

**LASALLE/PUTNAM COUNTY EDUCATIONAL ALLIANCE FOR SPECIAL EDUCATION**  
**1009 Boyce Memorial Drive Ottawa, IL 61350**  
**PHONE/TDD: 815-433-6433 / FAX: 815-433-6164 / EMAIL: mchapman@lease-sped.org**

TO: All Recipients of the L.E.A.S.E. Procedural Guide

FROM: Mary Jane Chapman, Executive Director

DATE: January 20, 2009

RE: L.E.A.S.E. Eligibility Criteria for the fourteen disabilities recognized by federal law

Attached, please find L.E.A.S.E. eligibility criteria for the fourteen categories of disabilities recognized by federal law as approved for use throughout L.E.A.S.E. by the L.E.A.S.E. Executive Committee on October 9, 2008. This information replaces the previous L.E.A.S.E. Eligibility Criteria distributed in 2001 and reflects recent changes made in both State and federal law.

If updates to these criteria are necessary, these will be posted on the L.E.A.S.E. website in order to keep all information current. **These eligibility criteria are required to be used within L.E.A.S.E. for determining any student's eligibility for special education services.**

These eligibility criteria represent the efforts of the L.E.A.S.E. professional staff in conjunction with the much appreciated input and assistance from many local district professionals. These criteria meet the State and federal requirements for all L.E.A.S.E. public school districts to have comprehensive special education eligibility criteria. They serve to provide direction in deciding which students are and are not **eligible for special education services** in all districts throughout L.E.A.S.E.

**It is important and critical that all L.E.A.S.E. and local district staff use this information consistently.** Please contact your L.E.A.S.E. Coordinator if any questions exist regarding this information.

MJC:mbs

# L.E.A.S.E. Cooperative

## Disability/Service Eligibility Criteria

# L.E.A.S.E. COOPERATIVE

## ELIGIBILITY CRITERIA FOR DISABILITIES

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## Section 226.75 Definitions

Disability: IDEA identifies 13 disabilities as the basis for students' eligibility for special education and related services. These disabilities (autism, deaf-blindness, deafness, emotional disability, hearing impairment, cognitive disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment) shall be defined as set forth in 34 CFR 300.8(c). In addition, for purposes of this Part, "autism" shall include, but not be limited to, any Autism Spectrum Disorder that adversely affects a child's educational performance.

(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.

(Authority: 20 U.S.C. 1401(3); 1401(30))

# Illinois State Board of Education

## Required Procedures for Determination of Eligibility for Services

## **Students**

### **Administrative Procedure – Required State Board Procedure – Section 3 – Evaluation and Determination of Eligibility**

#### **A. Definitions**

- (1) The “date of referral” shall be the date the School District receives the informed written consent for the evaluation or reevaluation from the parent(s).
- (2) Screening procedures used by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered an evaluation.
- (3) Domain means an aspect of a child’s functioning or performance that must be considered in the course of designing a case study evaluation. The domains to be considered are health, vision, hearing, social emotional status, functional performance, general intelligence, academic performance, communication status and motor abilities.

#### **B. Procedures for Requesting an Initial Evaluation**

1. Each School District shall develop and make known to all concerned persons procedures by which an evaluation may be requested. These procedures shall:
  - a. Designate the steps to be taken in making a request for an evaluation;
  - b. Designate the persons to whom a request may be made;
  - c. Identify the information that must be provided;
  - d. Provide any assistance that may be necessary to enable persons making requests to meet any related requirements established by the School District; and
  - e. Identify the process for providing the parents with notice of their rights with respect to procedural safeguards.
2. **Persons Who Can Make A Request for an Evaluation**

A request may be made by a parent of a child or by an employee of a State educational agency, another State agency, a local educational agency, or a community service agency.
3. **School District’s Response to Request**
  - a. The School District shall be responsible for processing the request, deciding what action should be taken, and initiating the necessary procedures.
  - b. To determine whether the child requires an evaluation, the School District may utilize screening data and conduct preliminary procedures such as observation of the child,

assessment for instructional purposes, consultation with the teacher or other individual making the request, and a conference with the child.

- c. Within 14 school days after receiving a request for an evaluation, the School District shall determine whether an evaluation is warranted.
- d. If the School District determines not to conduct an evaluation, it shall provide written notice to the parents as required by State and federal law.
- e. If an evaluation is to be conducted:
  - (1) The School District shall convene a team of individuals (including the parent(s)) having the knowledge and skills necessary to administer and interpret evaluation data. The composition of the team will vary depending upon the nature of the child's symptoms and other relevant factors.
  - (2) The team shall identify the assessments necessary to complete the evaluation as described below and shall prepare a written notification for the parent(s) that describes any evaluation procedures to be conducted. For each domain, the notification shall either describe the needed assessments or explain why none are needed. The team may identify the assessments necessary without a meeting.
  - (3) The School District shall ensure that the notification of the team's conclusions is transmitted to the parent(s) within the 14-school-day timeline applicable along with the School District's request for the parent(s)' informed written consent to conduct the needed assessments.
  - (4) Informed written consent for the initial evaluation shall be obtained from the parent(s) of the child before conducting the evaluation.

