requirements should be referenced in this section.</p> <p>The WVDE is encouraged to provide ongoing education and training in the areas of working with children with disabilities, diversity and disproportionality.</p>	A/S	Policy 5500 addresses professional learning for West Virginia educators. The section in Policy 2419 related to school psychologists and other education personnel is removed because it is covered thoroughly in Policy 5500. State code and proposed revisions to Policy 2419 cite Policy 5500.
§Chapter 10 Procedural Safeguards	5/15/2022 18:40	Heather Educator Public School Huntington WV	pg. 116 Right to an IEE- 1. "The parent/adult student is entitled to only one IEE at public expense in response to a district evaluation". This may need clarification. Is this one per school year or only one? Some parents and advocates are asking for multiple IEEs.	N	The parent/adult student is entitled to one IEE at public expense <b>per district evaluation</b> . Therefore, if the district does not complete a new evaluation the parent is not entitled to another IEE.

<p>§Chapter 10 Procedural Safeguards</p>			<p>pg. 117 Does a district have a right to deny an IEE? It is not noted in part B or c on pg. 117. Can a district deny an IEE if a family has already had an IEE?</p>	<p>N</p>	<p>Chapter 10 Section 7.A.1. states that “the parent/adult student is entitled to only one IEE at public expense in response to a district evaluation.” Therefore, the district can deny a request for an additional IEE if the district has not had an additional evaluation. The district must provide a Prior Written Notice (PWN) to the parent/adult student if the request is denied.</p>
<p>§Chapter 10 Procedural Safeguards</p>	<p>5/16/2022 3:33</p>	<p>Christina E. Smith Director Astrive Advocacy, Inc. Belleville WV</p>	<p>Section 9. Adult Student Transfer of Rights. A. – As a parent and advocate who has worked on Supported Decision-Making programs, I was thrilled to see supported decision-making acknowledged in policy in the IEP Development Section. That being said, it is important for supported decision-making to be defined, and a NOTE included that should read as follows: “IEP teams should consider alternatives to guardianship such as supported decision-making.” Also, when discussing the Transfer of Rights Alternatives to Guardianship, supported decision-making should be included. Multiple calls regarding guardianship and alternatives to guardianship are made to my agency, and the consistent reports are that the school told the parents they must apply for</p>	<p>A/C</p>	<p>The language has been adjusted for clarity. New definition has been added in the Glossary.</p>

			guardianship in order to come to their child's IEP. (Page 61 &119)		
§Chapter 10 Procedural Safeguards	5/16/2022 9:26	Christy Black Advocacy Specialist WV Developmental Disabilities Council Charleston WV	The Council was thrilled to see supported decision-making in the document. However, we feel supported decision-making should be defined, and the NOTE she read as follows: IEP teams should consider alternatives to guardianship such as supported decision-making. Also, when discussing the Transfer of Rights Alternatives to Guardianship including supported decision-making should be included. The Council has received multiple calls regarding guardianship and alternatives to guardianship. The common theme we hear is that schools told the parents they must apply for guardianship in order to come to their child's IEP. (Page 61 &119)	A/C	The language has been adjusted for clarity. New definition has been added in the Glossary.
§Chapter 11 Dispute Resolution	5/15/2022 18:40	Heather Educator Public School Huntington WV	pg. 121- A. Can a district request a facilitated IEP meeting or a facilitated EC meeting? It is only noted as a facilitated IEP meeting on pg. 121.	A/C	Language will be added to clarify that a district can request a facilitated EC meeting.

§Chapter 11 Dispute Resolution	5/16/2 022 3:33	Christina E. Smith Director Astrive Advocacy, Inc. Belleville WV	Section 1. Facilitated IEP Meeting. B.4. – The phrase “and are available during the timeframe for the IEP Team meeting” should remain in the policy and not removed. If a parent or adult student is requesting a facilitator, then chances are that there is already a conflict happening that is not allowing for productive meetings. A Facilitator should not be a hold up for an IEP meeting. (Page 121)	N	Individual facilitators are assigned based on their availability, however all requests for facilitators are staffed during the timeframe facilitation is necessary.
§Chapter 11 Dispute Resolution	5/16/2 022 9:26	Christy Black Advocacy Specialist WV Developmental Disabilities Council Charleston WV	The Council believes that the strike through should be removed from “and are available during the timeframe for the IEP Team meeting”. IEP meetings can be difficult. If a parent is requesting a facilitator, then chances are that there has been a contentious issue arise. A Facilitator should not be a hold up for an IEP meeting. (Page 121)	N	Individual facilitators are assigned based on their availability, however all requests for facilitators are staffed during the timeframe facilitation is necessary.
§Glossary	5/15/2 022 18:40	Heather Educator Public School Huntington WV	pg. 148 The word include is in the middle of the line. Spacing between words and after punctuation seem inconsistent in the glossary	A/C	Spacing has been corrected.
§Glossary	5/16/2 022 9:26	Christy Black Advocacy Specialist WV Developmental Disabilities Council Charleston WV	The Council feels that acronyms should not be used in the glossary.	A/C	The glossary will be reviewed to eliminate acronyms that may make it difficult to determine meaning.

