

The Kentucky Board of Education (KBE) approved proposed amendments to [707 KAR 1:002](#) during its December 6, 2022 meeting. On March 7, 2023, the Administrative Regulation Review Subcommittee (ARRS) reviewed and approved the proposed amendments to [707 KAR 1:002](#). ARRS referred the regulation to the Interim Joint Committee on Education (IJCE) on April 5, 2023. The IJCE did not hear [707 KAR 1:002](#) during its June 6, 2023, meeting, thus the amendments went into effect on July 5, 2023. The regulation was amended to improve alignment with the Individuals with Disabilities Education Act (IDEA) 2004 and the Codified Federal Regulations (CFRs) definitions.

This non-regulatory guidance addresses the revisions to the definitions for Hearing Impairment (HI) and Visual Impairment (VI) and other frequently asked questions that may impact students with disabilities related to this change.

## **Questions and Answers Related to Revisions to Special Education Definitions (Hearing Impairment and Visual Impairment)**

### **1. Why are the definitions for Hearing Impairment and Visual Impairment changing?**

The definitions for Hearing impairment (HI) in [707 KAR 1:002, Section 1 \(29\)](#) and Visual impairment (VI) in [707 KAR 1:002, Section 1 \(65\)](#) are being amended to align with federal definitions outlined in [34 CFR §300.8\(c\)\(5\)](#) and [34 CFR §300.8\(c\)\(13\)](#).

### **2. Will the changes to the definitions impact the Eligibility Determination forms for HI and VI?**

The Eligibility Determination forms have been updated to reflect the changes to the definitions. The updated eligibility determination forms are available on the [Evaluation and Eligibility](#) web page. Districts will be informed when the updated forms are available in Infinite Campus (IC).

### **3. Are there changes to the definition of deaf-blindness?**

The definition of deaf-blindness has not changed. According to [707 KAR 1:002, Section 1 \(21\)](#), deaf-blindness “means concomitant hearing and visual impairments that have an adverse effect on the child's educational performance, the combination of which causes severe communication and other developmental and educational needs that cannot be accommodated in special education programs solely for children with deafness or children with blindness, unless supplementary assistance is provided to address educational needs resulting from the two (2) disabilities.”

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## Questions and Answers Related to the HI Definition

### 4. What is the new definition of HI?

The new definition for HI in [707 KAR 1:002, Section 1 \(29\)](#) is:

“Hearing impairment, sometimes referred to as “deaf” or “hard of hearing”, means a hearing loss that:

- (a) May be mild to profound, unilateral or bilateral, permanent or fluctuating;
- (b) Results in difficulty identifying linguistic information through hearing; and
- (c) Has an adverse effect on the child’s educational performance.”

### 5. What changes were made to the HI definition?

The changes to [707 KAR 1:002, Section 1 \(29\)](#) removed the language:

“and is determined by:

1. An average pure-tone hearing loss in the speech range (500Hz, 1000Hz, and 2000Hz) of at least 25dB in the better ear;
2. An average pure-tone hearing loss in the high-frequency range (2000Hz, 4000Hz, and 6000Hz) of at least 45dB in the better ear; or
3. An average pure-tone unilateral hearing loss in the speech range (500Hz, 1000Hz, and 2000Hz) of at least 60dB in the impaired ear.”

### 6. Have the eligibility requirements for HI changed?

To determine eligibility for special education, students must meet the criteria outlined in the Kentucky Administrative Regulations (KARs). Before a student is determined eligible under the category of HI and provided specially designed instruction and related services, the Admissions and Release Committee (ARC) must compare and analyze evaluation data and document the following interpretation:

1. The student has a hearing loss that may be mild to profound, unilateral or bilateral, permanent or fluctuating.
2. The hearing loss results in difficulty in identifying linguistic information through hearing.
3. Evaluation information confirms there is an adverse effect on educational performance.
4. Evaluation information confirms lack of instruction in reading and math is not a determinant factor in the eligibility decision.
5. Evaluation information confirms limited English proficiency is not a determinant factor in the eligibility decision.

[[707 KAR 1:002, Section 1 \(29\)](#); [707 KAR 1:310, Section 1](#)]

**7. How will the changes to the regulation impact how students are referred for a HI?**

When considering a referral for any evaluation, the ARC should review all available information to determine whether the evaluation is warranted and develop the plan. The ARC must follow the referral system outlined in the district's policies and procedures, including documentation requirements described in [707 KAR 1:300, Section 3](#). The definition no longer requires a specific measurement of hearing loss. Students may be referred for a HI if they have any hearing loss that:

1. May be mild to profound, unilateral or bilateral, or permanent or fluctuating;
2. Results in difficulty in identifying linguistic information through hearing; and
3. Has an adverse effect on educational performance.

The [Deafness and Hearing Loss](#) page, available through the Center for Parent Information and Resources, contains information for parents and families about hearing impairments and how those impairments can affect a child's ability to learn.

**8. How do the changes to the regulation impact assessing HI?**

The ARC must follow the evaluation and reevaluation procedures outlined in [707 KAR 1:300, Section 4](#). The ARC must use a variety of assessment tools and strategies to gather relevant information about the child. The information could include a physician's statement, if deemed appropriate, to assess the effect of the hearing impairment. Under [34 CFR 300.304\(b\)\(2\)](#), no single measure or assessment may be used as the sole criterion for determining whether the child is a child with a disability. Eligibility for hearing impairment is no longer determined by the specific ranges stated in the previous definition of hearing impairment.

## Questions and Answers Related to the VI Definition

**10. What is the new definition of VI?**

The new definition for VI in [707 KAR 1:002, Section 1 \(65\)](#) is:

“Visual impairment or “VI” means a vision loss, even with correction, that has an adverse effect on the child's educational performance.”