**C. Identification of Needed Assessments**

1. An evaluation shall cover all domains, which are relevant to the individual child under consideration.
2. The following procedures shall be used for an evaluation:
  - a. The IEP Team members shall review and evaluate existing information about the child, including the following if available:
    - (1) Information from a variety of formal and informal sources, including information provided by the child's parent(s)/guardian(s);
    - (2) Current classroom-based assessments and observations;
    - (3) Observations by teachers and providers of related services;
    - (4) Information, if any, provided by the child; and
    - (5) Information from specialized evaluations such as those performed by independent evaluators, medical evaluators, behavioral intervention specialists, bilingual specialists, etc.

- b. The team may conduct its review without a meeting.
- c. After review of the information described above, the IEP Team members shall determine whether additional evaluation data is needed in any relevant domain and from what source(s) to determine:
  - (1) Whether the child has, or continues to have, one or more disabling conditions;
  - (2) The present levels of performance and educational needs of the child;
  - (3) Whether the disability is adversely affecting the child's educational performance;
  - (4) Whether the child needs or continues to need, special education and related services; and
  - (5) Whether any additions or modifications to the child's special education and related services are needed to enable the child to meet the goals and objectives of his/her IEP and to participate appropriately in the general curriculum.
- d. If evaluation data is needed, consent shall be obtained prior to conducting the evaluation. After consent is obtained, the recommended assessments will be completed by qualified individuals. At the time of consent, the parent(s)/guardian(s) shall be provided a copy of the Notice of Procedural Safeguards.
- e. After determining that evaluation data is needed, the School District must administer or arrange for such tests and other evaluation procedures as must be necessary to produce the needed information.
- f. If additional evaluation data is not needed, the School District will provide written notice to the parent(s)/guardian(s) of:
  - (1) The determination and reasons for such determination; and
  - (2) Advise the parent(s)/guardian(s) of their right to request an assessment for the sole purpose of determining whether the child is or continues to be eligible for special education services.
- g. If the School District fails to conduct the evaluation, the parent(s) of the child may appeal this failure in an impartial due process hearing.

**D. Timeline for Convening Evaluation Review Meeting**

Upon completion of the assessments, but no later than 60 school days following the date of receipt of informed written consent from the parent(s) to perform the needed assessments (or prior to the first day of the next school year if there are less than 60 school days remaining at the time informed written consent is received), the determination of eligibility shall be made at an IEP meeting.

**E. Evaluation Requirements**

- 1. In conducting the evaluation, the School District must:
  - a. Use a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about the child, including information provided by the parent(s) that may assist in determining:
    - (1) Whether the child is a child with a disability;
    - (2) The content of the child's IEP.

- b. Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.
- c. Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
- d. Each evaluation shall be conducted so as to ensure that it is nondiscriminatory with respect to language, culture, race, and gender.
  - (1) The languages used to evaluate a child shall be consistent with the child's primary language or other mode of communication. Determination of the child's language use pattern and general cultural identification shall be made by determining the languages spoken in the child's home and the languages used most comfortably and frequently by the child. If the language use pattern involves two or more languages or modes of communication, the child shall be evaluated by qualified specialists or, when needed, qualified bilingual specialists using each of the languages or modes of communication used by the child.
  - (2) If documented efforts to locate and secure the services of a qualified bilingual specialist are unsuccessful, the School District shall use an individual who possesses the professional credentials required under 23 Ill. Admin. Code § 226.840 to complete the specific components of the evaluation. This qualified specialist shall be assisted by a certificated School District employee or other individual who has demonstrated competencies in the language of the child.
  - (3) If documented efforts to locate and secure the services of a qualified bilingual specialist or a qualified specialist assisted by another individual are unsuccessful, the School District shall conduct assessment procedures which do not depend upon language. Any special education resulting from such alternative procedures shall be reviewed annually until the student's proficiency is determined no longer to be limited pursuant to 23 Ill. Admin. Code § 228.
  - (4) Tests given to a child whose primary language is other than English shall be relevant, to the maximum extent possible, to his/her culture.
  - (5) Determination of the child's mode of communication shall be made by assessing the extent to which the child uses verbal expressive language and the use he or she makes of other modes of communication (e.g., gestures, signing, unstructured sounds) as a substitute for verbal expressive language.
  - (6) If the child's receptive and/or expressive communication skills are impaired due to hearing and/or language deficits, the School District shall utilize test instruments and procedures that do not stress spoken language and one of the following:
    - (a) Visual communication techniques in addition to auditory techniques.
    - (b) An interpreter to assist the evaluative personnel with language and testing.
  - (7) The child's language use pattern, proficiency in English, mode of communication, and general cultural identification shall be noted in the child's temporary student record, and this

information shall be used in the evaluation and in the development and implementation of the individualized education program