<p>§Glossary</p>	<p>5/16/2022 15:32</p>	<p>Blaire Malkin Attorney Mountain State Justice Charleston WV</p>	<p>As identified above, I am concerned with the definition of a self-contained classroom being potentially not in line with the definition in 18-20-11 and am concerned whether this definition has enough clarity for all districts to apply it in the same manner, since it is dependent in part on every student in the class spending more than 60% of their time in the room and most significant disabilities is also not defined.</p>	<p>N</p>	<p>The definition for self-contained classroom proposed in the revision of Policy 2419 is found in Policy 2510 and was previously developed with the inception of the camera law (WV Code 18-20-11) to delineate in which classrooms cameras are required. Although the definition of self-contained classroom in 18-20-11 uses the term "majority" it also states, "as further defined in state board policy." The definition that specifies 60% aligns with the LRE options for students with disabilities and encompasses the students with the most significant disabilities. "Significant cognitive disability" has been added to the glossary.</p>
<p>§West Virginia Procedures Manual for the Education of Students with Exceptionalities Please identify, with reasonable specificity, the</p>	<p>5/13/2022 16:53</p>	<p>June Kimberlin Speech Language Pathologist Harrison County Board of Education DELLSLOW West</p>	<p>I would like to comment on the eligibility criteria for speech and language disorders.</p>	<p>N</p>	<p>Commented in proper section on 2022-05-13 16:53:40.</p>

topic prior to commenting

§West Virginia Procedures Manual for the Education of Students with Exceptionalities Please identify, with reasonable specificity, the topic prior to commenting

5/16/2022 3:33

Christina E. Smith  
Director  
Astrive Advocacy, Inc.  
Belleville WV

Thank you for the opportunity to comment on proposed revisions for WV Policy 2419. Requiring WV Policy 2419 and all referenced guidance documents be published on the LEA's website where it would be easily accessed by adult students, parents, and guardians, would be beneficial. (Page 8)

N

We believe that publishing WVBE policies and guidance in one centralized location (i.e., the WVDE website) is the simplest and most efficient way to ensure broad public access to these documents. This information is currently posted on the WVDE website. Nothing in the proposed policy prohibits LEAs from electing to publish these documents to their websites. Often LEA's do post county procedures and additional guidance. However, this would be left to decision making at the LEA level.

			<p>Because there is no comment section that references the pages prior to this List of Stakeholders section, I am adding my comments on it here. It was disappointing to see that no advocates, only one parent who is also a teacher, and no students were listed as stakeholders who reviewed the draft. We appreciate the Department of Education soliciting input from both internal and external stakeholders but would like to see participants from the categories mentioned above in future document revisions.</p>	<p>N</p>	<p>The public comment period allows for anyone to voice concerns or suggest revisions any number of times. We will, however, consider your comment prior to the next revision cycle.</p>
<p>§West Virginia Procedures Manual for the Education of Students with Exceptionalities Please identify, with reasonable specificity, the topic prior to commenting</p>	<p>5/16/22 9:26</p>	<p>Christy Black Advocacy Specialist WV Developmental Disabilities Council Charleston WV</p>	<p>The policy states that each LEA must adopt their own policy consistent with state and federal law. The Council believes it would be beneficial to require that the policy be required to be published on the LEA's website where it would be easily accessed by adult students, parents, and guardians. (Page 8)</p>	<p>N</p>	<p>We believe that publishing WVBE policies and guidance in one centralized location (i.e., the WVDE website) is the simplest and most efficient way to ensure broad public access to these documents. This information is currently posted on the WVDE website. Nothing in the proposed policy prohibits LEAs from electing to publish these documents to their websites. Often LEA's do post county procedures and additional guidance. However, this would be left to decision making at the LEA level.</p>

§West Virginia Procedures Manual for the Education of Students with Exceptionalities Please identify, with reasonable specificity, the topic prior to commenting

