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## **California Speech Language Hearing Association (CSHA)**

### **Recommended Changes for Speech or Language Impairment (SLI) Eligibility**

Developed by the CSHA SLI Eligibility Task Force

Chair: Tiffany Shahoumian Ruiz, M.S., CCC-SLP

Task Force Members:

Lamitra Baez, Ph.D., CCC-SLP

Brooke Findley, Ed.D., CCC-SLP, BCBA

Destiny Johnson, M.S., CCC-SLP

Shannon Schwerdtfeger, M.S., CCC-SLP

Timothy Tipton, M.A., CCC-SLP

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Crystle Alonzo, Ph.D., CCC-SLP, Assistant Professor, San Diego State University

Kelly Arellano, M.S., CCC-SLP, Hola Clinic

Deborah Arroyo, M.Ed., M.S., CCC-SLP/L

Margaret Maria Arroyo, B.A.

Joseph J. Armendarez, Ph.D., University of California, Davis

Shellie Bader, M.A., CCC-SLP

Andrea Bertone, M.S., CCC-SLP, Assistant Director Early Learning, Madison Metropolitan School District

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Dorothy Bishop, M.A., MPhil, DPhil, Emeritus Professor of Developmental Neuropsychology

University of Oxford

Iván Campos, M.S., CCC-SLP, BCS-CL

Shan Chan, M.A., CCC-SLP

Sally Christian, CScD, CCC-SLP, Cajon Valley Union School District

Dylan Coty, B.A.

Cate Crowley, JD, Ph.D., CCC-SLP, BCS-CL, ASHA Fellow and Honors, Teachers College,

Columbia University

Karen C. Davis, Ph.D., CCC-SLP, Middle Tennessee State University

Karen Dudek-Brannan, Ed.D., M.S., CCC-SLP, Dr. Karen LLC

Claudia Dunaway, MA, CCC-SLP, BCS-CL, BCS-SCF, F-ASHA

Tatyana Elleseff, M.A., CCC-SLP, Rutgers University, Tatyana Elleseff Consulting

Libby Faltis, M.S., CCC-SLP

Anesha Frazer, M.S., CCC-SLP, Entrepreneurial SLP

Caitlin Francis, M.S., CCC-SLP

Ellen Friedland, M.S., BCBA, CCC-SLP

Nicci Greyson, M.S., CCC-SLP

Julie Harrison, M.S., CCC-SLP/L

Jaime Hernandez, Ed.D., Educational Consultant

Amalia W. Hernández, Ed.D, CCC-SLP, Burbank Unified School District

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John Heilmann, Ph.D., CCC-SLP, Professor, School of Rehabilitation Sciences & Technology

University of Wisconsin-Milwaukee

Marie Ireland, Ph.D, CCC-SLP, BCS-CL, Charles Stuart University

Elizabeth Johnson, M.S., CCC-SLP, Essential Pediatrics Inc.

Alisa Konishi-Therkildsen, Ph.D., CCC-SLP University of Alaska Anchorage

Samira Khiantani, M.S., CCC-SLP

Henriette W. Langdon, Ed.D., H-CCC-BCS-CL, Professor Emerita, San Jose State University

Dionna Latimer-Hearn, Ph.D., CCC-SLP Public Scholar, Speech-Language Pathologist,

Educational Consultant, Founder & Director, REACT Initiative, Inc.

Adriana Lavi, Ph.D., CCC-SLP, Lavi Institute

Linda J. Lombardino, Ph.D., CCC-SLP, School of Special Education, School Psychology and  
Early Childhood Studies University of Florida

Marcella Cardoza McCollum, Ed.D., CCC-SLP, San Jose State University

Robert McKinney, M.A., CCC-SLP, California Speech and Hearing Association

Karla McGregor, Ph.D., CCC-SLP, BCS-CL, Professor Emerita, The University of Iowa, Board  
Certified Specialist-Child Language

Gabriella Mendez, AA

Sheri Messiha, M.A., CCC-SLP, Program Specialist, Panama-Buena Vista Union School District

Sharlee Mosburg-Michael, M.A., CCC-SLP, California State University San Marcos

Fé D. Murray, Ed.D., CCC-SLP, Northern Arizona University

Amy Musser, M.A., CCC-SLP

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Shreya Narayanan, B.A.

