

Report From Agency
FINAL REPORT
CLEARINGHOUSE RULE 15-018
CHAPTER PI 11
INCORPORATING INTELLECTUAL DISABILITY TERMINOLOGY AND CONCEPTS

Analysis by the Department of Public Instruction

Statutory authority: Subchapter V of ch. 115, Stats., and 227.11 (2) (a) (intro), Stats.

Statute interpreted: Subchapter V of ch. 115, Stats.

This proposed rule change adjusts the terminology, definition, and eligibility contained in PI 11.36 (1) to align with language used in federal law (Rosa's Law, Pub. L. 111-256) and with the American Association on Intellectual and Developmental Disabilities' classification manual, *Intellectual Disability: Definition, Classification, and Systems of Supports*, 11th edition (2010).

In the proposed rule, cognitive disability is changed to intellectual disability to reflect current terminology.

Intellectual disability is defined as significant limitations in intellectual functioning and significant limitations in adaptive behavior that occur during the developmental period and adversely affect educational performance. Significant limitations in intellectual functioning consists of a standard score of 2 or more standard deviations below the mean on an individually administered intelligence test which takes into account the child's mode of communication and is developed to assess intellectual functioning using this mode. More than one intelligence test may be used to produce a comprehensive result. Significant limitations in adaptive behavior consists of a standard score on adaptive behavior that is 2 standard deviations or more below the mean for conceptual skills, social skills, practical adaptive skills or the overall composite score of these 3 factors. These standardized or nationally-normed measures are comprehensive, individual assessments that include interviews of the parents and observations of the child in adaptive behavior-relevant to the child's age.

Educational performance is adversely affected in ages 3 through 5 if there is a standard score that is 2 standard deviations or more below the mean on a measure of language development and communication, cognition, and general knowledge or a standard score that is 2 standard deviations or more below the mean on a measure of written language, reading, and mathematics for those ages 6 to 21. However, if educational performance cannot be assessed in this manner due to functioning level or age, a standardized developmental scale or body of evidence may be used.

A child continues to qualify as intellectually disabled if the child met the initial identification criteria and continues to demonstrate a need for specially designed instruction.

A list of the persons who appeared or registered for or against the proposed rule at a public hearing:

The hearing notice was published in the March 9, 2015 edition of the Wisconsin Administrative Register. A public hearing was held on April 6, 2015.

The following persons testified at the April 6, 2015 hearing (some also provided written testimony as well):

NAME	ORGANIZATION	IN FAVOR OR GENERALLY IN FAVOR	OPPOSED OR GENERALLY OPPOSED	OTHER
Amanda Myers	Wisconsin School Psychologists Association, Inc.	x		

Summary of public comments relative to the rule, the agency’s response to those comments, and changes made as a result of those comments:

Summary of public comments

Comments on the Rule

1. Generally supports the term Intellectual Disability and other criteria that aligns with language in federal law.
2. Generally supports emphasis on assessing the student’s intellectual ability to take into consideration the student’s mode of communication.
3. Generally supports taking out the General Information for students age 6-21 and Motor skills requirements for students age 3-5.

Suggestions on the Rule

1. In the area of adaptive skills, refer to “rating scales and tests” instead of only “tests.”
2. In the area of adaptive skills, speaker requests flexibility in weighing data from informal observations and interviews with data from norm-references rating scales or semi-structured interviews that provide standardized scores. Norm-references rating scales are indirect measures of adaptive behavior and are typically less reliable than results of individually administered standardized tests that directly measure skills.
3. Teacher information should be included in the criteria when determining student adaptive skills.
4. Concerns exist around having a more stringent criteria in the area of academic skills, such that students must demonstrate skills 2 or more standard deviations below the mean in all three core academic areas, versus two of the three as stated in the previous criteria.

Suggestions on Guidance

1. There is a need for specific information in how to consider a student’s communication needs when assessing intellectual ability in regards to being culturally and linguistically responsive and considering a student’s mode of communication.
2. Guidance in how to complete a comprehensive assessment that considers all aspects of a student’s abilities, including verbal skills, which impact the student’s ability to function in the educational environment, but still supports the child’s communication needs.
3. Under section 3a, for students who are ages 3-5, clarification is needed around what is meant by “General Knowledge.” Very few formal assessments include an appropriate subtest for this, and if informal measures can be used, what does “general knowledge” look like for this age group? Is this based on academic readiness, basic skills, or something else?

