| **Educational Classification** | **IDEA Regulations** | **Current DE Regs** | **Proposed DE Regs** |
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| 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)](https://sites.ed.gov/idea/regs/b/a/300.8/c/1/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)](https://sites.ed.gov/idea/regs/b/a/300.8/c/1/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. | 6.6 Eligibility Criteria for Autism. The educational classification of autism encompasses the clinical condition of Autistic Disorder, as well as other typically less severe Pervasive Developmental Disorders, (i.e., Asperger Syndrome and Pervasive Developmental Disorder, Not Otherwise Specified). These conditions share important features, and together, comprise the Autistic Spectrum Disorders (ASDs). Students with educational classifications of autism may have ASD of differing severity as a function of the number and pattern of features defined in the eligibility criteria listed below.6.6.1 In order for the IEP team to determine eligibility for special education services under the Autism category, the following is required:6.6.1.1 All students with an educational classification of autism demonstrate a significant, qualitative impairment in reciprocal social interaction, as manifested by deficits in at least two of the following:6.6.1.1.1 Use of multiple nonverbal behaviors to regulate social interactions;6.6.1.1.2 Development of peer relationships;6.6.1.1.3 Spontaneous seeking to share enjoyment, interests, or achievements with other people, including parent(s) and caregivers; or6.6.1.1.4 Social or emotional reciprocity.6.6.1.2 All students with an educational classification of autism also demonstrate at least one feature from either 6.6.1.2.1 or 6.6.1.2.2.6.6.1.2.1 A qualitative impairment in communication, as manifested by:6.6.1.2.1.1 A lack of, or delay in, spoken language and failure to compensate through gesture;6.6.1.2.1.2 Relative failure to initiate or sustain a conversation with others;6.6.1.2.1.3 Stereotyped, idiosyncratic, or repetitive speech; or6.6.1.2.1.4 A lack of varied, spontaneous make believe play or social imitative play.6.6.1.2.2 Restricted, repetitive, and stereotyped patterns of behavior, as manifested by:6.6.1.2.2.1 Encompassing preoccupation or circumscribed and restricted patterns of interest;6.6.1.2.2.2 Apparently compulsive adherence to specific, nonfunctional routines and rituals;6.6.1.2.2.3 Stereotyped and repetitive motor mannerisms; or6.6.1.2.2.4 Persistent preoccupation with parts and sensory qualities of objects.6.6.1.3 All students with an educational classification of autism have impairments that:6.6.1.3.1 Are inconsistent with the student’s overall developmental and functional level; and6.6.1.3.2 Result in an educationally significant impairment in important areas of functioning; and6.6.1.3.3 Are a part of a clear pattern of behavior that is consistently manifested across a variety of people, tasks and settings, and that persists across a significant period of time; and6.6.1.3.4 Are not primarily accounted for by an emotional disorder.6.6.2 An educational classification of autism is established:6.6.2.1 Using specialized, validated assessment tools that provide specific evidence of the features of ASD described above;6.6.2.2 By individuals who have specific training in the assessment of students with ASD in general, and in the use of the assessment procedures referred to in 6.6.2.1; and6.6.2.3 Based upon an observation of the student in a natural education environment, an observation under more structured conditions, and information regarding the student’s behavior at home.6.6.3 Age of Eligibility: The age of eligibility for children with autism shall be from birth until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. | 6.6 Autism: In order for the IEP team to determine eligibility for special education and related services under the Autism classification, the following is required: 6.6.1 Eligibility Criteria: A child with an educational classification of Autism is a child who has 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 as referred to in 14 **DE Admin. Code** 922.3.0, and the child exhibits: 6.6.1.1 Persistent impairments in social communication and social interaction, across multiple contexts, as manifested by one (1) or more of the following deficits, currently or by history: 6.6.1.1.1 Deficits in social-emotional reciprocity; 6.6.1.1.2 Deficits in non-verbal communicative behaviors used for social interaction; or 6.6.1.1.3 Deficits in developing, maintaining, and understanding relationships. 6.6.1.2 Restricted, repetitive patterns of behavior, characteristics, interests, or activities as manifested by one (1) or more of the following currently or by history: 6.6.1.2.1 Stereotyped or repetitive motor movements, use of objects or speech; 6.6.1.2.2 Insistence on sameness, inflexible adherence to routines, or ritualized patterns or verbal nonverbal behavior; 6.6.1.2.3 Highly restricted, fixated interests that are abnormal in intensity or focus; or 6.6.1.2.4 Hyper- or hypo-reactivity to sensory input or unusual interests in sensory aspects of the environment. 6.6.1.3 Impairments that: 6.6.1.3.1 Result in an educationally significant impairment in important areas of functioning; and 6.6.1.3.2 Are persistent across multiple contexts, including but not limited to a variety of people, tasks and settings. 6.6.2 Age of Eligibility: The age of eligibility for children under this classification is from birth until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. 6.6.3 Additional Criteria for Eligibility: While the educational classification of autism may co-occur with other conditions, such interference in educational performance cannot primarily be explained by an emotional disability, intellectual disability, developmental delay, or factors listed under the special rule for eligibility determination consistent with 14 **DE Admin. Code** 925.6.2. 6.6.4 Disability Specific Evaluation Procedures: An evaluation as described in 14 **DE Admin. Code** 925.4 through 925.5, and data obtained from, but not limited to: 6.6.4.1 Specialized, validated assessment tools that provide specific evidence of the features of the educational classification of Autism described above; 6.6.4.2 Observations of the student across structured and unstructured contexts. 6.6.5 Re-evaluation Procedures: For purposes of continued eligibility determination, the IEP team shall follow procedures consistent with 14 **DE Admin. Code** 925.3 through 925.5 and 925.6.6. 6.6.6 Documenter: Documentation of this condition shall be provided by individuals who have specific training in the assessment of students with the educational classification of Autism, and in the use of the assessment procedures included in subsection 6.6.4, such as but not limited to, a licensed psychologist, certified school psychologist, and/or speech-language pathologist. 6.6.7 Additional IEP Members: For purposes of eligibility determination, the school psychologist and licensed and certified speech-language pathologist shall be members of the IEP team in addition to required members referred to in 14 **DE Admin. Code** 925.21. |
| 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. | 6.8 Eligibility Criteria for Deaf Blind:An IEP team shall consider the following in making a determination that a child has a deaf blind condition:6.8.1 A qualified physician or licensed audiologist shall document that a child has a hearing loss so severe that he or she cannot effectively process linguistic information through hearing, with or without the use of a hearing aid. Such documentation shall be based upon a formal observation or procedure; and a licensed ophthalmologist or optometrist shall document that a child has a best, corrected visual acuity of 20/200 or less in the better eye, or a peripheral field so contracted that the widest lateral field of vision subtends less than 20 degrees; and6.8.2 An IEP team shall consider the documentation of auditory and visual impairment in addition to other information relevant to the child's condition in determining eligibility for special education under the above definition.6.8.3 Classification as a child who is deaf blind shall be made by the IEP team after consideration of the above eligibility criteria.6.8.4 Age of Eligibility: The age of eligibility for children identified under this definition shall be from birth until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. | 6.8 Deaf-Blind: In order for the IEP team to determine eligibility for special education and related services under the Deaf Blind classification, also referred to as “Dual Sensory Impairment,” the following is required: 6.8.1 Eligibility Criteria: A child with an educational classification of Deaf-Blind is a child who has concomitant hearing and visual impairments, the combination of which has an adverse effect on educational performance as referred to in 14 **DE Admin. Code** 922.3.0, and causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs or related services solely for children with deafness or children with blindness, and the child exhibits: 6.8.1.1 Hearing impairments such as: 6.8.1.1.1 A permanent conductive, sensorineural, or mixed hearing loss that is 20 dB HL or greater at two or more frequencies between 500-6000 Hz, either unilaterally or bilaterally; or 6.8.1.1.2 A fluctuating hearing loss of more than 20 dB HL or greater at 2 or more frequencies between 500-6000 Hz, either unilaterally or bilaterally, which adversely affects his/her educational performance and persists for more than 6 months; or 6.8.1.1.3 Auditory Neuropathy Spectrum Disorder (ANSD), which is defined as the presence of at least partial outer hair cell function and an absent or grossly abnormal ABR (Auditory Brainstem Response). A behavioral audiogram cannot be used to diagnose ANSD; and 6.8.1.2 Visual impairments such as: 6.8.1.2.1 Partial sight, including but not limited to macular holes, oscillopsia, and central vision loss; or blindness; or neurological conditions (not perceptual impairments); and/or a progressive loss of vision; and corrected visual acuity of 20/50 or less in the better eye, or a peripheral field so contracted that the widest lateral field of vision subtends less than 40 degrees; or 6.8.1.2.2 Medical documentation of cortical vision impairment, or 6.8.1.2.3 A functional vision loss where field and acuity deficits alone may not meet the aforementioned criteria. 