Nickola Wolf Nelson, Ph.D., Professor Emerita, Western Michigan University

Kathleen Oppenheimer, M.S., CCC-SLP

José A. Ortiz, Ph.D., CCC-SLP, Assistant Professor, Director, Certificate in Bilingual SLP

Hearing & Speech Sciences, University of Maryland

Tom Parton, M.S., CCC-SLP/L, Everyone Reading Illinois

Elizabeth Peña, Ph.D., CCC-SLP, University of California, Irvine

Kelly Perry, M.A., CCC-SLP

Allyson Bañales Pfeifer, M.A., CCC-SLP, Whittier Elementary Teachers' Association

Elena Plante, Ph.D., CCC-SLP, University of Arizona

Louise Ponla, B.S., SLPA

Jenny L. Ponzuric, M.A., LEP, ABSNP, Ponzouric Learning Solutions

Benjamin Reece, Ed.D., CCC-SLP, CSHA VP of Advocacy, San Joaquin Delta College SLPA

Program Director

Rachel Regi, B.A.

Celeste Roseberry-McKibbin, Ph.D., CCC-SLP, F-ASHA, Sacramento State University and San

Juan Unified School District

Marianne Szijj, M.S. CCC-SLP

Sara Serota, M.S., CCC-SLP, Sara Serota Speech Therapy, Ventura Unified School District

Tammie Spaulding, Ph.D., CCC-SLP, University of Connecticut

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Alisha Springle, Ph.D., CCC-SLP, BCS-CL, 2025 Chair, American Board of Child Language and Language Disorders

Christine Strike-Roussos, Ph.D, CCC-SLP, California State University, Northridge

Deborah Swain, Ed.D., CCC-SLP, BCS-CL, The Swain Center

Jeannine Topalian, Psy.D., California Association of School Psychologists

Russell Van Dyke, Ph.D, Director of Special Education Assessments Panama-Buena Vista Union School District

Cynthia Van Laar, M.A., CCC-SLP, San Jose State University

Maret Wilson Walker, M.S., CCC-SLP, SPG Therapy & Education

Elizabeth Weber, Ph.D., CCC-SLP, California State University, Northridge

Toya Wyatt, Ph.D., CCC-SLP, California State University at Fullerton

Hatun Zengin-Bolatkale, Ph.D., CCC-SLP, San Diego State University

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## **Recommended Changes for Speech or Language Impairment**

The SLI Eligibility Task Force of CSHA recommends updating the criteria for language disorder reflected in Title 5, § 3030 of the California Code of Regulations (CCR) to align with the Individuals with Disabilities Education Act (IDEA) and evidence-based practices. The current regulations are inconsistent with these standards and potentially lead to misidentification of students. These proposed changes support an evaluation process that is consistent with IDEA and evidence-based practices, to better ensure correct identification of students with SLI that has an educational impact on their learning.

### **Cognitive Referencing**

The first recommended change is the elimination of cognitive referencing as a potential criterion for the identification of a language impairment, which may also be referred to as a language disorder. Cognitive referencing is an outdated practice, developed in the 1970s, that potentially denies students with disabilities access to special education and related services. It is based on theories that assume that cognitive prerequisites dictate language acquisition, which led to the practice of utilizing a discrepancy formula to determine whether a child's language skills differed from their cognitive potential (Cromer, 1976 as cited in Krassowski & Plante, 1997). This is often operationalized as a discrepancy between language and mental age (IQ) scores attained on norm-referenced tests (Krassowski & Plante, 1997).