5/16/2022 10:09

Brian Booth  
Putnam County  
Board of Education  
Winfield Unite

Gifted  
Why is Dual Credit being removed? When we have a shortage of AP and honors courses available, and college credit is at a higher rigor it would seem that should be the answer to the shortage. If the student is eligible as exceptional gifted, the district must develop an IEP. If the student is not eligible as exceptional gifted, the IEP Team must review and adjust in consultation with the student's advisor the Personalized Education Plan (PEP) to include courses through the senior year. Courses classified as Honors, Dual Credit, Advanced Placement (AP) and/or International Baccalaureate (IB), classes are to be indicated on the PEP. The implementation and annual review of this plan are required of the district. Students that already have a Four-Year Education Plan in place will continue to have the document reviewed.

N

Dual credit was not removed. It appears in Chapter 4 Section 3.G. The last sentence was eliminated since separate four-year plans were eliminated in 2017.

<p>§West Virginia Procedures Manual for the Education of Students with Exceptionalities Please identify, with reasonable specificity, the topic prior to commenting</p>	<p>5/16/2022 11:48</p>	<p>Susan Vance Coordinator of Special Education Services Mineral County Schools Keyser WV</p>	<p>Eligibility Criteria for Blindness and Low Vision: The elimination of a measured acuity opens this category wide open for interpretation. Measured acuity is a critical component of visual impairment and the extent to which it impacts a student's performance within the education environment.</p>	<p>A/C</p> <p>The proposed changes concerning Blindness and Low Vision are based on an OSEP memo dated May 2017. In the guidance, it discusses evaluations used to qualify students. These are the functional vision assessment and learning media assessments. These assessments will assist the IEP team in determining if the child's vision is impacting their education and if they qualify for special education. Based on the concerns it is proposed that under criteria 1 in eligibility that the following be put back in under the examples list: A functional vision evaluation conducted by a certified teacher of the visually impaired determines the student: 1) has limited ability in visually accessing program-appropriate educational media and materials including but not limited to textbooks, photocopies, chalkboards, computers or environmental signs without modification;</p>
---	------------------------	---	--	---

				<p>2) has limited ability to visually access the full range of program-appropriate educational media and materials without accommodations including but not limited to changes in posture, body movement focal distance or squinting;</p> <p>3) demonstrates variable visual ability due to environmental factors including but not limited to contrast, weather, color or movement, that cannot be controlled, or</p> <p>4) experiences reduced or variable visual ability due to visual fatigue or factors common to the eye condition. (DA)</p>
--	--	--	--	--

			<p>Eligibility for Developmental Delay: The current eligibility continues to categorize this eligibility area for students ages 3 through 5 only. The limitations of ending this eligibility at age 5 leaves the most vulnerable students at high risk for a gap in special education and related services at a critical developmental period. Extending the Developmental Delay category to age 9 reduces inaccurate disability categories being determined for children between the ages of 5 and 9 years.</p> <p>and nine years. A young child’s brain is still developing through the early elementary years and one area of development can significantly impact other areas of development. This makes it difficult for an evaluation team to be clear about a child’s true capabilities and area(s) of delay and disability.</p> <p>In order for this area to be extended, a change must also occur with required certification to serve an expanded population. Multicategories teacher certification would need to be able to serve students with this eligibility.</p>	N	<p>Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024. The WVDE Office of Certification has confirmed that special educators with a Multi-Categorical endorsement can have students eligible for developmental delay on their caseloads and provide specialized instruction once an adjustment is made to the Course Code Manual.</p>
<p>§West Virginia Procedures Manual for the Education of Students with Exceptionalities Please identify, with reasonable specificity, the</p>	<p>5/16/2022 14:21</p>	<p>Lori Waller Staff Attorney Disability Rights of West Virginia Charleston WV</p>	<p>The single biggest issue regarding Policy 2419 is how the SEA ensures all LEAs follow this policy. In many sections, if the LEAs followed the policy as written, there would be no issues regarding the receipt of FAPE. However, many LEAs do not follow the policy as written and it is unclear how enforcement of the policy’s requirements is to occur.</p>	A/S	<p>34 CFR 300.600(a){3}(b)(2) provides authority in federal language for sanctions when noncompliance is identified; the WVDE utilizes these procedures.</p>