2. Assessments and their evaluation materials must be:
  - a. Used for the purposes for which the assessments or measures are valid and reliable;
  - b. Administered by trained and knowledgeable personnel; and
  - c. Administered in accordance with any instructions provided by the producer of the assessments.
3. No single procedure and no single individual shall be used as the sole criterion or evaluator to assess whether or not the child has a disability or in determining appropriate programming for the child. Tests and other evaluation materials shall be tailored to assess specific areas of educational need and may not be merely those that are designed to provide a single intelligence quotient.
4. The School District shall use assessment tools and strategies that provide relevant information and are sufficiently comprehensive to assist in identifying all of the child's needs for special education and related services, whether commonly linked to the disability according to which the child has been classified.
5. If the assessment is conducted under nonstandard conditions, a description of the extent to which the assessment varied from standard conditions shall be included in the evaluation report. This information is needed so that the team of evaluators can assess the effects of these variances on the validity and reliability of the information reported and determine whether additional assessments are needed.
6. Any individual conducting a component of an evaluation shall meet the requirements set forth in 23 Ill. Admin. Code § 226.840.
7. If any portion of an evaluation cannot be completed due to lack of parental involvement, religious convictions of the family, or inability of the child to participate in an evaluation procedure, the School District shall note missing portions in the evaluation report and state the reasons why such portions could not be completed.

**F. Determination of Eligibility**

1. No later than 60 school days following the date of obtaining consent to conduct an evaluation (or prior to the first day of the next school year if there are less than 60 school days remaining at the time consent is provided), an IEP meeting will be held to consider the results of the evaluation and, if the child is determined to be eligible for special education and related services to develop an IEP.
2. The IEP Team shall include the following individuals:
  - a. The parent(s)/guardian(s) of the child;
  - b. A regular education teacher if the child is or may participate in the regular education environment. For a child of less than school age, an individual qualified to teach preschool children;
  - c. A special education teacher;
  - d. A representative of the School District who:

- (1) Is qualified to provide, to supervise the provision of, specially designed instruction to meet the needs of children with disabilities;
  - (2) Is knowledgeable about the general curriculum;
  - (3) Is knowledgeable about the School District's resources; and
  - (4) Has the authority to make commitments for the provision of resources and is able to ensure that the services provided in the IEP are implemented.
- e. An individual who is qualified to interpret the instructional implications of the evaluation results, who may be one of the individuals listed above;
  - f. A representative of any other agency that is likely to be responsible for providing or paying for transition services, if the child is one for whom transition services are to be planned;
  - g. Whenever appropriate, the child with a disability
    1. the public agency must invite a child with a disability to attend the child's IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals.
    2. If the child does not attend the IEP Team meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered.
  - h. Other individuals with knowledge or special expertise regarding the child, including providers of related services.
3. The IEP Team, after considering the evaluation and other information available regarding the child, shall determine whether the child is or continues to be eligible for special education and related services as a child with a disability as defined by federal and state law. In making this determination, the IEP Team shall:
    - a. Draw upon information from a variety a sources, including aptitude and achievement tests, parental input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
    - b. Ensure that information obtained from all of these sources is documented and considered; and
    - c. Ensure that a psychological evaluation has been conducted and a recommendation for eligibility has been made by a school psychologist for all children determined to have a cognitive disability.
  4. A child may not be determined eligible if the determinant factor for that determination is lack of instruction in reading or math or limited English proficiency and the child does not otherwise meet the School District's eligibility criteria.
  5. A report of the IEP meeting will be prepared and contain the following:

- a. A description of the team's consideration of pre-existing information about the child, all new evaluation results obtained and any other information relevant to the decision about the child's eligibility;
  - b. The date of the meeting;
  - c. The names, positions and signatures of those in attendance at the meeting; and
  - d. Any separate written statement provided by a participant who wishes to be on record as disagreeing with the conclusions expressed in the team's report.
6. In the event that the student is determined to be eligible for special education and related services, the IEP meeting shall be conducted within 30 days (and no later than 60 school days from the date the School District receives the informed written consent for the evaluation or reevaluation from the parent(s)) after the date of that determination.
  7. A copy of the IEP Team's report, together with all documentation upon which it is based will be maintained in the child's temporary education record in accordance with confidentiality requirements.
  8. A copy of the completed document will be provided to the parent(s)/guardian(s). If requested, a copy of any evaluation reports will also be provided.
  9. No later than 10 school days following the IEP meeting, the parent(s)/guardian(s) will be provided a written notice of the determination of the team, in compliance with 23 Ill. Admin. Code § 226.520. A copy of the Procedural Safeguards Statement will also be provided to the parent(s)/guardian(s) no later than 10 school days following the meeting.

