



PUBLIC SCHOOLS OF NORTH CAROLINA

State Board of Education | Department of Public Instruction

Individualized Education Programs

Module #3: Eligibility

Consent for Services

Eligibility

Child with a Disability NC 1500-2.4(a)(b)

- A child with a disability means a child evaluated in accordance with *Policy* and who, by reason of the disability, needs special education and related services.
- Disabilities defined by the IDEA

Autism	Multiple Disabilities
Deaf-Blindness	Orthopedic Impairment
Deafness	Other Health Impairment
Developmental Delay	Specific Learning Disability
Emotional Disability	Speech or Language Impairment
Hearing Impairment	Traumatic Brain Injury
Intellectual Disability	Visual Impairment (including blindness)

Definitions of Disability Terms

(NC 1500-2.4(b)(1-14))

(1) Autism

- (i) Means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, which adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotypical movements, restricted interests, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.
- (ii) Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disability, as described in paragraph (c)(4) of this section.
- (iii) A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in paragraph (c)(1)(i) of this section are satisfied.

Definitions of Disability Terms

(NC 1500-2.4(b)(1-14))

- (2) Deaf-blindness means hearing and visual impairments that occur together, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.
- (3) Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification that adversely affects the child's educational performance.
- (4) Developmental delay means a child aged three through seven, whose development and/or behavior is delayed or atypical, 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 who, by reason of the delay, needs special education and related services.

Definitions of Disability Terms

(NC 1500-2.4(b)(1-14))

- (5) Emotional disability
- (i) means a condition exhibiting 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:
 - (A) An inability to make educational progress that cannot be explained by intellectual, sensory, or health factors.
 - (B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
 - (C) Inappropriate types of behavior or feelings under normal circumstances.
 - (D) A general pervasive mood of unhappiness or depression.
 - (E) A tendency to develop physical symptoms or fears associated with personal or school problems.
 - (ii) Emotional disability includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disability under paragraph (b)(5)(i) of this section.

Definitions of Disability Terms

(NC 1500-2.4(b)(1-14))

- (6) Hearing impairment means impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section. The term "hard of hearing" may be used in this capacity.
- (7) Intellectual disability means 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 term "intellectual disability" was formerly termed "mental retardation."

Definitions of Disability Terms

(NC 1500-2.4(b)(1-14))

- (8) Multiple disabilities means two or more disabilities occurring together (such as intellectual disability-blindness, intellectual disability-orthopedic impairment, etc.), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.
- (9) Orthopedic impairment means a severe physical impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures, etc.).

Definitions of Disability Terms

(NC 1500-2.4(b)(1-14))

- (10) Other health impairment means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that--
 - (i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette's Syndrome, etc.; and
 - (ii) Adversely affects a child's educational performance.
- (11) Specific learning disability.
 - (i) General. Means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the impaired ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.
 - (ii) Disorders not included. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of serious emotional disturbance, or of environmental, cultural, or economic disadvantage.

Definitions of Disability Terms

(NC 1500-2.4(b)(1-14))

- (12) Speech or language impairment means-
- (i) A communication disorder, such as an impairment in fluency, articulation, language, or voice/resonance that adversely affects a child's educational performance.
 - (ii) Language may include function of language (pragmatic), the content of language (semantic), and the form of language (phonologic, morphologic, and syntactic systems).
 - (iii) A speech or language impairment may result in a primary disability or it may be secondary to other disabilities.

Definitions of Disability Terms

(NC 1500-2.4(b)(1-14))

- (13) Traumatic brain injury means an acquired injury to the brain caused by an external physical force or by an internal occurrence resulting in total or partial functional disability and/or psychosocial impairment that adversely affects a child's educational performance. Causes may include but are not limited to, open or closed head injuries, cerebrovascular accidents (e.g., stroke, aneurysm), infections, kidney or heart failure, electric shock, anoxia, tumors, metabolic disorders, toxic substances, or medical or surgical treatments. The brain injury can occur in a single event or can result from a series of events (e.g., multiple concussions). Traumatic brain injury also can occur with or without a loss of consciousness at the time of injury. Traumatic brain injury may result 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 but can include brain injuries induced by birth trauma.
- (14) Visual impairment including blindness means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

Prong 1: Disability

Determination of Eligibility NC 1503-2.7

Upon completion of the administration of assessments and other evaluation measures--

- (1) A group of qualified professionals and the parent determines whether the child is a child with a disability as defined in NC 1500-2.4, in accordance with paragraph (b) of this section and the educational needs of the child; and
- (2) The LEA provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

ELIGIBILITY DETERMINATION

I. Disability Determination

Based on the information from a variety of sources that have been documented and carefully considered, the IEP Team has determined:

- ☐ Student **MEETS** the criteria for one or more of the fourteen (14) disabling conditions described in the *NC Policies Governing Services for Children with Disabilities*.
- ☐ Student **DOES NOT MEET** the criteria for one or more of the fourteen (14) disabling conditions described in the *NC Policies Governing Services for Children with Disabilities*.

