



# Special Education & Traumatic Brain Injury (TBI)

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A summary of State definitions and guidance for  
educating students with TBI-related disabilities

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May 2014

This document provides a State by State look at how TBI is defined by law or otherwise determined for special education and related services.

# **National Association of State Head Injury Administrators**

*giving states a voice*

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*NASHIA assist state government in promoting partnerships and building systems to meet the needs of individuals with brain injuries and their families*

## Introduction

This document provides an overview as to how States determine eligibility for special education and related services for children with a Traumatic Brain Injury (TBI) within that State. In order to receive federal funding, States must be in compliance with the federal law. This often results in State legislators repealing and reenacting their State laws, revising State rules accordingly, and revising guidelines to assist school districts with compliance as the law is amended. While States may include categorical definitions within their State laws, some States defer to the State board of education or the State department of education to determine definitions and/or eligibility criteria.

In looking at each State's law and/or administrative documents, it appears that most States define TBI using the same verbiage as in the federal law or cite the Code of Federal Regulations (CFR). A few States also provide additional guidance with regard to eligibility criteria and assessment for children with TBI, as well as resources and opportunities for training.

## Background

In 1975, Congress enacted the Education for All Handicapped Children's Act (P.L. 94-142) to require a free, appropriate public education (FAPE) in the least restrictive environment for children with disabilities. The law authorized funding to assist States and schools with this endeavor. Children with disabilities were initially defined as being "mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired or as having specific learning disabilities, and who because of those impairments need special education and related services."

Over the years, the law has been amended, including amendments in 1990, which changed the title to the Individuals with Disabilities Education Act (IDEA) and added Traumatic Brain Injury (TBI) and Autism as disability categories (P.L. 101-476). The federal law defined Traumatic Brain Injury as:

### **§ 300.8. (c)(12)**

Traumatic brain injury 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 affects a child's educational performance.

Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma. (34 CFR)

To be eligible for special education and related services under current federal law (IDEA, 2004, P.L. 109-446) requires that the following conditions be met:

1. The child must be a "child with a disability" as defined by federal law. Currently there are 14 categories of disability:

1. Autism
2. Deaf-blindness
3. Deafness
4. Developmental Delay
5. Emotional Disturbed
6. Hearing Impairment
7. Mental Retardation (Intellectual Disabilities)
8. Multiple Disabilities
9. Orthopedic Impairment
10. Other Health Impairment
11. Specific Learning Disability
12. Speech or Language Impairments
13. Traumatic Brain Injury
14. Visual Impairments, including Blindness

2. It must be demonstrated that the child's disability under one of these categories, "adversely affects their educational performance" and "needs special education and related services".

A child with TBI is not automatically eligible for special education and related services simply because of having a TBI. If he or she has a TBI, and because of the TBI, has poor educational performance, then the child may be eligible. It should be noted that some students with TBI may be considered eligible under another disability category, such as other health impairments, speech/language, emotional disturbance, specific learning disability or multiple disabilities.

There are two primary ways in which a child is identified as possibly needing special education and related services: (1) Child Find and (2) by referral of a parent or school personnel. Under IDEA, schools are to identify, locate and evaluate all children with disabilities in the State who need special education and related services, known as Child Find. IDEA requires all States to develop and implement a practical method of determining which children with disabilities are receiving special education and related services and which children are not. The next step in the process is an initial evaluation, with parental consent, to determine whether a child has a disability and requires special education instruction and related services.

IDEA is divided into two program parts: Part C (birth to 2) and Part B (ages 3-21). Most of the definitions and guidelines in this document pertain to Part B, although a couple of States include guidelines for children with TBI who may be eligible for early intervention educational services (Part C).

This information has primarily been accessed through State education departments' websites and materials which are available on the internet. States wishing to update or revise their information may e-mail the changes to: [publicpolicy@nashia.org](mailto:publicpolicy@nashia.org).

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## Definition and Eligibility Determination by State

### Alabama

#### Definition:

Traumatic Brain Injury 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 affects educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing, and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma. (290-8-9-.03 (a))

#### Eligibility Determination:

290-8-9-.03 (b) Criteria.

1. Evidence that vision/hearing screening results are satisfactory prior to proceeding with evaluations.
2. Documentation of a traumatic brain injury.
3. Evidence that the traumatic brain injury adversely affects educational performance.

290-8-9-.03 (c) Minimum Evaluative Components. In emergency situations, professional judgment should be used to initially place the child.

1. Vision/hearing screening.
2. Medical/neurological evaluation.
3. Individual educational achievement evaluation to serve as initial post-trauma baseline measure.

### Alaska

#### Definition:

To be eligible for special education and related services as a child with traumatic brain injury, a child must:

(1) exhibit 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 affects educational performance;

(2) exhibit impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech caused by open or closed head injuries;

(3) not have brain injuries that are congenital or degenerative, or induced by birth trauma;

**Eligibility Determination:**

(4) require special facilities, equipment, or methods to make the child's educational program effective;

(5) be diagnosed by a physician as having a traumatic brain injury; and

(6) be certified by the group consisting of qualified professionals and a parent of the child as qualifying for and needing special education services.

Eligibility teams must determine three things:

1. Whether the student has a disability (34 CFR § 300.301) which adversely affects their educational performance; all disability categories have documentation requirements;
2. Whether the student requires special education and/or related services;
3. The educational needs of the student (34 CFR § 300.301).

**Resource:**

State of Alaska Department of Education & Early Development Special Education Handbook, 2013.

<http://www.eed.state.ak.us/tls/sped/pdf/FY14%20Handbook/AK%20SPED%20Handbook%20140226.pdf>

## Arizona

**Definition:**

Traumatic Brain Injury

(a) Means an acquired injury to the brain that is caused by an external physical force and that results in total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance.

(b) Applies to open or closed head injuries resulting in mild, moderate, or severe impairments in one or more areas, including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical function, information processing, and speech.

(c) Does not include brain injuries that are congenital or degenerative or brain injuries induced by birth trauma. (A.R.S. § 15-761)

**Eligibility Determination:**

The determination of eligibility for special education is based on an evaluation pursuant to [A.R.S. § 15-766](#) and the following requirements:

- The student has an acquired open or closed injury to the brain that was caused by an external physical force that has resulted in total or partial functional disability or psychosocial impairment, or both, that adversely affects performance in the educational environment. Resulting impairments include such areas of disability as cognition, language, memory, attention, reasoning, behaviors, physical function, information processing, and speech.

- The injury is not congenital or degenerative or induced by birth trauma.
- The injury has been verified by a doctor of medicine or doctor of osteopathy.
- The student was evaluated in all areas related to the suspected disability.

**Team decision regarding the presence of a disability:**

- The student **does** meet the criteria as a child with traumatic brain injury.

**Team decision regarding the need for special education services:**

- The student **does not** need special education services.
- The student **does** need special education services.

**Note:** A student shall not be determined to be a child with a disability if the determinant factor is lack of appropriate instruction in reading (including the essential components of reading instruction), lack of appropriate instruction in math, or limited English proficiency.

- Parent has been provided with notice regarding this decision that meets the prior written notice requirement under the IDEA '04.

For funding purposes, a student with TBI must be listed in the Student Accountability Information System (SAIS) with another disability. Therefore, the team should identify another disability category that most closely resembles the manifestation of the student's TBI and complete eligibility documentation for that disability to the extent appropriate.

**Forms:**

- TBI Determination Eligibility Form

<http://www.azed.gov/special-education/files/2012/01/child-with-traumatic-brain-injury.pdf>

**Mission:**

To ensure any school in Arizona is able to receive competent technical assistance related to TBI in order to meet the needs of children who have sustained traumatic brain injuries.

**Program Description:**

The Arizona Department of Education/Exceptional Student Services contracts with a training consultant to provide training services to Arizona educators, parents, and interested community members in the basics of working with students with traumatic brain injuries in school and community settings. There are approximately 21 *free* training sessions per year, geared to all levels of learners.

## Arkansas

**Definition:**

Traumatic brain injury 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 affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

### **Eligibility Determination:**

#### Possible Referral Characteristics

The effects of a traumatic brain injury (TBI) can be catastrophic or may lead to only slight damage. Characteristics of individuals with traumatic brain injury may be present to varying degrees, range in severity, and may be influenced by environmental changes, changes in task demands and/or the recovery process. These characteristics may include, but are not limited to, the following:

#### **A. Cognitive Behaviors**

1. Difficulty in initiating, organizing and completing tasks
2. Inconsistency in recall of information
3. Difficulty in using appropriate judgment
4. Difficulty with long-term memory
5. Difficulty with short-term memory
6. Difficulty in maintaining attention and concentration
7. Difficulty with flexibility in thinking, reasoning and problem-solving
8. Difficulty with orientation to person, places and/or time
9. Difficulty with speed of processing information
10. Exhibits gaps in task analysis

#### **B. Communicative Behaviors (May range from nonspeaking to subtle difficulty in communication)**

1. Difficulty in initiating, maintaining, restructuring and terminating conversation
2. Difficulty in maintaining the topic of conversation
3. Difficulty in discriminating relevant from irrelevant information
4. Difficulty in producing relevant speech
5. Difficulty responding to verbal communication in a timely, accurate, and efficient manner
6. Difficulty in understanding verbal information
7. Difficulty with word retrieval
8. Difficulty with articulation (which may include apraxia and/or dysarthria)
9. Difficulty with voice production (such as intensity, pitch and/or quality)
10. Difficulty in producing fluent speech
11. Difficulty in formulating and sequencing ideas
12. Difficulty with abstract and figurative language

13. Difficulty with perseverated speech (repetition of words, phrases, and topics)
14. Difficulty using appropriate syntax
15. Difficulty using language appropriately (such as requesting information, predicting, debating, and using humor)
16. Difficulty in understanding and producing written communication
17. Difficulty with noise overload Difficulty in interpreting subtle verbal and nonverbal cues during conversation

### **C. Social-Emotional Behaviors**

1. Difficulty in perceiving, evaluating and using social cues and context appropriately
2. Difficulty in initiating and sustaining appropriate peer and family relationships
3. Difficulty in demonstrating age-appropriate behavior
4. Difficulty in coping with over-stimulating environments
5. Denial of deficits affecting performance
6. Difficulty in establishing and maintaining self-esteem
7. Difficulty with using self-control (verbal and physical aggression)
8. Difficulty with speaking and acting impulsively
9. Difficulty in initiating activities
10. Difficulty in adjusting to change
11. Difficulty in compliance with requests
12. Difficulty with hyperactivity
13. Intensification of pre-existent maladaptive behaviors and/or Disabilities

