

# ELIGIBILITY UNDER THE IDEA

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# Topics for Discussion

- ◆ Child-Find Requirements
- ◆ Definitions of Disabling Conditions, Including Emotional Disturbance and Specific Learning Disabilities
- ◆ Adverse Effect on Educational Performance
- ◆ Need for Special Education
- ◆ Relation of IDEA Eligibility to Eligibility Under Section 504
- ◆ Statute of Limitations Issues

# Basic Definition

Child with a disability

(A) In general

The term “child with a disability” means a child--

(i) with intellectual disabilities, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this chapter as “emotional disturbance”), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

(ii) who, by reason thereof, needs special education and related services.

# New York Definition

A “child with a disability” or “student with a disability” means a person under the age of twenty-one who is entitled to attend public schools pursuant to section 3202 of this chapter and who, because of mental, physical or emotional reasons can only receive appropriate educational opportunities from a program of special education. Such term does not include a child whose educational needs are due primarily to unfamiliarity with the English language, environmental, cultural or economic factors. Lack of [appropriate] instruction in reading[, including in the essential components of reading instruction as defined in subsection three of section 1208 of the Elementary and Secondary Education Act of 1965,] or [lack of appropriate instruction in] mathematics or limited English proficiency shall not be the determinant factor in identifying a student as a student with a disability.

# Child-Find Requirements

- ◆ 20 U.S.C. § 1412(a)(3), 34 C.F.R. § 300.111
- ◆ Board of Educ. of Wappingers Cent. Sch. Dist. v. M.N.
- ◆ Dean v. School Dist. of City of Niagara Falls
- ◆ Board of Ed. of the Syracuse City Sch. Dist.
- ◆ W.A. v. Hendrick Hudson Cent. Sch. Dist.
- ◆ R.E. v. Brewster Cent. Sch. Dist.

# Child-Find Remedies

- ◆ Compton Unified Sch. Dist. v. Addison
- ◆ Boose v. District of Columbia

# Triggering the Obligation to Evaluate

- ◆ S.D. v. Portland Pub. Schs.
- ◆ C.C. Jr. v. Beaumont Indep. Sch. Dist.
- ◆ Doe v. Metropolitan Nashville Pub. Schs.
- ◆ Greenwich Bd. of Educ. v. G.M. (RTI)

# Definitions of Disabling Conditions

- ◆ Emotional Disturbance Basics

- ◆ 34 C.F.R. § 300.8(c)(4); N.Y. Comp. Codes R. & Regs. tit. 8 § 200.1(zz)
- ◆ “Socially Maladjusted”
- ◆ Muller v. Committee on Special Educ.
- ◆ Eschenasy v. New York City Dep’t of Educ.
- ◆ New Paltz Cent. Sch. Dist. v. St. Pierre
- ◆ A.A. v. District of Columbia

# Definitions of Disabling Conditions

- ◆ Emotional Disturbance: Springer
  - ◆ Springer v. Fairfax Cnty. Sch. Bd.
  - ◆ P.C. v. Oceanside Union Free Sch. Dist.
  - ◆ W.G. v. New York City Dep't of Educ.
- ◆ Emotional Disturbance: Psychiatric Diagnoses
  - ◆ R.B. v. Napa Valley Unified Sch. Dist.
  - ◆ Letter to Coe

# Definitions of Disabling Conditions

- ◆ Specific Learning Disability

- ◆ 34 C.F.R. 300.8(c)(10) Specific learning disability—

(i) General. Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

(ii) Disorders not included. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

- ◆ Doe v. Cape Elizabeth Sch. Dist.

# Adverse Effect on Educational Performance

- ◆ No Adverse Effect

- ◆ Maus v. Wappingers Cent. Sch. Dist.
- ◆ A.J. v. Board of Educ.
- ◆ J.D. v. Pawlet School District
- ◆ Marshall Joint Sch. Dist. No. 2 v. C.D.
- ◆ E.M. v. Pajaro Valley Unified Sch. Dist.

# Adverse Effect on Educational Performance

- ◆ Adverse Effect Found

- ◆ Corchado v. Board of Educ., Rochester City Sch. Dist.
- ◆ Mr. I. v. Maine Sch. Admin. Dist.
- ◆ A.A. v. District of Columbia

# Need for Special Education

- ◆ Finding the Child in Need of Special Education
  - ◆ M.M. v. New York City Department of Education
  - ◆ A.W. v. Board of Educ. of the Wallkill Cent. Sch. Dist.
  - ◆ Yankton Sch. Dist. v. Schramm
  - ◆ L.J. v. Pittsburg Unified Sch. Dist.
  - ◆ Memorandum to State Directors

# Need for Special Education

- ◆ Finding the Child Not in Need of Special Education
  - ◆ Alvin Independent School District v. A.D.
  - ◆ Hood v. Encinitas Union Sch. Dist.
  - ◆ D.L. v. Clear Creek Indep. Sch. Dist.
  - ◆ M.P. v. Aransas Pass Indep. Sch. Dist.

# Defining Special Education

- ◆ L.J. v. Pittsburg Unified Sch. Dist.
- ◆ “Preschool, Elementary School, or Secondary School Education” Provision: T.M. v. Kingston City Sch. Dist.

# Relation of Eligibility Under Section 504 to IDEA Eligibility

- ◆ 34 C.F.R. § 300.104.3(*l*)
- ◆ Hood v. Encinitas Union Sch. Dist.
- ◆ R.E. v. Brewster Cent. Sch. Dist.
- ◆ Mr. I. v. Maine Sch. Admin. Dist.

# Limitations Issues

- ◆ 20 U.S.C. § 1415(b)(6)(B) and § 1415(f)(3)(C)
- ◆ G.L. v. Ligonier Valley School Dist. Auth.
- ◆ Damarcus S. v. District of Columbia
- ◆ K.H. v. New York City Dep't of Educ.
- ◆ Somoza v. New York City Dep't of Educ.
- ◆ D.K. v. Abington Sch. Dist.