topic prior to commenting

			<p>Additionally, there must be mechanisms for tracking and correcting occurrences of abuse toward children with disabilities. These incidents occur too often; upon learning about an incident of abuse, it is strongly suggested swift action be taken to ensure the safety of all affected students as well as appropriate consequences for the educational professional/personnel involved.</p>	A/S	<p>W. Va. Code §18-20-11 provides for a mechanism for tracking occurrences of abuse toward children with disabilities. School employees are mandated reporters and always keep the safety of students as a top priority. Safety and abuse allegations fall under the purview of other policies and agencies, unless the allegations impact FAPE. Parents may access their Procedural Safeguards for any allegations of violations of state or federal special education regulations.</p>
			<p>Finally, it is strongly encouraged that the WVDE update the data collection system. WVEIS is no longer a functional system for collecting and analyzing data properly. If data is not collected and analyzed properly, violations will not be found and corrected, which hinders the provision of FAPE.</p>	A/S	<p>WVEIS is currently transitioning to an updated version.</p>
<p>§West Virginia Procedures Manual for the Education of Students with Exceptionalities Please identify, with reasonable specificity, the</p>	<p>2022-05-16 16:28pm</p>	<p>Richard S. Boothby Bowles Rice LLP rboothby@bowlesrice.com</p>	<p>Page 53: Question about the word programming in this sentence. “. . . Endrew F decision require schools to create programming and IEPs that are . . . “ How is “programming” different from an Individualized Education Program? That is, to what kinds of activities is “programming” referring that would not also fall under the term IEP?</p>	A/C	<p>We agree that the word “<b>Programming</b>” refers to the IEP and is unnecessary. <b>The language has been adjusted.</b></p>

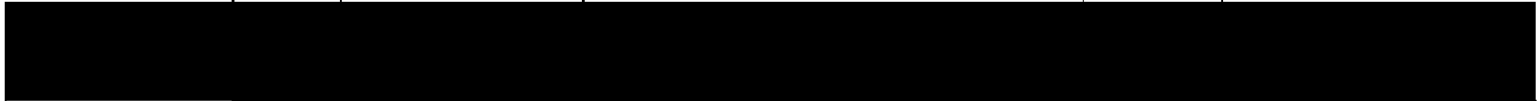
<p>topic prior to commenting</p>			<p>Page 57: Transition services starting at 14 years old. Why the change from age 16? I know that States may choose to do this. I just wondered why WV was making this choice.</p>	<p>N</p>	<p>The change from 16 to 14 was made in the last version of Policy 2419 to allow for transition services to begin earlier to prepare more thoroughly students to successfully transition to adulthood.</p>
			<p>Page 67: Where does the Policy 2419 definition for “self-contained special education classroom” come from? WV Code 18-20-11 defines “Self-contained classroom” as a classroom at a public school in which a majority of the students in regular attendance are provided special education instruction and as further defined in state board policy;” I can only assume that the State Board decided to define this term in Policy 2419 (as opposed to some other policy) to comply with the statutory definition. Is that correct? The statutory requirement that a “majority” of students in the classroom meet the definition is missing from this 2419 definition.</p>	<p>N</p>	<p>The definition for self-contained classroom proposed in the revision of Policy 2419 is found in Policy 2510 and was previously developed with the inception of the camera law (WV Code 18-20-11) to delineate in which classrooms cameras are required. Although the definition of self-contained classroom in 18-20-11 uses “majority” it also states “as further defined in state board policy.” The definition that specifies 60% aligns with the LRE options for students with disabilities and encompasses the students with the most significant disabilities. “Significant cognitive disability” has been added to the glossary.</p>

			<p>Page 76: new text at the bottom of the page. What if the IEP Team is not able to provide the parent/adult student with a “completed version” of the IEP at the conclusion of the IEP Team Meeting? Does that mean there is no “official IEP” ?</p>	N	<p>An IEP should be complete at the conclusion of an IEP Team meeting. If it is not, it should be clear that another meeting is being scheduled to complete the IEP. If an IEP Team does not provide the parent/adult student with a completed version of the IEP at the conclusion of the IEP team meeting, then the IEP team is out of compliance with that policy statement and affected parties may address this noncompliance through the appropriate channels which may include the dispute resolution processes. The completed version may include handwritten additions to finish the meeting but the content must be duplicated in the Online IEP.</p>
			<p>Page 77 (under #7, under Section 3): Is this a major change for school districts? (not grouping students who are receiving direct</p>	N	<p>This is not a major change as it has been enforced through monitoring and is</p>

