

Public Notice

Education

State Board of Education

Notice of Action on 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.

The petitioner requested 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 also requested 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 stated that the current requirement for comprehensive test results does not adequately reflect students with specific language deficits. The petitioner also indicated 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 stated 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.

A notice acknowledging receipt of the petition was published in the April 6, 2026, New Jersey Register at 58 N.J.R. 1400(a).

The requested changes at N.J.A.C. 6A:14-3.5(c)4 are unnecessary because the existing paragraph, which requires functional assessment in addition to standardized testing and states “where such tests are appropriate,” already provides the flexibility and individualized assessment approach the petitioner proposed. N.J.A.C. 6A:14-3.4 requires eligibility determinations to be based on a multidisciplinary evaluation using a variety of assessment tools and strategies, rather than any single measure or criterion. This framework inherently requires evaluators to assess all relevant areas of suspected disability, including receptive, expressive, and pragmatic language, as appropriate to the individual student. Additionally, the existing rule requires either a functional assessment or two standardized language tests, only one of which must be a comprehensive measure of both receptive and expressive language. This structure reduces the likelihood that reliance on a single comprehensive test would mask deficits, including those in pragmatic language, and also supports the use of targeted assessments, as appropriate. As such, the rules already ensure that students are not excluded from eligibility simply because their needs fall within a specific domain of language functioning. Adding discrete categories, such as receptive, expressive, and pragmatic language as requested by the petitioner, also risks narrowing the interpretation of the rules because the change could inadvertently suggest that only the listed areas are to be considered. The existing rules appropriately preserve flexibility to address the full range of students’ language needs, including, but not limited to, pragmatic, processing, expressive, and receptive language needs.

Similarly, the criteria for speech-language services at N.J.A.C. 6A:14-3.6(a)2 are sufficiently broad and not exhaustive to ensure the inclusion of language disorders affecting specific areas such as receptive, expressive, and pragmatic language, depending on a student's specific needs. Existing N.J.A.C. 6A:14-3.6(a)2 provides eligibility based on a broad range of language impairments and the cross-reference to N.J.A.C. 6A:14-3.5(c)4, which the petitioner sought to replace with specific areas of language, ensures consistency and is not restrictive. As existing N.J.A.C. 6A:14-3.5(c)4 provides a student's individualized education program (IEP) team and the evaluator with the flexibility sought by the petitioner, there is no need to amend N.J.A.C. 6A:14-3.6 as requested, including the requested new N.J.A.C. 6A:14-3.6(d).

Existing N.J.A.C. 6A:14-3.5 and 3.6 are designed to allow for professional judgement, multidisciplinary team decision-making, and individualized analysis of students, thereby providing flexibility for professionals to interpret assessment data in the context of a student's overall communication ability and the educational impact on the student. This approach ensures evaluation and determination of eligibility across a full range of language skills, rather than the limiting consideration to the predefined categories requested by the petitioner.

The existing regulatory framework already allows what the petitioner seeks and making the petitioner's requested changes could potentially narrow the scope of the evaluation and unintentionally limit consideration of other relevant language domains or combinations of deficits.

Furthermore, the Department provided guidance on this topic in a [broadcast issued on April 17, 2024](#).

For all of the above-mentioned reasons, after due consideration pursuant to law, the petitioner's request is hereby denied.

A copy of this notice has been mailed to the petitioner pursuant to N.J.A.C. 1:30-4.2.