6.8.1.3 If the dual sensory impairment adversely affects educational performance, i.e. concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs, but does not meet the other criteria. 6.8.2 Age of Eligibility: The age of eligibility for children identified under this classification is from birth until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. 6.8.3 Additional Criteria for Eligibility: While the educational classification of Deaf-Blind may co-occur with other conditions, such interference in educational performance cannot primarily be explained by factors listed under the special rule for eligibility determination consistent with 14 **DE Admin. Code** 925.6.2. 6.8.4 Disability Specific Evaluation Procedures: An evaluation as described in 14 **DE Admin. Code** 925.4 through 925.5, that considers hearing and visual impairment and data obtained from, but not limited to: 6.8.4.1 Documentation of the visual and hearing impairments by a qualified medical professional as described in 14 **DE Admin. Code** 925 6.8.2; 6.8.4.2 An audiological evaluation that is no more than six (6) months old, unless otherwise specified by the audiologist; and 6.8.4.3 Other information relevant to the student’s condition. 6.8.5 Re-evaluation Procedures: 6.8.5.1 For purposes of continued eligibility determination, the IEP team shall follow procedures consistent with 14 **DE Admin. Code** 925.3 through 925.5 and 925.6.8; 6.8.5.2 The IEP team should make every effort to obtain updated documentation related to the student’s visual impairment; and 6.8.5.3 The audiological evaluation shall be no more than one (1) year old, unless otherwise specified by the licensed audiologist. 6.8.6 Documenter: Documentation of this condition shall be provided by a qualified medical professional who can certify the existence of a hearing impairment with or without amplification, such as but not limited to, a licensed audiologist; and a qualified medical professional who can certify the existence of a visual impairment, such as but not limited to, a licensed ophthalmologist, optometrist, or neurologist. If visual acuity is unable to be determined by a licensed optometrist or ophthalmologist, a functional vision evaluation can be completed by a teacher of the visually impaired or deaf-blind teacher and used to document functional vision loss to qualify for services. Documentation of cortical vision impairment shall be provided by a qualified medical professional such as, but not limited to, a licensed ophthalmologist, or neurologist. 6.8.7 Additional IEP Members: For purposes of eligibility determination a licensed audiologist and/or a teacher of students who are deaf or hard of hearing, the school psychologist, and a team member from the statewide programs for Deaf-Blind shall be members of the IEP team in addition to required members referred to in 14 **DE Admin. Code** 925.21. |
| 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. |  |  |
| Developmental Delay (ages 3-9) | 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 §300.111(b), include a child—[(1)](https://sites.ed.gov/idea/regs/b/a/300.8/b/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)](https://sites.ed.gov/idea/regs/b/a/300.8/b/2) Who, by reason thereof, needs special education and related services. | 6.7 Eligibility Criteria for Developmental Delay: A developmental delay is a term applied to a young child who exhibits a significant delay in one or more of the following developmental domains: cognition, communication (expressive and receptive), physical (gross motor and fine motor) social emotional functioning and adaptive behavior. A developmental delay shall not be primarily the result of a significant visual or hearing impairment.6.7.1 In order for an IEP team to determine eligibility for special education services under the Developmental Delay category, the following is required:6.7.1.1 Standardized test scores of 1.5 or more standard deviations below the mean in two or more of the following developmental domains: cognition, communication (expressive and/or receptive), physical (gross motor and fine motor) social emotional functioning and adaptive behavior; or6.7.1.2 Standardized test scores of 2.0 or more standard deviations below the mean in any one of the developmental domains listed above; or6.7.1.3 Professional judgment of the IEP team that is based on multiple sources of information used in the assessment process and with justification documented in writing in the evaluation report of a significant difference between the child’s chronological age and his or her current level of functioning. A significant difference is defined as a minimum of a 25% delay in comparison to same aged peers.6.7.2 Multiple sources and methods of information shall be used in the determination of eligibility for service provision. An assessment shall include, but not be limited to, the following sources of information:6.7.2.1 Developmental and medical history;6.7.2.2 Interview with the child’s parent or primary caregiver;6.7.2.3 Behavioral observations;6.7.2.4 Standardized norm referenced instruments; and6.7.2.5 Other assessments which could be used for intervention planning, such as dynamic or criterion referenced assessments, behavior rating scales, or language samples.6.7.3 The assessment of a child suspected of a developmental delay shall be culturally and linguistically sensitive.6.7.4 Age of eligibility: The age of eligibility for classification under the developmental delay classification is from the third birth date until the ninth birth date. | 6.7 Developmental Delay: In order for the IEP team to determine eligibility for special education and related services under the Developmental Delay classification, the following is required: 6.7.1 Eligibility Criteria: A child with an educational classification of Developmental Delay is a young child who exhibits a significant delay or atypical development in one (1) or more of the following developmental domains: cognition, communication (expressive or receptive), physical (gross motor or fine motor), social, emotional, or adaptive behavior. The presence of one (1) or more documented characteristics of the delay has an adverse effect on educational performance as referred to in 14 **DE Admin. Code** 922.3.0, and the child exhibits: 6.7.1.1 A significant developmental delay evidenced by: 6.7.1.1.1 Standardized composite test scores of 1.5 or more standard deviations below the mean in two or more of the following developmental domains: cognition, communication (expressive or receptive), physical (gross motor or fine motor), social or emotional, and adaptive behavior, or 6.7.1.1.2 Standardized composite test scores of 2.0 or more standard deviations below the mean in any one (1) of the developmental domains listed above, or 6.7.1.2 Atypical development which is determined by the professional judgment of the IEP team and documented in writing. This judgment is based on multiple sources of information, which evidence a significant atypical quality or pattern of development or behavior occurring in multiple settings over an extended period of time. 6.7.2 Age of Eligibility: The age of eligibility for children identified under this classification is from the third birthdate and shall conclude prior to the ninth birth date. 6.7.3 Additional Criteria for Eligibility: While the educational classification of developmental delay may co-occur with other conditions, such interference in educational performance cannot primarily be explained by a significant visual or hearing impairment, cultural factors, or factors listed under the special rule for eligibility determination consistent with 14 **DE Admin. Code** 925.6.2. 6.7.4 Disability Specific Evaluation Procedures: An evaluation as described in 14 **DE Admin. Code** 925.4 through 925.5, that considers all domains suspected of developmental delay and data obtained from, but not limited to: 6.7.4.1 Developmental history; 6.7.4.2 Medical history; 6.7.4.3 Interview with the child’s parent or guardian; 6.7.4.4 Behavioral observations of the child in their daily environment, which may include but is not limited to the child's home with a parent or caregiver, or an education or care setting, which includes peers who are typically developing; 6.7.4.5 Standardized norm-referenced instruments or other instruments, such as criterion referenced measures; and 6.7.4.6 Other assessments, which could be used for intervention planning, such as dynamic assessments, behavior rating scales, and/or language samples. 6.7.5 Re-evaluation procedures: For purposes of continued eligibility determination, the IEP team shall follow procedures consistent with 14 **DE Admin. Code** 925.3 through 925.5, and 925.6.7. 6.7.6 Documenter: Documentation of this condition shall be provided by a qualified professional such as, but not limited to, a licensed psychologist or certified school psychologist. 6.7.7 Additional IEP Members: For purposes of eligibility determination, the school psychologist shall be a member of the IEP team in addition to required members referred to in 14 **DE Admin. Code** 925.21. |
