

ELIGIBILITY DETERMINATION

A LEA shall ensure that a full and individual evaluation is conducted for each child considered for specially designed instruction and related services prior to the provision of the services. The results of the evaluation shall be used by the ARC in meeting the requirements on developing an IEP as provided in 707 KAR 1:320.

707 KAR 1:300 Section 3 (1)
34 CFR 300.531

The ARC ensures that neither special education nor related services are provided to a child before a full and individual evaluation is completed and eligibility for a disability is determined.

ARC REVIEW OF EVALUATION INFORMATION

Upon completion of the tests and other evaluation materials, the ARC shall determine whether the child is a child with a disability who meets one or more of the eligibility categories as defined in 707 KAR 1:280 to the extent that specially designed instruction is required in order for the child to benefit from education.

707 KAR 1:310 Section 1 (1)
34 CFR 300.534 (a) (1)

Upon completion of the full and individual evaluation, the ARC Chairperson schedules an ARC Meeting for the purpose of reviewing the evaluation.

The ARC Chairperson or another ARC member asks the parent if they received a copy of the Procedural Safeguards (parent rights), and asks if the parent has questions or wants a review of the rights (according to **PROCEDURAL SAFEGUARDS**).

The ARC decision making process for eligibility determination may include the following steps:

1. review and analyze all evaluation procedures, tests, records, and reports from the full and individual evaluation;
2. compare results of evaluation data with the eligibility criteria of the suspected disability to determine the presence of a disability;
3. determine if sufficient information is available to make an eligibility determination;
4. specify the influence of relevant determinant factors;
5. if a disability is confirmed, determine the adverse effect of the disability upon educational performance;
6. complete eligibility report(s) to document ARC decisions; and
7. if eligibility is confirmed, discuss the development of the IEP.

Review of Evaluation Information

In making eligibility determinations, a LEA shall draw upon information from a variety of sources, which may include:

- (a) aptitude and achievement tests;
- (b) parental input;
- (c) teacher recommendations;
- (d) physical condition;

- (e) social or cultural background; and
- (f) adaptive behavior.

707 KAR 1:310 Section 1 (4)
34 CFR 300.535 (a) (1)

A LEA shall ensure that information obtained from all of these sources is documented and carefully considered.

707 KAR 1:310 Section 1 (5)
34 CFR 300.535 (a) (2)

Step 1: The ARC reviews the written report, evaluations, student performance information, and additional information. Additional information may consist of evaluations and information provided by the parents, current classroom-based assessments and observations, provided by teachers and appropriate service providers.

Determining Eligibility for a Disability

Step 2: The ARC compares and analyzes the evaluation, student performance information, and any additional information to determine if the child has a disability that meets the criteria as defined in a disability definition.

Determination of Sufficient Information

The evaluation shall be sufficiently comprehensive to identify all the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

707 KAR 1:300 Section 3 (10)
34 CFR 300.532 (h)

Step 3: The ARC decides if sufficient information is available to determine if a disability exists. If sufficient information is **not** available, the ARC determines what information needs to be collected, and chooses a date to reconvene the meeting for review of the information.

Evaluation information is determined sufficient if:

1. Multiple non-discriminatory methods or measures were used to evaluate the areas of concern previously specified by the ARC;
2. Data on family, environmental, and cultural factors is available for analysis to assist in the determination of the impact on educational performance;
3. Referral data and additional information document the present levels of educational performance of the child, including how the disability affects the child's involvement and progress in the general curriculum;
4. Information given provides objective and reliable indicators of child's performance;
5. The documentation of the evaluation information is complete and reflects the information collected by the multidisciplinary team in all areas related to the suspected disability.

Determinant (Exclusionary) Factors

A child shall not be determined to be eligible if the determinant factor for that eligibility determination is a lack of instruction in reading or math, or limited English proficiency; and the child does not otherwise meet eligibility criteria.

707 KAR 1:310 Section 1 (2)
34 CFR 300.534 (b)

Step 4: The ARC considers determinant factors for each suspected disability area. For a child to be eligible for a disability, the ARC must conclude that the influence of the determinant factor(s), if present, is minimal, and that the child meets eligibility requirements when all other criteria are applied.