### **D. Physical Impairments**

1. Exhibits short-term or long-term physical disabilities
2. Displays seizure activity
3. Difficulty in spatial orientation (visual motor/ perceptual)
4. Difficulty with mobility and independence (to include problems in balance, strength, muscle tone, equilibrium and gross motor skills)
5. Difficulty with vision (which may include tracking, blind spots and/or double vision)
6. Difficulty with dizziness (vertigo)
7. Difficulty with auditory skills (which may include hearing loss and/or processing problems)
8. Difficulty with fine motor skills (dexterity)
9. Difficulty in speed of processing and motor response time
10. Difficulty with skills that affect eating and speaking (voluntary and involuntary)
11. Difficulty with bowel and/or bladder control
12. Displays premature puberty
13. Loss of stamina and/or sense of fatigue
14. Difficulty in administering self-care (such as independent feeding, grooming and toileting)

## **III. SCREENING INFORMATION**

**A. Required**

1. Hearing
2. Vision

**B. Recommended**

1. Formal (Not applicable)
2. Informal
  - a. Observation
  - b. Medical history
  - c. Anecdotal records
  - d. School records
  - e. Interviews (parents, teachers, peers)

**IV. REQUIRED EVALUATION DATA**

- A** Social History
- B** Individual Intelligence (One required)
- C** Individual Achievement (One required)
- D** Adaptive Behavior (One required)
- E** Communicative Abilities (Both receptive and expressive required)
- F** Other
  1. Neuropsychological assessment (One required)
  2. Specific subject areas (Required--each suspected area of deficit must be assessed)
  3. Medical (Required)
    - a. Physical examination
    - b. Specialized (Neurological, and others as indicated)

**V. OPTIONAL EVALUATION DATA**

(Suggested for acquiring additional baseline functioning and programming information)

**A. Memory (Long- and short-term)**

1. Auditory
2. Visual

**B. Learning Processes**

1. Visual perception
2. Auditory perception
3. Perceptual-motor development

**C. Behavior Assessment (Including observation across a variety of settings)**

**D. Vocational Assessment**

Traumatic brain injury often results in diverse impairments that may be either temporary or permanent, contributing to partial or total disability. Unfortunately, the injury often intensifies preexistent maladaptive behaviors or disabilities. To complicate the situation

further, the student with traumatic brain injury may experience erratic changes in behaviors, especially during the first five years after the injury occurred. Since symptoms may change, even disappear, periodic reevaluations are necessary to monitor the progress of the brain-injured student.

An individual should be designated as responsible for the coordination of periodic reviews of progress and reevaluation of functional levels and status of needs.

## **VI. EVALUATION DATA ANALYSIS**

Formal assessment of the student with traumatic brain injury should include a baseline evaluation. Because of the dynamic nature of TBI, it is recommended that the testing format include informal assessment and diagnostic teaching to complement formal testing. It is important to consider the student's pre-injury learning styles and knowledge base. Previous history may serve as a baseline to compare pre-injury skills with post-injury performance. Once baseline levels are obtained, periodic and frequent review/evaluation should occur to document progress and changes in the student's needs.

It is important to note that symptoms following the traumatic brain injury are dependent upon the state of brain function in relation to the environmental demands upon the student. Therefore, while standardized tests are important, one cannot necessarily rely upon their interpretation to guide teachers toward effective teaching, particularly if that interpretation is used as a predictor of classroom abilities.

The scores derived on psychological and academic evaluations administered to students with TBI must be interpreted differently from scores of other students, in that these test results reflect only that the students could perform the task demanded by the specific test items. However, these results do not predict future performance. For example, it is not uncommon for a student to score average or above on standardized tests of intelligence in a clinical setting. The student's overt appearances may indicate everything is intact, but upon return to school or shortly thereafter, the student exhibits a variety of problems. This may include changes in social/conduct behaviors and the ability to work independently; to initiate, sustain and complete mental operations; or to work and learn at the rate that material is presented. The problems are not necessarily in learning academic content, but pertain to social-emotional changes in addition to the learning and communication processes involved.

The more informative assessments will measure social and conduct behaviors and communication skills, as well as the student's ability to learn and to execute or remember a variety of tasks under imposed time limits. Observational and anecdotal data may provide additional information for programming.

### **A. To be eligible for special education and related services as a student with traumatic brain injury, the following must be present:**

1. A written statement from a physician to include:

- a. Diagnosis of traumatic brain injury consistent with the federal definition;
  - b. Physical and school limitations;
  - c. Medication needs;
  - d. Seizure management (if applicable)
2. Justification of the adverse affect on educational performance which is attributed to the traumatic brain injury resulting in the corresponding need for special education and related services.

## **VII. PROGRAMMING CONSIDERATIONS**

It is critical to consider each student's needs and environment carefully in order to provide effective services and to develop programming tailored to the student. The nature of TBI is one of change and unpredictability. No two students with traumatic brain injury function alike, because each has a unique profile depending on the location and extent of brain damage and environmental factors. For example, a student with an injury that affects his/her vision will have a very different set of problems and needs than one with an injury that primarily affects the speech areas of the brain. The effects of a brain injury may lead to only slight damage in one or a few areas or it can be catastrophic in nature.

Depending on the effects of the brain injury, students with TBI may require monitoring or direct care for immediate and long-term medical and physical needs. Physical care and support may be the most crucial consideration for some students with brain injuries.

When there are physical needs, careful planning and coordination are essential. Oversight management of the medical/health care needs of the student remains with the student's primary physician. However, other health care providers, including those at the school, most likely will be part of the team involved in developing and implementing a health care plan which addresses both crisis situations and long-term interventions. Programming considerations will vary among students with TBI due to the effects of the brain injury. They may change for any one student due to fluctuations in recovery rate, and students may perform various academic skills with different levels of proficiency. TBI may cause problems with all, some or none of the academic skills that the student possessed before the injury. The student may need to continue to develop skills that are intact and to relearn those which are affected.

Students with TBI have specific, sometimes intense, additional needs and often require more time and intensive instruction in order to learn. Thus, modifications in the existing school environment, curriculum, instruction and schedule may be necessary for the student who has sustained a traumatic brain injury to be successful in school. An expanded curriculum may be necessary for effective instruction, including strands such as differentiated academics, life skills and developmental/compensatory skills. In addition, personnel working with this population should be aware that some adjustments in typical outcomes, expectations and instructional activities may be necessary.

(Arkansas Department of Education, Special Education Unit)

## California

### Definition:

Traumatic brain injury 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 affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech.

(A) Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma. (California Department of Education, 8-28-13)

## Colorado

### Definition:

A traumatic brain injury 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 affects educational performance. The term applies to mild, moderate, or severe, open or closed head injuries resulting in impairments in one (1) or more areas such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing, or speech. The term includes anoxia due to trauma. The term does not include brain injuries that are congenital, degenerative, or induced by birth trauma. (This definition is found in State Board of Education Rule 6A-6.030153, F.A.C.)

### Eligibility Determination:

To be eligible as a child with Traumatic Brain Injury there must be evidence of the following criteria:

2.08 (10) (a) (i) Either medical documentation of a traumatic brain injury, or a significant history of one more significant trauma brain injuries reported by a reliable and credible source and/or corroborated by numerous reporters; and

2.08 (10) (a) (ii) The child displays educational most probably and plausibly related to the traumatic brain injury.

2.08 (10) (b) Additionally, to be eligible as a child with a Traumatic Brain Injury, the traumatic brain injury prevents the child from receiving educational benefit from general education as evidenced by one or more of the following:

2.08 (10) (b) (i) An inability to sustain attention and/or poor memory skills, including, but not limited to difficulty retaining short-term memory, long-term memory; working memory and incidental memory;

2.08 (10) (b) (ii) An inefficiency in processing, including but not limited to speed deficit and/or mental fatigue;

2.08 (10) (b) (iii) Deficits in sensory-motor skills that either effect one, or both, visual or auditory processing, and may include gross motor/or fine motor deficits;

2.08 (10) (b) (iv) Delays in acquisition of information, including new learning and visual-spatial processing;

2.08 (10) (b) (v) Difficulty with language skills, including but not limited to receptive language, expressive language and social pragmatics;

2.08 (10) (b) (vi) Deficits in behavior regulation, including but not limited to impulsivity, poor judgment, ineffective reasoning, and mental inflexibility;

2.08 (10) (b) (vii) Problems in cognitive executive functioning, including but not limited to difficulty with planning, organization, and/or initiation of thinking and working skills;

2.08 (10) (b) (viii) Delays in adaptive living skills, including but limited to difficulties with activities of daily living (ADL); and/or

2.08 (10) (b) (ix) Delays in academic skills, including but not limited to reading, writing, and math delays that cannot be explained by any other disability. They may also demonstrate an extremely uneven pattern in cognitive and achievement testing, work production and academic growth.

(HB 11-1277 amended the Exceptional Children's Education Act (ECEA) to align Colorado's eligibility categories with corresponding federal terms and requirements and/or terminology used in the field in May 2011. See more at:  
[http://www.cde.state.co.us/cdesped/training\\_eceaeligibility#sthash.MmBHzh4T.dpuf](http://www.cde.state.co.us/cdesped/training_eceaeligibility#sthash.MmBHzh4T.dpuf))

**Resource:**

*Brain Injury in Children and Youth: A Manual for Educators*

[http://www.cde.state.co.us/sites/default/files/documents/cdesped/download/pdf/tbi\\_manual\\_braininjury.pdf](http://www.cde.state.co.us/sites/default/files/documents/cdesped/download/pdf/tbi_manual_braininjury.pdf)

## Connecticut

**Definition:**

Refers to federal special education law. Guidance documents are posted on the Department of Education's website for various disability categories, but not for traumatic brain injury.

## Delaware

**Definition:**

Traumatic Brain Injury 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 affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one (1) or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

**Eligibility Determination:**

Eligibility Criteria for Traumatic Brain Injury. A qualified physician shall document that a child has a traumatic brain injury in order to be considered for special education and related services under the above definition.

6.16.1 The IEP team shall consider the child's need for special education and related services if the traumatic brain injury substantially limits one or more major activities of daily living.