| Emotional Disturbance | 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)](https://sites.ed.gov/idea/regs/b/a/300.8/c/4/i/a) An inability to learn that cannot be explained by intellectual, sensory, or health factors.[(B)](https://sites.ed.gov/idea/regs/b/a/300.8/c/4/i/b) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.[(C)](https://sites.ed.gov/idea/regs/b/a/300.8/c/4/i/c) Inappropriate types of behavior or feelings under normal circumstances.[(D)](https://sites.ed.gov/idea/regs/b/a/300.8/c/4/i/d) A general pervasive mood of unhappiness or depression.[(E)](https://sites.ed.gov/idea/regs/b/a/300.8/c/4/i/e) A tendency to develop physical symptoms or fears associated with personal or school problems.[(ii)](https://sites.ed.gov/idea/regs/b/a/300.8/c/4/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. | Eligibility Criteria for Emotional Disability: The IEP team shall consider documentation of the manifestation of the clusters or patterns of behavior associated with emotional disability and documentation from multiple assessment procedures. Such procedures shall include, but not be limited to, an evaluation by either a licensed or certified school psychologist, or a licensed psychiatrist, classroom observations by teacher(s) and at least one other member of the IEP team, a review of records, standardized rating scales, and child interviews.6.9.1 The documentation shall show that the identified behaviors have existed over a long period of time and to a marked degree, and:6.9.2 Adversely affect educational performance. This means that the child's emotions and behaviors directly interfere with educational performance. It also means that such interference cannot primarily be explained by intellectual, sensory, cultural, or health factors, or by substance abuse; and6.9.2.1 Are situationally inappropriate for the child's age. This refers to recurrent behaviors that clearly deviate from behaviors normally expected of other students of similar age under similar circumstances. That is, the student's characteristic behaviors are sufficiently distinct from those of his or her peer groups; or6.9.2.2 Preclude personal adjustment or the establishment and maintenance of interpersonal relationships. This means that the child exhibits a general pervasive mood of unhappiness or depression, or is unable to enter into age appropriate relationships with peers, teachers and others; and6.9.3 The age of eligibility for children identified under this definition shall be from the 4th birthday until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. | 6.9 Emotional Disability: In order for the IEP team to determine eligibility for special education and related services under the Emotional Disability classification, the following is required: 6.9.1 Eligibility Criteria: A child with an educational classification of Emotional Disability is a child who exhibits an identified pattern of behavior that has existed over a long period of time and to a marked degree or a pattern of behavior of shorter duration that is severe, intense and/or unsafe, that adversely affects a child's educational performance as referred to in 14 **DE Admin. Code** 922.3.0, and the child exhibits: 6.9.1.1 One (1) or more of the following characteristics: 6.9.1.1.1 Situationally inappropriate behavior for the child's age. This refers to recurrent behaviors that clearly deviate from behaviors normally expected of other students of similar age under similar circumstances. That is, the student's characteristic behaviors are sufficiently distinct from those of his or her peer groups; or 6.9.1.1.2 A general pervasive mood of unhappiness or depression; or 6.9.1.1.3 A tendency to develop physical symptoms or fears associated with personal or school problems; or 6.9.1.1.4 An inability to build or maintain satisfactory interpersonal relationships with peers, teachers and others, and 6.9.1.2 If applicable, the student demonstrates insufficient progress when using a process based on scientific, evidence-based interventions within a Multi-Tiered System of Support in accordance with 14 **DE Admin. Code** 508. 6.9.1.3 Emotional disability may include psychiatric disorders such as, but not limited to, schizophrenia. 6.9.2 Age of Eligibility: The age of eligibility for children identified under this classification is from the third birthdate until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. 6.9.3 Additional Criteria for Eligibility: While the educational classification of Emotional Disability may co-occur with other conditions, such interference in educational performance cannot primarily be explained by intellectual, sensory, cultural, health factors, or factors listed under the special rule for eligibility determination consistent with 14 **DE Admin. Code** 925.6.2. 6.9.4 Disability Specific Evaluation Procedures: An evaluation as described in 14 DE Admin. Code 925.4 through 925.5, and data obtained from, but not limited to: 6.9.4.1 A review of educational records; 6.9.4.2 A social/developmental history with input from the parent or guardian that addresses developmental, familial, medical/health, and environmental factors impacting learning and behavior; 6.9.4.3 Standardized rating scales; 6.9.5.4 Child interview; 6.9.5.5 Behavioral observations by teacher(s) and at least one (1) other member of the IEP team; and 6.9.5.6 If applicable, evidence of insufficient progress when using a process based on scientific, evidence-based interventions within a Multi-Tiered System of Support. 6.9.5 Re-evaluation Procedures: For purposes of continued eligibility determination, the IEP team shall follow procedures consistent with 14 **DE Admin. Code** 925.3 through 925.5 and 925.6.9. 6.9.6 Documenter: Documentation of this condition shall be provided by either a licensed psychologist or certified school psychologist, as well as other qualified professional/s when applicable. 6.9.7 Additional IEP Members: For purposes of eligibility determination, the school psychologist shall be a member of the IEP team in addition to required members referred to in 14 **DE Admin. Code** 925.21. |
| 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. | 6.10 Eligibility Criteria for Hearing Impairment:A qualified physician or licensed audiologist shall document that a child has a hearing loss such that it makes difficult or impossible the processing of linguistic information through hearing, with or without amplification. Such documentation shall be based upon a formal observation or procedure; and6.10.1 The IEP team shall consider the documentation of hearing impairment in addition to other information relevant to the child's condition in determining eligibility for special education under the above definition.6.10.2 The age of eligibility of children identified under this definition shall be from birth until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. | 6.10 Hearing Impairment: In order for the IEP team to determine eligibility for special education and related services under the Hearing Impairment classification, also referred to as “deaf” or “hard of hearing”, the following is required: 6.10.1 Eligibility Criteria: A child with an educational classification of Hearing Impairment is a child who has a hearing impairment, that adversely affects a child's educational performance as referred to in 14 **DE Admin. Code** 922.3.0, and the child exhibits: 6.10.1.1 A permanent conductive, sensorineural or mixed hearing loss that is 25 dB HL or greater at two or more frequencies between 500-6000 Hz, either unilaterally or bilaterally, and that is adversely affecting his/her educational performance; or 6.10.1.2 A fluctuating hearing loss of more than 25 dB HL or greater at 2 or more frequencies between 500-6000 Hz, either unilaterally or bilaterally, and that is adversely affecting his/her educational performance and persists for more than 6 months; or 6.10.1.3 Auditory Neuropathy Spectrum Disorder (ANSD), and that is adversely affecting his or her educational performance. 6.10.2 Age of Eligibility: The age of eligibility for children identified under this classification is from birth until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. 6.10.3 Additional Criteria for Eligibility: While the educational classification of Hearing Impairment may co-occur with other conditions, such interference in educational performance cannot primarily be explained by factors listed under the special rule for eligibility determination consistent with 14 **DE Admin. Code** 925.6.2. 6.10.4 Disability Specific Evaluation Procedures: An evaluation as described in 14 **DE Admin. Code** 925.4 through 925.5, that considers data obtained from, but not limited to: 6.10.4.1 Documentation of the hearing impairment by a qualified medical professional as described in 14 **DE Admin. Code** 925.6.10.2, and 6.10.4.2 An audiological evaluation that is no more than six (6) months old, unless otherwise specified by the audiologist. 6.10.5 Re-evaluation Procedures: 6.10.5.1 For purposes of continued eligibility determination, the IEP team shall follow procedures consistent with 14 **DE Admin. Code** 925.3 through 925.5, as well as 925.6.14, and 6.10.5.2 The audiological evaluation shall be no more than one (1) year old, unless otherwise specified by the licensed audiologist. 6.10.6 Documenter: Documentation of this condition shall be provided by a qualified medical professional who can certify the existence of a hearing impairment with or without amplification, such as but not limited to, a licensed audiologist. 6.10.7 Additional IEP Members: For purposes of eligibility determination, a licensed audiologist and/or a teacher of students who are deaf or hard of hearing, and a school psychologist shall be members of the IEP team in addition to required members referred to in 14 **DE Admin. Code** 925.21. |