**11. What changes were made to the VI definition?**

The changes to [707 KAR 1:002, Section 1 \(65\)](#) removed the language:

“(a) Requires specialized materials, instruction in orientation and mobility, Braille, visual efficiency, or tactile exploration;

(c) Meets the following:

1. The child has visual acuity with prescribed lenses that is 20/70 or worse in the better eye; or
2. The child has visual acuity that is better than 20/70 and the child has one (1) of the following conditions:
  - a. A medically-diagnosed progressive loss of vision;
  - b. A visual field of twenty (20) degrees or worse;
  - c. A medically-diagnosed condition of cortical blindness; or
  - d. A functional vision loss.”

## 12. Have the eligibility requirements for VI changed?

To determine eligibility for special education, students must meet the criteria outlined in the KARs. Before a student is determined eligible under the category of VI and provided specially designed instruction and related services, the ARC must compare and analyze evaluation data and document the following interpretation:

1. There is documentation of a visual impairment/loss, and the child demonstrates the characteristics of blindness or visual impairment/loss.
2. Evaluation information confirms even with correction, there is an adverse effect on educational performance.
3. Evaluation information confirms lack of instruction in reading and math is not a determinant factor in the eligibility decision.
4. Evaluation information confirms limited English proficiency is not a determinant factor in the eligibility decision.

A district may not preclude ARC “teams from considering whether *other* vision conditions, even with correction, adversely affect the child’s educational performance such that the child requires special education and related services under the IDEA.”

[\[Office of Special Education Programs \(OSEP\) Policy Letter - OSEP 17-05 - Eligibility Determinations for Children Suspected of Having a Visual Impairment Including Blindness under the Individuals with Disabilities Education Act\]](#)

[\[707 KAR 1:002, Section 1 \(65\); 707 KAR 1:310, Section 1\]](#)

## 13. How will changes to the regulation impact how students are referred for a VI?

The ARC should review all available information to determine whether an evaluation is warranted and develop the plan. The ARC must follow the referral system outlined in the district's policies and procedures, including documentation requirements described in [707 KAR 1:300, Section 3](#). Students may be referred for a VI if they have any vision

loss, even with correction, which has an adverse effect on their educational performance. This allows ARCs to consider whether the vision conditions, even with correction, adversely affect the child's educational performance.

The OSEP recommends the [Visual Impairment, Including Blindness](#) page for parents and families to learn more about various types of visual impairments and how those impairments can affect a child's ability to learn.

#### **14. How do the changes to the definition impact assessing VI?**

The ARC must follow the evaluation and reevaluation procedures outlined in [707 KAR 1:300, Section 4](#). The ARC must use a variety of assessment tools and strategies to gather relevant information about the child. The information could include documentation from a physician, if deemed appropriate, to assess the effect of the visual impairment. Under [34 CFR §300.304\(b\)\(2\)](#), no single measure or assessment may be used as the sole criterion for determining whether the child is a child with a disability.

The Evaluation to Determine Whether the Child's Visual Impairment Adversely Affects Educational Performance section of the [OSEP Policy Letter - OSEP 17-05 - Eligibility Determinations for Children Suspected of Having a Visual Impairment Including Blindness under the Individuals with Disabilities Education Act](#) outlines specific evaluation requirements for assessing students for visual impairment. The OSEP ([OSEP 17-05](#)) and the Office for Civil Rights [[Parent and Educator Resource Guide to Section 504 in Public Elementary and Secondary Schools](#)] have indicated that if a medical evaluation and diagnosis is needed to determine the presence of a disability, the diagnosis must be provided at no cost to the parents.

#### **Additional Resources**

[OSEP Policy Letter - OSEP 17-05 - Eligibility Determinations for Children Suspected of Having a Visual Impairment Including Blindness under the Individuals with Disabilities Education Act.](#)

From OSEP, this letter includes guidance and resources on evaluating and determining eligibility for visual impairment.

[OSEP Visual Impairment Guidance - OSEP National TA Call, November 17, 2022](#) From OSEP, this document includes guidance to assist states in supporting their districts in reaching appropriate eligibility determinations for children with "visual impairment including blindness," under IDEA.

[Frequently Asked Questions on Effective Communication for Students with Hearing, Vision, or Speech Disabilities in Public Elementary and Secondary Schools](#) From OSEP, this document provides different approaches used by IDEA and Title II to support students with hearing, vision, or speech disabilities.

[Kentucky Department of Education \(KDE\) Blind-VI and Deaf-HH Services](#) This KDE site includes informational, technical, and regulatory support and resources in areas specifically related to students who are Blind/VI, Deaf/HH or Deaf-Blind.

[Deaf Students Education Services: Policy Guidance, U.S. Department of Education](#) From the United States Department of Education, this guidance is intended to provide state and local education agency (LEA) personnel with background information and specific steps that will help to ensure that children and youth who are deaf are provided with a free appropriate public education.

[Visual Impairment, Including Blindness](#) From the Center for Parent Information and Resources, this page provides information and resources regarding visual impairments.

[Deafness and Hearing Loss](#) From the Center for Parent Information and Resources, this page provides information and resources regarding hearing impairments.

[IRIS | Accommodations to the Physical Environment: Setting Up a Classroom for Students with Visual Disabilities](#) Provides resources for accommodations to the physical environment for students with visual disabilities.

### **Family Resources**

[Kentucky Deaf-Blind Project](#) Provides statewide technical assistance and training to persons who have a combination of vision and hearing challenges. Services are offered to persons from birth to 22 years of age, and to their families and service providers.

[Kentucky Special Parent Involvement Network \(KY-SPIN\)](#) The mission is to link families and individuals with disabilities to valuable resources that will enable them to live productive, fulfilling lives.