

Eligibility

I. Timelines for Eligibility Decisions

- A. Within 65 business days of the receipt of the referral by the special education administrator;
 - 1. However, if the initial Request for Evaluation for Special Education and Related Services is made prior to the Child Study Committee, and the committee agrees with the request, the 65 days begin on the date of the request.
- B. No later than the third anniversary of the date the child was last found eligible for special education and related services; or
- C. Within 65 business days after the parent or parents are notified of the decision not to reevaluate (records review only).
- D. Exceptions to the 65 day timeline include:
 - 1. When a student enrolls in the Newport News Public Schools after the timeframe has started and prior to eligibility by the previous school division. This exception does not apply if Newport News is making sufficient progress to ensure a prompt compliance of the evaluation and the parent and school division personnel agree to a specific timeframe when the evaluation will be completed;
 - 2. When the parent fails or refuses to produce the student for the evaluation.

II. School-Based Eligibility/IEP Committees

- A. School division membership may include:
 - 1. Principal or designee qualified to supervise or provide special education services;
 - 2. Special education contact person (initial and review);

3. School division personnel who have provided the assessment components, have observed the child or who represent the disciplines providing the assessment components:
 - a. School social worker;
 - b. School psychologist;
 - c. School nurse when the nurse's presence is required to present or interpret educationally relevant aspects of the medical component; i.e., physical examination, occupational or physical therapy report, neurological examination, and other special medical reports;
 - d. The student's general and special education teachers or a teacher qualified to teach a child of that age, if the student does not have a general education teacher; or
 - e. Other school division specialists who have either provided assessment components, specialists with knowledge in the area of the suspected disability, or who have responsibility for providing services (audiologist, guidance counselor, reading resource teacher, speech/language pathologist, occupational therapist, physical therapist, etc.) when they must present or interpret information from their respective disciplines that will assist in identifying the student's special education or related service needs.

B. Non-school division personnel

1. Non-school division personnel who have provided assessment components, who made the referral, or who are responsible for providing services may participate in

Eligibility Committee meetings. Others, at the determination of the parent, may attend.

- 2. Parents; noncustodial parents, if known; surrogate parents; and agency representatives having legal custody of the student shall be informed of the day/date and time of eligibility meetings and afforded an opportunity to attend and participate in the Eligibility Committee meeting decision.

C. Responsibilities

Record Keeping Requirement

- 1. Chairperson: (contact person from the special education department for new referrals and review referrals; the building principal/designee for triennials)
 - a. Chairs the Eligibility Committee meeting;
 - b. Conducts the meeting in a manner that encourages presentation of educationally relevant information by persons who have collected assessment data
 - c. Facilitates deliberations which result in general agreement or consensus that the student does or does not meet the criteria for special education services;

Report of Eligibility Committee

- d. Assures the completion of all components of the Eligibility Committee Report and the distribution of copies of the report to the school, to the special education department, and parents or guardians.

- (1) The Eligibility Committee Report shall be a written summary of minutes which consists of essential deliberations supporting the findings as to the educational needs of the child and the eligibility of each child for a special education program and a statement that the summary reflects the conclusions of each committee member.
 - (2) The minutes shall be signed by each Eligibility Committee member present.
 - (3) Separate statements will be collected from any members who do not agree with the committee consensus;
- e. Completes the Notice of Intent, proposing or denying, and/or changing the student's eligibility;
 - f. Forwards all Eligibility Committee minutes and other relevant data to the IEP Committee;
 - g. Forwards all EC/IEP deliberations and Intent notice form to the Referrals and Assessments Department for recording and processing by the appropriate program supervisor when applicable; and
 - h. Forwards copy of Eligibility Committee minutes to referring source, when appropriate.
2. Case Manager: (the principal or designee)
 - a. Schedules individual cases within the assigned period allocated for eligibility meetings in the school;

- b. Notifies school-based and central office Eligibility Committee members of the individual cases to be staffed and the date and time of the meeting;
- c. Provides reasonable proper written notice, including procedural safeguards, to parents prior to the meeting to provide an opportunity for them to attend;
- d. Provides reasonable notice to other non-school division personnel, as appropriate (as indicated in B1 above), of the date and time of the meeting;
- e. Secures the confidentiality of eligibility proceedings and all records related to the identification, evaluation, and placement of students suspected or determined to be disabled. The EC records will be maintained in the student's scholastic record, Part II; and
- f. Reviews the committee findings with the parent in the event the parent does not attend the eligibility meeting.