| 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. The term “intellectual disability” was formerly termed “mental retardation.” | 6.12 Eligibility Criteria for intellectual Disability:Eligibility Criteria for intellectual Disability: In order for the IEP team to determine eligibility for special education services under the intellectual Disability category, the following is required:6.12.1 A level of intellectual functioning, as indicated below:6.12.1.1 Mild Intellectual Disability: IQ 50 to 70 +/to 5 points;6.12.1.2 Moderate Intellectual Disability: IQ 35 to 50 +/to 5 points;6.12.1.3 Severe Intellectual Disability: IQ below 35; and Significant limitations in two or more areas of adaptive behavior, including communication, self care, home and school living, social and interpersonal, community use, self direction and coping, health and safety, functional academics, leisure, play and work.6.12.2 Assessment for both intellectual functioning and adaptive behavior shall be conducted by a licensed psychologist or certified school psychologist.6.12.3Additional requirements for eligibility for Mild Intellectual Disability: In addition to the other requirements of 6.12, eligibility for special education services under the Mild Intellectual Disability category shall require written documentation that the child’s response to scientific, research based intervention was assessed in accordance with 12.0.6.12.3.1 This requirement shall apply no later than the beginning of the 2008-2009 school year for children in elementary school (as elementary school is defined by the public agency). In the case of mathematics for elementary school and all other students, implementation shall be on a timeline and schedule as defined by the DOE.6.12.3.2 During the 2007-2008 school year, public agencies are permitted, but not required, to assess the child’s response to scientific, research based intervention in determining a child’s eligibility for special education services under the Mild Intellectual Disability category.6.12.4 Age of Eligibility: The age of eligibility for children identified as under Moderate Intellectual Disability and Severe Intellectual Disability Categories shall be from the third birthday until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. Children identified as Mild Intellectual Disability shall be from the fourth birthday until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. These children may be served at age 3, as having a Developmental Delay. | 6.12 Intellectual Disability: In order for the IEP team to determine eligibility for special education and related services under the Intellectual Disability classification, the following is required: 6.12.1 Eligibility Criteria: A child with an educational classification of Intellectual Disability is a child who has 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 as referred to in 14 **DE Admin. Code** 922.3.0, and 6.12.1.1 For Mild Intellectual Disability, the child exhibits a level of cognitive development and adaptive behavior in home, school, and community settings that is mildly below age expectations with respect to the following: 6.12.1.1.1 Performance on an individually administered test of intelligence that falls within a range of IQ 50 to 70 +/- 5 points; and 6.12.1.1.2 Significant limitations, commensurate with cognitive functioning, in adaptive behavior in at least one (1) of the following areas: 6.12.1.1.2.1 Conceptual skills, 6.12.1.1.2.2 Social adaptive skills, 6.12.1.1.2.3 Practical adaptive skills, and/or 6.12.1.1.3 An overall composite score on a standardized measure of conceptual, social, and practical skills, and 6.12.1.1.4 Insufficient progress when using a process based on scientific, evidence-based interventions within a Multi-Tiered System of Support. 6.12.1.2 For Moderate Intellectual Disability, the child exhibits a level of cognitive development and adaptive behavior in home, school, and community settings that are moderately below age expectations with respect to the following: 6.12.1.2.1 Performance on an individually administered test of intelligence that falls within a range of IQ 35 to 50 +/- 5 points; and 6.12.1.2.2 Significant limitations, commensurate with cognitive functioning, in adaptive behavior in at least one (1) of the following areas: 6.12.1.2.2.1 Conceptual skills, 6.12.1.2.2.2 Social adaptive skills, 6.12.1.2.2.3 Practical adaptive skills, and/or 6.12.1.2.3 An overall composite score on a standardized measure of conceptual, social, and practical skills. 6.12.1.3 For Severe Intellectual Disability, the child exhibits a level of cognitive development and adaptive behavior in home, school, and community settings that are severely below age expectations with respect to the following: 6.12.1.3.1 Performance on an individually administered test of intelligence that falls within a range of IQ below 35; and 6.12.1.3.2 Significant limitations, commensurate with cognitive functioning, in adaptive behavior in at least one (1) of the following areas: 6.12.1.3.2.1 Conceptual skills, 6.12.1.3.2.2 Social adaptive skills, 6.12.1.3.2.3 Practical adaptive skills, and/or 6.12.1.3.3 An overall composite score on a standardized measure of conceptual, social, and practical skills. 6.12.2 Age of Eligibility: The age of eligibility for children identified under this classification is from the third birthdate until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. 6.12.3 Additional Criteria For Eligibility: While the educational classification of Intellectual Disability may co-occur with other conditions, such interference in educational performance cannot primarily be explained by factors listed under the special rule for eligibility determination consistent with 14 **DE Admin. Code** 925.6.2. 6.12.4 Disability Specific Evaluation Procedures: An evaluation as described in 14 **DE Admin. Code** 925.4 through 925.5, and data obtained from, but not limited to: 6.12.4.1 Observations of the child including adaptive behaviors, which are relevant to the child's age, and 6.12.4.2 For Mild Intellectual Disability, evidence of insufficient progress when using a process based on scientific, evidence-based interventions within a Multi-Tiered System of Support. 6.12.5 Re-evaluation Procedures: For purposes of continued eligibility determination, the IEP team shall follow procedures consistent with 14 **DE Admin. Code** 925.3 through 925.5, as well as 925.6.12. 6.12.6 Documenter: Documentation of this condition shall be provided by a licensed psychologist or certified school psychologist. 6.12.7 Additional IEP Members: For purposes of eligibility determination a school psychologist shall be a member of the IEP team in addition to required members referred to in 14 **DE Admin. Code** 925.21. |
| 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. |  |  |
| 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). | 6.13 Eligibility Criteria for Orthopedic Impairment**:**In order for an IEP team to determine eligibility for special education services under the orthopedic impairment category, the following is required:6.13.1 A qualified physician shall document that a child has an orthopedic impairment in order to be considered for special education and related services.6.13.2 The IEP team shall consider the child’s need for special education and related services if the orthopedic impairment substantially limits one or more major activities of daily living and the child has:6.13.2.1 Muscular or neuromuscular disability(ies) which significantly limit(s) the ability to communicate, move about, sit or manipulate the materials required for learning; or6.13.2.2 Skeletal deformities or other abnormalities which affect ambulation, posture, and body use necessary for performing educational activities.6.13.3 Determination by the IEP team of eligibility for services shall be based upon data obtained from:6.13.3.1 Medical records documenting the physical impairment (required) and current prescriptions (e.g., O.T., P.T., medications, etc., if available);6.13.3.2 Results from physical and occupational therapist screening(s) using appropriate measures which identify educational and related service needs, as well as environmental adjustments necessary*;*and6.13.3.3 Prior program or school records (if available), and, when determined necessary, a speech and language evaluation, adaptive behavior scale, vision or hearing screening, social history or psychological evaluation.6.13.4 For purposes of initial eligibility or continued eligibility determination, at least one of the following, and as many as are appropriate for the child’s needs; physical therapist, occupational therapist, or nurse, shall be members of the IEP team.6.13.5 Age of Eligibility: The age of eligibility for children with orthopedic impairments shall be from the third birthday until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. | 6.13 Orthopedic Impairment: In order for the IEP team to determine eligibility for special education and related services under the Orthopedic Impairment classification, the following is required: 6.13.1 Eligibility Criteria: A child with an educational classification of Orthopedic Impairment is a child who has an orthopedic impairment that adversely affects a child's educational performance as referred to in 14 **DE Admin. Code** 922.3.0, and the child exhibits an impairment that is caused by a congenital anomaly (e.g., skeletal deformities), or disease (e.g., juvenile rheumatoid arthritis, osteogenesis imperfecta), or other causes (e.g., muscular or neuromuscular disabilities, cerebral palsy, amputations, and fractures or burns that cause contractures). 6.13.2 Age of Eligibility: The age of eligibility for children identified under this classification is from the third birthdate until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. 6.13.3 Additional Criteria For Eligibility: While the educational classification of Orthopedic Impairment may co-occur with other conditions, such interference in educational performance cannot primarily be explained by factors listed under the special rule for eligibility determination consistent with 14 **DE Admin. Code** 925.6.2. 6.13.4 Disability Specific Evaluation Procedures: An evaluation as described in 14 **DE Admin. Code** 925.4 through 925.5, and data obtained from, but not limited to: 6.13.4.1 Documentation of the physical impairment by a qualified professional as described in 14 **DE Admin. Code** 925 6.13, and 6.13.4.2 Results from physical and/or occupational therapy evaluations using appropriate measures, which identify educational and related service needs, as well as environmental adjustments necessary. 6.13.5 Re-evaluation Procedures: 6.13.5.1 For purposes of continued eligibility determination, the IEP team shall follow procedures consistent with 14 **DE Admin. Code** 925.3 through 925.5 and 925.6.13; and 6.13.5.2 The IEP team should make every effort to obtain updated documentation related to the student’s orthopedic impairment. 6.13.6 Documenter: Documentation of this condition shall be provided by a qualified medical professional who can certify the existence of an orthopedic impairment. 6.13.7 Additional IEP Members: For purposes of eligibility determination, the school psychologist and at least one (1) of the following shall be members of the IEP team: physical therapist, occupational therapist, or nurse; in addition to required members referred to in 14 **DE Admin. Code** 925.21. |