Agency response

Suggestions on the Rule

1. **Regarding adaptive skills – refer to “rating scales and tests” instead of only “tests.”** The referenced adaptive “tests” include measures that may include rating scales. What should and will be emphasized is that adaptive skills should be measured using a comprehensive series of measures that are standardized and nationally normed.
2. **Regarding flexibility in weighing data from informal observations and interviews with data from norm-referenced rating scales or semi-structured interviews that provide standardized scores for adaptive skills.** The Department encourages a multi-method approach to measure a student’s adaptive behavior skills to supplement information provided by standardized measures.
3. **Regarding including teacher information in the criteria when determining student adaptive skills.** Although not overtly stated, a teacher(s) of the student being evaluated is expected to be one of the primary respondents when evaluating adaptive behavior.
4. **Regarding more stringent criteria in the area of academic skills.** All subject areas; written language, reading and mathematics in 3.b. will now be required to be 2 or more standard deviations below the mean. This requirement is a change to reflect the current research on academic functioning of students with intellectual disabilities. Students functioning in this range would be expected to score within a few points of each score in all academic areas. The more stringent requirements reflect the current expectations, confirmed with the development and use of the Extended Grade Band Standards and the subsequently developed Common Core Essential Elements that ALL Wisconsin students, including those with the most significant cognitive disabilities, can progress academically in the primary academic content areas of Reading, Written Language and Mathematics.

Suggestions on Guidance

1. **Regarding specific information on how to consider a student’s communication needs when assessing intellectual ability in regards to being culturally and linguistically responsive and considering a student’s mode of communication.** This information will be covered in detail in the DPI Intellectual Disability Guide and professional development provided to the field.
2. **Regarding guidance in how to complete a comprehensive assessment that considers all aspects of a student’s abilities including verbal skills.** This information will be covered in detail in the DPI Intellectual Disability Guide and professional development provided to the field.
3. **Regarding what is meant by general knowledge for students age 3-5.** General knowledge is defined in the Wisconsin Model Early Learning Standards as a product of cognition and demonstrated through pre-academic skills. To clarify the relationship between cognition and general knowledge, the proposed rule PI 11.36 (1)(b) 3.a will be amended to remove the comma separating general knowledge and cognition. Therefore general knowledge and cognition will be assessed together by measures of pre-academic skills. Further guidance and information on general knowledge and cognition will be addressed in the DPI Intellectual Disability Guide and through professional development.

Changes made as a result of oral or written testimony:

In response to the comments provided in the public hearing, the Department made the following changes:

- Removed the comma separating “general knowledge” and “cognition” in PI 11.36 (1)(b) 3.a.

Changes to the analysis or the fiscal estimate:

No changes were made.

Responses to Clearinghouse Report:

2. Form, Style and Placement in Administrative Code:

- a. Provided a specific period by which to submit comments in the rule summary.
- b. In the treatment clauses for SECTIONS 1 and 5 of the proposed rule, designated the introductory material for the subunits as “(intro.)”, with a period after the abbreviation.
- c. Combined SECTIONS 2 and 3 of the proposed rule in a single SECTION to renumber and amend the affected rule section to appear as follows: “PI 11.36 (1) (b) 1. A. is renumbered 11.36 (1) (b) 1., and, as renumbered, is amended to read:”.
- d. In SECTION 5, the text of subd. 2. (intro.) is revised to accurately show the proposed rule language to strike through the current language using the phrase “such as” to appear as follows: “; including at least one of the following”.
- e. In SECTIONS 7, 8, and 10, removed the untreated subdivision numbers that appear by themselves on individual lines of the proposed text.
- f. Revised the subunits in SECTION 10 to form a complete sentence with par. (b) (intro.) to appear as follows: “When it is determined that reliable and valid assessment results under subd. 3. a. or b. are not possible due to the child’s functioning level or age, a standardized developmental scale or a body of evidence including informal measures shall be used to assess the child.”. This provision cannot be moved since it only pertains to educational performance eligibility described in subd. 3. Reworded par. (b) 4. of this section to appear as follows: “Upon re-evaluation, a child who met identification criteria for cognitive disability prior to the effective date of this rule...[LRB to insert date]..., and continues to demonstrate a need for special education under s. PI 11.35(2), including specially designed instruction, is a child with a disability under this section.”.
- g. Because the subunits in SECTION 10 cannot be moved, revisions to the introductory clause as recommended will not be necessary.

5. Clarity, Grammar, Punctuation and Plainness:

No changes were made.