



Education Law Center

Making sure that all of Pennsylvania's children  
have access to quality public schools

## GETTING A SPECIAL EDUCATION EVALUATION FOR YOUR CHILD

**IMPORTANT:** ELC's publications are intended to give you a general idea of the law. However, each situation is different. If, after reading our publications, you have questions about how the law applies to your particular situation, contact us for a referral, or contact an attorney of your choice.

Figuring out if a child needs special education services starts with an "initial" evaluation. No child can get special education services until the school has completed this evaluation. The evaluation should determine if the child has a disability and needs special education as a result. The evaluation should also make recommendations about what special education and related services the child needs.

### HOW DOES THE INITIAL EVALUATION PROCESS GET STARTED?

If school officials want to evaluate your child for the first time, they must send you a **Permission to Evaluate (PTE)-Consent Form**. (A copy of this form can be found at: <http://www.pattan.k12.pa.us/files/Forms/English/PtECon-ANN070108.pdf>.) The form should explain: 1) the reasons for the evaluation, 2) when the evaluation will be done, 3) any records or reports the school will use, and 4) the specific types of tests that the school district will do.

**You can also begin the process yourself.** If you think your child should be tested, send a letter to the school asking the school to evaluate your child. Make sure to keep a copy of the letter for yourself! A *Sample Letter Requesting an Initial Special Education Evaluation* can be found at [www.elc-pa.org](http://www.elc-pa.org).

The school should then give you a **Permission to Evaluate (PTE)-Consent Form** to sign. The school must make this form "readily available" to you after you submit your letter. The Pennsylvania Department of Education (PDE) has said that the "best practice" would be for the school to give you the form within **10 school days** of your request, so check with the school district if you have not gotten the form by then. **You must sign this form so the school can begin the evaluation.**

You don't have to write a letter to get the ball rolling. You can also *ask* the school principal for an evaluation to be done. The school must then give you a **Permission to Evaluate (PTE)-Evaluation Request Form** within **10 calendar days** of your request. You should then fill out this form so that you can get the Permission to Evaluate (PTE)-Consent Form from the school. However, it is better to put your request in writing from the start - that way you will have a record of your request.

When the parent signs the Permission to Evaluate-Consent Form for an initial evaluation, she is given a **Procedural Safeguards Notice** that explains the family's rights. PDE's sample Procedural Safeguards Notice can be found at: <http://www.pattan.k12.pa.us/files/Forms/English/PSN-070108.pdf>.

## **DOES MY SCHOOL DISTRICT HAVE A DUTY TO FIND OUT IF MY CHILD HAS A DISABILITY EVEN IF I HAVEN'T ASKED FOR AN EVALUATION?**

Yes. This duty is called a school's "**child find**" duty. Each school district and charter school must have a way of telling the public that children with disabilities who live in the district, and who need special help to learn, have certain rights. Each school district must have a way of **finding and screening children** (including children who are migrants, who are homeless, who are in the custody of the child welfare system, or who attend private schools) to decide whether they need a special education evaluation even if their parents have not asked for help.

One way to screen children is called the **Instructional Support Team (IST)** process. Some school districts use a process called **Response to Intervention (RtI)**. More information about RtI can be found at [www.pattan.k12.pa.us](http://www.pattan.k12.pa.us) (click on "Response to Intervention" under "Evidence-Based Practices"). A child can be screened because of a vision or hearing problem or to find out if she is performing at grade level in core academic subjects.

**TIP:** You do not have to wait until the screening process has been completed to ask for a special education evaluation. You can ask for a special education evaluation at any time, and the school must follow the process and timelines described here.

### **CAN THE SCHOOL REFUSE TO EVALUATE MY CHILD?**

Yes. School personnel can decide that an evaluation is not necessary. However, the school must then give you written notice (called a Notice of Recommended Educational Placement/Prior Written Notice) explaining its decision not to test your child. You then have the right to disagree with this decision. You can ask for mediation or a special education hearing to try to get an evaluation for your child.