| 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—[(i)](https://sites.ed.gov/idea/regs/b/a/300.8/c/9/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)](https://sites.ed.gov/idea/regs/b/a/300.8/c/9/ii) Adversely affects a child’s educational performance. | 6.14 Eligibility Criteria for Other Health Impairment: In order for an IEP team to determine eligibility for special education services under the Other Health Impairment category, the following is required:6.14.1 Documentation from a qualified physician that a child has a chronic or acute health problem.6.14.2 For ADD and ADHD, the above requirement and a school team of qualified evaluators that determine the child exhibits:6.14.2.1 Six (or more) of the following symptoms of inattentionfor at least six months, to a degree that is maladaptive and inconsistent with developmental level;6.14.2.1.1 Often fails to give close attention to details or makes careless mistakes in schoolwork, work, or other activities;6.14.2.1.2 Often has difficulty sustaining attention in tasks or play activities;6.14.2.1.3 Often does not seem to listen when spoken to directly;6.14.2.1.4 Often does not follow through on instructions and fails to finish schoolwork, chores, or duties in the work place (not due to oppositional behavior or failure to understand instructions);6.14.2.1.5 Often has difficulty organizing tasks and activities;6.14.2.1.6 Often avoids, dislikes, or is reluctant to engage in tasks that require sustained mental effort (such as school work or homework);6.14.2.1.7 Often loses things necessary for tasks or activities (e.g., toys, school assignments, pencils, books, or tools);6.14.2.1.8 Is often easily distracted by extraneous stimuli;6.14.2.1.9 Is often forgetful in daily activities; or6.14.2.2 Six (or more) of the following symptoms of hyperactivity impulsivity have persisted for at least six months to a degree that is maladaptive and inconsistent with developmental level:6.14.2.2.1 Often fidgets with hands or feet and squirms in seat;6.14.2.2.2 Often leaves seat in classroom or in other situations in which remaining seated is expected;6.14.2.2.3 Often runs about or climbs excessively in situations in which it is inappropriate (in adolescents or adults, may be limited to subjective feelings of restlessness);6.14.2.2.4 Often has difficulty laying or engaging in leisure activities quietly;6.14.2.2.5 Is often “on the go” or often acts as if “driven by a motor”;6.14.2.2.6 Often talks excessively;6.14.2.2.7 Often blurts out answers before questions have been completed;6.14.2.2.8 Often has difficulty waiting turn;6.14.2.2.9 Often interrupts or intrudes into conversations or games; and6.14.2.3 Some hyperactive impulsive or inattentive symptoms that caused impairment were present before seven years of age;6.14.2.4 A clear pattern that is consistently manifested across a variety of people, tasks and settings, and that persists across a significant period of time;6.14.2.5 Clear evidence of clinically significant impairment in social, academic or occupational functioning; and6.14.2.6 The symptoms do not occur exclusively during the course of a pervasive developmental disorder, schizophrenia, or other psychotic disorder, and are not better accounted for by another mental disorder (e.g. mood disorder, anxiety disorder, dissociative disorder, or personality disorder).6.14.3 Determination by the IEP team of eligibility for services shall be based upon data obtained from:6.14.3.1 Written documentation from the formative intervention process used with the student under 14 **DE Admin. Code**923.11.9 (relating to referral to instructional support team). The documentation shall include a clear statement of the student’s presenting problem(s); summary of diagnostic data collected, and the sources of that data; and summary of interventions implemented to resolve the presenting problem(s) and the effects of the interventions; and6.14.3.2 Medical records documenting the health impairment or, in the case of students with ADD and ADHD, medical or psychological records documenting that a child has such health impairment and determination by a school team of qualified evaluators, or, in the case of re evaluation, the IEP team, including the school psychologist, that the child exhibits the criteria listed in 4.11.2.6.14.4 For purposes of initial eligibility or continued eligibility determination, the school psychologist and the school nurse shall be members of the IEP team.6.14.5 Age of Eligibility: The age of eligibility for children with Other Health Impairments shall be from the third birthday until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. | 6.14 Other Health Impairment: In order for the IEP team to determine eligibility for special education and related services under the Other Health Impairment classification, the following is required: 6.14.1 Eligibility Criteria: A child with an educational classification of Other Health Impairment is a child who has a chronic or acute health condition such as, but not limited to asthma, attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome, that adversely affects a child's educational performance as referred to in 14 **DE Admin. Code** 922.3.0, and; 6.14.1.1 If applicable, the student demonstrates insufficient progress when using a process based on scientific, evidence-based interventions within a Multi-Tiered System of Support. 6.14.1.2 For ADHD, the child shall also exhibit: 6.14.1.2.1 Six (or more) of the following symptoms of inattention for children up to the age of 16, or five (or more) for adolescents 17 and older and adults; symptoms of inattention have been present for at least six (6) months, and they are inappropriate for developmental level; 6.14.1.2.1.1 Often fails to give close attention to details or makes careless mistakes in schoolwork, work, or other activities; 6.14.1.2.1.2 Often has difficulty sustaining attention in tasks or play activities; 6.14.1.2.1.3 Often does not seem to listen when spoken to directly; 6.14.1.2.1.4 Often does not follow through on instructions and fails to finish schoolwork, chores, or duties in the work place (e.g. loses focus, side-tracked); 6.14.1.2.1.5 Often has difficulty organizing tasks and activities; 6.14.1.2.1.6 Often avoids, dislikes, or is reluctant to engage in tasks that require mental effort over a long period of time (such as school work or homework); 6.14.1.2.1.7 Often loses things necessary for tasks or activities (e.g., school materials, pencils, books, or tools, etc.); 6.14.1.2.1.8 Is often easily distracted; 6.14.1.2.1.9 Is often forgetful in daily activities; or 6.14.1.2.2 Six (6) or more of the following symptoms of hyperactivity impulsivity for children up to age 16, or five (5) or more for adolescents 17 and older and adults; symptoms have been present for at least six (6) months to an extent that is disruptive and inappropriate for the person’s developmental level: 6.14.1.2.2.1 Often fidgets with hands or feet, or squirms in seat; 6.14.1.2.2.2 Often leaves seat in situations when remaining seated is expected; 6.14.1.2.2.3 Often runs about or climbs in situations in where it is not inappropriate (adolescents or adults, may be limited to feeling of restless); 6.14.1.2.2.4 Often unable to play or take part in leisure activities quietly; 6.14.1.2.2.5 Is often “on the go” or often acts as if “driven by a motor”; 6.14.1.2.2.6 Often talks excessively; 6.14.1.2.2.7 Often blurts out an answers before a questions has been completed; 6.14.1.2.2.8 Often has trouble waiting his/her turn; 6.14.1.2.2.9 Often interrupts or intrudes on others (butts into conversations or games); and 6.14.1.2.3 Several hyperactive impulsive or inattentive symptoms that caused impairment were present before twelve (12) years of age; 6.14.1.2.4 Several symptoms are present in two (2) or more settings (such as home, school or work, with friends or relatives, in other activities); and 6.14.1.2.5 Clear evidence that the symptoms interfere with, or reduce the quality of in social, school or work functioning. 6.14.2 Age of Eligibility: The age of eligibility for children identified under this classification is from the third birthdate until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. 6.14.3 Additional Criteria For Eligibility: While the educational classification of Other Health Impairment may co-occur with other conditions, such interference in educational performance cannot primarily be explained by factors listed under the special rule for eligibility determination consistent with 14 **DE Admin. Code** 925.6.2, and additionally in the case of ADHD, such interference in educational performance cannot primarily be explained by another mental disorder (such as mood disorder, anxiety disorder, dissociative disorder, or personality disorder), and the symptoms do not happen only during the course of schizophrenia or another psychotic disorder. 