6.16.2 The age of eligibility for children under this definition shall be from the third birthday until the receipt of a regular high school diploma or the end of the school year in which the student attains the age of twenty one (21), whichever occurs first. (Title 14 Education Delaware Administrative Code, )

**District of Columbia**

**Definition:**

Traumatic brain injury - 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 affects a child's educational performance. "Traumatic brain injury" includes open or closed head injuries resulting in impairments in one or more areas such as:

- (a) Cognition;
- (b) Language;
- (c) Memory;
- (d) Attention;
- (e) Reasoning;
- (f) Abstract thinking;
- (g) Judgment;
- (h) Problem solving;
- (i) Sensory, perceptual, motor abilities;
- (j) Psychosocial behavior;
- (k) Physical functions;
- (l) Information processing; and
- (m) Speech.

"Traumatic brain injury" does not include brain injuries that are:

- (a) Congenital or degenerative; or
- (b) Brain injuries induced by birth trauma.

## Florida

### Definition:

A traumatic brain injury 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 affects educational performance. The term applies to mild, moderate, or severe, open or closed head injuries resulting in impairments in one (1) or more areas such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing, or speech. The term includes anoxia due to trauma. The term does not include brain injuries that are congenital, degenerative, or induced by birth trauma.

This definition is found in State Board of Education Rule 6A-6.030153, F.A.C.

### Eligibility Determination:

Rule 6A-6.030153, Florida Administrative Code (F.A.C.), *Exceptional Student Education Eligibility for Students Traumatic Brain Injury*, requires an evaluation to include the following:

- a) A report of medical examination, within the previous twelve-month (12) period from a physician(s) licensed in Florida in accordance with Chapter 458 or 459, Florida Statutes (F.S.), unless a report of medical examination from a physician licensed in another state is permitted in accordance with paragraph 6A-6.0331(3)(c), F.A.C. The physician's report must provide a description of the traumatic brain injury and any medical implications for instruction;
- b) Documented evidence by more than one person, including the parent, guardian, or primary caregiver, in more than one situation. The documentation shall include evidence of a marked contrast of pre- and post-injury capabilities in one or more of the following areas: cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities, psychosocial behavior; physical functions; information processing or speech; and,
- c) An educational evaluation that identifies educational and environmental needs of the student.

### Resources:

Florida Department of Education developed a *TBI Pre- and Post-Injury Checklist*, December 14, 2010, designed as a resource for school districts and may be used to assist an evaluation team in gathering the data required by Rule 6A-6.030153, F.A.C. Districts are not required to use the checklists (Parent/School forms).

Self Study Course for Educators (*TBI: A Disability Often in Disguise*)

## Georgia

### Definition:

Traumatic Brain Injury (TBI) refers to 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 affects the student's educational performance. The term applies to open or closed head injuries resulting in impairments which are immediate or delayed in one or more areas, e.g., cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, speech and information processing. These injuries may intensify pre-existing problems in these areas as well. Resulting impairments may be temporary or permanent in nature. The term does not apply to brain injuries that are congenital or degenerative in nature, brain injuries induced by birth trauma or those resulting from internal occurrences such as stroke, tumor or aneurysm. Refers to federal definition [34 C.F.R. § 300.8(c)(12)]

### **Eligibility Determination:**

- (1) Evaluation for eligibility shall include the following.
  - (a) A summary of the child's pre-injury functioning status. This information may be available through previous formal evaluations, developmental assessments, achievement tests, classroom observations and/or grade reports.
  - (b) Verification of the TBI through the following:
    1. A medical evaluation report from a licensed doctor of medicine indicating that TBI has occurred recently or in the past, or
    2. Documentation of TBI from another appropriate source, such as health department or social services reports, or parents' medical bills/records.
  - (c) A neuropsychological, psychological or psychoeducational evaluation that addresses the impact of the TBI on the following areas of functioning:
    1. Cognitive - this includes areas such as memory, attention, reasoning, abstract thinking, judgment, problem solving, speed of information processing, cognitive endurance, organization, receptive and expressive language and speed of language recall.
    2. Social/Behavioral - this includes areas such as awareness of self and others, interaction with others, response to social rules, emotional responses to everyday situations and adaptive behavior.
    3. Physical/Motor -- this includes areas such as hearing and vision acuity, speech production, eye-hand coordination, mobility and physical endurance.
- (2) Deficits in one or more of the above areas that have resulted from the TBI and adversely affect the child's educational performance shall be documented.

## **Hawaii**

### **Definition and Eligibility:**

- (1) A student shall be eligible under the category of traumatic brain injury if both of the following are met:
  - (A) There is medical evidence that the student has 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 affects the student's educational performance; and

(B) The traumatic brain injury is either an open or closed head injury, resulting in impairments in one or more areas such as:

- i. Cognition;
- ii. Language;
- iii. Memory;
- iv. Attention;
- v. Reasoning;
- vi. Abstract thinking;
- vii. Judgment;
- viii. Problem-solving;
- ix. Sensory, perceptual and motor abilities;
- x. Psychosocial behavior;
- xi. Physical functions;
- xii. Information processing;
- xiii. Speech.

(2) The team of qualified professionals and the parent may not identify a student as having a traumatic brain injury if the brain injury is congenital or degenerative, or induced by birth trauma. (HAR Chapter 60)

**Resource:**

TBI Consulting Team Fact Sheet:

[http://www.sig.hawaii.edu/final\\_products/\\_notes/UH.pdf](http://www.sig.hawaii.edu/final_products/_notes/UH.pdf)

## Idaho

**Definition:**

Traumatic brain injury refers to an acquired injury to the brain caused by an external physical force resulting in a total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing, and speech. The term does not apply to congenital or degenerative brain injuries or to brain injuries induced by birth trauma.

**Eligibility Determination:**

An evaluation team will determine that a student is eligible for special education services as a student who has a traumatic brain injury when all of the following criteria are met:

1. An evaluation that meets the procedures outlined in Section 5\* of this chapter has been conducted.
2. The student has an acquired injury to the brain caused by an external physical force resulting in a total or partial functional disability or psychosocial impairment, or both.

3. The student has documentation of diagnosis by a licensed physician as having a traumatic brain injury.
4. The student's condition adversely affects educational performance.
5. The student needs special education.

\*Evaluation and Eligibility Determination Procedures, February 2007

[http://specialchildren.about.com/gi/o.htm?zi=1/XJ&zTi=1&sdn=specialchildren&cdn=parenting&tm=41&f=22&su=p284.13.342.ip\\_&tt=29&bt=3&bts=8&zu=http%3A//www.sde.idaho.gov/site/special\\_edu/docs/manual/Chapter%25204%2520Eligibility.pdf](http://specialchildren.about.com/gi/o.htm?zi=1/XJ&zTi=1&sdn=specialchildren&cdn=parenting&tm=41&f=22&su=p284.13.342.ip_&tt=29&bt=3&bts=8&zu=http%3A//www.sde.idaho.gov/site/special_edu/docs/manual/Chapter%25204%2520Eligibility.pdf)

## Illinois

### Definition:

Traumatic Brain Injury 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 affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; psychosocial functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma. (Illinois State Board of Education, June 2009)

## Indiana

### Definition:

Sec. 13. (a) A traumatic brain injury is 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 affects a student's educational performance. The term applies to open or closed head injuries resulting in impairments in one (1) or more areas, such as the following:

- (1) Cognition.
  - (2) Language.
  - (3) Memory.
  - (4) Attention.
  - (5) Reasoning.
  - (6) Abstract thinking.
  - (7) Judgment.
  - (8) Problem solving.
  - (9) Sensory, perceptual, and motor abilities.
  - (10) Psychosocial behavior.
  - (11) Physical functions.
  - (12) Information processing.
  - (13) Speech.
- (b) The term does not apply to brain injuries that are:
- (1) congenital or degenerative; or

(2) induced by birth trauma.

**Eligibility Determination:**

(c) Eligibility for special education as a student with a traumatic brain injury shall be determined by the student's CCC. This determination shall be based on the multidisciplinary team's educational evaluation report described in 511 IAC 7-40-5(e), which includes the following:

- (1) An assessment of the following:
  - A. Cognitive ability and functioning that must include at least one (1) of the following:
    - (i) An individually administered norm-referenced assessment.
    - (ii) If adequate information cannot be obtained via an individually administered norm-referenced assessment, a criterion-referenced assessment that:
      - (AA) has been designed or may be adapted or modified for use with students who have a traumatic brain injury; and
      - (BB) is administered by a professional or team of professionals with knowledge of assessment strategies appropriate for the student.
  - (B) Current academic achievement as defined at 511 IAC 7-32-2.
  - (C) Assessments of functional skills or adaptive behavior across various environments from multiple sources.
- (2) A social and developmental history that may include, but is not limited to, the following:
  - (A) Communication skills.
  - (B) Social interaction skills.
  - (C) Motor skills.
  - (D) Responses to sensory experiences.
  - (E) Relevant family and environmental information.
- (3) Available medical information that is educationally relevant.
- (4) Any other assessments and information, collected prior to referral or during the educational evaluation, necessary to:
  - (A) determine eligibility for special education and related services; and
  - (B) inform the student's CCC of the student's special education and related services needs.

(Indiana State Board of Education; 511 IAC 7-41-13; filed Jul 14, 2008: 20080813-IR-511080112FRA) Authority: IC 20-19-2-8; IC 20-19-2-16. Affected: IC 20-19-2; IC 20-35

**Iowa**

**Definition:**

Traumatic brain injury 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 affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or

more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma. (41.50(12))

**Other Definitions:**

**41.51(10) Head injury.** “Head injury” 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 affects an individual’s educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative or brain injuries induced by birth trauma.

**Kansas**

**Definition:**

Traumatic brain injury 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 affects educational performance. The term shall apply to open or closed head injuries resulting in impairments in one or more areas, including the following: (1) cognition; (2) language; (3) memory; (4) attention; (5) reasoning; (6) abstract thinking; (7) judgment; (8) problem-solving; (9) sensory, perceptual and motor abilities; (10) psychosocial behavior; (11) physical functions; (12) information processing; and (13) speech. The term shall not include brain injuries that are congenital or degenerative, or that are induced by birth trauma. (KAR 91-40-1)

**Eligibility Determination:  
Exclusionary Criteria**

A child must NOT be determined to be a child with an exceptionality if **the determinant factor** is:

**Exclusionary Factor**

- Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 1208(3) of the ESEA(NCLB));

**How to Evaluate**

Evidence shows that the student’s previous reading instruction and curriculum addressed phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills), and reading comprehension strategies. This evidence may come from; (a) an evaluation of the school’s basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.

For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider “appropriate instruction” as the child’s participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child’s natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.