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Since the development of those theories, there has been a lack of empirical evidence to support them. Conversely, there is empirical evidence that indicates that nonverbal cognitive abilities do not modulate language growth among children with language disorders (Dethorne & Watkins, 2006; Nelson, 2000; Norbury et al., 2017; Volkers, 2018). In fact, children's language skills can surpass their nonverbal IQ (Dethorne & Watkins, 2006). Most importantly, children can benefit from language intervention (or other speech-language services) regardless of whether their cognitive test scores are significantly higher than their language test scores (Krassowski & Plante, 1997; McGregor et al., 2020; Nelson, 2000). IDEA does not require a discrepancy between language and cognition for a student to be found eligible under SLI, and it requires that services are based on individual needs (West Virginia Department of Education, 2014 as cited in Ireland & Conrad, 2016).

The American Speech-Language-Hearing Association (ASHA) has a strong position statement against the use of cognitive referencing (ASHA, n.d.-b). Additionally, international, national, and state organizations have updated guidelines to eliminate the use of a nonverbal IQ score as part of the identification of language disorders. These include organizations such as the World Health Organization (WHO, n.d.), the National Joint Committee for Persons with Severe Communication Needs (NJC, 2003), and the American Psychological Association (APA, 2022). Furthermore, many state education agencies across the country, including in Virginia, Wisconsin, Arizona, and Tennessee, have recently updated their guidelines to prohibit cognitive referencing. In fact, the vast majority of states no longer include cognitive referencing for identifying the



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presence of SLI and/or determining the appropriateness of speech and language intervention and services (McKerlie, 2020).

Unfortunately, the current CCR for SLI still allows for cognitive referencing. It states, “The pupil scores at least 1.5 standard deviations below the mean, or below the 7th percentile, for his or her chronological age or developmental level” (CCR, Title 5, § 3030(b)(11)(D), 2024b). The inclusion of the phrase “or developmental level” is interpreted by some local education agencies as a requirement to use cognitive referencing to determine eligibility for SLI. There are published guidelines from several Special Education Local Plan Areas condoning the use of cognitive referencing, which highlights the critical need for explicit and updated regulations. Although most speech-language pathologists (SLPs) are knowledgeable about the lack of empirical support for cognitive referencing, the language of the current CCR may result in a conflict between following the regulations and providing an appropriate evaluation. The current verbiage of the CCR perpetuates the use of this outdated practice, posing an ethical and legal conflict for SLPs, who are expected to engage in services that uphold client welfare and evidence-based practice. Updating the CCR to specifically prohibit cognitive referencing allows for a Free and Appropriate Public Education and speech-language services when appropriate.

### **Greater Focus on Comprehensive and Non-Discriminatory Assessment Practices**

The second recommended change concerns the current CCR’s strong emphasis on norm-referenced, standardized language tests. The CCR lists three pathways to eligibility under language disorders. The first pathway relies exclusively on norm-referenced test scores (two tests), and the second relies on one norm-referenced test score and one language sample analysis.

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The third pathway of eligibility indicates "when standardized tests are considered to be invalid for the specific pupil, the expected language performance level shall be determined by alternative means as specified on the assessment plan" (CCR, Title 5, § 3030(b)(11)(D), 2024b).

The eligibility criteria outlined in all three pathways are problematic for several reasons. To begin, the critical problems associated with the first two eligibility pathways will be discussed. As outlined in IDEA (2004), eligibility decisions should be informed by data from a variety of tools and strategies. Best practices include use of sources such as developmental/case histories, teacher and parent interviews, observations, and a variety of evaluation tools and strategies (ASHA, n.d.-a; Lewis et al., 2010; Westby et al., 2003). Although some clinicians recognize that a comprehensive language assessment should include multiple measures, the reliance on standardized test scores of the CCR leads to an overemphasis and dependence on norm-referenced test scores alone in eligibility recommendations (Fulcher-Rood et al., 2018).