The ARC reviews the evaluation data and determines exclusionary factors do **not** exist in reaching a conclusion for the suspected disability area(s) if:

1. The child's lack of progress in the general curriculum is **not** caused or explained by the student's limited English proficiency.
2. The child's lack of progress in the general curriculum is **not** caused or explained by the child's lack of learning experiences appropriate for the child's age and ability levels in reading.
3. The child's lack of progress in the general curriculum is **not** caused or explained by the child's lack of learning experiences appropriate for the child's age and ability levels in math.

If evaluation data collected supports the presence of one or more determinant factors, the summary recorder includes the ARC discussion of the factor(s) in the Conference Summary and the ARC checks the determinant factor and documents the child does **not** have a disability according to the criteria on the Eligibility Report.

Adverse Effect

"Adverse effect" means that the progress of the child is impeded by the disability to the extent that the educational performance is significantly and consistently below the level of similar age peers.

707 KAR 1:280 Section 1 (2)
34 CFR 300.7

Step 5: If the evaluation information meets the eligibility requirements for a disability, the ARC determines there is an adverse effect if:

1. The disability impedes progress to the extent that educational performance is significantly and consistently below that of peers.
2. The disability interferes with acquiring, developing, understanding, or applying knowledge or skills needed to be included in and progress in the general curriculum.
3. The disability affects the student to such a degree that special education and related services are needed in order to benefit from education.

A LEA shall provide a copy of the evaluation report and the documentation of determination of

eligibility to the parent.

707 KAR 1:310 Section 1 (1)
34 CFR 300.534 (a) (2)

If evaluation data collected supports eligibility for a disability, the summary recorder includes the ARC discussions on the Conference Summary, and the ARC documents the decisions on the Eligibility Report.

If a determination is made that a child has a disability and needs special education and related services, an IEP shall be developed for the child.

707 KAR 1:310 Section 1 (7)
34 CFR 300.535 (b)

The ARC may develop the IEP at this meeting, according to procedures for **IEP**.

Evaluation does not Support Eligibility Requirements for a Disability

If the ARC determines the child does not meet eligibility requirements for a disability, the ARC documents the decisions and gives the parent copies of the Conference Summary and Eligibility Report stating the ARC decision(s).

The ARC Chairperson files copies of the Conference Summary and notices of the refused action in the educational record of the child or youth.

ELIGIBILITY REQUIREMENTS FOR EACH DISABILITY AREA

Autism

“Autism” means a developmental disability significantly effecting verbal and nonverbal communication and social interaction, generally evident before age three (3) that adversely effects 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. The term shall not apply if a child’s educational performance is adversely affected primarily because the child has an emotional-behavior disability.

707 KAR 1:280 Section 1 (6)
KRS 157.200 (1) (m)
34 CFR 300.7 (c) (1)

The ARC determines that a child has the disability of “autism” as defined if evaluation information verifies:

1. Deficits in developing verbal and non-verbal communication systems for receptive, expressive, or pragmatic language (e.g., eye-to-eye gaze, facial expression, body postures, stereo-typed and repetitive use of language, idiosyncratic language).
2. Deficits in social interaction (participation) including social cues, emotional expression, personal relationships, and reciprocal (contributing) interaction (e.g., lack of showing/bringing or pointing out objects of interest, lack of varied spontaneous make-believe play, social imitative play at the developmental level).
3. Repetitive ritualistic behavioral patterns including insistence on following routines

and a persistent pre-occupation and/or attachment to objects (could include stereo-typed and repetitive motor mannerisms).

4. Abnormal responses to environmental stimuli.
5. The child's educational performance is not adversely affected primarily because the child has an emotional-behavior disability.
6. The autism adversely effects the educational performance of the child.
7. The child is not determined to be eligible if the determinant factor for that eligibility determination is a lack of instruction in reading or math, or limited English proficiency; and the child does not otherwise meet eligibility criteria.

