

In October 2001, when Vermont's regulations were re-authorized, it was decided that Nonverbal Learning Disabilities may be recognized under the category of Other Health Impairment for eligibility for Special Education Services in public schools. The following is a summary of the NEW Special Education Rules (August 16, 2001) established by the State of Vermont Department of Education.

**SPECIAL EDUCATION RULES APPEARING IN
THE VERMONT STATE BOARD OF EDUCATION
MANUAL OF RULES AND PRACTICES**

2362 Eligibility for Children Ages Six Years Through Twenty One

(a) A child shall be eligible for special education if:

(1) He or she has one or more of the disabilities described in Rule 2362.1;

(2) The disability results in an adverse effect on the child's educational performance in one or more of the basic skill areas as described in subsection (f), below; and

(3) The student needs special education services to benefit from his or her educational program and this support cannot be provided through the educational support system, standard instructional conditions or supplementary aids and services provided in the school.

The three criteria listed above shall also be applied at the time the student receives a re-evaluation to determine eligibility.

(b) A formal evaluation process, documented in a report as required by Rule 2362.2.5, shall be used to determine whether the above criteria are met.

(c) Adverse Effect.

(1) To conclude that a disability has an adverse effect on the student's educational performance, the EPT shall determine and document that, as a result of his or her disability, the student is functioning significantly below age and grade norms for age or grade peers in one or more of the basic skills defined in Rule 2362(f).

(2) "Significantly below age or grade norms" means the 15th percentile or below, or a 1.0 standard deviation or more below the mean, or the equivalent, as reflected by performance on three or more of the following measures of school performance, generally over a six month period of time.

(i) Standard or percentile scores on an individually-administered nationally normed achievement test;

(ii) Grades;

(iii) Curriculum-based measures;

(iv) Criterion-referenced or group-administered norm referenced assessments;

(v) Student work, language samples or portfolios.

(3) With respect to each basic skill considered, the EPT shall specifically identify in its report:

(i) Each type of measure considered by the Team;

(ii) The finding of the Team, with respect to each measure considered, as to whether and why the measure met (or did not meet) the 15th percentile, -1.0 standard deviation, or equivalent standard, in order to support a finding of adverse effect;

(i) The specific testing data/scores, student work, and/or education records relied upon by the Team to support its finding under subparagraph (ii) that a measure did or did not meet the standard; and

(iv) A statement of each basic skill area in which the disability was determined to have an adverse effect, based upon (i)-(iii).

(d) A child may not be determined to be eligible under these rules if the determinant factor for that eligibility decision is lack of instruction in reading or math, or limited English proficiency; and the child does not otherwise meet the eligibility criteria of these rules.

(e) If a child has a disability that results in an adverse effect on his or her educational performance in one or more of the basic skills, the EPT shall, in the following order:

(1) Consider the interventions, services, and accommodations the student may need, and

- (1) Consider the interventions, services, and accommodations the student may need, and
 - (2) Determine and provide justification that the student requires specially designed instruction that cannot be provided within the school's standard instructional conditions, or provided through the school's educational support system.
- (f) Basic skill areas—
- (1) Unless otherwise specified in the disability category in these rules, basic skill areas are:
 - (i) Oral expression;
 - (ii) Listening comprehension;
 - (iii) Written expression;
 - (iv) Basic reading skills;
 - (v) Reading comprehension;
 - (vi) Mathematics calculation;
 - (vii) Mathematics reasoning; and
 - (viii) Motor skills.
 - (2) For an individual with a sensory impairment, one or more comparable basic skills shall be considered to serve as an appropriate substitute for one or more of the above basic skills, for example, Braille skills for basic reading skills.

2362.1 Categories of Disability

The existence of one or more of the following categories of disability shall be established according to the criteria set forth below.
(Note: Category (g) is where NLD fits)

- (a) A learning impairment or delay in learning...
- (b) A specific learning disability...
- (c) A visual impairment...
- (d) Deafness or being hard of hearing...
- (e) A speech or language impairment...
- (f) An orthopedic impairment...
- (g) An 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. The cause of the health impairment shall be 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 and sickle cell anemia (Note: Although NLD is not specifically mentioned as an example in this section, this is where NLD students will fit in order to access services).

In order to determine the existence of an other health impairment and its effect on the student's ability to function, the EPT shall obtain an opinion from a person:

- (1) Whose professional licensure authorizes him or her to offer an opinion on the existence of the specific condition suspected to be an other health impairment and its effect on the student's ability to function, and
 - (2) Who has specific training and experience in diagnosing and recommending treatment for the specific condition suspected.
- (h) Emotional disturbance...
 - (i) Autism...
 - (j) Traumatic brain injury...
 - (k) Deaf-blindness...
 - (l) Multiple-disabilities...

I am currently part of a state-wide committee that is addressing the details stemming from this exciting decision such as who is able to diagnose NLD and how the diagnosis is made. Keep logging on to this site to keep up-to-date, as information will be posted as it becomes available.

