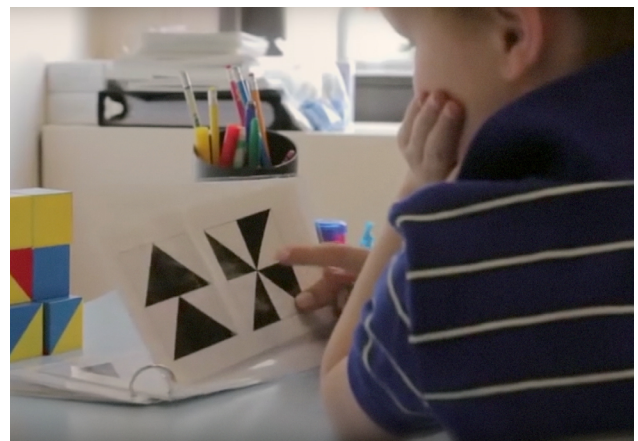


What Does the Individuals With Disabilities Education Act Say About IQ Testing?



Above and bottom right: Boys take intelligence quotient (IQ) tests. IQ testing is still used in 49 of 50 states as one of the ways to determine if a child will be determined to be a child with intellectual disability for the purposes of IDEA. Every family has the legal right to make an informed decision about whether or not their child will take an IQ test. The impact of that decision can vary state to state and district to district.

There are 13 categories under which a student can be identified as a “child with a disability” for the purposes of being eligible for special education services under the Individuals with Disabilities Education Act (IDEA). Intellectual disability is one of those categories and is defined in the IDEA Regulation 300.8 as “significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child’s educational performance.”



The need to determine whether a child is judged to have “subaverage intellectual functioning” is what triggers intelligence quotient (IQ) testing (also called “intelligence tests” or “cognitive assessments”).

There is no explicit requirement in IDEA or its regulations (the rules that tell states how to implement a law) for IQ testing. However, the definition of a child with an intellectual disability is framed within IDEA in a way that makes it hard to avoid an IQ test.

There is generally consensus among psychologists that IQ testing is an appropriate way to make a determination of subaverage intellectual functioning. However, the definition of intellectual disability states that significantly subaverage intellectual functioning must exist concurrently with deficits in adaptive behavior so clearly IQ alone is insufficient. Adaptive behavior refers to the age-appropriate behaviors that people with and without disabilities need to live independently and to function well in daily life.

Special accommodations exist for the use of IQ testing for individuals with expressive language issues as well as for other students from historically marginalized communities. There are nonverbal (i.e. picture-based) alternatives to the traditional IQ test that can be considered. Also, some districts may be willing to accept a psychologist’s determination that the student has an intellectual disability based on cognitive assessments without the provision of an IQ score.

Limiting the use of the IQ score

Every state except Iowa relies on the use of IQ testing to determine whether a student has an intellectual disability. IQ testing is permitted, but far less common, in Iowa because the state received a federal waiver and does not use the 13 disability categories to determine IDEA eligibility. Instead Iowa uses a set of standards for making a more general determination whether a student qualifies as “child with a disability” for IDEA purposes.¹

There is no explicit requirement in IDEA or its regulations (the rules that tell states how to implement a law) for IQ testing. However, the definition of a child with an intellectual disability is framed within IDEA in a way that makes it hard to avoid an IQ test.

The only place IQ or “intelligence quotient” is mentioned in IDEA or its regulations is in Regulation 300.34, which states, “Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.” This provision allows for IQ testing, but underscores that a comprehensive evaluation must assess a child in all areas of suspected educational need. Such an evaluation cannot merely assess a student using a test designed to provide a single IQ score. Rather, other information about the child’s abilities and educational needs must also be considered as part of the evaluation.

Many children who are later evaluated and determined to be eligible under the intellectual disability category initially qualify for services using the developmental delay category. States have the discretion to use this more general category for children from ages three through nine who have a “delay in one or more of the following areas: physical development; cognitive development; communication; social or emotional development; or adaptive [behavioral] development.” States can choose to use IQ testing to determine “cognitive development” for this category.

Are there provisions in IDEA that allow for the refusal of IQ testing?

Informed Consent Requirements

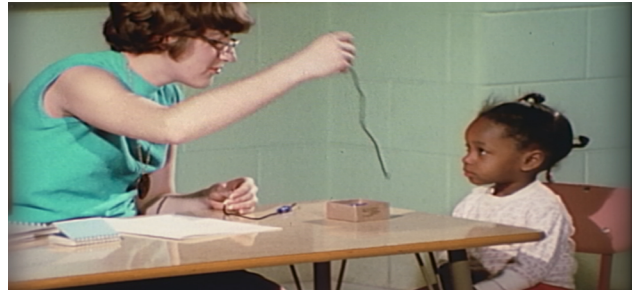
IDEA Regulation 300.300 requires informed consent from the parent before an initial evaluation for IDEA services can occur, as well as before initial services or any change in services can be provided. Consent is also required for reevaluations. Reevaluations are required at least once every three years (unless the school district and parent decide it is unnecessary). The purposes of a reevaluation are to determine whether the student continues to be a “child with a disability” as defined by IDEA and to identify the educational or related services needed for progress in the general education curriculum and improved functional performance.