Deaf-Blindness

“Deaf-Blindness” means concomitant hearing and visual impairments that have an adverse effect on the child’s education performance, the combination of which causes severe communication and other developmental and educational needs that cannot be accommodated in special education programs solely for children with deafness or children with blindness, unless supplementary assistance is provided to address educational needs resulting from the two disabilities.

707 KAR 1:280 Section 1 (19)
KRS 157.200 (1) (i)
34 CFR 300.7 (c) (2)

The ARC determines that a child has the disability of “deaf-blindness” as defined if evaluation information verifies:

1. A hearing loss as follows:
 - a. a conductive, sensori-neural or mixed hearing loss of 50 dB through the speech frequencies of 500, 1000, and 2000 Hz in the better ear, even with a hearing aid;
 - b. cortical deafness;
 - c. a medically diagnosed condition of progressive hearing loss; or
 - d. a functional hearing loss.
2. A visual impairment as follows:
 - a. visual acuity even with prescribed lenses is 20/70 or worse in the better eye;
 - b. visual acuity is better than 20/70 and the child has any of the following conditions:
 - i. a medically progressive loss of vision;
 - ii. visual field of 20 degrees or worse;
 - iii. a medically diagnosed condition of cortical blindness;
 - iv. a loss of functional vision.
3. Such severe communication, developmental, and learning needs that the child cannot benefit from programs designed solely for children with visual impairments or hearing impairments.
4. The deaf-blind impairment adversely effects the educational performance of the child.
5. The child is not determined to be eligible if the determinant factor for that eligibility determination is a lack of instruction in reading or math, or limited English proficiency; and the child does not otherwise meet eligibility criteria.

Developmental Delay

“Developmental delay (DD)” means that a child within the ages of three (3) through eight (8) has not acquired skills, or achieved commensurate with recognized performance expectations for his age in one or more of the following developmental areas: cognition, communication, motor development, social-emotional development, or self-help/adaptive behavior. Developmental delay includes a child who demonstrates a measurable, verifiable discrepancy between expected performance for the child’s chronological age and current level of performance. The discrepancy shall be documented by:

- (a) scores of two (2) standard deviations or more below the mean in one of the areas listed above as obtained using norm-referenced instruments and procedures; or
- (b) scores of one and one-half standard deviations below the mean in two (2) or more of the areas listed above using norm-referenced instruments and procedures; or
- (c) the professional judgment of the ARC that there is a significant atypical quality or pattern of development. Professional judgment shall be used only where normed scores are inconclusive and the ARC documents in a written report the reasons for concluding that a child has a developmental delay.

707 KAR 1:280 Section 1 (21)
KRS 157.200 (1) (k)
34 CFR 300.7 (b)

The ARC determines that a child has the disability of “developmental delay” as defined if evaluation information verifies:

1. The child has not acquired skills or achieved commensurate with recognized performance expectations for his or her age in one or more of the following developmental areas:
 - a. Cognition;
 - b. Communication;
 - c. Motor development;
 - d. Social-emotional development; or
 - e. Self-help or adaptive behavior.
2. The child demonstrates a measurable, verifiable discrepancy between expected performance for the child’s chronological age and the current level of performance. This discrepancy is documented by:
 - a. Scores of two (2) standard deviations or more below the mean in one (1) of the areas listed above as obtained using norm-referenced instruments and procedures; or
 - b. Scores of one and one-half standard deviations below the mean in two (2) or more of the five developmental areas listed using norm-referenced instruments and procedures; or
 - c. The professional judgment of the ARC that there is a significant atypical quality or pattern of development. Professional judgment is used only where normed scores are inconclusive and the ARC documents in a written report the reasons for concluding that a child has a developmental delay.
3. The developmental delay adversely effects the educational performance of the child.
4. The child is not determined to be eligible if the determinant factor for that eligibility determination is a lack of instruction in reading or math, or limited English proficiency; and the child does not otherwise meet eligibility criteria.