### **CAN THE SCHOOL PUT MY CHILD ON A "WAITING LIST" FOR AN EVALUATION?**

No. If you ask for an evaluation, the school has two choices. It must either give you a consent form to sign, or it must give you written notice explaining why it believes an evaluation is not necessary. If the school agrees that your child should be tested, the school cannot put your child on a "waiting list" - the school must give you the Permission to Evaluate-Consent Form to sign. The school must then finish the evaluation in **60 calendar days** (minus the summer months). If the school tells you there is a waiting list, you can file a complaint with the Pennsylvania Department of Education's Bureau of Special Education about this issue. For a complaint form, go to:

[http://odr.pattan.net/files/odr/complaint\\_form\\_111606\\_eng.pdf](http://odr.pattan.net/files/odr/complaint_form_111606_eng.pdf).

### **MUST A PARENT PAY FOR THE EVALUATION?**

All evaluations must be **free** to the family. A parent cannot be charged for any part of an evaluation. For instance, if a child needs an eye exam as part of the evaluation process to rule out vision problems, the school must pay for that exam.

### **WHAT IF I DO NOT WANT THE SCHOOL TO EVALUATE MY CHILD?**

Not every effort a school makes to figure out how well a child is doing, or how to improve instruction, is a special education evaluation. A school can review

existing information on a child or give the child the same test that is given to all other children without getting your permission.

An example of a test that can be given without a parent's agreement (unless a parent objects for religious reasons) is the Pennsylvania System of Student Assessment (PSSA). Schools give the PSSA to children in certain grades to see how well they are doing in reading, math, and/or writing. It is also not a special education evaluation when a teacher or specialist "screens" a child to determine how best to teach her, so a parent's agreement is not required in this situation either.

However, if the school wants to evaluate your child to determine if she has a disability and needs special education, you must first give your written permission. **If you do not sign the Permission to Evaluate-Consent Form, the school cannot evaluate your child.** The school can ask a Special Education Hearing Officer to order that the child be evaluated. In certain situations, a family court judge can give someone other than the birth or adoptive parent the right to agree to an initial evaluation IF the child is in the custody of the Children and Youth system. But, in most cases, the parent must consent in writing to the child's evaluation before the evaluation can take place.

**TIP:** Remember, agreeing that your child can be evaluated is not the same thing as agreeing that she can start getting special education services. Before your child can start to get special education services, an education plan (called an IEP) must be developed, and you must be asked to sign a separate form agreeing that your child can begin to receive special education services. **If you decide that you do not want your child to receive special services, the school cannot give your child those services and the school cannot overturn your decision through the special education hearing process.**

## **WHEN MUST MY CHILD'S SCHOOL FINISH THE INITIAL EVALUATION?**

A school district or charter school must evaluate your child and give you a copy of the "Evaluation Report" (ER) within **60 calendar days** (minus the summer months) from the date you signed the PTE-Consent Form (unless you keep missing appointments for your child's evaluation). For children ages three (3) to school-age, the preschool early intervention agency has **60 calendar days** (*including the summer months*) to complete the evaluation process.

**TIP: Remember - the timeline for completing the initial evaluation does not start *until* you have signed the Permission to Evaluate-Consent Form. Don't let the school take more than 10 days to give you this form. *Keep a copy of whatever you sign or send.***

## **WHAT HAPPENS IF THE CHILD MOVES TO ANOTHER SCHOOL DISTRICT BEFORE THE INITIAL EVALUATION IS DONE?**

The school may have longer than **60 calendar days** (excluding the summer months) to finish the evaluation if the child moves into a new school district before the initial evaluation is done. The evaluation can take longer *only if* you and the school agree to a *specific time* when the evaluation will be done and the new school district is making enough progress to complete the evaluation quickly. The new and old schools must coordinate the testing to evaluate the child as soon as possible. The new school must promptly request the child's school records, and the old school must send the records within **10 business days**.

## **WHO EVALUATES MY CHILD AND WHAT TYPES OF TESTS SHOULD BE DONE?**

A team of "**qualified**" professionals designs the evaluation. The **parent** is a member of this team. In most cases, a "**certified school psychologist**" must be included as a member of the evaluation team. (For preschoolers, a psychologist does not have to participate in the evaluation process, but the parent can always ask that a psychologist participate.) Beyond that, the law doesn't say who must be part of the team. Usually, the child's teachers are members of the team, as well as anyone else who might be working with the child (like a reading specialist or a speech therapist). The child must be assessed by properly trained and knowledgeable school personnel using reliable tests.