The word “informed” gives parents the right to receive as much information as they need to make an informed, voluntary decision. This includes information about the nature and scope of the evaluations, the rationale for using IQ testing and the implications of having IQ test results in the student’s file. An IQ score is not supposed to be used to determine placement, the type of state assessment, or the opportunity to earn a diploma.²

Refusal to Consent

Parents participate in the decisions regarding reevaluation as team members and have the right to receive notice and an explanation of the assessments that are proposed for the comprehensive evaluation, for which their prior consent is required. For example, a parent may refuse consent for IQ testing, seek alternative means of assessing a child’s cognitive abilities and then consent to other evaluations.

If the parent does not give consent to an evaluation the public agency may (but is not required to), pursue the evaluation through mediation or due process. If this happens, the parents may have an uphill battle because the opinion of a qualified evaluation personnel, like a psychologist or special education



Research tells us that IQ test results can be biased by factors such as cultural background. African American students are almost twice as likely as white students to be classified with intellectual disability.

An IQ score is not supposed to be used to determine placement, the type of state assessment, or the opportunity to earn a diploma.

director, will likely be favored over the parent’s opinion by a hearing officer or court.³

If the district chooses not to challenge the parent’s opposition to IQ testing, the outcome may be different depending on whether it is an initial evaluation or a reevaluation, state/local policies, and the nature of the disability. In the case of failure to consent to an IQ test as part of an initial evaluation there would be no disability determination, therefore no Individualized Education Program (IEP) and no services, unless the child was found to be eligible for IDEA services using a category of disability for which IQ testing is not used, e.g. Other Health Impaired (OHI). If the child has a disability with a genetic component to the disability, (e.g. Down syndrome), which is confirmed by a doctor’s letter/report, the parents may be able to agree to some other types of testing so the child will still be found eligible for IDEA services and get an IEP.

The parents’ refusal to give consent to a particular evaluation, like an IQ test, has less

impact during a reevaluation if the district does not pursue the decision through due process. The student will continue to have an IEP and services will not cease. However, the refusal to consent to the evaluation would likely harm any argument the parents may want to make that the child has not been provided a free appropriate public education (FAPE).

Validity of Evaluation Tools and Their Use

IDEA Regulation 300.304 (c)(1) states that each public agency must ensure that assessments and other evaluation materials used to assess a child are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to provide or administer.

There are many questions about the validity of IQ testing. In addition to inherent validity concerns about the design of IQ testing, there are also validity concerns regarding the bias, qualifications, and

experience of the evaluator with respect to administering the evaluation and interpreting the results. There also can be validity issues with respect to how the report is written. You can read more about the IQ testing validity issues in the resources included below.

Conclusion

Every family has the legal right to make an informed decision about whether or not their child will take an IQ test. The impact of that decision can vary state to state and district to district. State and local policies and practices can influence whether a parent or guardian refuses to consent to IQ testing, or requests a disability category other than intellectual disability for IDEA eligibility.

One factor to be considered in deciding to avoid the intellectual disability category is the impact on educational services the students may get. An additional factor to consider is whether the failure to do IQ testing before a child reaches age 18 (to document an intellectual disability) will impact the level of adult services available in your state.

Writer

Ricki Sabia, Esq.
Senior Education Policy Advisor
National Down Syndrome Congress

Contributors

Selene Almazan, Esq.
Legal Director, Council of Parent Attorneys
and Advocates, Inc.

Kathleen Boundy, Esq.
Co-Director, Center for Law and Education

Deborah Taub, Ph.D.
OTL Education Solutions

Resources

Blog post by Amy Langerman, Esq. 1/11.2012, "IQ Testing: Should I say No." <https://www.amylangerman.com/single-post/2012/1/11/IQ-Testing-Should-I-Say-No>

Wrightslaw response to a post 12/30/2016, "Revoking Consent for IQ Testing." <http://www.wrightslaw.com/blog/consent-revoking-consent-for-iq-testing>

Evaluating Children for Disability. <https://www.parentcenterhub.org/evaluation>

Intelligent intelligence testing. <http://www.apa.org/monitor/feb03/intelligent.aspx>

¹ <https://www.educateiowa.gov/pk-12/special-education/state-guidance/special-education-eligibility-and-evaluation>

² Some materials about informed consent can be found at <http://www.parentcenterhub.org/consent> and <https://www.understood.org/en/school-learning/your-childs-rights/basics-about-childs-rights/informed-consent-what-it-is-and-how-it-works>.

³ Haowen Z. v. Poway Unified School District S.D. Cal., August 14, 2013.