**G. Additional Requirements for Identifying Children with Specific Learning Disabilities**

1. The criteria for identifying children with specific learning disabilities
  - a. Must permit the use of a process based on the child's response to scientific, research-based intervention and, by 2010-2011 school year, require the use of a process that determines how the child responds to scientific, research-based interventions as part of the evaluation procedure;
  - b. May permit the use of other alternative research-based procedures to determine whether a child has a specific learning disability, as defined in federal law; and
  - c. In addition to the process described above, the School District may permit the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability.
2. Additional group members required to determine specific learning disability eligibility  
 The determination of whether a child suspected of having a specific learning disability is a child with a disability must be made by the child's parent(s) and a team of qualified professionals, which must include:
  - a. The child's regular teacher; or

- b. If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his/her age; or
  - c. For a child less than school age, an individual qualified by ISBE to teach a child of his/her age; and
  - d. At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.
3. Determining the existence of a specific learning disability
- a. The group described above may determine that a child has a specific learning disability, if:
    - (1) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards:
      - (a) Oral expression.
      - (b) Listening comprehension.
      - (c) Written expression.
      - (d) Basic reading skills.
      - (e) Reading fluency skills.
      - (f) Reading comprehension.
      - (g) Mathematics calculation.
      - (h) Mathematics problem solving.
    - (2) A) The child does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified above when using a process based on the child's response to scientific, researched-based intervention; or
      - B) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments; and
 The group determines that its findings above are not primarily the result of:
      - (a) A visual, hearing, or motor disability;
      - (b) Cognitive disability;
      - (c) Emotional disability;
      - (d) Cultural factors;
      - (e) Environmental or economic disadvantage; or
      - (f) Limited English proficiency.
    - (3) To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation:

- (a) Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
  - (b) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parent(s).
- (4) The public agency must promptly request parental informed written consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the timeframes, unless extended by mutual written agreement of the child's parent(s) and a group of qualified professionals:
  - (a) If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction, as described above; and
  - (b) Whenever a child is referred for an evaluation.
- 4. Observation
  - a. The School District must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.
  - b. The group meeting to determine whether a child has a specific learning disability, must decide to:
    - (1) Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation; or
    - (2) Have at least one member of the group conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental informed written consent is received.
  - c. In the case of a child of less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age.
- 5. Specific documentation for a determination of specific learning disability
  - a. For a child suspected of having a specific learning disability, the documentation of the determination of eligibility must contain a statement of:
    - (1) Whether the child has a specific learning disability;
    - (2) The basis for making the determination, including assurance that the determination has been made in accordance with Section 3, C (3) (a & b);
    - (3) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;
    - (4) The educationally relevant medical findings, if any;
    - (5) Whether:

- (a) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards as provided above; and
- (b) (A) The child does not make sufficient progress to meet age or State-approved grade-level standards as provided above; or
  - (B) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards or intellectual development as provided above;
- (1) The determination of the group concerning the effects of a visual, hearing, or motor disability; cognitive disability; emotional disability; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and
- (2) If the child has participated in a process that assesses the child's response to scientific, research-based intervention:
  - (a) The instructional strategies used and the student-centered data collected; and
  - (b) The documentation that the child's parent(s) were notified about:
    - i. The State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
    - ii. Strategies for increasing the child's rate of learning; and
    - iii. The parent(s)' right to request an evaluation.
- b. Each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

## **H. Reevaluations**

- 1. The School District must ensure that a reevaluation of each child with a disability is conducted in accordance with the procedures for an evaluation in accordance with Sections B-F of this procedure.
  - a. If the School District determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or
  - b. If the child's parent(s) or teacher requests a reevaluation.
- 2. A reevaluation conducted as described above:
  - a. May occur not more than once a year, unless the parent(s) and the public agency agree otherwise; and
  - b. Must occur at least once every 3 years, unless the parent(s) and the School District agree that a reevaluation is unnecessary.

## **I. Consideration of Privately Obtained Evaluations**

- 1. Parents have the right to obtain an independent educational evaluation of their child in accordance with State and federal law. (See Section 10, (L)).

2. If the parent(s) advises the School District that it has recently had the child evaluated by an individual not employed by the School District, the School District should:
  - a. Request a copy of the evaluation report, if available, for consideration by the IEP Team; and
  - b. Obtain consent for release of information from the private evaluator.
3. Upon receipt of an evaluation report or a request by a parent(s)/guardian(s) to convene an IEP meeting to consider an independent evaluation, the School District shall, within 10 days, send written notice of an IEP meeting.
4. At the IEP meeting, the School District shall consider the results of the evaluation in any decision made with respect to the child's free appropriate public education.

LEGAL REF.: 20 U.S.C. §§ 1412 (State eligibility), 1412(a)(3), 1413 (local educational agency eligibility),  
1413(a)(1), 1413(a)(3).  
34 C.F.R. §§ 300.122, 300.201, 300.301- 300.311.  
23 Ill.Admin.Code §§ 226.110, 226.120, 226.130, 226.135, 226.140, 226.150, 226.180.