3. Members:

- a. Provide written assessment components to the school two business days prior to the eligibility meeting;
- b. Review all assessment reports prior to attending the eligibility meeting;
- c. Present assessment data which is relevant and specific to the student's current level of functioning and educational needs;
- d. Summarize and interpret assessment findings in their respective disciplines;
- e. Integrate assessment data presented by all members;
- f. Formulate recommendations for appropriate educational planning, based on assessment documentation:

- (1) Determine the disabling condition, if any, and eligibility for special education services. (Refer to criteria handbook and/or disability definitions in the glossary.);
 - (2) Describe the student's current level of functioning and identify the educational needs and behavioral characteristics;
 - (3) Include other recommendations as appropriate; and
- g. Submit a separate statement when the committee's consensus does not reflect his or her own conclusions.

III. Eligibility Committee Decisions

- A. The Eligibility Committee may defer the determination of eligibility for special education services when:
1. Further diagnostic assessment data is needed for a nonbiased decision AND
 2. The need for additional information is clearly documented and a reasonable deadline for completion of additional components will not jeopardize compliance with the original 65 business day timeline.
- B. The decisions of the Eligibility Committee provide the basis for IEP development and placement.

IV. Operational guidelines for determining eligibility

- A. In interpreting evaluation data for the purpose of determining if a child is a child with a disability and determining the educational needs of the child, the Eligibility Committee shall:

1. Consider information from a variety of sources, such as aptitude and achievement tests, parent input, teacher reports, physical condition, social or cultural background, adaptive behavior, etc.; and
 2. Ensure that information from all these sources is documented and carefully considered.
- B. The group shall follow procedural safeguards in determining eligibility and in ensuring the confidentiality of records.
- C. A child may not be determined to be eligible under this section of the *Operational Guidelines For Managing The Special Education Process* if the determinant factor is lack of instruction in reading (including phonetic awareness, phonics, vocabulary development, reading fluency, oral reading skills, and comprehension strategies) or math or limited English proficiency and the child does not otherwise meet the eligibility criteria.
- D. The group making the decision, including the parent, regarding the child's eligibility shall work toward consensus. The principal/designee shall obtain parental consent for the initial eligibility determination. Thereafter, parental consent shall be secured for any change in identification.
- E. The group shall have a written summary that consists of the basis for making its determination as to the eligibility of the child for special education and related services. This summary shall be signed by each group member present. The written summary shall be maintained in the child's scholastic record, Part II.
- F. The principal/designee shall provide a copy of the documentation of the determination of eligibility to the parent or parents, at no cost, along with a Notice of Intent.

- G. The summary statement of the group's essential deliberations shall be forwarded to the IEP team upon determination of eligibility. The summary statement may include other recommendations.
1. Each group member shall certify in writing whether the report reflects his conclusions. If the group does not reach full consensus and the report does not reflect a particular member's conclusion, then the group member must submit a separate statement presenting that member's conclusions.
 2. No changes shall be made to a child's eligibility for special education and related services without written parental consent.
- V. **Criteria for determining the existence of a specific learning disability.** The group may determine that a child has a specific learning disability if:
- A. The child does not achieve commensurate with the child's age or to meet Virginia approved grade level standards in one or more of the areas listed in subdivision C of this subsection if provided with learning experiences appropriate for the child's age,
 - B. The child exhibits a pattern of strengths and weaknesses in performance, achievement or both, relative to age, Virginia approved grade-level standards or intellectual development.
 - C. The team finds that a child does not achieve adequately for the child's age or to meet Virginia 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 Virginia approved grade level standards:
 1. Oral expression;
 2. Listening comprehension;

3. Written expression;
 4. Reading fluency skills;
 5. Basic reading skills;
 6. Reading comprehension;
 7. Mathematical calculations; or
 8. Mathematical problem solving.
- D. The group may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of:
1. A visual, hearing, or motor impairment;
 2. Intellectual disability;
 3. Emotional disability
 4. Environmental, cultural, or economic disadvantage; or
 5. Limited English proficiency.
- E. If determining whether a child suspected of having a specific learning disability is a child with a disability, the group shall include:
1. The child's regular teacher;
 - a. If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child at that age; or
 - b. For a child less than school age, an individual qualified to teach a child of that age; and
 2. The child's special education teacher, if the student receives special education services.

