

IEP Eligibility Is More than Grades

The Individuals with Disabilities Education Act (IDEA) notes that children should not be denied an Individualized Education Plan (IEP) on the basis of academic performance alone. [IDEA, Sec. 300.101\(c\)\(1\)](#) requires that a free appropriate public education (FAPE) be made “available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.”

How does my child qualify for an IEP?

In order to fully meet IDEA’s definition (and eligibility for special education and related services) as a “child with a disability,” your child’s educational performance must be “adversely affected” due to the disability. This does not mean, however, that your child has to be failing in school to receive special education and related services.

To qualify for an IEP, your child must:

- Have a disability under one of 13 disability categories specified in IDEA, and
- Need special education and related services because their disability adversely affects their educational performance.

13 Disability Categories ([IDEA, Sec. 300.8](#))

1. Autism
2. Deaf-Blindness
3. Deafness
4. Emotional Disturbance
5. Hearing Impairment
6. Intellectual Disability
7. Multiple Disabilities
8. Orthopedic Impairment
9. Other Health Impairment
10. Specific Learning Disability
11. Speech or Language Impairment
12. Traumatic Brain Injury
13. Visual Impairment

When does a disability “adversely affect the child’s educational performance?”

Educational performance is more than just academic performance. Good grades do not always equal appropriate learning. Grades based on participation,




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attitude, effort, or that are the result of extra credit work may not accurately reflect your child's learning. Educational performance also looks at your child's emotional health, age-appropriate social skills, their ability to appropriately behave in class, stay organized, and follow instructions and rules.

To determine educational performance, the school will gather information about your child's:

- Level of academic achievement,
- Social, emotional, behavioral, and in some cases functional performance in school and in school-related activities done outside of the classroom or school (such as when doing homework).

What can I expect at the first ARD meeting?

Before the Admission, Review, and Dismissal (ARD) meeting to determine your child's eligibility for special education, the school will complete a Full and Individual Initial Evaluation including formal assessments, observing your child in class, and a review of their academic performance and disciplinary records. The school may, but is not required to, consider reports from outside clinicians. These can be medical reports, assessments from other professionals, or therapy progress reports. When possible submit any reports before the ARD meeting so the other members of the ARD committee can review them.

During the ARD meeting the ARD committee, which includes you as parent or guardian, will discuss your child's academic achievement and functional performance and the results of any assessments. You should ask questions to get a full picture of your child's educational performance at school and to ensure a thorough evaluation has been completed.

What if the school still denies my child an IEP?

As part of the ARD committee, you have the right to voice your disagreement with any ARD committee decision. You

can request a written, detailed explanation specifying the reasons for the denial of eligibility. This is known as Prior Written Notice.

Denial of eligibility can occur when:

- Your child does not have a documented disability in one of the 13 disability categories as defined by IDEA, or
- If your child's disability does not negatively impact their educational performance.

What is an Independent Educational Evaluation (IEE)?

If you do not agree with the eligibility decision, you have the right to request that the school district pay for an Independent Educational Evaluation (IEE), and to request a due process hearing to challenge the decision. The school may agree to the IEE request or they may file a due process hearing if they do not believe an IEE is required.

A good IEE will provide information about all areas of your child's disability, whether they need special instruction, and will provide the school with helpful information about how to teach your child. The IEE evaluator will base their assessment on reports from you and your child's teachers as well as on reliable and valid assessments similar to those used by the school. After the evaluation is complete, the ARD committee will reconvene to discuss the results.

In conclusion

Academic performance is part of IEP eligibility, however, there are many other factors that contribute to IEP eligibility, and children should not be denied because of grades alone.



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