## ELIGIBILITY CRITERIA

### **Evaluation:**

As outlined in Title 23, Illinois Administrative Code, when a school district accepts a referral for special education and related services, eligibility must be determined in a process which includes determination of the disability, identification of the adverse effect that the disability has on the student's educational performance and an outline of the student's educational needs. Each school district shall ensure that a full and individual evaluation is conducted for each student considered for special education and related services. The Individualized Education Program (IEP) Team, which includes the parent; at least one of the child's regular education teachers (if the student is, or may be, participating in the regular education environment); the special education teacher; a representative of the local school who can supervise or provide specialized instruction and commit services; an individual who can interpret evaluation results; the student, as appropriate; and other individuals as necessary who have knowledge or special expertise about the child, must meet to determine eligibility.

Eligibility for special education and related services is determined in the meeting through a review and analysis of the information gathered in the evaluation. The IEP Team must assure that:

- the disability has been substantiated by convergent data.
- the information has been gathered from multiple sources.
- the preponderance of indicators support eligibility in the category.
- documented outcomes resulting from systematic monitoring indicate that the student is resistant to interventions designed to meet this student's needs.
- in order to maintain and sustain interventions requires resources and services beyond those available in general education.
- the reason for determination is not lack of instruction in reading or math or limited English proficiency.

Eligibility must be reevaluated at least every three years or whenever conditions warrant a reevaluation. While a full and complete reevaluation may be preferred or determined necessary, the school may determine that a review of the current educational record and most recently completed evaluations in one or more domain areas is sufficient to constitute the reevaluation when it is determined that no new data is needed or requested by the parent in one or more of the domains to be evaluated.

### **Exit from Special Education:**

Eligible students who are being considered for dismissal must be reevaluated as indicated in the paragraph above. At least some new evaluation data in one or more domain areas would be necessary to justify dismissal. A student is to be dismissed from special education and related services when:

- The child no longer fits the definition of a child with a disability.
- the disability no longer impacts adversely on educational performance.

In all cases, a student's eligibility for special education and related services ends when he/she receives a regular high school diploma or when he/she turns 22.

### **Eligibility Criteria:**

Title 23, Illinois Administrative Code, Part 226.75 defines fourteen disability categories under which a student may be determined eligible for special education and related services. The following pages list the criteria for the fourteen disability categories recognized in federal law:

## AUTISM

### DEFINITION

(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. (34CFR 300.8)

In addition, for purposes of this Part, "autism" shall include, but not be limited to, any Autism Spectrum Disorder that adversely affects a child's educational performance.

**CRITERIA** (Both A and B below must be met.)

***A. A student is eligible for special education and related services with the identified disability of autism when the IEP Team determines and documents the presence of at least two (2) behaviors from the Social Interaction Group, one (1) behavior from the Communication Group, and one (1) behavior from the Restrictive and Repetitive Behavior Group. Consider a criterion to be met only if the behavior is abnormal for the child's developmental level and is not caused by some other disability.***

***Social Interaction characteristics: (2 or more)***

1. Marked lack of awareness of the existence or feelings of others;
2. Absent or abnormal seeking of comfort at times of distress;
3. Absent or impaired imitation;
4. Absent or impaired social play;
5. Gross impairment in ability to make peer friendships.

***Communication characteristics: (1 or more)***

1. No mode of communication, such as communicative babbling, pointing at objects with eyes, facial expression, gesture, mime, or spoken language;
2. Markedly abnormal nonverbal communication, as in the use of eye-to-eye gaze, facial expression, body posture, echopraxia, or gestures to initiate or modulate social interaction;
3. Absence of imaginative activity, such as play-acting or adult roles, fantasy characters, or animals, lack of interest in stories or imaginative events;
4. Marked abnormalities in the production of speech, including volume, pitch, stress, rate, rhythm, and intonation;
5. Marked abnormalities in the form or content of speech, including stereotyped and repetitive use of speech; use of "you" when "I" is meant; or idiosyncratic use of words or phrases;
6. Marked impairment in the ability to initiate or sustain a conversation with others despite adequate speech.

***Restrictive and Repetitive Behaviors: (1 or more)***

1. Stereotyped body movements;
2. Persistent preoccupation with parts of objects or attachment to unusual objects;
3. Marked distress over changes in trivial aspects of environment;
4. Unreasonable insistence on following routines in precise detail;
5. Markedly restricted range of interests and a preoccupation with one narrow interest.

***B. The student demonstrates sustained resistance to interventions designed to meet individual student needs or to maintain and sustain the interventions requires resources and services beyond those available in general education.***

**Other Considerations:**

The characteristics listed under “**CRITERIA**” above are valid only if behaviors are abnormal for the student’s developmental level. This requires an assessment of the student’s intelligence, language abilities, and adaptive behavior using appropriate standardized measures.