Emotional-Behavioral Disability

“Emotional-behavioral disability (EBD)” means that a child, when provided with interventions to meet instructional and social-emotional needs, continues to exhibit one or more of the following, when compared to the child’s peer and cultural reference groups, across settings, over a long period of time and to a marked degree:

- (a) severe deficits in social competence or appropriate behavior which cause an inability to build or maintain satisfactory interpersonal relationships with adults or peers;
- (b) severe deficits in academic performance which are not commensurate with the student’s ability level and are not solely a result of intellectual, sensory, or other health factors but are related to the child’s social-emotional problem;
- (c) a general pervasive mood of unhappiness or depression; or
- (d) a tendency to develop physical symptoms or fears associated with personal or school problems.

This term does not apply to children who display isolated (not necessarily one) inappropriate behaviors that are the result of willful, intentional, or wanton actions unless it is determined through the evaluations process that the child does have an emotional-behavioral disability.

707 KAR 1:280 Section 1 (23)
KRS 157.200 (1) (g)
34 CFR 300.7 (c) (4)

The ARC determines that a child has the disability of “emotional-behavioral disability” as defined if evaluation information verifies:

1. When compared to child’s peers/cultural reference groups, the child continues to exhibit severe deficits in social competence or academic performance:
 - a. across settings;
 - b. over a long period of time;
 - c. to a marked degree; and
 - d. after appropriate academic and behavioral interventions have proven ineffective.
2. If any deficit in social competence is identified, then the deficit is to the extent that it impairs personal relationships with peers or adults and it is clearly indicated that the behavior deviates from the standards for the appropriate peer and cultural reference groups.
3. Severe deficits in academic performance not commensurate with the student’s ability level and not solely a result of intellectual, sensory, or other health factors but are related to the child’s social-emotional problem.
4. A general pervasive mood of unhappiness or depression.
5. A tendency to develop physical symptoms or fears associated with personal or school problems.
6. This severe deficit in social competence, appropriate behavior, and academic performance is not the result of isolated (not necessarily one) inappropriate behaviors that are the result of willful, intentional, or wanton actions.
7. The emotional-behavioral disability adversely effects the educational performance of the child.
8. The child is not determined to be eligible if the determinant factor for that eligibility determination is a lack of instruction in reading or math, or limited English proficiency; and the child does not otherwise meet eligibility criteria.

Hearing Impairment

“Hearing impairment (HI)” means that a child has a hearing loss that has an adverse effect on the child’s educational performance, whether permanent or fluctuating, ranging from mild to profound (a loss of 25 decibels (dB) or greater exists through speech frequencies of 500, 1000, and 2000 Hertz (Hz) in the better ear), and of a degree that the child is impaired in the processing of linguistic information through hearing, with or without amplification.

707 KAR 1:280 Section 1 (27)
KRS 157.200 (1) (d)
34 CFR 300.7 (c) (5)

The ARC may request a comprehensive evaluation of hearing loss; other data may include aptitude and achievement measures and classroom observations.

The ARC determines that the child has a “hearing impairment” as defined if evaluation information verifies:

1. A hearing loss of 25 dB or greater exists through the speech frequencies of 500, 1000, and 2000 Hz in the better ear, as reported by a qualified examiner.
2. Deficits exist in processing linguistic information through hearing, with or without amplification.
3. The hearing impairment adversely effects the educational performance of the child.
4. The child is not be determined to be eligible if the determinant factor for that eligibility determination is a lack of instruction in reading or math, or limited English proficiency; and the child does not otherwise meet eligibility criteria.

Mental Disability

“Mental disability” means that a child has one of the following:

(a) a mild mental disability (MMD) in which:

1. cognitive functioning is at least two (2) but no more than three (3) standard deviations below the mean;
2. adaptive behavior deficit is at least two (2) standard deviations below the mean;
3. a severe deficit exists in overall academic performance including acquisition, retention, and application of knowledge; and
4. is typically manifested during the developmental period; or

(b) a functional mental disability (FMD) in which:

1. cognitive functioning is at least three (3) standard deviations below the mean;
2. adaptive behavior deficit is at least three (3) standard deviations below the mean;
3. a severe deficit exists in overall academic performance including acquisition, retention, and application of knowledge; and
4. is typically manifested during the developmental period.

707 KAR 1:280 Section 1 (33)
KRS 157.200 (1) (e)
34 CFR 300.7 (c) (6)

In making a determination under the category of mental disability, the ARC may apply a standard error of measure, if appropriate.

