

FACT SHEET

IDEA '97 Regulations - Children with "ADD/ADHD"

(Excerpted from the Dept. of Education: <http://www.ed.gov/offices/OSERS/Policy/IDEA/Brief-6.html>)

Adding "ADD/ADHD" to the list of eligible conditions under "OHI."

The definition of "child with a disability" in the Part B regulations has been amended to add "attention deficit disorder" ("ADD") and "attention deficit hyperactivity disorder" ("ADHD") to the list of conditions that could render a child eligible for Part B services under the "other health impairment" ("OHI") category.

Many children with ADD/ADHD have been eligible under Part B — consistent with the Department's long-standing policy related to serving these children.

In 1991, the Department issued a memorandum entitled "Clarification of Policy to Address the Needs of Children with [ADD] within General and/or Special Education," which was jointly signed by the Assistant Secretaries of OCR, OESE, and OSERS.

The substance of the 1991 policy clarification was included in the NPRM, and, specifically in Note 5 following §§300.7 (definition of "child with a disability") -- to ensure that school administrators, teachers, parents, and other members of the general public would be fully aware that some children with ADD/ADHD are eligible under Part B. (Adding that interpretation to the NPRM was consistent with the Department's plan to include all major long-term policy interpretations related to Part B in a single regulatory document, along with the new provisions added by the IDEA Amendments of 1997.)

The 1991 policy interpretation clarified that --

- ? ALL CHILDREN WITH ADD/ADHD CLEARLY ARE NOT ELIGIBLE under Part B to receive special education and related services -- just as all children who have one or more of the other conditions listed under the "other health impairment" category are not necessarily eligible (e.g., children with a heart condition, asthma, diabetes, and rheumatic fever)."
- ? TO BE ELIGIBLE UNDER PART B, A CHILD WITH ADD/ADHD (as with all other children covered under this part) must meet a two-pronged test of eligibility (i.e., have a condition that meets one of the disability categories listed under §§300.7, and need special education and related services because of that disability).
- ? CHILDREN WITH ADD/ADHD ARE A DIVERSE GROUP. Some children with ADD/ADHD may be eligible under other disability categories if they meet the criteria for those disabilities, while other children may not be eligible under Part B, but might qualify under section 504 of the Rehabilitation Act.

Department's 1991 policy memorandum not fully implemented.

From the public comments received on the NPRM related to ADD/ADHD (and the Department's experience in administering Part B), it is clear that the 1991 policy is not being fully and effectively implemented.

Ensuring that eligible children with ADD/ADHD receive Part B services.

To ensure that each child with ADD/ADHD who meets the eligibility criteria under Part B receives special education and related services in the same timely manner as other children with disabilities, it is important to

1. add "ADD/ADHD" to the list of conditions that could render a child eligible under this part, and
2. appropriately address (in Attachment 1 to the final regulations) the large number of comments received on this topic.

Clarifying "limited strength, vitality, or alertness" under "OHI."

The final regulations also clarify that the term "limited strength, vitality, or alertness" in the definition of "OHI" (when applied to children with ADD/ADHD) includes "a child's heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment." (This clarification was included in note 5 following §§300.7 of the NPRM, based on the Department's previous interpretation of the term as it applies to children with ADD/ADHD).

Including "ADD/ADHD" not a new requirement.

Including "ADD" and "ADHD" as potentially eligible conditions under the Part B regulations does not add a new requirement. It simply codifies the Department's long-standing policy related to serving these children.