In the development of the individualized education program for a student who has a disability on the autism spectrum (which includes autistic disorder, Asperger’s disorder, pervasive development disorder not otherwise specified, childhood disintegrative disorder, and Rett Syndrome, as defined in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV, 2000)), the IEP team shall consider all of the following factors:

- (1) The verbal and nonverbal communication needs of the child.
- (2) The need to develop social interaction skills and proficiencies.
- (3) The needs resulting from the child’s unusual responses to sensory experiences.
- (4) The needs resulting from resistance to environmental change or change in daily routines.
- (5) The needs resulting from engagement in repetitive activities and stereotyped movements.
- (6) The need for any positive behavioral interventions, strategies, and supports to address any behavioral difficulties resulting from autism spectrum disorder.
- (7) Other needs resulting from the child’s disability that impact progress in the general curriculum, including social and emotional development.

This amendatory Act of the 95<sup>th</sup> General Assembly does not create any new entitlement to a service, program or benefit, but must not affect any entitlement to a service, program, or benefit created by any other law.

## DEAF-BLINDNESS

### DEFINITION

(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. (34 CFR 300.8)

### CRITERIA (A-F below must be met.)

- A. Student meets eligibility for both deafness and visual impairment:
- a. Deafness: (Must meet one of the following.)
1. Documentation of deafness by an audiologist;
  2. Functional auditory behavior that is significantly discrepant from the person's present cognitive and/or developmental level.
- b. Visual Impairment: (Must meet one or more of the following.)
- | Yes                      | No                       |                                                              |
|--------------------------|--------------------------|--------------------------------------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Visual Acuity Loss                                           |
| <input type="checkbox"/> | <input type="checkbox"/> | Visual Field Loss                                            |
| <input type="checkbox"/> | <input type="checkbox"/> | Changing or Degenerating Physical Condition affecting Vision |
- B. Documentation of deafness by an audiologist.
- C. Documentation of a functional vision assessment completed by educational personnel certified in the area of visual impairment.
- D. Documentation of deficits in educational performance due to both the hearing and vision impairment.
- E. Documentation of a delay in communication or other developmental areas.
- F. The student demonstrates sustained resistance to interventions designed to meet individual student needs or to maintain and sustain the interventions requires resources and services beyond those available in general education or in special education programs designed solely for visual or hearing impairments.

**DEAFNESS**

**DEFINITION**

(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. (34 CFR 800.3)

**CRITERIA**      **The Student must demonstrate the following:**

**Yes      No**

           Evidence of educational deficits casually related to deafness

           The deficits are so severe that the student's educational needs cannot be met in a regular educational program without special education and related services or the student would risk further educational delay

**AND**

**Yes      No**

           Documentation of deafness by an audiologist

## DEVELOPMENTAL DELAY

### DEFINITION

See 34 CFR 300.8 and 300.111(b). Delay in physical development, cognitive development, communication development, social or emotional development, or adaptive development (may include children from three through nine years of age). (23 Ill. Adm. Code 226.75)

### CRITERIA (A-C below must be met.)

- A. The child shall be between the ages of 3 and 9. (On the student's tenth birthday, he or she is no longer eligible for special education and related services with Developmental Delay eligibility. A reevaluation must be completed before the student's tenth birthday.)
  
- B. Documentation that the child exhibits significant delays (recommended to be 20% or more below his/her chronological age in one or more of the required areas): physical development; cognitive development; communication development; social or emotional development; or adaptive behavior. Note: For an initial eligibility when communication development box is checked, also complete Speech/Language eligibility page.
  
- C. Documentation that the student demonstrates sustained resistance to interventions designed to meet individual student needs or to maintain and sustain the interventions requires resources and services beyond those available in general education.

## EMOTIONAL DISABILITY

### DEFINITION

(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. (34 CFR 300.8)

### CRITERIA ( A-E below must be met.)

**A. The student must exhibit and the IEP Team must document one or more of the following characteristics:**

- 1. Inability to learn that cannot be explained by intellectual, sensory or health factors.
- 2. Inability to develop or maintain satisfactory interpersonal relationships with peers and/or teachers.
- 3. Inappropriate types of behavior or feelings under normal circumstances.
- 4. General, pervasive anxiety, unhappiness, depression or extreme passivity.
- 5. A tendency to develop physical symptoms or fears associated with personal or school problems.

**B. The IEP Team must document ALL of the following in terms of the characteristics identified above:**

- 1. Adversely affects educational performance; i.e. academic achievement, acquisition and execution of social skills, and/or interpersonal relationships within the school setting.
- 2. Present over an extended period of time in multiple settings.
- 3. Exhibited frequently over an extended period of time.
- 4. Exhibited with intensity and severity.
- 5. Student's behavioral/emotional responses are abnormal for his/her developmental level.