707 KAR 1:310 Section 1 (6)

Documentation of the initial evaluation information must verify adaptive behavior deficit is at least two (for MMD) or three (for FMD) standard deviations below the mean. Upon reevaluation, it is not necessary to continue to meet the standard deviation deficit in adaptive behavior. The ARC decides (1) if the disability still exists and (2) what amount or level of specially designed instruction the student needs.

The ARC determines that the child has a “mild mental disability” as defined if evaluation information verifies:

1. Cognitive functioning is at least two (2) but no more than three (3) standard deviations below the mean.
2. Adaptive behavior deficit is at least two (2) standard deviations below the mean.
3. A severe deficit exists in overall academic performance including acquisition, retention, and application of knowledge.
4. Is typically manifested during the developmental period.
5. The mild mental disability adversely effects the educational performance of the child.
6. The child is not determined to be eligible if the determinant factor for that eligibility determination is a lack of instruction in reading or math, or limited English proficiency; and the child does not otherwise meet eligibility criteria.

The ARC determines that the child has a “functional mental disability” as defined if evaluation information verifies:

1. Cognitive functioning is at least three (3) or more standard deviations below the mean.
2. Adaptive behavior deficits are at least three (3) or more standard deviations below the mean.
3. A severe deficit exists in overall academic performance including acquisition, retention, and application of knowledge.
4. Is typically manifested during the developmental period.
5. The functional mental disability adversely effects the educational performance of the child.
6. The child is not determined to be eligible if the determinant factor for that eligibility determination is a lack of instruction in reading or math, or limited English proficiency; and the child does not otherwise meet eligibility criteria.

Multiple Disabilities

“**Multiple disabilities (MD)**” means concomitant impairments that have an adverse effect on the child’s educational performance (e.g., mental disability-blindness, mental disability-orthopedic impairment, etc.), the combination of which causes severe educational needs that cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not mean deaf-blindness.

707 KAR 1:280 Section 1 (35)

34 CFR 300.7 (c) (7)

"A pupil is not considered to have a multiple disability if the adverse effect on educational performance is solely the result of deaf-blindness or the result of speech or language disability and one (1) other disabling condition."

KRS 157.200 (1) (h)

The ARC determines that the child has “multiple disabilities” as defined if evaluation information verifies:

1. The student has a combination of two (2) or more of the following disabilities according to the criteria in these procedures:

- a. Autism
 - b. Emotional-behavioral disability
 - c. Hearing impairment
 - d. Mental disability
 - e. Other health impaired
 - f. Physical or orthopedic disability
 - g. Specific learning disability
 - h. Traumatic brain injury
 - i. Visual impairment
2. The disability is not a combination of deafness and blindness, or speech and language disorder and another disability.
 3. The multiple disabilities adversely affect the educational performance of the child to the extent that educational needs cannot be accommodated through special education programs solely for one impairment.
 4. The child is not determined to be eligible if the determinant factor for that eligibility determination is a lack of instruction in reading or math, or limited English proficiency; and the child does not otherwise meet eligibility criteria.

Orthopedic Impairment

“Orthopedic impairment (OI)” means a severe orthopedic impairment that adversely effects a child’s educational performance. The term includes an impairment caused by a congenital anomaly (e.g., clubfoot, absence of some member, etc.), an impairment caused by disease (e.g., poliomyelitis, bone tuberculosis, etc), and an impairment from other causes (e.g., cerebral palsy, amputations, and fractures or burns that causes contractures).

707 KAR 1:280 Section 1 (37)
34 CFR 300.7 (c) (8)

Orthopedic impairment means a severe physical impairment of bone or muscle which adversely effects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. The term includes physical impairments caused by congenital anomaly, disease, and from other causes.

KRS 157.200 (1) (a)

The ARC may determine that the child has an “orthopedic impairment” as defined if evaluation information verifies:

1. The existence of one or more of the following:
 - a. a severe orthopedic or physical impairment of bone or muscle caused by congenital anomaly, disease, injury, or accident;
 - b. an impairment caused by disease;
 - c. an impairment from other causes such as cerebral palsy, amputations, fractures, burns that cause contractures.
2. The orthopedic impairment adversely effects the educational performance of the child.
3. The child is not determined to be eligible if the determinant factor for that eligibility determination is a lack of instruction in reading or math, or limited English proficiency; and the child does not otherwise meet eligibility criteria.