		services in different content areas together)		now being included in policy for clarification.
		Page 85: spelling error; “disciplinary” should be disciplinary	A/C	The typo has been corrected
		Page 90: Under “In making this determination in an expedited hearing . . . ,” #2 states “if the district believes maintaining the current placement of the student.” That should say, “if the district alleges and the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.”	A/C	This line has been changed to align with IDEA Section 300.532(b)(2)(ii): the hearing officer may (ii) “Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.”
		For #3 on that same page (“If the district believes the student would be dangerous if returned to the original placement, another hearing request may be filed and the hearing officer may determine either of the above.”), what is the legal source for the new text? What is the definition of “dangerous” in this process? Where does it come from?	A/C	The legal citation is IDEA Section 300.532(b)(3). The word “dangerous” will be changed to track the language in IDEA: “if the LEA believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.” This third option would occur only

				after an initial placement in an IAES has concluded and the district remains concerned that the child's return may cause injury to the child or to others.
			Page 121: bottom of the page, #4. Why was this phrase added? "based on availability" Is this intended to account for the fact that the WVDE may not be able to provide a facilitator before the annual IEP review deadline passes for a particular child?	N Individual facilitators are assigned based on their availability, however all requests for facilitators are staffed during the timeframe facilitation is necessary.
			Page 146: definition of "meeting." The word "transfer" is misspelled as "ytransfer."	A/C The typo has been corrected.
			Page 154: definition of "self-contained special education classroom." Same question as I had for page 67. Also, what if the student spends at least 60% of their school day in this classroom but does NOT receive instruction in ALL academic subjects in this room? What if they have one academic elective course in the GEE, do we count that student? The statutory requirement that a "majority" of students in the self-contained classroom meet the definition is missing from this 2419 definition.	N The definition for self-contained classroom proposed in the revision of Policy 2419 is found in Policy 2510 and was previously developed with the inception of the camera law (WV Code 18-20-11) to delineate in which classrooms cameras are required. Although the definition of self-contained classroom in 18-20-11 uses "majority", it also states "as further defined in state board policy." The definition that specifies 60% aligns with

					the LRE options for students with disabilities and encompasses the students with the most significant disabilities. All academic subjects refers to the four core subject areas, not electives. "Significant cognitive disability" has been added to the glossary.
--	--	--	--	--	--



<b>Developmental Delay: Special Comment Period</b>	7/1/22 8:18:02	Nancy Hanna Greenbrier County Schools Assoc. Superintendent/SpEd and PK Director Lewisburg, WV	I like extending to age 7	A/C	Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.
--	-------------------	--	---------------------------	-----	---

Developmental Delay: Special Comment Period	7/1/22 9:06:21	Gia Deasy Marion County Schools SpEd Director Fairmont, WV	I would be most interested in determining teacher certification to case manage the population of DD as they students move into the K -1-2 settings. Could DD be case managed by a multicate SE ?	N	The WVDE Office of Certification has confirmed that special educators with a Multi-Categorical endorsement can have students eligible for developmental delay on their caseloads and
---	-------------------	---	--	---	--

					provide specialized instruction once an adjustment is made to the Course Code Manual. No change to this policy.
			My concern is still that given the 30% limits in GEE and the shrinking general education enrollment there will some serious scheduling concerns. My comments that were submitted was to remove the 30% GEE that is currently in Policy 2419.	N	Integrated and co-taught settings are designed to include students with disabilities in the general education environment. Increasing the number of students with IEPs would be inconsistent with the intent of inclusive practices and may have an unintentional impact on differentiated instruction.
Developmental Delay: Special Comment Period	7/1/22 10:28:22	Douglas Frashure Upshur County Schools Director of Special Education Buckhannon, WV	I am proposing the extended age span for Development Delay. Not all students will need those services to continue; however, some of the students that are identified as DD may have a learning disability. Those students will not qualify as SLD until several years later and have lost the additional services that will help them with their education.	A/C	Thank you for voicing your concerns. This is one of the reasons for the proposed age expansion following the initial public comment period for WVBE Policy 2419.
			I would propose the DD students be informally evaluated to determine is the delay has been corrected or if more intervention his necessary.	N	The scope of the re-evaluation procedures for students served under developmental delay to determine whether the delay has been corrected or if more intervention is necessary would be determined by the