6.14.4 Disability Specific Evaluation Procedures: An evaluation as described in 14 **DE Admin. Code** 925.4 through 925.5, and data obtained from, but not limited to: 6.14.4.1 Documentation of the health impairment by a qualified professional as described in 14 **DE Admin. Code** 925.6.14; and 6.14.4.2 If applicable**,** evidence of insufficient progress when using a process based on scientific, evidence-based interventions within a Multi-Tiered System of Support. 6.14.5 Re-evaluation Procedures: 6.14.5.1 For purposes of continued eligibility determination, the IEP team shall follow procedures consistent with 14 **DE Admin. Code** 925.3 through 925.5 and 925.6.14; and 6.14.5.2 The IEP team should make every effort to obtain updated documentation related to the student’s health impairment. 6.14.6 Documenter: Documentation of this condition shall be provided by a qualified medical professional such as, but not limited to, a medical doctor, licensed nurse practitioner, or licensed physician's assistant. In cases of ADHD, a certified school psychologist or licensed psychologist can also provide the required documentation. 6.14.7 Additional IEP Members: For purposes of eligibility determination, the school psychologist and the school nurse shall be members of the IEP team in addition to required members referred to in 14 **DE Admin. Code** 925.21. |
| Specific Learning Disability  | Specific learning disability—[(i)](https://sites.ed.gov/idea/regs/b/a/300.8/c/10/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)](https://sites.ed.gov/idea/regs/b/a/300.8/c/10/ii) Disorders not included. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage. | 6.11 Eligibility Criteria for Learning Disability:6.11.1 Elimination of discrepancy model: Public agencies shall not use discrepancy between achievement and intellectual ability to determine eligibility for special education and related services under the learning disability category.6.11.2 Existence of a learning disability: Subject to the requirements of 6.11.3, public agencies shall use the standards and procedures in 7.0 through 11.0 to determine whether a child is eligible for special education and related services under the learning disability category.6.11.3 Phase in of response to intervention procedures:6.11.3.1 Elementary school children: No later than the beginning of the 2008- 2009 school year, public agencies shall use the standards and procedures in 7.0 through 12.0, including the response to intervention process, to determine whether a child in elementary school (as elementary school is defined by the public agency) is eligible for special education and related services under the learning disability category in reading. In the case of mathematics, implementation shall be on a timeline and schedule as defined by the DOE.6.11.3.2 Other students: Public agencies shall use the standards and procedures in 7.0 to 12.0, including the response to intervention process for other students on a timeline and schedule as defined by DOE, to determine whether a student is eligible for special education and related services under the learning disability category.6.11.4 Use of response to intervention procedures for 2007-2008: During the 2007-2008 school year, public agencies are permitted to use the response to intervention procedures in 12.0 to determine whether a child is eligible for special education and related services as a result of a learning disability. Local education agencies implementing response to intervention procedures during the 2007-2008 school year may do so in all or some of its schools, and at all or some grade levels.6.11.5 The age of eligibility for students identified under this definition shall be from the fourth birthday until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first.**9.0 Determining the Existence of a Specific Learning Disability**9.1 Subject to 6.4 and 6.11, the group described in 6.1 may determine that a child has a specific learning disability if:9.1.1 Lack of achievement: 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 as further described in 12.0:9.1.1.1 Oral expression.9.1.1.2 Listening comprehension.9.1.1.3 Written expression.9.1.1.4 Basic reading skill.9.1.1.5 Reading fluency skills.9.1.1.6 Reading comprehension.9.1.1.7 Mathematics calculation.9.1.1.8 Mathematics problem solving; and9.1.2 Insufficient progress:The child does not make sufficient progress to meet age or State approved grade level standards in one or more of the areas identified in 9.1.1 when using a process based on the child's response to scientific, research based intervention as further described in 12.0; or9.1.3 Pattern of strengths and weaknesses: 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, consistent with 4.0 and 5.0; and9.1.4 Rule out otherconditions: The group determines that its findings under 9.1.1, 9.1.2 and 9.1.3 are not primarily the result of:9.1.4.1 A visual, hearing, or motor disability;9.1.4.2 Intellectual Disability;9.1.4.3 Emotional disability;9.1.4.4 Cultural factors;9.1.4.5 Environmental or economic disadvantage; or9.1.4.6 Limited English proficiency.9.2 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 shall consider, as part of the evaluation described in 4.0 through 6.0:9.2.1 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; and9.2.2 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 parents.9.3 The public agency shall promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and shall adhere to the time frames described in 2.3 and 3.0 (unless extended by mutual written agreement of the child's parents and a group of qualified professionals, as described in 6.1):9.3.1 If, prior to a referral, a child has not made adequate progress after an appropriate period of time (as further provided in 12.0) when provided instruction, as described in 9.2; and9.3.2 Whenever a child is referred for an evaluation. | 6.11 Specific Learning Disability: In order for the IEP team to determine eligibility for special education and related services under the Specific Learning Disability classification, the following is required: 6.11.1 Eligibility Criteria: A child with an educational classification of Specific Learning Disability is a child who exhibits a disorder in one (1) 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, that adversely affects a child's educational performance as referred to in 14 **DE Admin. Code** 922.3.0, and the child exhibits: 6.11.1.1 Lack of achievement: If, when provided with learning experiences and instruction appropriate for the child's age or State approved grade level standard, the child does not achieve adequately for the child's age or to meet State approved grade level standards in one (1) or more of the following areas: 6.11.1.1.1 Oral expression, 6.11.1.1.2 Listening comprehension, 6.11.1.1.3 Written expression, 6.11.1.1.4 Basic reading skill, 6.11.1.1.5 Reading fluency skills, 6.11.1.1.6 Reading comprehension, 6.11.1.1.7 Mathematics calculation, 6.11.1.1.8 Mathematics problem solving; and 6.11.1.2 Insufficient progress: The child does not make sufficient progress to meet age or State approved grade level standards in one (1) or more of the areas identified in subsection 9.1.1 of this regulation, when using a process based on scientific, evidence-based interventions within a Multi-Tiered System of Support; or 6.11.1.3 Pattern of strengths and weaknesses: 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, consistent with 14 **DE Admin. Code** 925.4 and 925.5. 6.11.1.4 Elimination of discrepancy model: Public agencies shall not use discrepancy between achievement and intellectual ability to determine eligibility for special education and related services under the learning disability classification. (Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6)) [71 FR 46753, Aug. 14, 2006, as amended at 82 FR 31912, July 11, 2017] 34 CFR §300.307 34 CFR §300.309 6.11.2 Age of Eligibility: The age of eligibility for children identified under this classification is from the fifth birthday until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. 6.11.3 Additional Criteria for Eligibility: While the educational classification of Specific Learning Disability may co-occur with other conditions, such interference in educational performance cannot primarily be explained by: 6.11.3.1 A visual, hearing or motor disability; 6.11.3.2 Intellectual Disability; 6.11.3.3 Emotional Disability; 6.11.3.4 Cultural factors; 6.11.3.5 Environmental or economic disadvantage; 6.11.3.6 Limited English proficiency; or *6.11.3.7 Other factors listed under the special rule for eligibility determination consistent with 14* ***DE Admin. Code*** *925.6.2.* 6.11.3.7.1 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 shall consider, as part of the evaluation described in 34 CFR §§300.304 through 300.306; 6.11.3.7.1.1 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 6.11.3.7.1.2 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 parents. 6.11.3.8 The public agency shall promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and shall adhere to the timeframes described in 34 CFR §§300.301 and 300.303, unless extended by mutual written agreement of the child's parents and a group of qualified professionals, as described in §300.306(a)(1). 