

Public Notice

Education

State Board of Education

Notice of Receipt of Petition for Rulemaking

Special Education

Determination of Eligibility for Special Education and Related Services

Determination of Eligibility for Speech-Language Services

N.J.A.C. 6A:14-3.5 and 3.6

Petitioner: Jennifer Dollinger-Woods, Esq.

Take notice that on February 24, 2026, the State Board of Education (State Board) received a petition for rulemaking from the above petitioner, requesting the State Board amend N.J.A.C. 6A:14-3.5 and 3.6 to change the criteria for eligibility for special education and related services for students with communication impairments.

N.J.A.C. 1:30-4.1(b) and 6A:6-4.1(b) require a petition for rulemaking to state the substance or nature of the rulemaking that is requested, the reasons for the request, and the petitioner's interest in the request, and references to the agency's authority to take the requested action.

The petitioner requests amendments at N.J.A.C. 6A:14-3.5 to revise the eligibility criteria to allow for the identification of communication impairments based on significant deficits in any specific language domain, including receptive, expressive, or pragmatic language. The petitioner's request also would permit the use of appropriate standardized tests or functional assessments tailored to the specific area of impairment, without mandating comprehensive receptive and expressive language test scores. The petitioner requests changes at N.J.A.C. 6A:14-3.6 to define eligibility for speech-language services as a language disorder in a specific area of language, such as receptive, expressive, or pragmatic.

The petitioner states that the current requirement for comprehensive test results does not adequately reflect students with specific language deficits. The petitioner also indicates that this approach fails to capture the unique challenges faced by students with receptive-only, expressive-only, or pragmatic-only language impairments because a comprehensive score generally averages out the receptive and expressive. The petitioner further states that students with pragmatic impairments, in particular, are often excluded from eligibility due to the reliance on comprehensive tests that do not assess social language skills effectively.

The petitioner indicates that the classification of “communication impairment” and the “speech-only” eligibility pathway create a problematic loop for students with language impairment because both rely on the same rigid testing criteria, which do not account for the diverse nature of language disorders. The petitioner also states that the requested changes seek to ensure fair eligibility for students whose educational performance is adversely affected by specific language impairments and, therefore, allow for a more individualized assessment approach that considers the full range of language deficits.

The request indicates that the petitioner’s interest stems from 15 years of previous experience as a speech-language pathologist in New Jersey public schools and the petitioner’s current practice as a special education attorney. The request also indicates that, in both roles, the petitioner has observed recurring problems in appropriately identifying and serving students with receptive-only, expressive-only, or pragmatic-only language disorders. The request further states that, while serving as a speech-language pathologist, the petitioner and her colleagues sought clarification from the Department of Education (Department) on this question and relied on the [Department’s October 6, 2015, guidance](#) providing clarification regarding N.J.A.C. 6A:14-3.5(c)4. The request indicates that the petitioner now represents families confronting the same barriers, including students with significant pragmatic language disorders who do not qualify

under “communication impaired” or “eligible for speech-language services” classifications despite a clear negative educational impact.

The petitioner provided N.J.S.A. 18A:46-1 et seq., as the agency's authority to take the requested action.

The petitioner’s requested amendments are as follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

Subchapter 3. Services

6A:14-3.5 Determination of eligibility for special education and related services

(a) – (b) (No change.)

(c) A student shall be determined eligible and classified "eligible for special education and related services" under this chapter when it is determined that the student has one or more of the disabilities defined in (c)1 through 14 below, the disability adversely affects the student's educational performance, and the student is in need of special education and related services. Classification shall be based on all assessments conducted, including assessment by child study team members, and assessment by other specialists as specified below.

1. – 3. (No change.)

4. “Communication impairment” means a language disorder in the areas of morphology, syntax, semantics, **receptive language, expressive language,** and/or pragmatics/discourse that adversely affects a student's educational performance and is not due primarily to an auditory impairment. **Eligibility for communication impairment shall be demonstrated through functional assessment and standardized measures, as appropriate to the suspected domain(s) of impairment.** The [problem] **student** shall [be demonstrated through functional assessment of language in other than a testing situation and] **demonstrate**

performance below 1.5 standard deviations, or **at or below** the 10th percentile, on at least two **appropriate** standardized language tests[, where such tests are appropriate, one of which shall be a comprehensive test of both receptive and expressive language] **or subtests tailored to the specific domain(s) of impairment, with at least one assessment addressing the affected language domain(s), which may include receptive, expressive, or pragmatic (social) language, where such tests are appropriate. Functional assessment(s) of language shall document a significant adverse impact on educational performance, shall be conducted in settings other than a standardized testing situation, and shall be tailored to the specific domain(s) of impairment. Functional assessments may be used in place of standardized measures when such measures are unavailable or inappropriate.**

When the area of suspected disability is language, assessment by a certified speech-language specialist and assessment to establish the educational impact are required.

The speech-language specialist shall be considered a child study team member.

i. – ii. (No change.)

5. – 14. (No change.)

6A:14-3.6 Determination of eligibility for speech-language services

(a) “Eligible for speech-language services” means a speech and/or language disorder as follows:

1. (No change.)

2. A language disorder [that meets the criteria at N.J.A.C. 6A:14-3.5(c)4] **in a specific area of language, including receptive, expressive, or pragmatic (social language),** and the student requires speech-language services only.

(b) – (c) (No change.)

(d) Language Disorders:

- 1. Receptive Language: On a standardized receptive language assessment, the student scores below 1.5 standard deviations, or the 10th percentile, for understanding spoken language.**
- 2. Expressive Language: On a standardized expressive language assessment, the student below 1.5 standard deviations, or the 10th percentile, for verbal expression.**
- 3. Pragmatic (Social) Language: On a standardized pragmatic language assessment, the student below 1.5 standard deviations, or the 10th percentile, for social communication skills.**

Recodify existing (d) and (e) as **new (e) and (f)**, respectively. (No change in text.)

In accordance with N.J.A.C. 1:30-4.2, the Department of Education shall subsequently mail to the petitioner, and file with the Office of Administrative Law, a notice of action on the petition.