3. At least one person qualified to conduct diagnostic examinations of children, such as school psychologist, speech/language pathologist, teacher of specific learning disabilities, or teacher of remedial reading. This is not intended to be an exhaustive list of qualified personnel in Newport News Public Schools.

Summary of Deliberations
for LD Student

- F. For a child suspected of having a specific learning disability, the documentation of the group's determination of eligibility must also include a statement of:
1. Whether the child has a specific learning disability;
 2. The basis for making the determination;
 3. The relevant behavior noted during the observation of the child;
 4. The relationship of the behavior to the child's academic functioning;
 5. The educationally relevant medical findings, if any;
 6. The instructional strategies used and the student-centered data collected if the child has participated in a response to a scientific, researched based intervention process; and
 7. The determination of the group concerning the effects of any environmental, cultural, or economic disadvantage.

VI. Eligibility for related services

- A. A child with a disability must be found eligible for special education in order to receive related services.
- B. Related services are those supportive services that are required to assist a child with a disability to benefit from special education.

- C. Once a child is found eligible for special education, and the need for a related service is documented, related services are added to the IEP by the IEP team.
- D. If additional information is needed to determine the need for related services, an evaluation may be initiated in compliance with all evaluation procedures.

VII. Eligibility of two-year-old Preschool children

- A. A child, aged two, previously participating in early intervention services under Part C (see Glossary) of the Individuals with Disabilities Education Act shall meet the requirements of this eligibility section to be determined eligible under Part B (see Glossary) of the Individuals with Disabilities Education Act.
- B. For a child served by Part C, after age 2 and whose third birthday occurs during the summer, the child's IEP team shall determine the date when services under the IEP will begin.

VIII. Eligibility as a child with a Developmental Delay

- A. The eligibility committees in Newport News Public Schools include developmental delay as one of the disability categories when determining whether a preschool child, aged two by September 30, to six, inclusive, is eligible.
- B. The child has a physical or mental condition that has a high probability of resulting in a developmental delay.
- C. Other disability categories may be used for any child with a disability aged two to six, inclusive.

IX. Eligibility as a child with an Emotional Disability

There is an adverse effect on the student’s emotional performance due to one or more documented characteristics of emotional disability. (See Criteria Manual)

X. Eligibility as a child with a Hearing Impairment.

- A. There is an adverse effect on the student’s educational performance due to one or more documented characteristics of a hearing impairment. (See Criteria Manual)
- B. Characteristics of students with a hearing impairment include unilateral hearing loss, bilateral hearing loss, a fluctuating or permanent hearing loss, and/or auditory dys-synchrony. The hearing loss results in qualitative impairments in communication/educational performance.
- C. The term “hard of hearing” may be used in this capacity.

XI Eligibility as a child with an Intellectual Disability

- A. There is an adverse effect on the student’s educational performance due to one or more documented characteristics of an intellectual disability; and the child has

1. Significantly impaired intellectual functioning which is two or more standard deviations below the mean on individually administered standardized measures of intellectual functioning, concurrent with;
2. Significantly impaired adaptive behavior as determined by a composite score on an individual standardized instrument of adaptive behavior that measures two standard deviations or more below the mean, and;
3. A developmental history that indicates significant impairment in intellectual functioning and a current demonstration of significant impairment is present.

XII Eligibility as a child with an Orthopedic Impairment

There is an adverse effect on the student's educational performance due to the presence of one or more characteristics of an orthopedic impairment.

XIII Eligibility as child with an Other Health Impairment

There is an adverse effect on the child's educational performance due to one or more characteristics of other health impairment.

XIV Eligibility as a child with a Speech or Language Impairment

- A. A student may be identified as a student with a speech or language impairment if;
1. There is an adverse effect on the student's educational performance due to one or more documented characteristics of a speech or language impairment.
 2. The student has a significant discrepancy from typical communication skills in one or more of the areas including fluency, impaired articulation, expressive or receptive language impairment, or voice impairment; and

3. Information from instruments that are culturally and linguistically appropriate including standardized and criterion referenced measures are used in conjunction with information from classroom observations to determine the severity of the communication impairment.
- B. Children are not to be identified as having a speech or language impairment the area of concern is primarily the result of sociocultural dialect, delays/differences associated with acquisition of language, or within the purview of established norms for articulation and language development.
 - C. Speech Language services may be special education or a related service

XV Eligibility as a child with Traumatic Brain Injury

The student may be identified as a student with a traumatic injury if there is documentation of an acquired injury to the brain that results in an adverse effect on the student's educational performance.