Furthermore, IDEA (2017) mandates that evaluation materials be selected and administered "so as not to be discriminatory on a racial or cultural basis" (Sec. 300.304 (c)(1)(i)). It has been well documented that language tests can be discriminatory due to a variety of reasons, such as scarcity of culturally and linguistically appropriate norm-referenced assessment tools that have adequate validity and reliability, differences in language socialization practices, and tests being heavily based on mainstream socio-cultural experiences and Mainstream American English (Freeman & Schroeder, 2022; Paradis, 2005; Rice, 2004). These concerns have been shown to contribute to disproportionality and overidentification of culturally, linguistically, and economically diverse students in special education (Pieretti, 2015). Given the racial, ethnic, socioeconomic, and

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linguistic diversity in the state of California, it is imperative that SLPs employ appropriate measures and differentiate their assessment strategies.

Regarding the third pathway of eligibility (i.e., alternative assessment), the verbiage in the CCR related to using alternative methods, and the stipulation to have it specified on the assessment plan, is ambiguous and leads to logistical and administrative barriers. This lack of clarity contributes to hesitancy on the part of those conducting the assessments, which leads to underutilization of the third pathway, further perpetuating barriers to the provision of accurate and appropriate eligibility determinations. The assessment process is a dynamic interplay between the examiner, the student, and the context in which the student is being assessed. As such, flexibility to change and adapt assessment tools should be encouraged.

Revision of the CCR to support a variety of appropriate and non-discriminatory assessment methods and strategies for all students will result in more evidence-based recommendations for eligibility that better align with the federal requirements outlined in IDEA (2004). In recent years, international, national, and state organizations, including organizations such as the WHO, ASHA, the National Black Association for Speech-Language and Hearing (n.d.), and the APA (n.d.), have published and/or updated guidelines to include culturally responsive practices. Many SEAs across the country, including Virginia, Wisconsin, Arizona, Michigan, and Tennessee, have recently updated their guidelines to allow for non-discriminatory and culturally responsive assessment procedures. Additionally, the largest public school district in the United States, the New York City Public Schools, explicitly requires the use of culturally responsive practices and prohibits use of norm-referenced test scores when they are not reflective of the child's

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socio-cultural background. Given that California is one of the most culturally and linguistically diverse states in the nation, it is imperative that its regulations lend to the provision of disability assessments tailored to the specific needs of the student.

To address the previously discussed concerns, the SLI Eligibility Task Force recommends that the CCR be updated to encourage an evaluation process that aligns with current evidence and better ensures that evaluators employ a variety of appropriate and non-discriminatory assessment methods that are specific to the student being evaluated. It is proposed that the criteria be flexible, comprehensive, and include multiple data points in order to yield accurate information about a student's true language abilities (Bishop, et al., 2016; CDE, 2019; Castilla-Earls et al., 2020; WHO, n.d.). Eligibility decisions should be informed by converging evidence in which multiple data points come together and trend in the same direction (IDEA, 2004; Castilla-Earls et al., 2020). The evaluation must include cross-validated data sources, including information from a variety of perspectives, from a variety of types of measures and procedures, and from several environments as appropriate for each child (CDE, 2019). A wider variety of assessment methods and procedures would allow for triangulation of data, will allow for extrinsic factors to be more closely considered and will support the accurate identification of students with SLI. These changes will support more equitable educational outcomes.

### **Single Cut Score**

The third recommended change is eliminating the requirement to use an arbitrary and single cut score across tests. Prior to the past several decades of research, it was a common practice to use a single cut score (e.g., 1.5 standard deviations below the mean) across tests to identify language

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disorders; however, there is evidence that advises against using this practice (Spaulding et al., 2006). Using single cut scores across tests might lead to under-identification of students with language impairments using tests for which the best cut score is higher and over-identification of students who do not have language impairments using tests for which the best cut score is lower.

