



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

GRETCHEN WHITMER
GOVERNOR

MICHAEL F. RICE, Ph.D.
STATE SUPERINTENDENT

MEMORANDUM

DATE: January 23, 2020

TO: Local and Intermediate School District Superintendents
Public School Academy Directors

FROM: Dr. Scott M. Koenigs knecht, Deputy Superintendent
P-20 System and Student Transition 

SUBJECT: Eligibility Determinations for Students Suspected of Having a Visual Impairment Including Blindness under the Individuals with Disabilities Education Act (IDEA)

On May 22, 2017, the United States Department of Education Office of Special Education and Rehabilitative Services (USDOE/OSERS) issued a [Memorandum: Eligibility Determinations for Children Suspected of Having a Visual Impairment Including Blindness under the Individuals with Disabilities Education Act](https://sites.ed.gov/idea/files/letter-on-visual-impairment-5-22-17.pdf) (<https://sites.ed.gov/idea/files/letter-on-visual-impairment-5-22-17.pdf>). In this memorandum, the USDOE/OSERS indicates states are permitted to establish standards for eligibility for special education and related services and are not required to use the precise definition of a disability term in the IDEA. However, OSERS also emphasizes that state-established standards cannot narrow the federal eligibility definition for visual impairment.

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

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After careful consideration of the USDOE/OSERS memorandum, the Michigan Department of Education (MDE) has reviewed its criteria for visual impairment and has determined [Rule 340.1708](#) is more restrictive than the IDEA definition. MDE will be proposing a rule change following the [rulemaking process](#) (https://www.michigan.gov/documents/lara/Rulemaking_Process_Summary_-_Normal_Process_4-22-19_667322_7.pdf) as governed by the Administrative Procedures Act.

In the interim, districts are encouraged to follow [34 CFR § 300.8\(c\)\(13\)](#) when determining eligibility for a visual impairment.

For further information or questions, please contact the [Low Incidence Outreach](#) at 517-241-7083.

cc: Michigan Education Alliance