**There is no specific number or type of "tests" that must be given to a child as part of an evaluation.** The school must use a variety of testing tools and strategies to gather information on the child's development and academic and functional levels (functional level means, for example, whether the child has learned basic self-care skills).

Usually, a school will do an achievement test (a common one is called the WIAT), an ability test (like an IQ test called a WISC), and some other tests to look at the areas in which the child is struggling in school (like behavior ratings). However, no one test (such as an IQ test) can determine whether a child has a disability or needs special education.

**TIP:** If you do not understand why a particular test is being used, **ASK** school personnel to explain what the test is for and why it is being done. Some other places to get more information about tests and measurements include Wrightslaw ([http://www.wrightslaw.com/advoc/articles/tests\\_measurements.html](http://www.wrightslaw.com/advoc/articles/tests_measurements.html)) or *Assessment of Children: Behavioral, Social, and Clinical Foundations* by Jerome M. Sattler and Robert D. Hoge.

**The evaluation team must look at *all areas* related to the child's suspected disability.** This includes: 1) the child's health, 2) vision, 3) hearing, 4) social skills and emotional status, 5) general intelligence, 6) academic performance, 7) communication needs, and 8) motor skills. The evaluation must be thorough enough to identify all of the child's needs.

The team must consider information about the child from many sources, including information provided by the parent. For example, if you have information from a private tutor who sees the child, you may want to share that information with the school. Your school district should have a process and/or a form for collecting parent input.

Other sources of information the team must review include teacher recommendations, the child's physical condition, the child's social or cultural background, the child's self-help skills, and any other information that helps the team make an accurate decision about whether the child has a disability and needs special services, and what those services should be. **The evaluation should take into account all the reasons why a child might be struggling in school.**

Unless it is clearly not possible to do so, the child must be evaluated using the child's native language (such as Spanish) or other way of communicating (for example, sign language) that is most likely to produce accurate information on what the child knows and can do academically and functionally.

Evaluations must take account of the child's ethnic background so that the testing will not be racially or culturally biased. Testing must also take account of a child's disability to assure that the test is fair. For example, a child who has a severe visual problem should not be given a test that relies mainly on looking at pictures.

The team cannot decide that a child needs special education if the actual cause of the child's learning problem is that the child has not had proper instruction in reading or math, or because the child does not know enough English.

**TIP:** It can be hard for a parent to decide if the school's team of experts has considered all necessary information and if the right tests have been used in the right way. If you are working with an expert or an advocate, show the expert or the advocate the information from the school and ask for advice. You might also want to consider an "independent evaluation."

## WHAT DOES THE EVALUTION TEAM DECIDE?

The evaluation team first decides two things: 1) whether a child has a disability that makes it difficult for her to learn and, 2) if so, whether she needs special education services and supports as a result of that disability. The child must meet **both** criteria to be eligible for special education.

The law lists 13 different types of disabilities that qualify a child for special education services. For a list of those disabilities, see Attachment 1. Just because a doctor has diagnosed a child with a disability (such as Attention Deficit Hyperactivity Disorder (ADHD)) does not automatically make the child eligible for special education. To be eligible, the child must fit into at least one of the disability categories listed in special education law and the child must need special education (specially designed instruction) due to the disability.

If the team decides the child *is* eligible for special education, the team must also make **recommendations to the IEP Team** about what services are needed for the child to participate and make progress in the general curriculum offered to all children (or, for preschoolers, to participate in appropriate preschool activities).

## WHAT IF MY CHILD IS FOUND INELIGIBLE FOR SPECIAL EDUCATION?

A child with a disability who does not need "specially designed instruction" may still need supports or accommodations in the school setting. **That child may be eligible for these supports under a law called Section 504 of the Rehabilitation Act of 1973.** A child who has a physical or mental disability that "substantially limits" a major life function (like learning, thinking, walking, breathing, seeing, or hearing) may qualify for reasonable accommodations or other support services in the regular classroom.

If a child does qualify for support under Section 504, a written "**Accommodations Plan**" (also called a Chapter 15 Service Agreement or 504 Plan) must be developed for her. The Accommodations Plan sets out the changes that will be made to the child's program, and/or the supports the school will provide to her, to make sure she has the same opportunity to receive an education as children without disabilities. For example, a 504 Plan might allow a child with Attention Deficit Disorder to be seated near the teacher so the teacher can help the child stay on task, and the 504 Plan might require the teacher to maintain a daily planner for the child if the child's ADD causes her to have difficulty with organization. Some useful websites to find more information about Section 504 Accommodations Plans are [www.ldonline.org](http://www.ldonline.org) and [www.wrightslaw.com](http://www.wrightslaw.com).

