

Sec. 1. ELIGIBILITY CRITERIA

A student that is at least three years old but not more than 21 years of age may be eligible for special education services if the student is found to have a disability in one of the following categories, and, by reason of the disability, has need for special education and related services:

1. Intellectual Disability;
2. Hearing impairment;
3. Visual Impairment;
4. Speech or Language impairment;
5. Emotional disturbance;
6. Orthopedic impairment;
7. Other health impairment;
8. Traumatic brain injury;
9. Deaf-blindness;
10. Specific Learning Disability;
11. Autism;
12. Developmental delay; or
13. Multiple Disabilities.

34 CFR 300.306(a)(1), 300.8; 19 TAC 89.1050(a).

Additionally, a student is eligible to participate in IDEA Public Schools' special education program if the student is not more than 21 years of age and has a visual or auditory impairment that prevents the student from being adequately or safely educated in public school without the provision of special services. (TEC §29.003)

Sec. 2. DETERMINING ELIGIBILITY

Following the completion of the full and individual initial evaluation, the student's admission, review, and dismissal ("ARD") committee must make an eligibility determination. The ARD committee members reviewing evaluations and data to determine eligibility must include a licensed specialist in school psychology ("LSSP"), an educational diagnostician, or other appropriately certified or licensed practitioner with experience, and a licensed or certified professional for a specific eligibility category defined below.

19 TAC 89.1040.

When interpreting evaluation data for the purpose of determining if a student is a student with a disability under 34 CFR 300.8 and the educational needs of the student, IDEA Public Schools shall:

1. Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and
2. Ensure that information obtained from all of these sources is documented and carefully considered.

If a student is determined to be a student with a disability and needs special education and related services, the ARD committee must develop an individualized education program ("IEP") for the student in accordance with 34 CFR 300.320 through 300.324 and corresponding state law.

34 CFR 300.306.

A student is not eligible for special education services through the evaluation, if a student is found to only need related services. A student cannot be found eligible for services if the determinant factor for that determination is lack of appropriate instruction in reading, including in the essential components of reading instruction, lack of appropriate instruction in math, or limited English proficiency/status as an emergent bilingual student.

34 CFR 300.306(b).

For children aged three through nine, or any subset of that age range, may be a child with a disability if the student is:

1. 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
2. needs special education and related services.

34 CFR 300.8(b).

Sec. 3. IDEA Public Schools INTELLECTUAL DISABILITY

A student qualifies as a student with an intellectual disability if the student has significantly sub-average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a student's educational performance.

34 CFR 300.8(c)(6); 19 TAC 89.1040(c)(5).

Sec. 4. SPEECH OR LANGUAGE IMPAIRMENT

A communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance. The evaluation team shall include a certified speech and hearing therapist, a certified speech and language therapist, or a licensed speech/language pathologist.

34 CFR 300.8(c)(11); 19 TAC 89.1040(c)(10).

Sec. 5. EMOTIONAL DISTURBANCE

A student may be eligible for services as a student with an emotional disturbance if they exhibit one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

1. An inability to learn that cannot be explained by intellectual, sensory, or health factors;
2. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
3. Inappropriate types of behavior or feelings under normal circumstances;
4. A general pervasive mood of unhappiness or depression; or
5. A tendency to develop physical symptoms or fears associated with personal or school problems.

Emotional disturbance includes schizophrenia, but does not include children who are socially maladjusted, unless it is determined that they have an emotional disturbance. A written evaluation must include recommendations for behavior intervention strategies.

34 CFR 300.8(c)(4); 19 TAC 89.1040(c)(4).

Sec. 6. ORTHOPEDIC IMPAIRMENT

A severe orthopedic impairment, including impairments caused by congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures). If the impairment adversely impacts a student's educational performance, the student is eligible under this category.

34 CFR 300.8(c)(8); 19 TAC 89.1040(10).

The multidisciplinary team determining eligibility under the criteria for an orthopedic impairment must include a licensed physician.