					relevant school-based team (e.g., MDET, EC, or IEP) based on the student-specific circumstances.
			I would also propose student who would continue to be eligible be served in a general ed setting as much as possible and to pull out for minimal time. They need to be in the regular classroom but with additional support to master the skills and progress. Too often when students are removed from the general ed environment they become dependent on the services and are not challenged to grow.	A/S	We appreciate the concerns mentioned in your comment. Students with IEPs, regardless of disability category, should be educated with general education students to the maximum extent possible in accordance with the "Least Restrictive Environment Considerations and Placement Decisions" section of WVBE Policy 2419.
Developmental Delay: Special Comment Period	7/1/22 9:26:13	Jason Cox Wayne County Schools Preschool/Preschool Special Needs Coordinator Wayne, WV	1. Children who are diagnosed with developmental delay does not magically go away when they go to Kindergarten. I have seen children leave PreK with a developmental delay, but not meet the criteria for Intellectual Disability or other exceptionalities. They are the children that struggle in the classroom and have no formal services until they are older around 2nd grade. They are the Specific Learning Disability students. If we continue services with these children we may be able to minimize the loss of individualized/differentiated instruction. We do not do any standardized testing until	N	Thank you for voicing your concerns. Many of the points raised are consistent with the reasons for the proposed age expansion following the initial public comment period for WVBE Policy 2419. Regarding assessment and evaluation, many standardized tests are developed for and normed on individuals of various ages, and serve many

			<p>children are in Third grade; however, we test PK to KG students using a standardized evaluations (such as IQ &amp; Academic evals) at age 5. Why?? How can we justify that? We are miss diagnosing students with Intellectual disabilities when they are truly learning disabled.</p>		<p>different purposes. Further, testing results are often viewed as "snapshots" of how a particular individual performs at a specific time which is why reevaluations for continued eligibility are important.</p>
			<p>2. I believe that for children to qualify for Developmental delay one of the main areas should be either Communication or Cognition. When testing children generally Social Emotional &amp; Adaptive will come naturally to students once enrolled in preschool or KG. In most incidents, it would not need to be formally addressed in an IEP.</p>	<p>N</p>	<p>There are currently no plans to change or emphasize any specific areas of development when determining eligibility for developmental delay. A student will still need to meet the criteria for a delay in two or more of the five areas of cognition, physical development, communication, social/emotional/affective development, and/or self-help skills.</p>
<p>Developmental Delay: Special Comment Period</p>	<p>7/1/22 10:38:33</p>	<p>Susan Vance Mineral County Schools Coordinator of SpEd Services Keyser, WV</p>	<p>I support the proposed revision which adds the 1.5 standard deviation in two or more areas for eligibility with the age expansion to "the end of the school year during which the student turns 7."</p>	<p>A/C</p>	<p>The language will be added to include both the standard deviation and age equivalent methods. Based on comments received regarding developmental delay during the initial comment</p>

				<p>period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.</p>
			<p>I believe a critical component to the expansion lies within the ability of enabling a special education teacher with multi-categorical certification to be able to serve the students upon entry to Kindergarten.</p>	<p>A/C</p> <p>Students eligible for developmental delay who are in kindergarten may be served by special educators with either Preschool Special Needs or Multi-Categorical endorsements. Students eligible for developmental delay who are in first grade or beyond may be served by special educators with a Multi-Categorical endorsement.</p>
<p>Developmental Delay: Special Comment Period</p>	<p>7/1/22 10:56:44</p>	<p>Lori Woods Upshur County Schools PreK Coordinator Buckhannon, WV</p>	<p>I support extending the age range for the Developmental Delay exceptionality. Giving more time with specialized supports provided under the DD category between ages 6 and 8 will lead to more accurate identification of students. ID and LD exceptionalities can be better diagnosed and criteria presented at slightly older ages, rather than it being required to be completed prior to children “aging out” at age 6.</p>	<p>A/C</p> <p>Many of the points raised are consistent with the reasons for the proposed age expansion following the initial public comment period for WVBE Policy 2419. Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from</p>

					stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.
Developmental Delay: Special Comment Period	7/6/22 13:05:43	Sharla Griffith-Shirley Putnam County Director of Exceptional Education Winfield, WV	None at this time.	A/S	No comment.
Developmental Delay: Special Comment Period	7/7/22 16:36:47	Christy Black WV Developmental Disabilities Council Advocacy Specialist Charleston, WV	The WV Developmental Disabilities Council appreciates the opportunity to comment on expanding the age range for the category of developmental delay. The Council feels that the age should be increased for the identification of developmental delays in students up to age 9 or second grade, whichever comes first. The Developmental Disabilities Assistance and Bill of Rights Act defines developmental delay as the following: reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are lifelong or extended duration and are individually planned and coordinated. An individual from birth to age nine, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without	N	Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.