- Lack of appropriate instruction in math;  
or

Evidence shows that the student’s previous math instruction and curriculum addressed math calculation, problem solving, and conceptual understanding. This evidence may come from; (a) an evaluation of the school’s basal curriculum and supplemental materials, and (b) that the student actually received instruction provided by highly qualified teachers using appropriate basal curriculum and supplemental materials.

For a child three to five years old, who is not yet enrolled in kindergarten, teams should consider “appropriate instruction” as the child’s participation in appropriate activities. This evidence may come from interviews with family and other caregivers and through observation in the child’s natural environment that indicates whether or not the child has been exposed to activities appropriate for his/her age.

- Limited English proficiency;

If the student being evaluated is an English Language Learner, show evidence that the student was provided with appropriate accommodations and interventions to address it. Consider things such as proficiency in English and in the student’s native language, amount of time in the country, level of education in the student’s native country, etc. Also consider whether the student’s rate of learning is different from those of similar language background and educational experience. If, in spite of appropriate accommodations and interventions, the student’s learning difficulties persist, this factor

is ruled out.

- and the child does not otherwise meet the eligibility criteria as a child with an exceptionality

Evidence shows that the student's learning difficulties are due to factors other than those associated with the criteria for disabilities as defined in IDEA. For example, frequent moves, incarceration, substance abuse, etc.

The term shall not include brain injuries that are congenital or degenerative or that are induced by birth trauma.

The term TBI is not used for a person who is born with a brain injury. It also is not used for brain injuries that happen during birth. Evidence is provided that the brain injury was sustained after some period of normal development.

The term shall not include brain injuries that are the result of brain tumors, brain infections, cerebral vascular accident (strokes), or poisonings.

The term TBI is not used for a person who sustained a brain injury as a result of a brain tumor, brain infection, cerebral vascular accident (stroke), or poisoning. Evidence is provided that the brain injury sustained was not caused by these conditions. (Note: Students with these conditions may meet eligibility requirements under the category

### **Prong 1: Does the student exhibit an exceptionality?**

#### Indicators

For meeting this prong of eligibility, the team must consider information and have data to support at least 1 indicator from each of the following categories:

1. Record review, interview, observation, and/or tests indicates that the student has an acquired injury to the brain (applies to both open or closed head injuries, including near drowning) caused by an external physical force that has resulted in total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance

- Record review, interviews, observations, and/or tests in one or more areas (cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech) indicate student's skill level is much below that of peers
- Record review and/or interview indicates the brain injury is not congenital or degenerative or induced by birth trauma
- Record review and/or interview indicate the brain injury is not the result of brain tumors, brain infections, cerebral vascular accident (strokes), or poisonings.

2. Record review, interview, observation, and/or tests indicate the injury adversely affects the student's educational performance

- Progress monitoring data displayed on charts or graphs shows slow rate of growth in educational performance despite provision of intense, explicit instructional interventions
- Progress monitoring data displayed on charts or graphs shows student is a non-responder to increasingly intense instructional interventions.

**Other Supporting Information:**

Records contain medical information which provides evidence of traumatic brain injury

**Prong 2: Does the child need special education?**

Indicators:

- Despite modifications in instruction, curriculum, and environment, student's rate of learning is significantly less than peers
- Despite modifications in instruction, curriculum, and environment, student's educational performance in various age appropriate environments is significantly delayed from peers
- Student progress monitoring data indicates intense or sustained resources are needed to support interventions (e.g. specific assistance, modifications, adaptations, or other supports) necessary to accommodate the needs resulting from the injury
- Despite modifications of instruction, curriculum, and environment, the student does not make sufficient progress to meet age or state-approved grade-level standards across curricular areas
- Student progress monitoring data show that student's behavior of concern is resistant to targeted supplemental and intensive interventions
- Despite implementation of intensive interventions, which include purposeful instructional design and delivery, prioritized content, protected time and grouping, and performance monitoring, the student does not make sufficient progress to meet age or state-approved grade-level standards in one or more areas.

(Taken from "Eligibility Indicators", Spring 2011. This guidance document will continue to be a working document and will be periodically updated based on input from its use in the field. Special Education Services Kansas State Department of Education. [www.ksde.org](http://www.ksde.org))

## **Kentucky**

**Definition:**

Traumatic brain injury" or "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 affects 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 (1) 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.

## Louisiana

### **Definition:**

Traumatic Brain Injury -- 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 affects a student's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

## Maine

### **Definition:**

Traumatic brain injury 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 affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma. [34 CFR 300.8(c)(12)]

### **Eligibility Determination:**

Procedure For Determination. All steps below are required.

- (a) Evaluation will be done by qualified personnel who are qualified to make the diagnosis.
- (b) The IEP Team will determine if the impairment adversely affects the child's educational performance.

## Maryland

### Definition:

"Traumatic brain injury" means an acquired injury to the brain, caused by an external force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance.

(b) "Traumatic brain injury" includes open or closed head injuries resulting in impairments in one or more areas such as:

- (i) Cognition;
- (ii) Language;
- (iii) Memory;
- (iv) Attention;
- (v) Reasoning;
- (vi) Abstract thinking;
- (vii) Judgment;
- (viii) Problem solving;
- (ix) Sensory, perceptual, and motor abilities;
- (x) Psychosocial behavior;
- (xi) Physical functions;
- (xii) Information processing; and
- (xiii) Speech.

(c) "Traumatic brain injury" does not include brain injuries that are:

- (i) Congenital or degenerative; or
- (ii) Induced by birth trauma.

## Massachusetts

### Definition:

*Neurological Impairment* - The capacity of the nervous system is limited or impaired with difficulties exhibited in one or more of the following areas: the use of memory, the control and use of cognitive functioning, sensory and motor skills, speech, language, organizational skills, information processing, affect, social skills, or basic life functions. The term includes students who have received a traumatic brain injury.

## Michigan

### Definition:

"Traumatic brain injury" means an acquired injury to the brain which is caused by an external physical force and which results in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. The term applies to open or closed head injuries resulting in impairment in 1 or more of the following areas:

- (a) Cognition.
- (b) Language.
- (c) Memory.

- (d) Attention.
- (e) Reasoning.
- (f) Behavior.
- (g) Physical functions.
- (h) Information processing.
- (i) Speech.

(2) The term does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma.

(3) A determination of disability shall be based upon a full and individual evaluation by a multidisciplinary evaluation team, which shall include an assessment from a family physician or any other approved physician as defined in 1978 PA 368, MCL 333.1101 et seq.

## **Minnesota**

### **Definition:**

"Traumatic brain injury" 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 may adversely affect a pupil's educational performance and may result in the need for special education and related services. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as: cognition, speech/language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, and information processing. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.  
(3525.1348)

### **Eligibility Determination:**

The team shall determine that a pupil is eligible and in need of special education and related services if the pupil meets the criterion in item A and the criteria in items B and C as documented by the information gathered according to item D:

A. There is documentation by a physician of a medically verified traumatic brain injury.  
B. There is a functional impairment attributable to the traumatic brain injury that adversely affects educational performance in one or more of the following areas: intellectual-cognitive, academic, communication, motor, sensory, social-emotional-behavioral, and functional skills-adaptive behavior. Examples of functional impairments which may adversely affect educational performance are:

- (1) intellectual-cognitive, for example, impaired:
  - (a) attention or concentration;
  - (b) ability to initiate, organize, or complete tasks;
  - (c) ability to sequence, generalize, or plan;
  - (d) insight/consequential thinking;
  - (e) flexibility in thinking, reasoning, or problem-solving;

- (f) abstract thinking;
  - (g) judgment or perception;
  - (h) long-term or short-term memory;
  - (i) ability to acquire or retain new information;
  - (j) ability to process information;
- (2) academic, for example:
- (a) marked decline in achievement from preinjury levels;
  - (b) impaired ability to acquire basic skills (reading, written language, mathematics);
  - (c) normal sequence of skill acquisition which has been interrupted by the trauma as related to chronological and developmental age;
- (3) communication, for example:
- (a) impaired ability to initiate, maintain, restructure, or terminate conversation;
  - (b) impaired ability to respond to verbal communication in a timely, accurate or efficient manner;
  - (c) impaired ability to communicate in distracting or stressful environments;
  - (d) impaired ability to use language appropriately (requesting information, predicting, analyzing, or using humor);
  - (e) impaired ability to use appropriate syntax;
  - (f) impaired abstract or figurative language;
  - (g) perseverative speech (repetition of words, phrases, or topics);
  - (h) impaired ability to understand verbal information;
  - (i) impaired ability to discriminate relevant from irrelevant information;
  - (j) impaired voice production/articulation (intensity, pitch, quality, apraxia, or dysarthria);
- (4) motor, for example, impaired:
- (a) mobility (balance, strength, muscle tone, or equilibrium);
  - (b) fine or gross motor skills;
  - (c) speed of processing or motor response time;
  - (d) sensory, for example, impaired;
- (5) sensory, for example, impaired:
- (a) vision (tracking, blind spots, visual field cuts, blurred vision, or double vision);
  - (b) hearing (tinnitus, noise sensitivity, or hearing loss);
- (6) social-emotional-behavioral, for example:
- (a) impaired ability to initiate or sustain appropriate peer or adult relationships;
  - (b) impaired ability to perceive, evaluate, or use social cues or context appropriately;
  - (c) impaired ability to cope with over-stimulating environments, low frustration tolerance;
  - (d) mood swings or emotional ability;
  - (e) impaired ability to establish or maintain self-esteem;
  - (f) denial of deficits affecting performance;
  - (g) poor emotional adjustment to injury (depression, anger, withdrawal, or dependence);
  - (h) impaired ability to demonstrate age-appropriate behavior;

- (i) impaired self-control (verbal or physical aggression, impulsivity, or disinhibition);
- (j) intensification of preexistent maladaptive behaviors or disabilities;

(7) functional skills-adaptive behavior, for example, impaired:

- (a) ability to perform developmentally appropriate daily living skills in school, home, leisure, or community setting (hygiene, toileting, dressing, eating);
- (b) ability to transfer skills from one setting to another;
- (c) orientation (places, time, situations);
- (d) ability to find rooms, buildings, or locations in a familiar environment;
- (e) ability to respond to environmental cues (bells, signs);
- (f) ability to follow a routine;
- (g) ability to accept change in an established routine;
- (h) stamina that results in chronic fatigue.