XVI Eligibility as a child with a Visual Impairment

- A. A student may be identified as a student with a visual impairment if it results in an adverse effect on educational performance due to one of more of the characteristics of visual impairment; and the student:
 1. Demonstrates the characteristics of blindness or visual impairment
 2. Has any of the condition including, but not limited to oculomotor apraxia, cortical visual impairment, and/or progressive loss of vision, which may in the future have an adverse effect on educational performance, or a functional vision loss where field and acuity deficits alone may not meet the aforementioned criteria.
- B. A child with blindness demonstrates the following:

1. Visual acuity in the better eye with best possible correction of 20/200 or less at distance or near; or
 2. Visual field restriction in the better eye of remaining visual field of 20 degrees or less.
- C. A child with a visual impairment demonstrates the following:
1. Visual acuity better than 20/200 but worse than 20/70 at distance or near; or
 2. Visual field restriction in the better eye of remaining visual field of 70 degrees or less, but better than 20 degrees.

XVI Children found eligible for special education

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- A. Children need not be identified by their disability, as long as each child has a disability under this section and needs special education and related services, as appropriate.
- B. Children with disabilities may be identified as having more than one disability, if necessary, to provide free and appropriate public education.

XVI Children found not eligible for special education

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- A. A child found not eligible for special education shall be referred back to the Child Study Committee to develop appropriate educational strategies.
- B. Parental consent to release information shall be secured for children placed by their parents in private schools that are NOT located within Newport News.

XIX. IEP Timelines

If the determination is made that a child has a disability and needs special education with or without related services, an IEP must be developed within 30 calendar days.

XX. Central Eligibility/IEP Committee

A. The Central Eligibility/IEP meetings are coordinated by the Supervisor of Referrals and Assessments.

1. The composition shall be the same as school-based committees.
2. The Central Eligibility/IEP Committee reviews special eligibility cases and reaches consensus on eligibility/IEP decisions in the following cases:
 - a. Private or Parochial students
 - (1) Students attending private or parochial schools in Newport News and referred for formal assessment shall have their assessment components reviewed by the Central Eligibility/IEP Committee. The child's parents, private school administrator, and the student's teacher(s) shall be given appropriate and reasonable notice and be provided an opportunity to participate.
 - (2) Upon determination of eligibility the committee will develop an IEP consistent with the needs of the student.
 - (3) The parent may accept the IEP or refuse permission to implement the placement.

- (4) If the IEP calls for services other than speech and the parent authorizes implementation of the IEP, the student will be placed in his/her zone school or the nearest school to the zone school in which the identified program is located.
- b. Out of Division Placements
- (1) For school-aged children and youth not enrolled in a Newport News Public School, the Central Eligibility/IEP Committee shall review assessment components and develop an IEP consistent with the needs of the student.
 - (2) For students identified as requiring an out of division placement by a school based eligibility committee the development of the IEP shall be referred to the Central IEP Committee.
 - (3) The Central IEP Committee, including the student's parents, school administrator, teacher(s), private school administrator when appropriate and a special education administrator will develop and IEP consistent with the needs of the student.
 - (4) If the IEP calls for a private day placement the IEP committee may make a recommendation as to the location of the program.
 - (5) The actual day program placement will be made administratively by the Coordinator of Special Placements with the approval of the Director of Special Education & Assessments after considering, in the following order:

- (a) Proximity of the program to the student's home through zones established by the Transportation Department;
 - (b) The program's ability to serve the needs of the student as outlined in the IEP (positive behavior management program, time out room, on site therapist, etc.);
 - (c) Space availability;
 - (d) Student/family history/concerns with the program; and
 - (e) Continuity of programming (in the case of re-evaluations/"rezoning").
- (6) For students requiring a residential placement, the Coordinator of Special Placements will follow appropriate C.S.A. procedures to locate a residential setting appropriate to the needs of the student.