			<p>meeting three or more of the criteria described in in (D) (a) through (g) of the act, if the individual, without services and supports, has a high probability of meeting those criteria later in life.</p>		
			<p>The Council agrees that identifying a child with a lifelong disability such as an intellectual disability can have life-changing implications for the student, especially if misdiagnosed or misidentified.</p>	<p>A/S</p>	<p>This is one of the reasons for the proposed age expansion following the initial public comment period for WVBE Policy 2419.</p>
			<p>The Council disagrees that IQ testing should be the sole diagnosis of developmental delay.</p>	<p>A/S</p>	<p>IQ testing is never the sole determinant for eligibility under any eligibility category, including developmental delay.</p>
			<p>It is also noted that children who are identified as receiving special education services under child count is highest at ages 8 and 9. This could be partly due to trying to fit a child in a specific category. While the Council understands the concern that changing the age may be difficult for some LEAs and providers. However, the main concern for LEAs and providers should be</p>	<p>A/S</p>	<p>Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended</p>

			what is in the best interest of the child. This should not be that difficult.		through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.
			A reevaluation should occur for continued eligibility to determine if a student still qualifies for special education services and under the category that impacts the student's education the most.	A/S	This the typical process as far as evaluations and reevaluations are concerned.
			LEAs should be prepared for policy changes and training to occur at a minimum of every five years with the Policy 2419 update.	A/S	WVDE strives to keep LEAs informed of any upcoming policy revisions, public comment periods, and available trainings regarding any substantial changes to policy.
Developmental Delay: Special Comment Period	7/8/22 10:47:31	Gia Deasy Marion County Schools SpEd Director Fairmont, WV	The ppt gives a clear rationale for expanding the DD age category. Can a multi cate SE teacher case manage a SWD who remains on DD eligibility?	A/S	The WVDE Office of Certification has confirmed that special educators with a Multi-Categorical endorsement can have students in kindergarten and subsequent grades eligible for developmental delay on their caseloads and provide specialized instruction once an adjustment is made to the Course Code Manual.

			I remain concerned about the 30% SWD cap on the GEE environment due to shrinking overall enrollment and now adding the potential for more DD IEP SWD to be in a K GEE environment.	N	Integrated and co-taught settings are designed to include students with disabilities in the general education environment. Increasing the number of students with IEPs would be inconsistent with the intent of inclusive practices and may have an unintentional impact on differentiated instruction.
Developmental Delay: Special Comment Period	7/8/22 11:45:13	Blaire Malkin Mountain State Justice Attorney Charleston, WV	I believe we should expand the range at least 2 years. This will provide more services for students that need special education but will not rely on IQ testing that may not be reliable at such a young age. Expanding the age range of the category of developmental delay allows more time for student's to make progress through the end of first grade - I have seen many children cut off from special education at the end of preschool even though they are still behind because there is no clear category for them. The current cut-off age requires retesting even before kindergarten for many children.	A/C	Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.
Developmental Delay: Special Comment Period	7/8/22 13:10:50	Nicole Hevener Pendleton County Schools Assoc. Superintendent Franklin, WV	I agree that the age for developmental delay should extend at least to age 7. The age being extended allows for more concise data to make eligibility decisions more accurate and will best serve the academic and social well-being for children.	A/C	Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental

				delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.
Developmental Delay: Special Comment Period	7/8/22 13:23:15	Roseann Harvey Upshur County Schools Buckhannon, WV	Age 8	A/C Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.
Developmental Delay: Special Comment Period	7/8/22 13:27:09	Nicole Hiles Morgan County Schools SpEd Director Berkeley Springs, WV	How will people/staff/parents know and calculate the difference between specialized instruction and response to intervention to determine if students will continue to be eligible for services, upon exiting the DD category and being re-evaluated for SLD ?	A/S Students will still need to meet existing criteria for eligibility under Specific Learning Disability as specified in WVBE Policy 2419, including, but not limited to, the provision of Targeted and/or Intensive instruction for the recommended time frames, documentation of this intervention, progress monitoring data at recommended intervals for each tier of instruction, and ruling out exclusionary factors. If a

					student served under developmental delay is suspected of having a specific learning disability, the IEP team should plan to implement the programs and practices necessary to obtain the required data to make an SLD determination by the time the student's age precludes eligibility under developmental delay.
Developmental Delay: Special Comment Period	7/8/22 13:26:53	Holly Samples Kanawha County Schools SpEd Compliance Specialist Charleston, WV	Please consider moving the Developmental Delay age to age 8.	A/C	Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.
Developmental Delay: Special Comment Period	7/8/22 13:26:59	Ann Osburn Upshur County Schools Coordinator of SpEd PreK-12 Buckhannon, WV	I feel that we should increase the DD age to 8. This will give them time to receive interventions.	A/C	Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental

					delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.
Developmental Delay: Special Comment Period	7/8/22 13:27:02	Mimi Browning WVDE Coordinator Charleston, WV	I am in support of an age 8 increase, especially if students are receiving tiered interventions. I also feel like waiting until the end of the year is a better option for student instead of making a change of exceptionality and services during the school year.	A/C	Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.
Developmental Delay: Special Comment Period	7/8/22 13:39:16	Douglas Frashure Upshur County Schools Director of Special Education Buckhannon, WV	The wording of the year the student reaches age 8, prior to the beginning of the next year is good.	A/S	Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.