In addition, your child may be able to get extra help in school other ways. Make sure to ask your school what other tutoring programs or support services (like Supplemental Educational Services, Positive Behavior Supports, or the Student Assistance Program) are available for your child.

The school must give you written notice (called a Notice of Recommended Educational Placement/Prior Written Notice) telling you whether or not your child has been found eligible to receive special education services. If your child was found ineligible, you have the right to disagree with that decision and try to resolve your dispute with the school through the procedures described in ELC's fact sheet, [\*How to Resolve Special Education Disputes\*](#).

## WHAT IS DONE WITH THE RESULTS OF THE EVALUATION?

The team writes an "**Evaluation Report**" (ER) that includes a decision about

whether the child is eligible to receive special education. The Evaluation Report also must include recommendations to the IEP Team about the special education and related services the child needs to participate in the regular curriculum if the child is eligible for special education.

A school district must give the parent a free copy of this report at least **10 school days** before the IEP Team meeting, unless the parent agrees to wait until the IEP Team meeting to get the report.

**TIP:** PDE's sample **annotated Initial Evaluation Report** can be found at: <http://www.pattan.k12.pa.us/files/Forms/English/ER-ANN070108.pdf>. This form explains in detail what information, at a minimum, an evaluation must include.

## **WHEN MUST MY CHILD BE REEVALUATED?**

A child who is receiving special education must be **reevaluated at least every three years** unless the parent and school agree in writing that the three-year reevaluation should not be done. Schools must reevaluate **preschoolers** (children aged three to school-age) and **school-aged children with mental retardation** at least every **two years**. Reevaluations for children with mental retardation cannot be waived, but parents of preschoolers can agree in writing to waive the reevaluation. In addition, a child must be reevaluated before a school can determine that the child is no longer eligible for special education.

A parent or teacher can request that the child be reevaluated before the child is due for a three-year reevaluation, or the school can decide that a reevaluation is needed sooner. However, the school does not have to do more than one reevaluation each year.

A child must be reevaluated before a school can determine that the child is no longer eligible for special education. However, the school does not have to reevaluate the child if the child will no longer be eligible for special education because she has graduated with a regular diploma, or because she is has aged-out of special education (which in Pennsylvania means has completed the school term in which she turned age 21). Under these circumstances, the school district must give the child a written summary of her academic achievement and functional

performance, and recommendations for how the child can achieve her postsecondary goals.

**TIP:** Think carefully before you agree to pass on (“waive”) your child’s three-year reevaluation. Three years is a long time in the life of a child. Even if the child’s disability has not changed, her needs, strengths, and weaknesses may have changed, and those changes may show that the child’s IEP should be revised.

If you think that your child needs to be reevaluated, you should send the school a written request. See a *Sample Letter Requesting a Reevaluation* as a starting point at [www.elc-pa.org](http://www.elc-pa.org). Just like the initial evaluation, the school should give you written notice of its evaluation plan and should give you a **Permission to Reevaluate-Consent Form** to sign. (Or, if you ask for a reevaluation, the school must give you a **Permission to Reevaluate-Reevaluation Request Form** within **10 calendar days**.)

A reevaluation must be completed by a school (including charter schools) and the reevaluation report given to the family within **60 calendar days** (minus the summer months) of the school’s receipt of the signed **Permission to Reevaluate-Consent Form**.

**TIP:** Remember, the timeline for the school to complete the reevaluation - like the timeline for completing the initial evaluation - dates from when you sign the **Permission to Reevaluate-Consent Form**. So make sure that you get and sign that form quickly so that the timeline for the reevaluation will start to run. *And keep a copy of whatever you sign or send.*

Unless the school district gets the permission of a special education Hearing Officer, it cannot conduct a reevaluation if the parent states in writing that she does not want the child reevaluated. However, the district can conduct a reevaluation if it has made reasonable efforts to get the parent to agree and the family has not responded. For reevaluations, the parent may request a copy of the Procedural Safeguards Notice, but the school or school district is not required to give the Notice to the family automatically.