Additionally, using a single cut score across tests goes against IDEA's (2004) mandate, which states that assessments must be valid for the purpose for which they are used (Lavi, 2020). The appropriate cut score depends on the purpose for which the test is being used and is derived from the specific test's psychometric properties, most commonly, the diagnostic accuracy (Spaulding, et al., 2006). There has been a shift in the manner in which language tests are being developed, designed, and normed, which further impacts the empirically derived cut score. Establishing and utilizing test-specific cut scores to support diagnostic decision-making aligns with the principles outlined in the Standards for Reporting of Diagnostic Accuracy Studies guidelines (Cohen et al., 2016). The removal of the current, arbitrary cut score (i.e., below 1.5 standard deviations) will allow SLPs to use norm-referenced assessments in the way they are intended (Ireland & Conrad, 2016; Plante & Vance 1994; Spaulding et al., 2006). The use of norm-referenced tests according to the purposes for which they were validated will align with federal law and evidenced-based practices, which, in turn, will support more accurate disability decisions.

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## **Phonology**

The fourth recommended change to the CCR pertains to the addition of phonology as one of the five subsystems of language. This revision is long overdue and essential to align with current evidence-based practice in the field of speech-language pathology. Phonology is defined as the sound system of a language and the rules that govern sound combinations (ASHA, 1993).

Currently, only four subsystems of language are listed in the CCR: semantics, morphology, syntax, and pragmatics. A language disorder may affect one or any combination of the five subsystems of language (ASHA, n.d.-c; ASHA, 1993; ASHA 2001; Paul et al., 2018). With the omission of the major language subsystem of phonology from the CCR, students are at great risk for having their critical phonological skills under-assessed and under-treated (CSHA, 2018; J. M. Ward-Lonergan & R. A. Pieretti, personal communication, May 15, 2025).

At the time that the CCR was written, phonology had not yet received substantial attention and recognition in the field. The 1980s marked a turning point in the field, notably with the introduction of Hodson's Cycles Approach, which emphasized the systematic remediation of phonological processes (Hodson & Paden, 1983). During this time, research also began to reveal strong associations between phonological impairments in early childhood and later language and literacy difficulties, including challenges with decoding, reading comprehension, and spelling (Catts, 1993; Paul et al., 2018). As a result, phonology gained recognition as a distinct and essential language subsystem, highly relevant to both spoken and written communication.

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ASHA outlines phonology as a distinct service delivery area for SLPs within both speech production and language domains (ASHA, 2016). Further, ASHA's Practice Portal for Spoken Language Disorders recommends phonological assessment as a key domain of spoken language evaluations (ASHA, n.d.-c). SLPs play a central role in identifying and treating phonological deficits. Their specialized training in phonological processing supports collaboration with educators, psychologists, and intervention teams to address the language foundations necessary for academic achievement (CSHA, 2018).

Children with phonological disorders may exhibit various difficulties, including the following: delays in acquiring age-appropriate phonological patterns, reduced speech intelligibility, difficulty with nonword repetition, and limited phonological awareness (e.g., rhyming, blending, segmenting, and phoneme manipulation) (ASHA, n.d.-c). These challenges are commonly seen in children with spoken language disorders and must be addressed for effective communication and literacy development (ASHA, n.d.-c). SLPs bring a unique and necessary perspective to interdisciplinary teams due to their deep understanding of how language systems interact in both oral and written contexts. This expertise in phonological processing supports accurate diagnosis, intervention planning, and collaboration with educators and psychologists to ensure students' access to the curriculum (CSHA, 2018). Intervention for phonological disorders should address both speech production and metalinguistic awareness. For example, enhancing sound accuracy and increasing consonant inventories, reducing use of phonological processes, strengthening phonological awareness, including rhyming, segmentation, blending, and manipulation tasks at the syllable, onset-rime, and phoneme levels (Paul et al., 2018).

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In summary, the exclusion of phonology from current regulations does not reflect contemporary clinical and research knowledge. Phonological deficits, if not assessed and treated, may significantly impact both oral language development and literacy acquisition. Therefore, the exclusion of phonology from regulatory definitions risks inadequate identification and intervention for students with language disorders and language-learning disabilities (CSHA, 2018; J. M. Ward-Lonergan & R. A. Pieretti, personal communication, May 15, 2025). Including phonology as a distinct language subsystem will better ensure that students with phonological impairments receive appropriate, evidence-based assessment and intervention services. Phonology should be included in an assessment battery when it is an area of suspected disability in compliance with IDEA (IDEA, 2004).