6.11.3.8.1 If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction, as described in 6.11.3.7.1 of this section; and 6.11.3.8.2 Whenever a child is referred for an evaluation. [71 FR 46753, Aug. 14, 2006, as amended at 82 FR 31912, July 11, 2017] 34 CFR §300.309 6.11.4 Disability Specific Evaluation Procedures: An evaluation as described in 14 **DE Admin. Code** 925.4 through 925.5, and data obtained from, but not limited to: 6.11.4.1 Data that demonstrate that prior to, or as part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel in accordance with 14 **DE Admin. Code** 508 Multi-Tiered System of Support; 6.11.4.2 Observation: The public agency shall 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, including: 6.11.4.2.1 Observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation or have at least one (1) member of the IEP team conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent is obtained; or 6.11.4.2.2 In the case of a child less than school age or out of school, an IEP team member shall observe the child in an environment appropriate for a child of that age; (Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6); 14 **Del.C** 3110) 34 CFR §300.310 6.11.4.3 Evidence of insufficient progress when using a process based on scientific, evidence-based interventions within a Multi-Tiered System of Support or evidence of a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development (See subsection 6.11.1.3); 6.11.4.4 Assessments of intellectual functioning are not required to determine eligibility for special education and related services under the learning disability classification. Assessments of intellectual functioning should generally be reserved for students suspected of having an intellectual disability or where an instructional support team, or other group of qualified professionals (see 6.1), and the parent determines such tests are relevant in selecting appropriate instructional or behavioral interventions. (Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6); 14 **Del.C** 3110) See 14 **DE Admin. Code** 925.2 through 925.5. 6.11.5 Reevaluation procedures: For purposes of continued eligibility determination, the IEP team shall follow procedures consistent with 14 **DE Admin. Code** 925.3 through 925.5, as well as 925.6.11. 6.11.6 Documenter: Documentation of this condition shall be provided by a qualified professional(s) such as, but not limited to, a certified school psychologist, certified speech-language pathologist or reading specialist. 6.11.7 Additional IEP Members: For purposes of eligibility determination, a general education teacher or for a child of less than school age, an individual qualified by the DOE to teach a child of his or her age, and at least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.in addition to required members referred to in 14 **DE Admin. Code** 925.21. (Authority: 20 U.S.C. 1221e-3; 1401(30); 1414(b)(6)) 34 C.F.R.§300.308 Specific documentation for the eligibility determination. 6.11.8 For a child suspected of having a specific learning disability, the documentation of the determination of eligibility, as required in 34 CFR §300.306(a)(2), shall contain a statement of: 6.11.8.1 Whether the child has a specific learning disability; 6.11.8.2 The basis for making the determination, including an assurance that the determination has been made in accordance with 34 CFR §300.306(c)(1); 6.11.8.3 The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning; 6.11.8.4 The educationally relevant medical findings, if any; 6.11.8.5 Whether: 6.11.8.5.1 The child does not achieve adequately for the child's age or to meet State-approved grade-level standards consistent with 34 CFR §300.309(a)(1); and 6.11.8.5.2 The child does not make sufficient progress to meet age or State-approved grade-level standards consistent with 34 CFR §300.309(a)(2)(i); or 6.11.8.5.3 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 consistent with 34 CFR §300.309(a)(2)(ii); 6.11.8.6 The determination of the group concerning the effects of a visual, hearing, motor disability, or an intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and 6.11.8.7 If the child has participated in a process that assesses the child's response to scientific, research-based intervention *consistent with 14* ***DE Admin. Code*** *508 Multi-Tiered System of Support:* 6.11.8.7.1 The instructional strategies used and the student-centered data collected; and 6.11.8.7.2 The documentation that the child's parents were notified about: 6.11.8.7.3 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; 6.11.8.7.4 Strategies for increasing the child's rate of learning; and 6.11.8.7.5 The parents' right to request an evaluation. 6.11.8.7.6 Each group member shall certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member shall submit a separate statement presenting the member's conclusions. |
| 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. | 6.15 Eligibility Criteria for Speech and/or Language Impairment: In determining eligibility under the Speech and Language classification, the IEP team shall consider the results of an evaluation conducted by a licensed Speech and Language Pathologist which identifies one or more of the following conditions: an articulation disorder, a language disorder, dysfluent speech; or a voice disorder.6.15.1 The age of eligibility for children identified under this definition shall be from the fifth birthday until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first, except where speech and language therapy is provided as a related service. In the latter instance, the age of eligibility shall correspond with that of the identified primary disability condition. | 6.15 Speech/Language Impairment: In order for the IEP team to determine eligibility for special education and related services under the Speech/Language Impairment classification, the following is required: 6.15.1 Eligibility Criteria: A child with an educational classification of Speech/Language Impairment is a child who has a documented communication disorder, such as but not limited to stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance as referred to in 14 **DE Admin. Code** 922.3.0, and the child exhibits a moderate to severe impairment in one (1) or more of the following areas: 6.15.1.1 Articulation or Connected speech intelligibility as defined by: impairment in the production of speech sounds (including substitutions, omissions, distortions or additions of speech sounds) that are considered to be developmentally appropriate for the child’s age or cultural linguistic background; or 6.15.1.2 Speech fluency/stuttering as defined by: atypical dysfluencies that are unusual in intensity, frequency and duration, such as prolongations, repetitions, and/or pauses, and/or avoidance behaviors, and/or reduced perception of naturalness and/or secondary concomitant behaviors, such as distracting sounds, facial grimaces or other body movements that are adversely affecting the speaker’s ability to communicate effectively within academic and extracurricular settings; or 6.15.1.3 Receptive and/or expressive language as defined by: impairment in the form of language (phonology, morphology, syntax), content of language (vocabulary, semantics), comprehension and/or functional use of language (pragmatics) of a spoken, written, and/or other symbol system that are adversely affecting the speaker’s ability to communicate effectively within academic and extracurricular settings; or 6.15.1.4 Voice quality as defined by: voice impairment in one (1) or more processes of pitch, quality, intensity or resonance, that are adversely affecting the speaker’s ability to communicate effectively within academic and extracurricular settings; and 6.15.1.5 If applicable, the student demonstrates insufficient progress when using a process based on scientific, evidence-based interventions within a Multi-Tiered System of Support. 6.15.2 Age of Eligibility: The age of eligibility for children identified under this classification is from the third birthdate until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first, except where speech and language therapy is provided as a related service. In the latter instance, the age of eligibility shall correspond with that of the identified primary disability condition. 6.15.3 Additional Criteria For Eligibility: While the educational classification of Speech/Language Impairment may co-occur with other conditions, such interference in educational performance cannot primarily be explained by: 6.15.3.1 Sociocultural dialect; 6.15.3.2 Differences associated with acquisition of English as a second language; 6.15.3.3 Anxiety disorders (e.g. selective mutism); 6.15.3.4 Limited exposure to communication-building experiences; 6.15.3.5 Differences related to medical issues not directly related to the vocal mechanism; or 6.15.3.6 O*ther factors listed under the special rule for eligibility determination consistent with 14* ***DE Admin. Code*** *925.6.2.* 6.15.4 Disability Specific Evaluation Procedures: An evaluation as described in 14 **DE Admin. Code** 925.4 through 925.5, and data obtained from, but not limited to: 6.15.4.1 Language samples; 6.15.4.2 Criterion referenced measures that assess form, content and use; 6.15.4.3 An oral peripheral examination; and 6.15.4.4 If applicable, evidence of insufficient progress when using a process based on scientific, evidence-based interventions within a Multi-Tiered System of Support. 6.15.5 Reevaluation Procedures: 6.15.5.1 For purposes of continued eligibility determination, the IEP team shall follow procedures consistent with 14 **DE Admin. Code** 925.3 through 925.5 and 925.6.15; and 6.15.5.2 For impairments in voice or swallowing, the IEP team should make every effort to obtain updated documentation by a qualified medical professional related to the student’s impairment. 6.15.6 Documenter: Documentation of this condition shall be provided by a licensed and certified speech-language pathologist. For impairments in voice or swallowing, an evaluation by a qualified medical professional is also required. 6.15.7 Additional IEP Members: For purposes of eligibility determination, a licensed and certified speech-language pathologist shall be a required member of the IEP team in addition to required members referred to in 14 **DE Admin. Code** 925.21. |
