ELIGIBILITY FOR SPECIAL EDUCATION SERVICES

ELIGIBILITY

Children with disabilities from birth to age 21 may be eligible for special education. Federal law defines “children with disabilities” as having any of the following types of disabilities.

- Autism
- Deaf-blindness
- Deafness
- Developmental Delay
- Emotional Disability
- Hearing Impairment
- Intellectual Disability
- Multiple Disabilities

- Orthopedic Impairment
- Other Health Impairment
- Specific Learning Disability
- Speech or Language Impairment
- Traumatic Brain Injury
- Visual Impairment (including blindness)

DEFINITIONS:

**Special Education** means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability. Special Education can include:

- Instruction
- Instruction in physical education
- Vocational Education

**Child with a Disability or Student with a Disability** means a child evaluated in accordance with the IDEA or COMAR as meeting the criteria listed in the definitions in this section for autism, deaf-blindness, developmental delay, emotional disability, hearing impairment, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, or visual impairment which has an adverse effect on the student’s educational performance and who, as a result, needs special education and related services. The terms used in this definition of a student with a disability are defined as follows:

(1)(i) **Autism**

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 (l)(i) are satisfied.
(2) **Deaf-Blindness**

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**

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 Disability**

Emotional Disability 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:

- An inability to learn that cannot be explained by intellectual, sensory, or health factors.
- An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- Inappropriate types of behavior or feelings under normal circumstances.
- A general pervasive mood of unhappiness or depression.
- 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.

(5) **Hearing Impairment**

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) **Intellectual Disability**

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.

(7) **Multiple Disabilities**

Multiple Disabilities means concomitant impairments (such as intellectual disability-blindness or intellectual disability-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**

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**

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:

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

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.

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 emotional disturbance, or of environmental, cultural, or economic disadvantage.

(11) **Speech or Language Impairment**

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 (TBI)**

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)**

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.

(14) **Developmental Delay**

Developmental Delay refers to a student who has been evaluated and determined eligible for services based on:

- A 25 percent or greater delay in adaptive, cognitive, communicative, emotional, physical, or social development;
- Atypical development or behavior as defined in COMAR 13A.13.01.02B(21)(b); or
- A diagnosed physical or mental condition as defined in COMAR 13A.13.01.02B(21)(c).

Students may only be identified with developmental delay in the age range of three (3) through seven (7) years old. Prior to the student’s eighth (8th) birthday, the IEP team must conduct a reevaluation to determine continued eligibility as a student with a disability under the categories enumerated under IDEA.