The ARC may determine that an educationally relevant medical evaluation completed

by a licensed physician is needed to verify:

1. The existence of a severe orthopedic or physical impairment caused by congenital anomaly, disease, injury, or accident;
2. The diagnosis and nature of the impairment; and
3. Any limitations resulting from the impairment.

Other Health Impairment

“**Other health impairment (OHI)**” 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:

- (a) is due to a chronic or acute health problem e.g., as acquired immune deficiency syndrome, asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, or tuberculosis; and
- (b) adversely affects a child’s educational performance.

707 KAR 1:280 Section 1 (38)
KRS 157.200 (1) (b)
34 CFR 300.7 (c) (9)

The ARC may determine that the child has “other health impairment” as defined if evaluation information verifies:

1. The existence of a severe health impairment caused by chronic or acute health problems as diagnosed by a licensed physician or qualified mental health professional.
2. The diagnosis and nature of the health impairment.
3. The effect of the impairment resulting in:
 - a. Limited **strength** (maintenance and endurance of fine and gross motor skills/activities); **OR**
 - b. Limited **vitality** (attentional) (endurance in an activity e.g., duration, intensity, and frequency over time); **OR**
 - c. Limited **alertness** (maintenance of focus on tasks e.g., short attention span; highly distractible).
4. The other health impairment adversely affects the educational performance of the child.
5. The child is not determined to be eligible if the determinant factor for that eligibility determination is a lack of instruction in reading or math, or limited English proficiency; and the child does not otherwise meet eligibility criteria.

For initial eligibility, the ARC requires an educationally relevant medical evaluation. For reevaluation, the ARC may determine if the medical statement is required. The educationally relevant medical evaluation is completed by a licensed physician or a qualified mental health professional and verifies:

- a. the existence of a severe health impairment caused by chronic or acute health problems;
- b. the diagnosis and nature of the health impairment; and
- c. the affect of the impairment on the vitality, strength, or alertness, including a heightened alertness to environmental stimuli, of the child.

Speech or Language Impairment

“Speech or language impairment” means a communication disorder, including stuttering, impaired articulation, a language impairment, a voice impairment, delayed acquisition of language, or an absence of language, that adversely effects a child’s educational performance.

707 KAR 1:280 Section 1 (53)

KRS 157.200 (1) (c)

34 CFR 300.7 (c) (11)

The ARC uses the "Kentucky Eligibility Guidelines for Students with Speech-Language Impairment - Revised" to guide the eligibility decision.

The ARC determines that the child has a “speech/language disability” as defined if evaluation information verifies:

1. The student has a disorder in one or more of the following:
 - a. Fluency
 - b. Speech Sound Production
 - c. Language
 - d. Voice
2. The speech/language disability has an adverse effect on educational performance.
3. The child is not determined to be eligible if the determinant factor for that eligibility determination is a lack of instruction in reading or math, or limited English proficiency; and the child does not otherwise meet eligibility criteria.

Speech As a Related Service

Speech and language services may be provided as a related service, required for the implementation of the IEP. If speech is a related service, the ARC completes a determination of eligibility for speech or language impairment. The ARC makes the determination that the speech or language as a related service is required to assist the child to benefit from special education.

Traumatic Brain Injury

“Traumatic brain injury (TBI)” 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 effects a child’s educational performance. Traumatic brain injury does not mean brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma. Traumatic brain injury means open or closed head injuries resulting in impairments in one or more areas, including:

- (a) cognition;
- (b) language;
- (c) memory;
- (d) attention;
- (e) reasoning;
- (f) abstract thinking;
- (g) judgment;
- (h) problem-solving;
- (i) sensory, perceptual, and motor abilities;
- (j) psychosocial behavior;

(k) physical functions;
(l) information processing; and
m) speech.