C. The functional impairments are not primarily the result of previously existing:

- (1) visual, hearing, or motor impairments;
- (2) emotional or behavioral disorders;
- (3) developmental disabilities;
- (4) language or specific learning disabilities;
- (5) environmental or economic disadvantage;
- (6) cultural differences.

D. Information/data to document a functional impairment in one or more of the areas in item B must, at a minimum, include one source from Group One and one source from Group Two:

(1) GROUP ONE:

- (a) checklists;
- (b) classroom or work samples;
- (c) educational/medical history;
- (d) documented, systematic behavioral observations;
- (e) interviews with parents, student, and other knowledgeable individuals;

(2) GROUP TWO:

- (a) criterion-referenced measures;
- (b) personality or projective measures;
- (c) sociometric measures;
- (d) standardized assessment measures; (academic, cognitive, communication, neuropsychological, or motor).

**Statutory Authority:** *MS s [121.11](#); L 1994 c 647 art 3 s 23; L 1999 c 123 s 19,20*

**History:** *19 SR 2432; L 1998 c 397 art 11 s 3; [26 SR 657](#); L 2005 c 56 s 2*

Published Electronically: *October 12, 2007.*

## Mississippi

**Definition:**

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 affects a child's educational performance. **The term** applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

### **Eligibility Determination:**

When the evaluation team is considering eligibility under the Traumatic Brain Injury category, the comprehensive evaluation report(s) and/or eligibility determination report must include:

- A. Information from a variety of sources (e.g., assessments, evaluations, the student's teacher(s), parents and/or caregivers) who are familiar with the student's educational differences in functioning prior to and following the injury, if applicable, in the following areas:
  - 1. cognition;
  - 2. language;
  - 3. memory;
  - 4. attention;
  - 5. reasoning;
  - 6. abstract thinking;
  - 7. judgment;
  - 8. problem solving;
  - 9. sensory, perceptual and motor abilities;
  - 10. psychosocial behavior;
  - 11. physical functions;
  - 12. information processing; and/or
  - 13. speech.
  
- B. A description of the acquired brain injury and cause of the injury; and
  
- C. Reports from physicians, providers of rehabilitation services, and/or other healthcare providers describing precautions, limitations, and recommendations to consider when planning educational services, if available.

## **Missouri**

### **Definition:**

Traumatic Brain Injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability, psychosocial impairment, or both that adversely affects a child's educational performance. The term includes open or closed head injuries resulting in impairments in one or more areas, such as,

cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychological behavior, physical functions, information processing, and speech. The term does not include brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma.

**Eligibility Determination:**

A child has a Traumatic Brain Injury when:

A. a traumatic brain injury/head injury has been diagnosed by a licensed physician or through a neuropsychological assessment, and

B. the student's educational performance is adversely affected by deficits in acquisition, retention, and/or generalization of skills. Students with a brain injury may have rapidly changing profiles, therefore, educational assessment should include current documentation of the student's functional capabilities and indicate deficits in one or more of the following areas:

- 1) building or maintaining social competence;
- 2) performance of functional daily living skills across settings;
- 3) the ability to acquire and retain new skills; and,
- 4) the ability to retrieve prior information.

Professional Judgment

A child may also be deemed eligible if the child displays characteristics of TBI even though a medical diagnosis of head injury has not been made by a physician. In such cases, substantial data to document the medical basis for a head injury must be present in the evaluation report.

(State Plan for Special Education, Regulations Implementing Part B of the Individuals with Disabilities Education Act, 2013.)

**Montana**

**Definition:**

(1) The student may be identified as having traumatic brain injury if the student has an acquired injury to the brain caused by external physical force which adversely affects the student's functional or psychosocial ability or both and the student's ability to learn or participate in the local educational agency's education program.

(2) The term traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psycho-social behavior; physical function; information processing; and speech.

(3) The student may not be identified as having a traumatic brain injury if the injury to the brain is congenital, degenerative, or caused by birth trauma. (Montana Administrative Rule 10.16.3021)

**Nebraska**

**Definition:**

Traumatic brain injury 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 affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not include brain injuries that are congenital or degenerative or brain injuries induced by birth trauma. (2006 Nebraska Revised Statutes - § 79-1118.01)

**Eligibility Determination:**

To qualify for special education services in the category of Traumatic Brain Injury, the child must have:

(a) an acquired injury to the brain caused by external physical force resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects the child's educational performance, or in the case of a child below age five, a child's developmental performance.

(b) The category includes open or closed head injuries resulting in impairments in one or more areas such as:

- (1) cognition;
- (2) language;
- (3) memory;
- (4) attention;
- (5) reasoning
- (6) abstract thinking;
- (7) judgment;
- (8) problem solving;
- (9) sensory, perceptual and motor abilities;
- (10) psychosocial behavior;
- (11) physical functions;
- (12) information processing; and
- (13) speech.

The category does not include brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

(Regulations and Standards for Special Education Programs: Title 92, Nebraska Administrative Code, Chapter 51, 2010)

[http://specialchildren.about.com/gi/o.htm?zi=1/XJ&zTi=1&sdn=specialchildren&cdn=parenting&tm=41&f=22&su=p284.13.342.ip\\_&tt=29&bt=3&bts=8&zu=http%3A/www.sde.idaho.gov/site/special\\_edu/docs/manual/Chapter%25204%2520Eligibility.pdf](http://specialchildren.about.com/gi/o.htm?zi=1/XJ&zTi=1&sdn=specialchildren&cdn=parenting&tm=41&f=22&su=p284.13.342.ip_&tt=29&bt=3&bts=8&zu=http%3A/www.sde.idaho.gov/site/special_edu/docs/manual/Chapter%25204%2520Eligibility.pdf)

## Nevada

### Definition:

“Traumatic brain injury” means an injury to the brain caused by an external force that results in the total or partial functional disability or psychosocial impairment of a person, or both. Except as otherwise provided in this section, the term applies to any injury to the brain which adversely affects educational performance, including, without limitation, injuries affecting the:

1. Cognitive abilities;
2. Speech;
3. Language;
4. Information processing;
5. Memory;
6. Attention;
7. Reasoning;
8. Abstract thinking;
9. Judgment;
10. Problem-solving abilities;
11. Sensory, perceptual and motor skill abilities;
12. Psychosocial behavior; and
13. Physical functions,

of a person. The term does not include injuries to the brain that are congenital or degenerative or which are induced by trauma during birth.

(NAC388.134 Traumatic brain injury” defined. (NRS 385.080) Added to NAC by Bd. of Education, eff. 11-23-93.

### Eligibility Determination:

1. A pupil is eligible for special services and programs of instruction if the eligibility team, comprised of the persons described in subsection 2, concludes that the pupil has a traumatic brain injury and, by reason thereof, needs special education and related services.
2. The eligibility team must consist of:
  - a. A school psychologist;
  - b. A teacher of special education or a person with a specialized knowledge of traumatic brain injuries;
  - c. The regular teacher of the pupil or, if none, a person qualified to teach the pupil;
  - d. A specialist of speech and language;
  - e. A school nurse or other person who is qualified to assess the health of the pupil;
  - f. A parent of the pupil; and
  - g. One or more persons with sufficient knowledge of the pupil to interpret information relating to the social, emotional, developmental and familial condition of the pupil. Such persons may include an administrator of the school, a nurse, a counselor, a school psychologist or any other certificated or licensed professional.

3. In making a determination pursuant to subsection 1, the eligibility team shall consider, without limitation:
  - (a) Medical documentation of the injury;
  - (b) The pupil's educational performance relative to a normative population;
  - (c) The pupil's strengths and weaknesses; and
  - (d) If possible, the pupil's educational performance before and after the pupil acquired the injury.
4. In addition to the considerations required pursuant to subsection 3, the eligibility team shall conduct an evaluation of the pupil to determine whether the pupil is eligible for special services and programs of instruction pursuant to this section. Such an evaluation must assess the:
  - (a) Health;
  - (b) Developmental history;
  - (c) Cognitive abilities;
  - (d) Social and emotional condition;
  - (e) Academic achievement;
  - (f) Language and motor skills;
  - (g) Sensory and perceptual abilities; and
  - (h) Attention, comprehension, judgment and problem-solving skills, of the pupil.

(Added to NAC by Bd. of Education, eff. 11-23-93; A by R039-98, 5-29-98; R085-99, 2-16-2000; R064-08, 9-18-2008).

NAC 388.407 Eligibility of pupil with traumatic brain injury. (NRS 385.080, 388.470, 388.520).

## **New Hampshire**

### **Definition:**

Traumatic brain injury 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 affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech.

Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

(Ed 1102 Definitions (12); New Hampshire Rules for the Education of Children With Disabilities, Page 6, June 30, 2008)

### **Eligibility Determination:**

#### Evaluation:

A minimum of 2 of the following assessments must also be completed:

- Adaptive

Behavior

- Communicative Skills
- Intelligence
- Social/Emotional Status

Assessments required:

**Academic Performance:**

Associate School Psychologist  
Certified Educator  
Guidance Counselor  
Psychologist  
S.A.I.F. \*\*  
School Psychologist

**Health**

Professional Licensed to provide a Health Evaluation

**Adaptive Behavior**

Associate School Psychologist  
Certified Educator  
Guidance Counselor  
Psychiatrist  
Psychologist  
S.A.I.F. \*\*  
School Psychologist  
Licensed Social Worker

**Communicative Skills**

Speech-Language Pathologist  
Speech-Language Specialist

**Intelligence**

Associate School Psychologist  
Psychologist  
S.A.I.F. \*\*  
School Psychologist

**Social/Emotional Status**

Associate School Psychologist  
Psychiatrist  
Psychologist  
School Psychologist

**New Jersey**

**Definition:**

"Traumatic brain injury" corresponds to "neurologically impaired" and means an acquired injury to the brain caused by an external physical force or insult to the brain, resulting in total or partial functional disability or psychosocial impairment, or both. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech.

**Note:** In 2010, the state Legislature establish a New Jersey Special Education and Traumatic Brain Injury Task Force to study instructional practices and strategies that improve recognition of, and benefit students with, a traumatic brain injury and examine the ways in which current State policies affect this population. The Task Force convened and held public hearings.

## New Mexico

### **Definition:**

Traumatic brain injury 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 affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information process; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

### **Eligibility Determination:**

Characteristics and Educational Impact. Children who are eligible for special education and related services under the category of Traumatic brain injury (TBI) have a disability that adversely affects their involvement and progress in the general curriculum, including extracurricular and non-academic activities, or their participation in developmentally appropriate activities. To identify characteristics and educational impact, the EDT (Eligibility Determination Team) must address the question of "How do these characteristics of the disability manifest in the child's natural environment (e.g., home, classroom, recess, etc.)?"