**C. The student's difficulties are identified in a functional, objective and observable fashion.**

**D. Well-planned, scientific researched and individualized interventions have been ineffective in modifying behaviors, feelings, relationships, moods, fears, or physical symptoms.**

**E. Documentation that the student demonstrates sustained resistance to interventions designed to meet individual student needs or to maintain and sustain the interventions requires resources and services beyond those available in general education.**

### ***Other Considerations:***

A Functional Behavioral Assessment is a key component in eligibility determination for Emotional Disturbance. The student exhibits and the IEP Team must document a history of aggressive incidents, school interventions, suspensions and behaviors that are threatening or dangerous to self and others.

A Behavior Intervention Plan should be a component of the IEP.

## HEARING IMPAIRMENT

### DEFINITION

(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. (34 CFR 300.8)

### CRITERIA (A-B below must be met.)

- A. Documentation of one or more of the following by an audiologist
  - 1. Permanent hearing loss.
  - 2. Fluctuating hearing loss.
  - 3. Changing or degenerating physical condition affecting hearing.
  - 4. The child's hearing loss has been medically or surgically corrected, but the child previously had a documented hearing loss for at least two years.
  - 5. The child has a recurring or chronic hearing loss which can be documented medically or audiologically for two years.
  
- B. Documentation that the student demonstrates sustained resistance to interventions designed to meet individual student needs or to maintain and sustain the interventions requires resources and services beyond those available in general education.

## COGNITIVE DISABILITY

### DEFINITION

(6) *Cognitive Disability (Illinois Term for 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. (34 CFR 300.8)

### CRITERIA (A-G below must be met.)

- A. Documentation of significantly subaverage intellectual functioning on a standardized intelligence test that measures, as far as possible, general cognitive ability rather than one facet of ability such as receptive vocabulary or spatial-analytic skills only. (Significantly subaverage means two or more standard deviations below the population mean.)
- B. Documentation of deficits in adaptive behavior consistent with significantly subaverage general intellectual functioning.
- C. Documentation that the disability manifested itself during the student's developmental period: (birth to eighteen years of age).
- D. Documentation that the student's academic achievement is consistent with or below his/her general intellectual functioning and adaptive behavior.
- E. The school psychologist has conducted a psychological evaluation and recommends eligibility for cognitive disability.
- F. Documentation that the student's instructional level requires tasks significantly different from the content and skill of the general curriculum.
- G. Visual impairment, physical problems, bilingual/bicultural factors, experiential/cultural deprivation, poor motivation, emotional disturbance, poor or inappropriate instruction, and/or underachievement due to absences, moves or inconsistent attendance is not the primary cause of the student's learning difficulties.

### *Other Considerations*

Adaptive behavior refers to the effectiveness with which individuals meet the standards of personal independence and social responsibility expected of individuals of their age and cultural group. Deficits in adaptive behavior are evaluated according to developmental age:

- During infancy and early childhood, adaptive deficits are evaluated in relationship to sensory motor skills, communication skills, self-help skills, and socialization skills.
- During childhood and early adolescence, the focus is on the application of basic academic skills in daily life activities, appropriate reasoning and judgment in interacting with the environment and social skills.
- During late adolescence and adult life, adaptive behavior centers on vocational and social responsibilities and performances.

## **MULTIPLE DISABILITIES**

### **DEFINITION**

(7) *Multiple disabilities* means concomitant impairments (such as cognitive disability-blindness or cognitive 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. (34 CFR 300.8)

### **CRITERIA** (A-C below must be met.)

- A. The student meets eligibility criteria for at least two of the following categories: Autism, Deafness, Emotional Disturbance, Hearing Impairment, Cognitive Disability, Orthopedic Impairment, Other Health Impairment, Specific Learning Disability, Speech or Language Impairment, Traumatic Brain Injury, Visual Impairment, and they are the primary cause of the student's educational needs.
- B. The impairments severely impact the student's participation and progress in age-appropriate academic or social activities within the general curriculum.
- C. Documentation that the student demonstrates sustained resistance to interventions designed to meet individual student needs or to maintain and sustain the interventions requires resources and services beyond those available in general education or special program designed solely for one of the impairments.

## ORTHOPEDIC IMPAIRMENT

### DEFINITION

(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). (34 CFR 300.8)

### CRITERIA

- A. The student exhibits an orthopedic impairment, either temporary or permanent, which interferes with his/her learning and may require adaptation of the physical plant.
- B. The student's limitation is not due to emotional/behavioral, environmental, cultural, linguistic, sensory (vision/hearing), or cognitive concerns.
- C. Documentation that the student demonstrates sustained resistance to interventions designed to meet individual student needs or to maintain and sustain the interventions requires resources and services beyond those available in general education..
- D. Data indicates that the significant performance deficits associated with the documented orthopedic impairment are so severe that immediate services are warranted.