707 KAR 1:280 Section 1 (56)
KRS 157.200 (1) (l)
34 CFR 300.7 (c) (12)

The ARC determines that the child has a “traumatic brain injury” as defined if evaluation information verifies:

1. The existence of a traumatic brain injury and the diagnosis and extent of injury, including the possible effect on educational performance.
2. Educationally relevant evaluation data verifies impairment in at least one or more of the identified areas (see above).
3. Brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma, are not considered a traumatic brain injury in accordance with this definition.
4. The brain injury has an adverse effect on educational performance.
5. The child is not determined to be eligible if the determinant factor for that eligibility determination is a lack of instruction in reading or math, or limited English proficiency; and the child does not otherwise meet eligibility criteria.

For initial eligibility, the ARC requires an educationally relevant medical evaluation. For reevaluation, the ARC may determine if the medical statement is required. The educationally relevant medical evaluation is completed by a licensed physician and verifies:

1. the existence of a traumatic brain injury caused by chronic or acute health problems;
2. the diagnosis and extent of the brain injury; and
3. the possible effect of the impairment on educational performance.

Visual Impairment

“**Visual impairment (VI)**” means a child has a vision loss, even with correction, as follows:

- (a) visual acuity even with prescribed lenses that is 20/70 or worse in the better eye; or
- (b) visual acuity that is better than 20/70 and the child has one of the following conditions:
 1. a medically diagnosed progressive loss of vision;
 2. a visual field of 20 degrees or worse;
 3. a medically diagnosed condition of cortical blindness; or
 4. a functional vision loss;
- (c) requires specialized materials, instruction in orientation and mobility, Braille, visual efficiency, or tactile exploration; and
- (d) has an adverse effect on the child's educational performance.

707 KAR 1:280 Section 1 (58)
34 CFR 300.7 (c) (13)

Visually disabled means a visual impairment, which, even with correction, adversely effects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. The term includes both partially seeing and blind pupils.

KRS 157.200 (1) (j)

The ARC determines that a child has the disability of “visual impairment” if evaluation

data verifies:

1. The visual acuity even with prescribed lenses is 20/70 or worse in the better eye; or:
2. The visual acuity is better than 20/70, and the child has any of the following conditions:
 - a. a medically diagnosed progressive loss of vision;
 - b. a visual field of 20 degrees or worse;
 - c. a medically diagnosed condition of cortical blindness; or
 - d. a loss of functional vision.
3. The child requires specialized materials, instruction in orientation and mobility, Braille, visual efficiency, or tactile exploration.
4. The visual impairment has an adverse effect on the child's educational performance.
5. The child is not determined to be eligible if the determinant factor for that eligibility determination is a lack of instruction in reading or math, or limited English proficiency; and the child does not otherwise meet eligibility criteria.

Evaluation Procedures for Children with Specific Learning Disabilities

“Specific learning disability (LD)” 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 diminished ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions like perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

707 KAR 1:280 Section 1 (52)
34 CFR 300.7 (c) (10)

Specific learning disability means a disorder in one or more of the psychological processes primarily involved in understanding or using spoken or written language which selectively and significantly interferes with the acquisition, integration, or application of listening, speaking, reading, writing, reasoning, or mathematical abilities. The disorder is lifelong, intrinsic to the individual, and adversely affects educational performance to the extent that specially designed instruction is required in order for the pupil to benefit from education. The term does not include a learning problem which is the direct result of:

1. a hearing impairment;
2. visual, physical, mental, or emotional-behavioral disabilities; or
3. environmental, cultural, or economic differences.

KRS 157.200 (1) (f)

The determination of whether a child suspected of having a specific learning disability is a child with a disability and whether the specific learning disability adversely affects educational performance shall be made by the child's ARC and at least one person qualified to conduct individual diagnostic examinations of children, which may include a school psychologist, speech-language pathologist, or remedial reading teacher.

707 KAR 1:310 Section 2 (1)
34 CFR 300.540

Eligibility Determination

The ARC may determine a child has a specific learning disability if:

(a) the child does not achieve commensurate with his age and ability levels in one or more of the areas listed in this subsection, if provided with learning experiences appropriate for the child's age and ability levels; and

(b) the child has a severe discrepancy as identified by a validated regression method between achievement and intellectual ability in one of the following areas:

1. oral expression;
2. listening comprehension;
3. written expression;
4. basic reading skills;
5. reading comprehension;
6. mathematics calculation; or
7. mathematics reasoning.