19 TAC 89.1040(10).

Sec. 7. OTHER HEALTH IMPAIRMENT (“OHI”)

A student with limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli caused by chronic or acute health problems such as:

1. Asthma;
2. Attention Deficit Disorder or Attention Deficit Hyperactivity Disorder;
3. Diabetes;
4. Epilepsy;
5. Heart Condition;
6. Hemophilia;
7. Lead poisoning;
8. Leukemia;
9. Nephritis;
10. Rheumatic Fever;
11. Sickle Cell Anemia; or
12. Tourette Syndrome.

If the health condition limits alertness in the educational environment IDEA Public Schools and adversely impacts a student’s learning, he or she is eligible for OHI. In determining eligibility, shall must include a licensed physician on the multidisciplinary team.

Sec. 8. IDEA Public SchoolsIDEA Public SchoolsIDEA Public SchoolsIDEA Public SchoolsIDEA Public Schools
TRAUMATIC BRAIN INJURY

An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student’s educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

IDEA Public Schools shall include a licensed physician, and a licensed specialist in school psychology (LSSP), an educational diagnostician, or other appropriately certified or licensed practitioner with experience and training in this area to review the data and determine eligibility.

19 TAC 89.1040(11).

Sec. 9. HEARING OR AUDITORY IMPAIRMENT AND DEAFNESS

A student with an impairment in hearing, whether permanent or fluctuating, that adversely affects a student's educational performance but is not included under the definition of deafness.

The student's evaluation must include an otological examination performed by an otologist or by a licensed medical doctor, with documentation that an otologist is not reasonably available. IDEA Public Schools shall also conduct an audiological evaluation by a licensed audiologist. The evaluation must include a description of the implications of the hearing loss for the student's hearing in a variety of circumstances with or without recommended amplification.

34 CFR 300.8(c)(5); 19 TAC 89.1040(c)(3).

Sec. 10. DEAFNESS

Deafness is a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a student's educational performance. (34 CFR §300.8(c)(3))

Sec. 11. VISUAL IMPAIRMENT INCLUDING BLINDNESS

An impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness.

34 CFR 300.8(c)(13).

A student with a visual impairment is one who:

1. has been determined by a licensed ophthalmologist or optometrist to have no vision or to have a serious visual loss after correction; or to have a progressive medical condition that results in no vision or a serious visual loss after correction.
2. has been determined by the following evaluations to have a need for special services, including:
 - a. a functional vision evaluation by a professional certified in the education of students with visual impairments or a certified orientation and mobility instructor. The evaluation must include the performance of tasks in a variety of environments requiring the use of both near and distance vision and recommendations concerning the need for a clinical low vision evaluation and an orientation and mobility evaluation; or

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- b. a learning media assessment by a professional certified in the education of students with visual impairments. The learning media assessment must include recommendations concerning which specific visual, tactual, and/or auditory learning media are appropriate for the student and whether or not there is a need for ongoing evaluation in this area.

19 TAC 89.1040(12)(A).


Through evaluation, should state the student's visual loss in exact measures of visual field and corrected visual acuity at a distance and at close range in each eye by a licensed ophthalmologist or optometrist. The report should also include prognosis whenever possible. If exact measures cannot be obtained, the eye specialist must so state and provide best estimates.

A student that qualifies as a student with a visual impairment is considered functionally blind if, based on the preceding evaluations, the student will use tactual media (which includes Braille) as a primary tool for learning to be able to communicate in both reading and writing at the same level of proficiency as other students of comparable ability.

19 TAC 89.1040

D. Certification

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Nepotism in Hiring Policy, as originally adopted by the Board on January 21, 2022, and as subsequently amended on March 25, 2022, which Policy is in full force and effect and has not been revoked or amended.

DocuSigned by:

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Anthony Ryan Vaughan, Board Secretary

8/26/2022

Date Certified