## OTHER HEALTH IMPAIRMENT

### DEFINITION

(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. (34 CFR 300.8)

### CRITERIA (A-C below must be met.)

A. Documentation of a medical diagnosis of a significant health impairment.

#### **OR**

For Attention Deficit Disorder (ADD)/Attention Deficit Hyperactivity Disorder (ADHD), there is documentation in **all three** of the following areas:

1. Characteristics associated with ADD/ADHD are exhibited in multiple settings.
2. Significant ratings exist in both the home and/or multiple school environments on rating scales, as appropriate.
3. Deficits persist in spite of medical and/or educational interventions.

B. Documentation that the student demonstrates sustained resistance to interventions designed to meet individual student needs or to maintain and sustain the interventions requires resources and services beyond those available in general education.

C. The student's limitation is not due to emotional/behavioral, environmental, cultural, linguistic, sensory (vision/hearing), or cognitive concerns.

## SPECIFIC LEARNING DISABILITY

### DEFINITION

(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. (34 CFR 300.8)

### CRITERIA

- A. Documentation exists that the student demonstrates a severe discrepancy (recommended to be at least one standard deviation difference) between intellectual ability and achievement in one or more of the seven areas indicated below:
1. Oral Expression.
  2. Listening Comprehension.
  3. Written Expression.
  4. Basic Reading Skills.
  5. Reading Comprehension.
  6. Reading Fluency
  7. Mathematics Calculation.
  8. Mathematics Reasoning.
- OR-
- B. The student's academic achievement is at a significantly slower rate than that of peers despite interventions and modifications in instruction, curriculum and environment in one or more of the seven areas indicated above.
- OR-
- C. The student demonstrates sustained resistance to interventions designed to meet individual student needs or to maintain and sustain the interventions requires resources and services beyond those available in general education in one or more of the seven areas indicated above.
- AND-
- D. Documentation that the academic difficulty is not primarily the result of other factors: vision impairment, hearing impairment, motor impairment, cognitive disability, emotional disturbance, environmental disadvantage, cultural disadvantage or economic disadvantage.
- E. An Assessment of the Learning Environment (an observation by a certified staff member other than the student's teacher describing relevant behaviors noted during the observation and their relationship to academic functioning) has been completed and documented.

## SPEECH OR LANGUAGE IMPAIRMENT

### DEFINITION

(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. (34 CFR 300.8)

### CRITERIA (Both A and B must be met)

- A. The student must demonstrate a marked delay/difference in 1 or more of the following areas:
1. Stuttering as indicated by an impaired rate and rhythm of connected speech which may be accompanied by secondary issues and results in speech that is not commensurate with that of peers.
  2. Articulation/phonology disorder as indicated by speech sounds not developing according to developmental norms.
  3. Language disorder as indicated by low performance on measures of language skills (pragmatics, content, form and/or use) which are related to curricular performance.
  4. Voice impairment as indicated by any deviation in pitch, intensity, quality, or other attribute which consistently interferes with communication.
- B. Documentation that the student demonstrates sustained resistance to interventions designed to meet individual student needs or to maintain and sustain the interventions requires resources and services beyond those available in general education.

### *Exclusionary characteristics:*

- A. Speech/language errors are not primarily due to cultural or dialectical differences.
- B. The student's skill level is much below that of peers despite modifications of instruction, curriculum and environment.

## TRAUMATIC BRAIN INJURY

### DEFINITION

(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. (34 CFR 300.8)

### CRITERIA (A-D below must be met.)

- A. A medical diagnosis that the student has an acquired injury to the brain caused by an external physical force and that the injury is not congenital, degenerative, induced by birth trauma or the result of internal action to the brain, such as stroke or aneurysm.
- B. Documentation that the traumatic brain injury has resulted in impairment in one or more of the following areas:
1. Cognitive Functioning.
  2. Motor.
  3. Abstract Thinking
  4. Information Processing.
  5. Sensory/Perceptual.
  6. Psycho/Social.
  7. Judgment.
  8. Speech.
  9. Receptive or Expressive Language.
  10. Reasoning.
  11. Problem Solving.
  12. Memory.
  13. Attention.
  14. Adaptive Behavior.

Evidence of deficits in educational performance that are related to the traumatic brain injury are general considerations for adverse effect.

- C.. Documentation that the student demonstrates sustained resistance to interventions designed to meet individual student needs or maintaining and sustaining interventions designed to meet individual student needs requires resources and services beyond those available in general education.
- D. Data indicates that the significant performance deficits associated with traumatic brain injury are so severe that immediate services are warranted.

## VISUAL IMPAIRMENT

### DEFINITION

(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. (34 CFR 300.8)

### CRITERIA (A-C below must be met.)

- A. Documentation of a visual impairment in **at least one** of the following areas:
  - a. Visual Acuity Loss.
  - b. Visual Field Loss.
  - c. Changing or degenerating physical condition affecting vision.
- B. Documentation of a functional vision assessment completed by educational personnel certified in the area of visual impairment.
- C. Documentation that the student demonstrates sustained resistance to interventions designed to meet individual student needs or to maintain and sustain the interventions requires resources and services beyond those available in general education.