| Traumatic Brain Injury | 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. | 6.16 Eligibility Criteria for Traumatic Brain Injury. A qualified physician shall document that a child has a traumatic brain injury in order to be considered for special education and related services under the above definition.6.16.1 The IEP team shall consider the child's need for special education and related services if the traumatic brain injury substantially limits one or more major activities of daily living.6.16.2 The age of eligibility for children under this definition shall be from the third birthday until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. | 6.16 Traumatic Brain Injury: In order for the IEP team to determine eligibility for special education and related services under the Traumatic Brain Injury classification, the following is required: 6.16.1 Eligibility Criteria: A child with an educational classification of Traumatic Brain Injury is a child who has an acquired injury to the brain caused by an external physical force, or by certain medical conditions such as stroke, encephalitis, aneurysm, anoxia or brain tumors resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance as referred to in 14 **DE Admin. Code** 922.3.0. 6.16.2 Age of Eligibility: The age of eligibility for children identified under this classification is from the third birthdate until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. 6.16.3 Additional Criteria For Eligibility: While the educational classification of Traumatic Brain Injury may co-occur with other conditions, such interference in educational performance cannot primarily be explained by factors listed under the special rule for eligibility determination consistent with 14 **DE Admin. Code** 925.6.2. 6.16.4 Disability Specific Evaluation Procedures: An evaluation as described in 14 **DE Admin. Code** 925.4 through 925.5, and data obtained from, but not limited to: 6.16.4.1 Documentation of the traumatic brain injury by a qualified medical professional as described in 14 **DE Admin. Code** 925 6.16. 6.16.5 Re-evaluation Procedures: 6.16.5.1 For purposes of continued eligibility determination, the IEP team shall follow procedures consistent with 14 **DE Admin. Code** 925.3 through 925.5 and 925.6.16.1; and 6.16.5.2 The IEP team should make every effort to obtain updated documentation related to the student’s traumatic brain injury. 6.16.6 Documenter: Documentation of this condition shall be provided by a qualified medical professional who can certify the existence of a traumatic brain injury. 6.16.7 Additional IEP Members: For purposes of eligibility determination, the school psychologist and the school nurse shall be members of the IEP team in addition to required members referred to in 14 **DE Admin. Code** 925.21. |
| 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. | 6.17 Eligibility Criteria for Visual Impairment including Blindness:6.17.1 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.6.17.2 This eligibility determination requires a thorough and rigorous evaluation with a data-based media assessment which is based on a range of learning modalities and includes a functional visual assessment.6.17.3 The age of eligibility for children identified under this section shall be from birth until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. | 6.17 Visual Impairment Including Blindness: In order for the IEP team to determine eligibility for special education and related services under the Visual Impairment including Blindness classification, the following is required: 6.17.1 Eligibility Criteria: A child with an educational classification of Visual Impairment including Blindness is a child who has an impairment in vision that, even with correction, adversely affects a child's educational performance as referred to in 14 **DE Admin. Code** 922.3.0, and the child exhibits: 6.17.1.1 Partial sight, including but not limited to macular holes, oscillopsia, and central vision loss; or blindness; or neurological conditions (not perceptual impairments); and/or a progressive loss of vision; and corrected visual acuity of 20/50 or less in the better eye, or a peripheral field so contracted that the widest lateral field of vision subtends less than forty (40) degrees; or 6.17.1.2 Medical documentation of cortical vision impairment, or 6.17.1.3 A functional vision loss where field and acuity deficits alone may not meet the aforementioned criteria. 6.17.2 Age of Eligibility: The age of eligibility for children identified under this classification is from birth until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty-one (21), whichever occurs first. 6.17.3 Additional Criteria For Eligibility: While the educational classification of Visual Impairment including Blindness may co-occur with other conditions, such interference in educational performance cannot primarily be explained by factors listed under the special rule for eligibility determination consistent with 14 **DE Admin. Code** 925.6.2. 6.17.4 Disability Specific Evaluation Procedures: An evaluation as described in 14 **DE Admin. Cod**e 925.4 through 925.5, and data obtained from, but not limited to: 6.17.4.1 Documentation of the visual impairment by a qualified medical professional as described in 14 **DE Admin. Code** 925.6.17. 6.17.5 Re-evaluation Procedures: 6.17.5.1 For purposes of continued eligibility determination, the IEP team shall follow procedures consistent with 14 **DE Admin. Code** 925.3 through 925.5 and 925.6.17; and 6.17.5.2 The IEP team should make every effort to obtain updated documentation related to the student’s visual impairment. 6.17.6 Documenter: Documentation of this condition shall be provided by a qualified medical professional such as, but not limited to, a licensed ophthalmologist, optometrist, or neurologist. 6.17.7 Additional IEP Members: For purposes of eligibility determination, an orientation and mobility specialist, teacher of students with visual Impairments, and the school psychologist shall be members of the IEP team in addition to required members referred to in 14 **DE Admin. Code** 925.21. |
| Preschool Speech Delay |  | 6.18 Eligibility Criteria for Preschool Speech Delay (3 and 4 year olds only):6.18.1 A speech disability is defined as a communication disorder or delay involving articulation, voice quality, or speech fluency to such a degree that it interferes with a child's overall communicative performance.6.18.2 In order to determine a significant delay or disorder in this area, the child shall receive a speech and language evaluation conducted by a licensed Speech and Language Pathologist.6.18.2.1 A speech and language evaluation shall include assessment of articulation, receptive language and expressive language as measured by a standardized norm based instrument. It is strongly recommended that the evaluation include clinical observations or an assessment of oral motor functioning, voice quality and speech fluency. Results of the evaluation may identify a significant delay or disorder in one or more of the following areas:6.18.2.1.1 Articulation errors of sounds that are considered to be developmentally appropriate for the child's age as measured by an articulation test,6.18.2.1.2 Conversational speech that is not developmentally appropriate for the child's age as measured by a speech and language pathologist,6.18.2.1.3 Oral motor involvement which may affect the development of normal articulation,6.18.2.1.4 Speech fluency, or6.18.2.1.5 Voice quality6.18.3 Results of the evaluation may indicate a significant delay in receptive and expressive language which warrants further evaluation. In this event, the child is to be referred for a multidisciplinary evaluation to determine if he/she meets the eligibility criteria for developmental delay.6.18.4 The age of eligibility for preschool children identified under this definition shall be from the third birth date until the fifth birth date. | 6.18 Eligibility Criteria for Preschool Speech Delay (3 and 4 year olds only 3- and 4-year olds): 6.18.1 A speech disability is defined as a communication disorder or delay involving articulation, voice quality, or speech fluency to such a degree that it interferes with a child's overall communicative performance. 6.18.2 In order to determine a significant delay or disorder in this area, the child shall receive a speech and language evaluation conducted by a licensed Speech and Language Pathologist. 6.18.2.1 A speech and language evaluation shall include assessment of articulation, receptive language and expressive language as measured by a standardized norm based norm-based instrument. It is strongly recommended that the evaluation include clinical observations or an assessment of oral motor functioning, voice quality and speech fluency. Results of the evaluation may identify a significant delay or disorder in one (1) or more of the following areas: 6.18.2.1.1 Articulation errors of sounds that are considered to be developmentally appropriate for the child's age as measured by an articulation test, 6.18.2.1.2 Conversational speech that is not developmentally appropriate for the child's age as measured by a speech and language pathologist, 6.18.2.1.3 Oral motor involvement which may affect the development of normal articulation, 6.18.2.1.4 Speech fluency, or 6.18.2.1.5 Voice quality 6.18.3 Results of the evaluation may indicate a significant delay in receptive and expressive language which warrants further evaluation. In this event, the child is to be referred for a multidisciplinary evaluation to determine if he/she meets the eligibility criteria for developmental delay. 6.18.4 The age of eligibility for preschool children identified under this definition shall be from the third birth date until the fifth birth date. |