As with all disabilities, the characteristics and educational impact for children with TBI will vary greatly. The following sections outline characteristics that may be associated with TBI and possible educational impact of those characteristics. This information does not represent an exhaustive list of all factors that need to be considered for an individual child, nor is it intended to suggest that all children with TBI will demonstrate all of the following characteristics.

**Preschool-aged Children.** For preschool-aged children it is important to consider both: (a) the child's pre-injury skills, and (b) developmentally appropriate skill levels and behaviors for the child's age. For preschool-aged children with TBI, the observed

characteristics are very similar (although not identical) to those demonstrated by school-aged children with TBI. These difficulties may impact the child in one or more of the following ways:

### **Cognition**

- Deficits with executive functioning, including difficulty:
  - Initiating play activities alone or with others;
  - Initiating conversations with others;
  - Identifying and using strategies to meet goals, such as requesting; and/or
  - Completing multiple step tasks, e.g., getting dressed or putting a puzzle together.
- Deficits in memory, including difficulty:
  - Remembering and keeping track of belongings; and/or
  - Learning new concepts and skills, such as colors, numbers, shapes, and other people's names (Note: The child may remember content learned prior to his/her injury).
- Deficits in information processing, including difficulty:
  - Following lengthy or multistep instructions; and/or
  - Sequencing, such as learning the alphabet, telling about a story or event, or getting dressed.
- Deficits in problem solving, including difficulty:
  - Figuring out how to solve basic problems, for example, knowing to ask for a drink or to get one independently, using a stool to reach objects, etc.; and/or
  - Trying new strategies to solve problems if the strategy is tried unsuccessful.
- Deficits with attention and concentration, including difficulty:
  - Maintaining focus on activities without being distracted;
  - Tolerating noise and activity level (e.g., cries or hides with too much noise, activity, or in new or stressful situations);
  - Taking and waiting for a turn during simple games; and/or
  - Staying with a task until the activity is completed, e.g., listening to a short story until it is over.

### **Communication**

- Deficits with abstract ideas, including difficulty:
  - Understanding double language meanings (e.g., idioms); and/or
  - Understanding and using age-appropriate humor.
- Deficits with word retrieval, including:
  - Using vague referents and fillers (e.g., "um", "you know", and "that thing").
- Deficits with expressive language organization, including difficulty:
  - Telling stories that are organized appropriately for child's age; and/or
  - Describing their experiences and feelings.
- Deficits with pragmatics, including difficulty:
  - Noticing and/or understanding nonverbal cues;
  - Turn-taking in play and conversations; and/or
  - Having a varied repertoire of topics and responses.

## **Physical/Motor**

- Deficits with gross motor control, including difficulty:
  - Changing positions, such as from sitting to standing;
  - Accessing playground equipment and playing outside;
  - Carrying toys and materials;
  - Kicking balls;
  - Sitting independently on the floor, e.g., during circle time activities; and/or
  - Transitioning from one walking surface to another (e.g., from carpet to tile,
- Deficits with fine motor control, including difficulty:
  - Catching a ball with one or both hands;
  - Coloring or writing; and/or
  - Eating or drinking.

**School-aged Children.** Although students with TBI may seem to perform much like children with other disabilities, it is important to recognize that the sudden onset of a severe disability resulting from trauma provides a very different context. In addition, it is important to consider the child's pre-injury skills. For school-aged children with TBI, the impact of the disability may be manifested in one or more of the following ways:

## **Cognition**

- Deficits with executive functioning, including difficulty:
  - Initiating school work, play and/or social activities;
  - Keeping school work and materials organized;
  - Identifying and using strategies to meet goals, such as completing a class project and/or
  - Completing multiple step tasks, e.g., complex math problems, comprehensive class projects, etc.
- Deficits in memory, including:
  - Remembering and keeping track of belongings;
  - Remembering due dates and appointments; and/or
  - Learning new concepts and skills across academic areas(Note: The child may remember content learned prior to his/her injury).
- Deficits in information processing, including difficulty:
  - Following lengthy or multistep instructions;
  - Sequencing, such as telling about events and completing assignments in the appropriate order;
  - Following a daily schedule;
  - Starting a given task at the beginning; and/or
  - Responding appropriately to instructions.
- Deficits in problem solving, including difficulty:
  - Figuring out how to solve problems, such as how to resolve conflict or request clarification; and/or
  - Trying new strategies to solve problems.
- Deficits with attention and concentration, including difficulty:
  - Maintaining focus on activities without being distracted;

- o Tolerating noise and activity level;
- o Taking and waiting for turns during games, discussions, etc.;
- o Maintaining place when reading; and/or
- o Staying with a task until the activity is completed.

### **Communication**

- Deficits with of abstract ideas, including difficulty:
  - o Understanding double language meanings, e.g., idioms; and/or
  - o Understanding and using age-appropriate humor.
- Difficulty with word retrieval, including:
  - o Using vague referents and fillers (e.g., “um”, “you know”, and “that thing”).
- Deficits with expressive language organization, including difficulty:
  - o Telling stories that are organized appropriately; and/or
  - o Describing experiences and feelings.
- Deficits with pragmatics, including difficulty:
  - o Noticing and understanding nonverbal cues;
  - o Taking turns appropriately during activities and conversations; and/or
  - o Having a varied repertoire of topics and responses.

### **Physical/Motor**

- Deficits with gross motor control, including difficulty:
  - o Changing positions, such as from sitting to standing;
  - o Sitting in standard chairs because of balance problems;
  - o Accessing playground equipment and physical education activities;
  - o Carrying materials around the classroom and through the school environment; and/or
  - o Transitioning from one walking surface to another (e.g., from carpet to tile, sidewalk to dirt, etc.).
- Deficits with fine motor control, including difficulty:
  - o Coloring, cutting, or writing;
  - o Using a keyboard and/or mouse;
  - o Eating or drinking; and/or
  - o Managing clothing during self-care activities.

Special Considerations for Assessment. There are significant considerations when assessing children with TBI that are unique to this disability. Specifically, Ylvisaker and Gioia (1998) describe the complexities of assessing children and adolescents with TBI as follows:

1. Inconsistency in test scores are commonly observed in children with TBI.
2. Most children with severe TBI improve neurologically in ways that are difficult to predict for several weeks or months or possibly even years after the injury. Therefore, an assessment completed in the early weeks or months following injury may quickly lose its predictive validity as an accurate description of the child's profile of strengths and weaknesses.
3. Executive function deficits (associated with prefrontal lobe injury) are notoriously resistant to identification and classification with standardized tests alone.

4. Pronounced inconsistency in a child's performance, related to neurologic, emotional, and contextual factors, adds to the difficulty of straightforward interpretation of test results.
5. A child may perform poorly when new information or skills are required or when effective behavior regulation is necessary but perform adequately when knowledge and skill acquired before the injury are needed.

**Note:** The medical diagnosis of shaken baby syndrome may fit under TBI. However, brain injuries induced by birth trauma do not qualify under TBI.

The above, including the note regarding shaken baby syndrome, is taken directly from the Technical Assessment and Evaluation Manual, Determining Eligibility for IDEA Part B Special Education Services; New Mexico Public Education Department, 2011. <http://www.ped.state.nm.us/SEB/technical/NMTeamManual.pdf>

**Resource:**

New Mexico TEAM Professional Development Module: Traumatic Brain Injury; New Mexico Public Education Department. June 2012

## New York

**Definition:**

Traumatic brain injury means an acquired injury to the brain caused by an external physical force or by certain medical conditions such as stroke, encephalitis, aneurysm, anoxia or brain tumors with resulting impairments that adversely affect educational performance. The term includes open or closed head injuries or brain injuries from certain medical conditions resulting in mild, moderate or severe impairments in one or more areas, including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing, and speech. The term does not include injuries that are congenital or caused by birth trauma.

## North Carolina

**Definition:**

Traumatic brain injury means an acquired injury to the brain caused by an external physical force or by an internal occurrence resulting in total or partial functional disability and/or psychosocial impairment that adversely affects a child's educational performance. Causes may include but are not limited to, open or closed head injuries, cerebrovascular accidents (e.g., stroke, aneurysm), infections, kidney or heart failure, electric shock, anoxia, tumors, metabolic disorders, toxic substances, or medical or surgical treatments. The brain injury can occur in a single event or can result from a series of events (e.g., multiple concussions).

Traumatic brain injury also can occur with or without a loss of consciousness at the time of injury. Traumatic brain injury may result in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior;

physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, but can include brain injuries induced by birth trauma.

(Public Schools of North Carolina, Policies Governing Services for Children with Disabilities, Amended, October 2013. <http://ec.ncpublicschools.gov/policies/nc-policies-governing-services-for-children-with-disabilities/policies-children-disabilities.pdf>)

## North Dakota

### **Definition:**

Traumatic Brain Injury 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 affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical function; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

## Ohio

### **Definition:**

Traumatic brain injury" means an acquired injury to the brain caused by an external physical force or by other medical conditions, including but not limited to stroke, anoxia, infectious disease, aneurysm, brain tumors and neurological insults resulting from medical or surgical treatments. The injury results in total or partial functional disability or psychosocial impairment or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries, as well as to other medical conditions that result in acquired brain injuries. The injuries result in impairments in one or more areas such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech.

The term does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma. This definition replaces the definition of traumatic brain injury in 34 C.F.R. 300.8(c)(12) (October 13, 2006) and shall be used instead whenever the federal regulations at 34 C.F.R. Part 300 (October 13, 2006), state statutes at Chapter 3323, of the Revised Code, or the state rules in Chapter 3301-51 of the Administrative Code refer to traumatic brain injury.

## Oklahoma

### **Definition:**

Traumatic brain injury refers to an acquired injury to the brain caused by an external physical force resulting in a total or partial functional disability or psychosocial

impairment, or both, that adversely affects educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing, and speech. The term does not apply to congenital or degenerative brain injuries or to brain injuries induced by birth trauma. (34 CFR 300.8(c)(12))

### **Eligibility Determination:**

#### Components of a Comprehensive Evaluation

- Medical information
- Communication/language
- Cognitive/intellectual
- Social/emotional/behavioral
- Sensorimotor/perceptual
- Adaptive behavior and social or cultural background
- Academic/achievement/developmental

### **Evaluation Considerations**

Medical information from a licensed physician or an advanced registered nurse practitioner (ARNP) should be obtained regarding relevant medical and neurological findings, medications, the student's current status and prognosis, and any information pertinent to planning the student's educational program. Information is necessary to establish that the student has an acquired brain injury which occurred after birth and was caused by an external force (including the external force of near-drowning).