Primary Disability		Secondary Disability	
<input type="checkbox"/> Autism	<input type="checkbox"/> Multiple Disabilities	<input type="checkbox"/> Autism	<input type="checkbox"/> Multiple Disabilities
<input type="checkbox"/> Deaf-Blindness	<input type="checkbox"/> Orthopedic Impairment	<input type="checkbox"/> Deaf-Blindness	<input type="checkbox"/> Orthopedic Impairment
<input type="checkbox"/> Deafness	<input type="checkbox"/> Other Health Impairment	<input type="checkbox"/> Deafness	<input type="checkbox"/> Other Health Impairment
<input type="checkbox"/> Developmental Delay	<input type="checkbox"/> Specific Learning Disability	<input type="checkbox"/> Developmental Delay	<input type="checkbox"/> Specific Learning Disability
<input type="checkbox"/> Emotional Disability	<input type="checkbox"/> Speech or Language Impairment	<input type="checkbox"/> Emotional Disability	<input type="checkbox"/> Speech or Language Impairment
<input type="checkbox"/> Hearing Impairment	<input type="checkbox"/> Traumatic Brain Injury	<input type="checkbox"/> Hearing Impairment	<input type="checkbox"/> Traumatic Brain Injury
<input type="checkbox"/> Intellectual Disability	<input type="checkbox"/> Visual Impairment (including Blindness)	<input type="checkbox"/> Intellectual Disability	<input type="checkbox"/> Visual Impairment (including Blindness)

Prong 2: Adverse Effect

Determination of Eligibility NC 1503-2.7

Special rule for eligibility determination. A child must not be determined to be a child with a disability under these *Policies* --

(1) If the determinant factor for that determination is--

(i) Lack of appropriate instruction in reading, including the essential components of reading instruction;

(ii) Lack of appropriate instruction in math; or

(iii) Limited English proficiency; and

(2) If the child does not otherwise meet the eligibility criteria under NC 1500-2.4(a).

II. Adverse Effect on Educational Performance

The IEP Team has determined the student's educational performance **is not** primarily caused by:

Yes	No	
<input type="radio"/>	<input type="radio"/>	a lack of appropriate instruction in reading, including the essential components of reading instruction; <i>The term "essential components of reading instruction" means explicit and systematic instruction in: phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills), and reading comprehension strategies.</i>
<input type="radio"/>	<input type="radio"/>	a lack of appropriate instruction in math; and
<input type="radio"/>	<input type="radio"/>	a limited English proficiency.

The disability has an adverse effect on educational performance. ☐ Yes ☐ No

Prong 3: Instructional Requirement

Prong 3: Instructional Requirement

NC 1500-2.32

Special Education

(a) General.

- (1) Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including
 - (i) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and
 - (ii) Instruction in physical education
- (2) Special education includes each of the following, if the services otherwise meet the requirements of paragraph (a)(1) of this section –
 - (i) Speech-language pathology services,
 - (ii) Travel training; and
 - (iii) Vocational education.

Prong 3: Instructional Requirement

- (b) Individual special education terms defined. The terms in this definition are defined as follows:
 - (1) At no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.
 - (2) Physical education means –
 - (i) The development of –
 - (A) Physical and motor fitness;
 - (B) Fundamental motor skills and patterns; and
 - (C) Skills in games and sports.
 - (ii) Includes special physical education, adapted physical education, movement education, and motor development.

Prong 3: Instructional Requirement

- (3) Specially designed instruction means adapting, as appropriate, to the needs of an eligible child under these Policies, the content, methodology, or delivery of instruction--
 - (i) To address the unique needs of the child that result from the child's disability; and
 - (ii) To ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all children.
- (4) Travel training means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to –
 - (i) Develop an awareness of the environment in which they live; and
 - (ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g. in school, in the home, at work, and in the community).
- (5) Vocational education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree

III. Instructional Requirement

The IEP Team has determined that the student:

- | | |
|-----------------------|--|
| <input type="radio"/> | REQUIRES specially designed instruction and related services <i>(if applicable)</i> . |
| <input type="radio"/> | DOES NOT REQUIRE specially designed instruction and related services. |

Eligibility Determination

Determination of Eligibility NC 1503-2.7

- (c) Procedures for determining eligibility and educational need.
 - (1) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under NC 1500-2.4, and the educational needs of the child, the LEA must--
 - (i) 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
 - (ii) Ensure that information obtained from all of these sources is documented and carefully considered.
 - (2) If a determination is made that a child has a disability and needs special education and related services, and parental consent has been obtained, an IEP must be developed for the child in accordance with NC 1503-4.1 through NC 1503-5.1.