			<p>Those identified as DD need to be in the general ed environment. There is something requiring the spec ed environment there is probably more going on. Normally Kindergarten and first grade teachers are excellent as using groups and differentiated instruction.</p>	A/S	<p>Students with IEPs, regardless of disability category, should be educated with general education students to the maximum extent possible in accordance with the "Least Restrictive Environment Considerations and Placement Decisions" section of WVBE Policy 2419.</p>
			<p>I don't think raising the percentage for K - 1 to 35% or even 40% for just those two grades would not be a burden. I may also help some of the other kids who are borderline.</p>	N	<p>Integrated and co-taught settings are designed to include students with disabilities in the general education environment. Increasing the number of students with IEPs would be inconsistent with the intent of inclusive practices and may have an unintentional impact on differentiated instruction.</p>
<p>Developmental Delay: Special Comment Period</p>	<p>7/12/22 9:28:53</p>	<p>Kelly Thompson Fayette County Schools SpEd/PreK Director Fayetteville, WV</p>	<p>If PreK Special Needs are certified to teach PreK/Kindergarten students, how will they be able to serve the 6/7 yr old in the 1st grade class?</p>	A/S	<p>Students eligible for developmental delay who are in kindergarten may be served by special educators with either Preschool Special Needs or Multi-Categorical endorsements. Students eligible for developmental delay who are in first grade or beyond may be served</p>

					by special educators with a Multi-Categorical endorsement.
Developmental Delay: Special Comment Period	7/12/22 9:53:10	Megan McCorkle Kanawha County Schools Asst. Superintendent for SpEd and Student Support Charleston, WV	I would recommend the DD age eligibility increase to the school year in which the student turns 8.	A/C	Based on comments received regarding developmental delay during the initial comment period, and feedback obtained from stakeholders, Policy 2419 will allow for the age range of developmental delay to be extended through age six beginning July 1, 2023, and will extend through age seven beginning July 1, 2024.

### *Synopsis of public hearings for the revision of Policy 2419*

Public hearings were scheduled in three locations throughout the state to give stakeholders the opportunity to hear the proposed changes to the policy and voice any questions or concerns prior to the policy being finalized. The public hearings were advertised in local newspapers, on the WVDE website and social media sites, and information was disseminated to each of the 57 LEAs with a directive to publicize these opportunities for information and feedback.

On May 2, 2022 a team of eight individuals from the WVDE traveled to Woodrow Wilson High School at Beckley, WV. In addition, eighteen members of the public attended the first hearing. Stakeholders in attendance included special education directors and staff from local and surrounding districts, parents, a local media representative, a representative from special education advocacy, and at least one member of the WV legislature from the local district, as well as others from the public. Discussion included evaluation timelines, cameras in special education classrooms legislation and implementation, home schooling, plans for charter schools and the Hope Scholarship. All questions and concerns were addressed.

On May 3, 2022 a team of seven individuals from the WVDE traveled to Musselman Middle School at Inwood, WV. In addition, twelve people from the public attended the second hearing. Stakeholders in attendance included special education directors and staff from local and surrounding districts, parents, a local media representative, as well as others from the public. Discussion included concerns with virtual IEP meetings, evaluation timelines, questions about the delivery of special education at proposed virtual charter schools, the provision and timeline of Summary of Performance for exiting students, and the Hope Scholarship. All questions and concerns were addressed.

On May 4, 2022 a team of six individuals from the WVDE traveled to the Wood County Technical Center at Parkersburg, WV. In addition, seven people from the public attended the third hearing. Stakeholders in attendance included the special education director and the assistance superintendent from the local school district, parents, a student, a local media representative, parent resource center staff, and a special education advocate. Discussion included concerns with attendance at virtual IEP meetings, online IEP, WVEIS, discipline and removal issues, eligibility categories and assigned exceptionalities, training needs in schools and within parent groups, accommodations, modifications, and assistive technology. All questions and concerns were addressed.