## WHAT MUST A REEVALUATION DECIDE AND HOW?

One purpose of a reevaluation is to decide if the child continues to have a disability and needs special education and related services. The reevaluation should also help the IEP Team decide whether the child is making reasonable progress toward her goals, and if, reasonable progress is not being made, what changes are needed.

The reevaluation process begins with a review of existing data about the child (like PSSA scores, report cards, and progress monitoring reports) by the child's IEP Team. The Team must decide if any additional information is needed to determine if: 1) the child **continues** to have a disability and the child's **educational needs**; 2) the **present levels** of academic achievement and related developmental needs; 3) whether the child **continues** to **need special education** and related services; and 4) whether any **additions or changes** to the special education and related services are needed to allow the child to meet the **measurable annual goals** in her IEP and **to participate**, as appropriate, in the **general education curriculum**.

If the IEP Team decides that no additional information is needed to determine if the child is still eligible for special education and what the child's educational needs are, the school must tell the parent and explain why. In that situation, the school must also tell the parent that they can request further tests.

**TIP:** A sample **annotated Reevaluation Report** from the Pennsylvania Department of Education that explains what should be included in a reevaluation can be found at <http://www.pattan.k12.pa.us/files/Forms/English/RR-ANN110308.pdf>.

## IS THE EVALUATION PROCESS DIFFERENT IF IT IS SUSPECTED THAT MY CHILD HAS A "SPECIFIC LEARNING DISABILITY?"

Yes! Along with all the other rules that apply to the general special education evaluation process, there are **additional steps** in the evaluation process if it is suspected that a child might have a "specific learning disability." The evaluation process for deciding whether a child has a specific learning disability (SLD) can be confusing. In addition, school districts don't have to use the same

approach to make this determination. **Make sure to ASK school personnel to explain the process or the evaluation results to you if you don't understand something.**

The Pennsylvania Department of Education has issued guidelines for identifying children with specific learning disabilities, which can be found at: [www.pattan.k12.pa.us](http://www.pattan.k12.pa.us) (type "SLD" in the search box at the top of the page). PDE's annotated Initial Evaluation Report also explains the process for deciding if a child has a SLD. In addition, **every school district** must explain its procedures for complying with the state's guidelines for identifying children with specific learning disabilities in the "**special education plan**" it submits to the state.

**TIP:** This evaluation process is supposed to prevent a child who is struggling academically from being identified as having a learning disability when there is actually something else causing the child's learning difficulties.

The decision that a child has a specific learning disability is made by an **evaluation team** that includes the parent, the child's regular teacher (or if the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of the same age as your child), and at least one person (such as a speech-language teacher, a remedial reading teacher, or a school psychologist) who has the skills to evaluate the child.

The team can decide that the child has a specific learning disability if 1) the child is behind her classmates of the same age, or 2) has not met state standards in certain language, reading, or math skills even though the child was given the right learning experiences and instruction. Then, depending on which approach the school district has selected, the first step for the team is either:

- To document that the school used a scientific, research-based strategy to improve the child's learning (for example, **Response to Intervention** or RtI); that the child received high quality instruction in a regular education setting; that research-based interventions were used for the child; and that the child was regularly monitored, or
- That the child shows a pattern of strengths and weaknesses and a severe gap between her intellectual ability and performance as compared to

classmates of the same age or grade (that is, the team must decide if the child has a "severe discrepancy" between achievement and ability).

**TIP:** You should ask the evaluation team what approach the school district is using - either the "severe discrepancy" approach or the "research-based intervention" model. Then, you should ask the team members to explain what the approach means for your child. If the team members are unable to answer this question, ask the special education director for an explanation and get a copy of the district's special education plan which must describe the approach the district is using.

Regardless of which approach the school district has adopted, the team must also decide that the poor school performance is not actually because the child has a problem with seeing, hearing, or physical development. The team must also decide the child's difficulties are not the result of an emotional problem, cultural or environmental problems, poverty-related problems, or limited English skills.