707 KAR 1:310 Section 2 (2)
34 CFR 300.541 (a) (1-2)

The ARC shall not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of:

- (a) a visual, hearing, or motor impairment;
- (b) mental disability;
- (c) emotional-behavioral disability; or
- (d) environmental, cultural, or economic disadvantage.

707 KAR 1:310 Section 2 (3)
34 CFR 300.541 (b) (1-4)

The ARC includes as a member, at least one person qualified to conduct individual diagnostic examinations of children. The qualified individual may be a school psychologist, speech-language pathologist, or remedial reading teacher.

The ARC applies the eligibility criteria and follows the steps for **ARC REVIEW OF STUDENT PERFORMANCE INFORMATION** in procedures for **EVALUATION** to determine if a child meets eligibility for a specific learning disability. A child has a "specific learning disability" if evaluation information verifies each of the following:

1. The child does not achieve commensurate with age and ability levels in one (1) or more of the seven areas if provided with learning experiences appropriate for the child's age and ability levels.
2. The area(s) of concern identified on the referral or through the comprehensive evaluation process continues to be present after the implementation of general education support and interventions.
3. The child has a severe discrepancy as identified by a validated regression method between achievement and intellectual ability in one (1) of the following areas:
 - a. Oral expression;
 - b. Listening comprehension;
 - c. Written expression;
 - d. Basic reading skills;
 - e. Reading comprehension;
 - f. Mathematics calculation; or
 - g. Mathematics reasoning.
4. The ARC does not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of:

- a. A visual, hearing, or motor impairment.
 - b. Mental disability;
 - c. Emotional-behavioral disability; or
 - d. Environmental, cultural, or economic disadvantage.
5. The child is not determined to be eligible if the determinant factor for that eligibility determination is a lack of instruction in reading or math, or limited English proficiency; and the child does not otherwise meet eligibility criteria.

Aptitude/Achievement Discrepancy

Owen County School District uses the aptitude/achievement discrepancy tables in the Kentucky Learning Disability Guidelines, 1993, updated 2001, to determine initial eligibility for a specific learning disability. For reevaluation purposes, the ARC may use the aptitude/achievement discrepancy tables, although it is not required for continuing eligibility for a specific learning disability

See KDE Memo, March, 2002, Reevaluation of Students with Specific Learning Disabilities.

When standardized normative measures of ability and achievement appropriate to a validated regression method are invalid or not available, the psychologist/evaluator provides a written rationale and summary of the procedures used.

LD Written Report

An ARC shall develop a learning disability (LD) written report. This report shall contain a statement of:

- (a) whether the child has a specific learning disability;
- (b) the basis for making that determination;
- (c) the relevant behavior noted during the observation;
- (d) the relationship of that behavior to the child's academic functioning;
- (e) the educationally relevant medical findings, if any;
- (f) whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services; and
- (g) the determination of the ARC concerning the effects of environmental, cultural, or economic disadvantage.

707 KAR 1:310 Section 2 (5)
34 CFR 300.543 (a)

Each ARC member shall certify in writing whether the report reflects his conclusion. If it does not reflect his conclusion, the team member shall submit a separate statement presenting his conclusions.

707 KAR 1:310 Section 2 (6)
34 CFR 300.543 (b)

The ARC develops a learning disability written report/eligibility form that contains statements verifying:

- 1. Whether the child has a specific learning disability;
- 2. The basis for making the determination;
- 3. The relevant behavior noted during the observation;
- 4. The relationship of that behavior to the child's academic functioning;

5. The educationally relevant medical findings, if any;
6. Whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services; and
7. The determination of the ARC concerning the effects of environmental, cultural, or economic disadvantage.

Each ARC member certifies in writing whether the report reflects his/her conclusion. If it does not reflect his/her conclusion, the team member submits a separate statement presenting his/her conclusions.