

*The Evaluation and Planning Team must answer three questions in determining special education eligibility.*

## Eligibility for Special Education

It should be simple. If a child has a disability, he should benefit from special education, right? Wrong.

The Vermont Agency of Education special education regulations specify that the Evaluation and Planning Team (EPT), which includes you, the parent, must develop and answer questions in response to three specific criteria used to determine special education.

The three criteria, also referred to as “gates” in determining eligibility are:

- If your child has a disability.
- The extent to which the disability adversely affects basic skill area(s).
- Whether or not your child’s need is significant enough to require specialized instruction.

The disability categories are:

- Autism Spectrum Disorder (ASD)
- Deaf-blindness
- Emotional disturbance
- Hearing loss
- Intellectual disability
- Multiple disabilities
- Orthopedic impairment
- Other health impairment
- Specific learning disability
- Speech or language impairment
- Traumatic brain injury (TBI)
- Visual impairment

EPT members need to ask specific questions that show if a disability is having an adverse effect in the basic skill areas by demonstrating that your child is performing in the lowest 15% of students at his grade level.



### Documentation

In order to document adverse effect, three out of five different types of measures must be used to assess performance in each basic skill area identified in the evaluation plan. Skill areas may include:

- Basic reading skills
- Reading comprehension
- Mathematics calculation
- Mathematics reasoning
- Written expression
- Oral expression
- Listening comprehension
- Motor skills

Choices of measures may include:

- Standardized test results
- Report card grades
- Curriculum-based measures such as class tests
- Criterion-referenced tests such as a reading or math inventory
- Vermont's Developmental Reading Assessment
- Writing portfolio
- Common Core State Standards
- Samples of work



### **Additional procedures for identifying children with specific learning disabilities**

In making the determination that a student has a specific learning disability the school shall decide whether to use a discrepancy model or a model based on whether the student responds to research based teaching intervention.

When using a discrepancy model to determine specific learning disabilities, the EPT shall document that the student exhibits a discrepancy of 1.5 standard deviations or greater between ability and expected levels of performance in one or more of the basic skill areas.

When using a model based on whether the student responds to specific, research-based intervention, the EPT shall document use of the following:

- Teachers used high-quality instruction to instruct your child.
- Child's progress was monitored closely.

### **Determining special education eligibility using this three step process**

#### **Step 1: criterion 1**

Is there a disability?

- Give rationale for suspected disability.
- Describe learning profile.

What measures will you use to answer disability question?

- Look at disability categories.
- Decide which tests and measures to use.
- Review measurement outcomes.

Answer disability question:

If YES proceed to criterion 2.

If NO proceed to criterion 2 to further inform the school's Educational Support System (ESS).

## Step 2: criterion 2

Is there an adverse effect on basic skills?

- If student is determined to have a disability, which basic skill area is adversely affected?
- If student is experiencing education difficulty in basic skill area (though not found to have a disability), what information does ESS need to support/accommodate student?

What measures will you use to answer the adverse effect question?

- Look at “disability” measures to see if any of that information can be applied to adverse effect criteria.
- Review measurement outcomes and decide if they meet criteria for adverse effect.
- EPT determines if student is below age or grade norms; in 15<sup>th</sup> percentile or below; or -1.0 standard deviation below mean; or equivalent.
- Choose three out of five different measures gathered over a six month period.
  1. standard or percentile scores on an individually-administered nationally-normed achievement test
  2. grades
  3. curriculum-based measures
  4. normed, referenced assessments
  5. student work, language samples, portfolios

Answer adverse effect question:

If YES for criterion 1 and 2, proceed to criterion 3.

If YES for criterion 1 and NO for criterion 2, refer to building administrator for 504 Plan consideration.

## Step 3: criterion 3

Is there a need for special instruction?

- Report skill deficits discovered in adverse effect protocol.
- Identify and develop the appropriate instructional strategies for student to progress in general education curriculum.

Answer to need for specialized instruction:

If YES for criterion 1, 2, and 3, student is eligible for special education.

If YES for criterion 1 and 2, and NO for criterion 3, refer to building administrator for 504 Plan consideration.

**General rules of thumb regarding qualifications for special education**  
Performance must be compared to average performing grade level peers in the basic skill area. In the upper grades, performance may be assessed indirectly if the reason for an adverse effect condition being met in content areas such as social studies or science, for example, is related to skill deficits in reading and writing.

Refusal or a lack of work production may be an indicator of a disability, such as an emotional disability, and identified by a professional as having an adverse effect on a basic skill area. When the EPT establishes that an adverse condition has been met, you have built your case from supporting information of assessment measures. The team must now identify if specialized instruction is required that cannot be provided within the school's system of support available to all students.



**Qualifying for special education**  
If your child meets all three criteria: disability, adverse effect, and need, then eligibility for special education has been determined.

If a disability has not resulted in special education eligibility, it is important to consider what is available within the school's system of support, possibly a Section 504 determination or an Educational Support Team (EST) plan.

Whether a child is eligible or not, it is most important for EPTs to determine specific instructional strategies based on the student's learning needs as identified in the comprehensive evaluation. The EST is designed to support students regardless of eligibility for categorical programs.

#### **Resources**

[Vermont Agency of Education](#)

Help for families navigating the education system.

802-479-1030

[Vermont Legal Aid: Disability Law Project](#)

The project provides counsel and advice, brief service, and full representation to eligible clients and their family members.

800-889-2047



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