Next, the team has to be certain that the child's poor academic performance is not because the child did not have appropriate reading or math instruction. Therefore, the evaluation team must consider data that shows that, before or as part of the evaluation referral, the child received scientifically-based instruction from qualified staff in regular education classes as shown by observations of routine classroom instruction. To say that an instructional program or practice is grounded in **scientifically-based research** means there is **reliable evidence** that the program or practice works. The team must also consider data-based records that the child's academic achievement was repeatedly tested while she was being instructed, and that this information was given to the child's parents.

Finally, as part of the evaluation, the team must have information on the child's academic or behavior difficulty based on an observation of the child in the regular classroom or other learning environment. This information can come from a new observation by a team member, or from an observation and monitoring of the child's performance that took place before the referral for an evaluation. The child must still be evaluated within the normal **60 calendar day** timeline (minus the summer months) for completing any special education evaluation, although the parents can agree in writing to an extension.

The team must state **in writing** whether the child has a specific learning disability, the reason for its decision, that the decision was made using the rules set out above, what behavior was seen during the observation and how that behavior affects the child's academic learning, any relevant medical findings, and its findings on the eligibility factors. The team's statement must also include information on learning strategies that were previously used to help the child, strategies to improve the child's rate of learning, and certain other information. **Each member** of the evaluation team (including the parent) **must state in writing whether she agrees with the report**, and if not what that team member's conclusions are.

## **WHAT CAN I DO IF MY SCHOOL DOES NOT FOLLOW THE TIMELINES OR OTHER RULES?**

If the school doesn't conduct a complete and accurate evaluation or reevaluation, you can request mediation or begin the process of requesting a special education hearing. You may also want to consider requesting an independent evaluation.

If the school has violated a clear legal rule, such as the timeline for conducting an evaluation or reevaluation, you can file a complaint with the Pennsylvania Department of Education's Bureau of Special Education (BSE). You can print the form out at:

[http://odr.pattan.net/files/odr/complaint\\_form\\_111606\\_eng.pdf](http://odr.pattan.net/files/odr/complaint_form_111606_eng.pdf). If your child turns out to be eligible for special education services, and the child had to wait to get those services because the school did not do the evaluation within the required time, you should ask for compensatory education (make up services) to help her catch up.

**Funding for this brochure was provided by:**

**Disability Rights Network of Pennsylvania (DRN), pursuant to the Developmentally Disabled Assistance and Bill of Rights Act, P.L. 101-496, and the P&A for Mentally Ill Individuals Act, P.L. 99-319. DRN is located at 1414 N. Cameron Street, Suite C, Harrisburg, PA 17103. Telephone: 800-692-7443 or 717-236-8110. Website: [www.drnpa.org](http://www.drnpa.org).**

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## Attachment 1

# DEFINITIONS OF RECOGNIZED DISABILITIES

From 34 Code of Federal Regulations (C.F.R.) Section 300.8 (34 C.F.R. § 300.8):

Section 300.8 Child with a disability.

(a) General. (1) Child with a disability means a child evaluated in accordance with Sec. Sec. 300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as "emotional disturbance"), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

(2)(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under Sec. Sec. 300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part.

(ii) If, consistent with Sec. 300.39(a)(2), the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be a child with a disability under paragraph (a)(1) of this section.

(b) Children aged three through nine experiencing developmental delays. Child with a disability for children aged three through nine (or any subset of that age range, including ages three through five), may, subject to the conditions described in Sec. 300.111(b), include a child--

(1) Who is 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) Who, by reason thereof, needs special education and related services.

(c) **Definitions of disability terms.** The terms used in this definition of a child with a disability are defined as follows:

(1)(i) **Autism** means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, 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 disturbance, as defined 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.

(2) **Deaf-blindness** means concomitant hearing and visual impairments, 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 a child's educational performance.

(4)(i) **Emotional disturbance** 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 learn 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 disturbance includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance under paragraph (c)(4)(i) of this section.

(5) **Hearing impairment** means an 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.

(6) **Mental retardation** 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.

(7) **Multiple disabilities** means concomitant impairments (such as mental retardation-blindness or mental retardation-orthopedic impairment), 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.

(8) **Orthopedic impairment** means a severe orthopedic 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), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

(9) **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 syndrome; and

(ii) Adversely affects a child's educational performance.

(10) **Specific learning disability**--(i) General. Specific learning disability 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 imperfect 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 mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(11) **Speech or language impairment** means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

(12) **Traumatic brain injury** means 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 child'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.

(13) **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.