IV. Eligibility Determination

In order to be eligible for special education and related services, the student must:

- meet the criteria for a disability in Section I;
- have a disability that has an adverse effect on educational performance documented in Section II;
AND
- require specially designed instruction and related services *(if applicable)* in Section III.

<input type="radio"/>	YES , the student meets all three of the eligibility criteria <i>(Sections I-III)</i> required for special education and related services.
<input type="radio"/>	NO , the student did not meet all three of the eligibility criteria <i>(Sections I-III)</i> required for special education and related services.

Key Points

Key Points

The IEP team uses multiple sources of data to document the unique needs of the student and establishes that:

- The student has 1(or more) of 14 areas of disability (Prong 1)
- + The disability has an adverse effect on educational performance (Prong 2)
- + The student needs specially designed instruction (Prong 3)

The student is eligible for special education and related services.

Eligibility Determination

- If the team determines that the student meets all three requirements (prongs) for eligibility in NC, the team will then document their decision.
- Signatures with a statement of agreement/disagreement is required only for SLD.
 - Should a team member disagree with the decision of the team, he/she must submit a separate statement of their reason for disagreement.

Parental Consent for Services

Parental Consent for Services NC 1503-1(b)

(b) Parental consent for services.

- (1) An LEA that is responsible for making FAPE available to a child with a disability must obtain informed consent from the parent of the child before the initial provision of special education and related services to the child.
- (2) The LEA must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child.
- (3) If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, the public agency--
 - (i) May not use the procedures in NC 1504 (Procedural Safeguards) of this document (including the mediation procedures under NC 1504-1.7 or the due process procedures under NC 1504-1.8 through NC 1504-1.17) in order to obtain agreement or a ruling that the services may be provided to the child;
 - (ii) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with the special education and related services for which the parent refuses to or fails to provide consent; and
 - (iii) Is not required to convene an IEP Team meeting or develop an IEP for the child under NC 1503-4.1 and NC 1503-5.1.

Parental Consent for Services NC 1503-1(b)

- (4) If, at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the public agency--
- (i) May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with NC 1504-1.4 before ceasing the provision of special education and related services;
 - (ii) May not use the procedures in NC 1504 (Procedural Safeguards) of this document (including the mediation procedures under NC 1504-1.7 or the due process procedures under NC 1504-1.8 through NC 1504-1.17) in order to obtain agreement or a ruling that the services may be provided to the child;
 - (iii) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; and
 - (iv) Is not required to convene an IEP Team meeting or develop an IEP under NC 1503-4.1 and NC 1503-5.1 for the child for further provision of special education and related services.

CONSENT FOR SERVICES

- ☐ **I agree** to provide consent for my child to receive special education and related services.

The special education and related services will be provided through a/an:

- ☐ Individualized Education Program (IEP) ☐ Private School Service Plan

I understand:

- ☐ My consent for the provision of special education and related services may be revoked (in writing) at any time.

- ☐ **I do not agree** to provide consent for my child to receive special education and related services.

I understand:

- ☐ The local education agency (LEA) is not required to make a free appropriate public education (FAPE) available to my child as required by the Individuals with Disabilities Education Act (IDEA).
- ☐ The LEA is not required to convene an IEP Team meeting or develop an IEP.
- ☐ If, at any time after this decision, I suspect my child has a disability and is in need of special education and related services, a written request for a formal evaluation must be made to the principal of the school, the teacher or other school professional, or the Superintendent or other appointed official of the LEA.
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☐ **I am revoking** consent for my child to receive special education and related services.

I understand:

- ☐ The local education agency (LEA) may not continue to provide special education and related services.
- ☐ My child will not be provided procedural safeguards outlined in the IDEA.
- ☐ The LEA is not required to make a free appropriate public education (FAPE) available to my child as required by the Individuals with Disabilities Education Act (IDEA).
- ☐ The LEA is not required to convene an IEP Team meeting or develop an IEP.
- ☐ If, at any time after this decision, I suspect my child has a disability and is in need of special education and related services, a written request for a formal evaluation must be made to the principal of the school, the teacher or other school professional, or the Superintendent or other appointed official of the LEA.