Formal evaluation of cognitive/intellectual and academic/achievement (or age appropriate developmental activities for preschool students) should be supported by functional and ecological assessment of the student's ability to generalize and apply skills in various settings. Samples and observations of academic related tasks may provide meaningful direction in planning for the gradual reintroduction to the academic school setting. The student's educational and developmental history prior to the injury also provides important information for educational planning and expectations for prognosis.

Neuropsychological factors and possible implications should be considered in evaluating the student's abilities. In addition to implications for cognitive/intellectual evaluation, the student's functioning in the areas of sensorimotor/perceptual processing and communication/language abilities should be assessed with this focus. The abilities of the student to effectively perceive, process, integrate, recall, respond to information, and communicate are important considerations.

The evaluation of the student's social/emotional/behavioral and adaptive behavior status may include functional assessment in various settings. If the student has not yet reentered school, adaptive behavior may need to be assessed in settings or in response to tasks that are as similar to the school setting or other age appropriate settings, as possible. Assessment of the student's adaptive behavior in the home or other settings

and social/emotional/behavioral functioning with family and peers will provide valuable information for program planning.

**Resource:**

Oklahoma State Department of Education, Fact Sheet on Traumatic Brain Injury:  
[http://ok.gov/sde/sites/ok.gov.sde/files/Traumatic%20Brain%20Injury\\_2.pdf](http://ok.gov/sde/sites/ok.gov.sde/files/Traumatic%20Brain%20Injury_2.pdf)

## Oregon

**Definition:**

Traumatic Brain Injury: 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 affects a child's educational performance. The term includes open or closed head injuries resulting in impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not include brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma. (OAR 581-015-2000(4)(j) )

**Eligibility Determination:**

- (1) If a child is suspected of having a traumatic brain injury, the following evaluation must be conducted:
- (a) Medical or health assessment statement. A medical statement or a health assessment statement indicating that an event may have resulted in a traumatic brain injury as defined in subsection (2)(A);
  - (b) Psychological assessment. A comprehensive psychological assessment using a battery of instruments intended to identify deficits associated with a traumatic brain injury administered by a licensed school psychologist, a psychologist licensed by a State Board of Psychological Examiners, or other individuals who have the training and experience to administer and interpret the tests within the battery;
  - (c) Other.
    - (A) Other assessments including, but not limited to, motor assessments if the child exhibits motor impairments; communication assessments if the child exhibits communication disorders; and psychosocial assessments if the child exhibits changed behavior. These assessments must be completed by educators knowledgeable in the specific area being assessed;
    - (B) Other information relating to the child's suspected disability, including pre-injury performance and a current measure of adaptive ability;
    - (C) An observation in the classroom and in at least one other setting;
    - (D) Any additional assessments necessary to determine the impact of the suspected disability:
      - (i) On the child's educational performance for a school-age child; or
      - (ii) On the child's developmental progress for a preschool child; and
    - (E) Any additional evaluations or assessments necessary to identify the child's educational needs.

- (2) To be eligible as a child with a traumatic brain injury, the child must meet all of the following minimum criteria:
- (a) The child has an acquired injury to the brain caused by an external physical force;
  - (b) The child's condition is permanent or expected to last for more than 60 calendar days;
  - (c) The child's injury results in an impairment of one or more of the following areas:
    - (A) Communication;
    - (B) Behavior;
    - (C) Cognition, memory, attention, abstract thinking, judgment, problem-solving, reasoning, and/or information processing;
    - (D) Sensory, perceptual, motor and/or physical abilities.
- (3) For a child to be eligible for special education services as a child with a traumatic brain injury, the eligibility team must also determine that:
- (a) The child's disability has an adverse impact on the child's educational performance; and
  - (b) The child needs special education services as a result of the disability.
- (4) Students with brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma, are not eligible under the category of traumatic brain injury but may be eligible under a different category under this rule. (OAR 581-015-2175 Traumatic Brain Injury Eligibility Criteria)

## Pennsylvania

**Definition:**

Traumatic brain injury 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 affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma. (Chapter 14 PA Regulations, June 28, 2008)

## Rhode Island

**Definition:**

Traumatic brain injury 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 affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech.

Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

## South Carolina

### Definition:

Traumatic brain injury 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 affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

### Eligibility Determination:

- 1) There is evidence that the child had a traumatic brain injury.
- 2) The adverse effects of the traumatic brain injury on the child's educational performance require specialized instruction and/or related services.

A traumatic brain injury may be evidenced in the following required evaluation components:

- A medical diagnosis of a traumatic brain injury by a licensed physician.
- In the absence of an existing medical diagnosis or a prior diagnosis of a brain injury, both of the following are furnished:
  - o a documented history (e.g., parent/caregiver interview, medical history, brain injury screening) that evidences trauma to the head resulting in impairments according to the definition of the term "traumatic brain injury" and
  - o a cognitive profile that is consistent with the brain injury to include assessment of the student's language processing and use (not receptive or expressive vocabulary tests), memory, attention, reasoning, abstract thinking, judgment, problem-solving skills, academic achievement, adaptive behavior, auditory perception, and visual perception.
- The diagnosis may not be used as the sole criterion for determining eligibility. There must be evidence that the traumatic brain injury adversely affects the child's educational performance.

### Resource:

"Standards for Evaluation and Eligibility Determination (SEED)", South Carolina State Department of Education, Office of Exceptional Children, 2011.  
[http://www.ed.sc.gov/agency/programs-services/173/documents/SEED\\_Final.pdf](http://www.ed.sc.gov/agency/programs-services/173/documents/SEED_Final.pdf)

## South Dakota

### Definition:

Traumatic brain injury defined. A traumatic brain injury is an acquired injury to the brain caused by an external physical force, resulting in a total or partial functional disability or

psychosocial impairment, or both, that adversely affects a student's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma. Adverse effects in educational performance must be verified through the multidisciplinary evaluation process as defined in subdivision 24:05:13:01(12). 24:05:24.01:29)

## Tennessee

### **Definition:**

Traumatic Brain Injury 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 affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma. Traumatic Brain Disorder may include all of the following:

- (a) An insult to the brain caused by an external force that may produce a diminished or altered state of consciousness; and
- (b) The insult to the brain induces a partial or total functional disability and results in one or more of the following:
  - 1. Physical impairments such as, but not limited to:
    - (i) Speech, vision, hearing, and other sensory impairments,
    - (ii) Headaches,
    - (iii) Fatigue,
    - (iv) Lack of coordination,
    - (v) Spasticity of muscles,
    - (vi) Paralysis of one or both sides,
    - (vii) Seizure disorder.
  - 2. Cognitive impairments such as, but not limited to:
    - (i) Attention or concentration,
    - (ii) Ability to initiate, organize, or complete tasks,
    - (iii) Ability to sequence, generalize, or plan,
    - (iv) Flexibility in thinking, reasoning or problem solving,
    - (v) Abstract thinking,
    - (vi) Judgment or perception,
    - (vii) Long-term or short term memory, including confabulation,
    - (viii) Ability to acquire or retain new information,
    - (ix) Ability to process information/processing speed.

3. Psychosocial impairments such as, but not limited to:
- (i) Impaired ability to perceive, evaluate, or use social cues or context appropriately that affect peer or adult relationships,
  - (ii) Impaired ability to cope with over-stimulation environments and low frustration tolerance,
  - (iii) Mood swings or emotional lability,
  - (iv) Impaired ability to establish or maintain self-esteem,
  - (v) Lack of awareness of deficits affecting performance,
  - (vi) Difficulties with emotional adjustment to injury (anxiety, depression, anger, withdrawal, egocentricity, or dependence),
  - (vii) Impaired ability to demonstrate age-appropriate behavior,
  - (viii) Difficulty in relating to others,
  - (ix) Impaired self-control (verbal or physical aggression, impulsivity),
  - (x) Inappropriate sexual behavior or disinhibition,
  - (xi) Restlessness, limited motivation and initiation,
  - (xii) Intensification of pre-existing maladaptive behaviors or disabilities.

The term does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

## Texas

### **Definition:**

Traumatic brain injury: A student with a traumatic brain injury is one who has been determined to meet the criteria for traumatic brain injury as stated in 34 CFR, §300.8(c)(12).

### **Eligibility Determination:**

The multidisciplinary team that collects or reviews evaluation data in connection with the determination of a student's eligibility based on a traumatic brain injury must include a licensed physician, in addition to the licensed or certified practitioners specified in subsection (b)(1) of this section (listed below).

(b) The multidisciplinary team that collects or reviews evaluation data in connection with the determination of a student's eligibility must include, but is not limited to, the following:

- (1) a licensed specialist in school psychology (LSSP), an educational diagnostician, or other appropriately certified or licensed practitioner with experience and training in the area of the disability; or
- (2) a licensed or certified professional for a specific eligibility category defined in subsection (c) of this section (refers to the above paragraph with regard to eligibility determination for traumatic brain injury).

(Texas Commissioner's Rules 19; Texas Administrative Code § 89.1040. Eligibility Criteria (c)(11))

### **Resource:**

“Traumatic Brain Injury (TBI) Resource Document: Re-Entry of Students with a TBI to the School Setting”, A Collaborative Project of the Texas Education Agency and Statewide Evaluation for Eligibility in Special Education Leadership (copyrighted, property of the Texas Education Agency), February 2012.

## Utah

### Definition:

Traumatic brain injury 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 affects a child's educational performance. The term applies to open or closed head injuries resulting in impairment in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical function; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injury-induced birth trauma.

