

LIST OF RECOGNIZED DISABILITIES

- A. The term “child/student with a disability” means a child with one or more of the following:
- i. **Intellectual disability;**
 - ii. Hearing impairments (including deafness);
 - iii. Speech or language impairments;
 - iv. Visual impairments (including blindness);
 - v. Serious emotional disturbance (ED);
 - vi. Orthopedic impairments;
 - vii. Autism **See attached Appendix C for considerations by IEP team ;**
 - viii. Traumatic brain injury;
 - ix. Other health impairments;
 - x. Specific learning disability, **see discussion of dyslexia,** or
 - xi. Deaf/blindness, and
 - xii. Multiple disabilities
 - xiii. Developmentally delayed

and as a result needs special education and related services.

Not every student who has a disability requires special education and/or related services. The disability has to interfere with the student's ability to participate in educational programs.

NOTE:

Source: 34 CFR§ 300.8
6 NMAC 31.2.10 **6.NMAC 31.2.11(B)**
Revised 1/2012

SECTION IV (A)

SPECIFIC LEARNING DISABILITIES

New Mexico is phasing out the discrepancy model¹ for determination of eligibility for students as having a specific learning disability and instead will be using Response to Intervention results to make a determination of existence of a special learning disability. A school district may use a process that determines whether a child responds to programs shown to be scientific, research-based intervention as part of the evaluation process.

The District may continue to utilize the results of diagnostic/evaluation testing as part of consideration of eligibility in the area of a specific learning disability.

The Three Tiered approach must be used for the student suspected of having a specific learning disability to ensure that lack of instruction in reading or math is not the primary cause of the learning difficulties for the student who is being referred for evaluation.

Please refer to material at pages 60-64 and the SAT process materials including consideration of the provision of modifications and supports.

Schools may select to implement the dual discrepancy model for grades kindergarten through 3rd grade. Consideration of the dual discrepancy model must be in compliance with NM T.E.A.M. manual referencing RTI and SAT procedures

“Dual discrepancy” means the child does not achieve adequately for the child's age or to meet grade-level standards established in Standards for Excellence (Chapter 29 of Title 6 of the NMAC); and

(a) does not make sufficient progress to meet age or grade-level standards; or

(b) exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, grade level standards or intellectual development.

"Dyslexia" means a condition of neurological origin that is characterized by difficulty with accurate or fluent word recognition and by poor spelling and decoding abilities, which characteristics typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction and may result in problems in reading comprehension and reduced reading experience that may impede the growth of vocabulary and background knowledge.

¹ The discrepancy model measured the difference between project achievement and performance. If a discrepancy of 1.5 standard deviations from the norm existed, a student could be deemed to have a specific learning disability.

SECTION IV

1) ELIGIBILITY DETERMINATION

- A. After the assessment/evaluation, the group of qualified professionals including the parent will meet to determine whether a student is a student with a disability.
- B. If the student meets the criteria for one of the listed exceptionalities, the **EDT (eligibility determination team)** then must determine whether by reason of such a disability the student required special education or related services. Once this determination is made the educational needs of the student will be made by a team of qualified professionals and the parent of the student.
- C. A student shall not be found to be eligible for receipt of special education services if the determinant factor is either:
 - i. Lack of appropriate instruction in reading, including the essential components of reading instruction. Essential components of reading instruction means explicit and systemic instruction in:
 - (a) Phonemic awareness
 - (b) Phonic
 - (c) Vocabulary development
 - (d) Reading fluency, including oral reading skills
 - (e) Reading comprehension strategies
 - ii. Lack of instruction in mathematics; or
 - iii. Limited English proficiency.

When considering English proficiency, make sure that this is not only a consideration of whether the student is mono-lingual or bi-lingual. Some students who are exposed only to one language are not necessarily proficient in any language, including English, and may need additional work on language acquisition.

- D. Before determining that a student no longer qualifies for special education services, the District must evaluate the student, unless the student's eligibility has terminated because either (1) the student has graduated with a regular diploma; or (2) the student's age exceeds the age of eligibility.

NOTE:

Source: 34 CFR§ 300.306 6 NMAC 31.2.10