## **Conclusion**

There is a pressing need to update Title 5, § 3030 of the CCR for SLI eligibility criteria, which has remained unchanged for over 40 years. During that time, the field of speech-language pathology has undergone significant advancements in research, which have shaped the understanding of the defining characteristics of recognized language disorders and have refined assessment practices. The current regulatory language is outdated and no longer reflects federal law and evidence-based clinical standards, creating a serious risk of misidentification, disproportionality, and denial of warranted services for students with language impairments.

The recommendations include the removal of cognitive referencing, a greater focus on comprehensive and non-discriminatory assessment practices, a focus on test-specific cut-scores for norm-referenced tests, and the inclusion of phonology as a subsystem of language. The



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recommended changes aim to bring California's eligibility criteria into full alignment with the IDEA and modern best practices. These long-overdue updates reflect the complex and diverse needs of today's public school students and promote a more appropriate and accurate evaluation process. By making this change, California has the opportunity to better serve the public good and strengthen its special education system, particularly in the identification and support of students with language impairments.

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## **DRAFT**

### **5 CCR § 3030 § 3030. Eligibility Criteria.**

(a) A pupil shall qualify as an individual with exceptional needs, pursuant to Education Code section 56026, if the results of the assessment as required by Education Code section 56320 demonstrate that the degree of the child's impairment as described in subdivisions (b)(1) through (b)(13) requires special education in one or more of the program options authorized by Education Code section 56361. The decision as to whether or not the assessment results demonstrate that the degree of the child's impairment requires special education shall be made by the IEP team, including personnel in accordance with Education Code section 56341(b). The IEP team shall take into account all the relevant material which is available on the child. No single score or product of scores shall be used as the sole criterion for the decision of the IEP team as to the child's eligibility for special education. (b) The disability terms used in defining an individual with exceptional needs are as follows:

(D) Language Disorder. A pupil has a language disorder when he or she demonstrates a persistent, intrinsic impairment in the acquisition, comprehension, and/or use of language across communication modalities. A language disorder, also known as a language impairment, may involve the form of language (phonology, morphology, syntax), the content of language (semantics), or the function of language (pragmatics/discourse).



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The determination of what constitutes a language impairment is based on considerations including the child's age, cultural contexts, language variations, dialects, life experiences, environmental factors, and socialization. Cognitive referencing is prohibited.

The evaluation shall include multiple data sources as applicable: 1) input from parents/guardian, teachers and other relevant individuals regarding the student's communication skills and development, 2) observations of the student in a natural environment and/or educational setting, 3) a variety of assessment measures which are deemed valid for the specific pupil from at least two of the following:

- a. Language sample analysis. A language sample collected in an appropriate context or settings, and consisting of elicitation tasks that are selected according to the student's age (e.g., play-based, conversational, narrative re/tell, expository).
- b. Dynamic assessment. Dynamic assessment should allow the examiner to select language target(s) in order to ascertain the student's modifiability and responsiveness to cues and feedback and the amount of scaffolding that the examiner must provide to improve the student's performance.
- c. Developmental scale and/or other criterion-referenced assessment: Evaluators shall only select and use carefully designed tools that compare a child's performance to well-documented and validated, performance-based language milestones/criteria.

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d. Norm-referenced assessment of language. Evaluators shall only select and use norm-referenced assessments that are not racially, culturally, and linguistically discriminatory for the student being assessed. Norm-referenced assessments shall be used and interpreted according to their psychometric properties (e.g., empirically derived cut score, diagnostic accuracy and confidence intervals).

e. Alternate/additional assessment methods deemed appropriate for the identification of a language impairment for the particular student.

The assessment report must include a data-driven analysis across sources, contexts and tools that substantiates whether a language disorder is present by providing a profile of the student's communication abilities. The assessment must provide information regarding evidence of an adverse educational impact and explain how the language impairment impacts the child's educational performance (not limited to academic performance). This information shall be taken into consideration during the IEP team's decision-making process regarding the provision for special education and related services.