### Resources:

“Mild Traumatic Brain Injury: A Guide for Educators” (pamphlet), supported in part by the MCHB TBI Grant1 H21MC01691-01-00 from the Department of Health and Human Services (DHHS) Health Resources and Service Administration, Maternal and Child Health Bureau. <http://www.schools.utah.gov/sars/DOCS/disability/tbi/mteducators.aspx>

“Mild Traumatic Brain Injury: A Guide for Parents” (pamphlet), supported in part by the MCHB TBI Grant1 H21MC01691-01-00 from the Department of Health and Human Services (DHHS) Health Resources and Service Administration, Maternal and Child Health Bureau. <http://www.schools.utah.gov/sars/DOCS/disability/tbi/mtparents.aspx>

## Vermont

### Definition:

Traumatic brain injury means an injury to the brain caused by an external physical force or by an internal occurrence such as a stroke or aneurysm, resulting in total or partial functional disability or psychosocial impairment, or both. The EPT (Evaluation and Planning Team) shall obtain an opinion of a licensed physician as to the existence of a traumatic brain injury and its effect on the student's ability to function, as defined by the following criteria:

- (1) The condition includes open or closed head injuries resulting in impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech.
- (2) The condition does not include brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

## Virginia

### **Definition:**

Traumatic brain injury 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 affects a child's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma. (8VAC20-81-10)

### **Eligibility Determination:**

The eligibility group\* may determine that a child has a traumatic brain injury if:

1. The definition of "traumatic brain injury" is met in accordance with 8VAC20-81-10; and
2. There is an adverse effect on the child's educational performance due to one or more documented characteristics of traumatic brain injury.

\*The eligibility group composition.

a. The group may be an IEP team, as defined in 8VAC20-81-110,

b. The group shall include, but not be limited to:

- (1) Local educational agency personnel representing the disciplines providing assessments;
- (2) The special education administrator or designee;
- (3) The parent(s);
- (4) A special education teacher;
- (5) The child's general education teacher or if the child does not have a general education teacher, a general education teacher qualified to teach a child of the child's age; or for a child of less than school age, an individual qualified to teach a child of the child's age; and
- (6) At least one person qualified to conduct individual diagnostic examinations of children, such as school psychologist, speech-language pathologist, or remedial reading teacher.

(Regulations Governing Special Education Programs for Children with Disabilities in Virginia, Virginia Department of Education, Division of Special Education and Student Services, effective January 25, 2010:

[http://www.doe.virginia.gov/special\\_ed/regulations/state/regs\\_speced\\_disability\\_va.pdf](http://www.doe.virginia.gov/special_ed/regulations/state/regs_speced_disability_va.pdf))

### **Resources:**

"Brain Injury and the Schools: Guide for Educators", Brain Injury Association of Virginia, 2013:

[http://www.doe.virginia.gov/special\\_ed/disabilities/traumatic\\_brain\\_injury/brain\\_injury\\_schools.pdf](http://www.doe.virginia.gov/special_ed/disabilities/traumatic_brain_injury/brain_injury_schools.pdf)

## Washington

**Definition:**

Traumatic brain injury 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 affects a student's educational performance.

Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech.

Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

(WAC 392 172A 01035 – Child with a disability or student eligible for special education)

## West Virginia

**Definition:**

Traumatic brain injury 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 affects a student's educational performance.

Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing, and speech. The term does not apply to congenital or degenerative brain injuries or to brain injuries induced by birth trauma.

**Eligibility Determination:**

An eligibility committee will determine that a student is eligible for special education services as a student who has a traumatic brain injury when all of the following criteria are met:

1. The student has an acquired injury to the brain caused by an external physical force resulting in a total or partial functional disability or psychosocial impairment, or both as diagnosed by a licensed physician.
2. The student's condition adversely affects educational performance.
3. The student needs special education.

(West Virginia Department of Education Regulations for the Education of Students with Disabilities, Policy 2419, effective July 2012: <http://wvde.state.wv.us/osp/Policy2419-Effective-July2012.pdf>)

## Wisconsin

**Definition:**

Traumatic brain injury 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 affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; speech and language; memory; attention; reasoning; abstract thinking; communication; judgment; problem solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and executive functions, such as organizing, evaluating and carrying out goal-directed activities. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

(b) Children whose educational performance is adversely affected as a result of acquired injuries to the brain caused by internal occurrences, such as vascular accidents, infections, anoxia, tumors, metabolic disorders and the effects of toxic substances or degenerative conditions may meet the criteria of one of the other impairments under this section. (PI 11, Wisconsin Administrative Code)

### **Eligibility Determination:**

(c) The results of standardized and norm -- referenced instruments used to evaluate and identify a child under this paragraph may not be reliable or valid. Therefore, alternative means of evaluation, such as criterion -- referenced assessment, achievement assessment, observation, work samples, and neuropsychological assessment data, shall be considered to identify a child who exhibits total or partial functional disability or psychosocial impairment in one or more of the areas described under par. (a).

(d) Before a child may be identified under this subsection, available medical information from a licensed physician shall be considered. (PI 11, Wisconsin Administrative Code)

### **Programming**

If the IEP team decides a child has an impairment (TBI) which adversely affects educational performance and the child needs special education services and related services, the IEP team develops an IEP that is tailor-made to meet the child's disability related educational needs. A placement is then developed to implement the IEP in the least restrictive environment.

### **Resources:**

Following resources available at: [http://sped.dpi.wi.gov/sped\\_tbi](http://sped.dpi.wi.gov/sped_tbi)

Eligibility Checklist for Traumatic Brain Injury - PDF - Word Fillable - Spanish Fillable:  
<http://sped.dpi.wi.gov/files/forms/pdf/podelg-tbi-001.pdf>

### **TBI Training**

- Traumatic Brain Injury: Overview & Cognitive & Behavior Correlates Presentation
- Webcast Series: TBI and Challenging Behavior
- Level I TBI Training Presentation Modules
- CESA-Based TBI Trainings
- TBI & Memory Webcast

- Introduction to TBI for Educators Webcast

### **TBI Resources**

- Wisconsin CESA TBI Contacts
- Incidence of TBI in Wisconsin Schools (1997-2006)
- Mild Brain Injury Brochure for Educators
- Mild Brain Injury Brochure for Parents
- TBI: A Resource and Planning Guide
- Frequently Asked TBI Questions
- TBI Resource Kit, 1/20/09
- Brain Injury Alliance of Wisconsin
- Wisconsin Organizations Serving Individuals With Brain Injury

### **Helpful TBI Tools/Forms**

- Accommodations and Modifications in the Elementary Classroom, 2006
- Accommodations and Modifications in the Secondary Classroom, 2006
- Addressing the School Safety and Mobility Needs of a Student with a Disability (Jan 2005)
- Individual Health Summary for Students with Traumatic Brain Injury (9/2007)
- Information Gathering Worksheet
- Intervention Planning Worksheet
- TBI Transition Checklist
- TBI Transition to School Checklist
- TBI Brain Injury Checklist

## **Wyoming**

### **Definition:**

Traumatic Brain Injury means 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 affects a child's educational performance. Traumatic Brain Injury applies to open or closed head injuries result in impairments in one (1) or more areas such as cognition; language; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory; perceptual and motor abilities; psychosocial behavior; physical functions; information process; and speech. Traumatic Brain Injury does not apply to brain injuries that are congenital or degenerative, or to a brain injuries induced by birth trauma. (Wyoming Chapter 7 Rules)

### **Eligibility Determination:**

(A) Eligibility is established through a comprehensive evaluation in accordance with the requirements of these rules. The initial evaluation shall be conducted by qualified professionals as determined appropriate by the school district or public agency. The initial evaluation process shall be comprehensive and address all areas of need resulting from the suspected disability. In accordance with these requirements, a child is identified as a child with a Traumatic Brain Injury if the following criteria are satisfied:

(I) Documentation from a physician, within the previous twelve (12) months, that the child has sustained a brain trauma (e.g., skull fracture, contusions, and/or bullet wound, etc.) resulting in the onset of an impairment; and

(II) Documentation that the Traumatic Brain Injury adversely affects the child's education performance in one (1) or more of the following areas: cognitive ability, social behavior, use of adaptive skills, physical ability, vision, hearing, or ability to communicate.

(Wyoming Chapter 7 Rules: [http://www.wpic.org/PDF/Ch7Rules\\_Final0310.pdf](http://www.wpic.org/PDF/Ch7Rules_Final0310.pdf))

## Appendix

### Individuals with Disabilities Education Act (IDEA)

#### Sec. 300.8 Child with a disability.

(a) General.

(1) Child with a disability means a child evaluated in accordance with Sec. Sec. 300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as "emotional disturbance"), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

(2)

(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under Sec. Sec. 300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part.

(ii) If, consistent with Sec. 300.39(a)(2), the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be a child with a disability under paragraph (a)(1) of this section.

(b) Children aged three through nine experiencing developmental delays. Child with a disability for children aged three through nine (or any subset of that age range, including ages three through five), may, subject to the conditions described in Sec. 300.111(b), include a child—

(1) Who is experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

(2) Who, by reason thereof, needs special education and related services.

(c) Definitions of disability terms. The terms used in this definition of a child with a disability are defined as follows:

(1)

(i) Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects 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.

(ii) Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in paragraph (c)(4) of this section.

(iii) A child who manifests the characteristics of autism after age three could be identified as having autism if the criteria in paragraph (c)(1)(i) of this section are satisfied.

(2) Deaf-blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

(3) Deafness means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a child's educational performance.

(4)

(i) Emotional disturbance means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

(A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.

(C) Inappropriate types of behavior or feelings under normal circumstances.

(D) A general pervasive mood of unhappiness or depression.

(E) A tendency to develop physical symptoms or fears associated with personal or school problems.

(ii) Emotional disturbance includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance under paragraph (c)(4)(i) of this section.

(5) Hearing impairment means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section.

(6) Mental retardation means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.

(7) Multiple disabilities means concomitant impairments (such as mental retardation-blindness or mental retardation-orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.

(8) Orthopedic impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

(9) Other health impairment 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—

(i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and

(ii) Adversely affects a child's educational performance.

(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 mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(11) Speech or language impairment means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

(12) Traumatic brain injury 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 affects a child's educational performance. Traumatic

brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

(13) Visual impairment including blindness means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

### **Sec. 300.306 Determination of eligibility.**

(a) General. Upon completion of the administration of assessments and other evaluation measures—

(1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in Sec. 300.8, in accordance with paragraph (b) of this section and the educational needs of the child; and

(2) The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

(b) Special rule for eligibility determination. A child must not be determined to be a child with a disability under this part—

(1) If the determinant factor for that determination is—

(i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA);

(ii) Lack of appropriate instruction in math; or

(iii) Limited English proficiency; and

(2) If the child does not otherwise meet the eligibility criteria under Sec. 300.8(a).

(c) Procedures for determining eligibility and educational need.

(1) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under Sec. 300.8, and the educational needs of the child, each public agency must—

(i) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and

(ii) Ensure that information obtained from all of these sources is documented and carefully considered.

(2) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with Sec. 300.320 through 300.324.

(Authority: 20 U.S.C. 1414(b)(4) and (5) )