

# Checklist for Determining Legal Eligibility of ADHD Students

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Not all students who have been diagnosed as having ADHD are eligible for services through Special Education or Section 504. Eligibility is based on the individual student's degree of impairment while in the educational setting. With the reauthorization of the Americans with Disabilities Amendment Act (effective 1-1-09) decisions of eligibility must be based on the student's individual needs *without* benefit of medication or other mitigating measures such as learned behavioral or adaptive neurological modifications, assistive technology or accommodations.

## Qualifications for Eligibility under Section 504

### 1. Does the student with ADHD meet eligibility under Section 504?

- Is the condition a mental or physical impairment?

If first box is checked, the child must also have both of the following in order to qualify under Section 504:

- Does the condition impair one or more major life activities, such as behavior, thinking, concentrating or learning including, but not limited to, neurological or brain functioning?
- Does the condition "*substantially limit*" the child's ability to either access the educational environment or while the child is in the educational setting?

## Qualifications for Eligibility under the IDEA — Categorical Listings of Other Health Impaired (OHI), Learning Disability (LD) or Emotional Disturbance (ED)

### 2. Does the student exhibit, to a marked degree, the qualifications of "*other health impaired*" under the IDEA regulations at 34 C.F.R. §300.8(c)(9)(i)?

- Is the condition due to a chronic or acute health problem such as ADHD?

If the first box is checked, the child must also have both of the following in order to qualify for special education under the category of Other Health Impaired:

- Does this condition result in limited strength, vitality or alertness including heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment?
- Does the condition adversely affect the child's educational performance to the extent of creating an "*educational need*"?

**3. Does the student exhibit characteristics of a “specific learning disability” under the IDEA as defined at 34 C.F.R. §300.8(c)(10)(i-ii)?**

- Is the condition caused by one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and/or developmental aphasia?
- If you checked previous box: Does the condition result in the child **not** achieving adequately for the child’s age or in the child not meeting State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child’s age or State-approved grade-level standards?
  - Oral expression
  - Listening comprehension
  - Written expression
  - Basic reading skill
  - Reading fluency skills
  - Reading comprehension
  - Mathematics calculation
  - Mathematics problem solving
- If you checked previous box: Does the condition result in the child **not** making sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in question above when using a process based on the child’s response to scientific, research-based intervention; or does the condition result in the child exhibiting a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with the regulations in §§34 C.F.R. 300.304 and 300.305?
- If you checked previous box: Is the problem **not** attributable to any of the conditions below?  
Check all that are not causes:
  - A visual, hearing, or motor disability
  - Mental retardation
  - Emotional disturbance
  - Cultural factors
  - Environmental or economic disadvantage
  - Limited English proficiency
- Can the IEP team ensure that underachievement in the child suspected of having a specific learning disability is **not** due to lack of appropriate instruction in reading or math, and has the IEP team considered, as part of the evaluation outlined in the regulations at §§ 34 C.F.R. 300.304 through 300.306?

If you checked the previous question, the student’s school must provide the following data:

  - Data that demonstrates that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel?
  - Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child’s parents?
- If you checked all previous boxes: Does the condition adversely affect the child’s educational performance to the extent of creating an “**educational need**”?

**4. Does the student exhibit to a marked degree, the qualifications for “emotional disturbance” as defined in the IDEA at 34 C.F.R. §300.8(c)(4)(i)?**

Does the condition exhibit one or more of the following characteristics? Check all that apply:

- An inability to learn that cannot be explained by intellectual, sensory or health factors
- An inability to build or maintain satisfactory personal relationships with peers and teachers
- Inappropriate types of behaviors or feelings under normal circumstances
- General pervasive mood of unhappiness or depression
- Tendency to develop physical symptoms or fears associated with personal or school problems

If the first box is checked, the child must also have both of the following in order to qualify for special education under the category of Emotional Disturbance:

- Has the condition continued over a long period of time?
- Does the condition occur to a marked degree that adversely affects educational performance?

**If the student does not qualify under Section 504 or the IDEA, contact the student’s school to see if he/she may be eligible for at-risk programs provided under State law (program offerings vary by state).**

**CONCERTA® is a prescription product approved for the treatment of attention deficit hyperactivity disorder (ADHD) as part of a total treatment program that may include counseling or other therapies.**



## IMPORTANT SAFETY INFORMATION

Talk to your healthcare professional for a proper diagnosis and treatment of ADHD. Only a healthcare professional can decide whether medication is right for you or your child.

CONCERTA® should not be taken by patients who have: allergies to methylphenidate or other ingredients in CONCERTA®; significant anxiety, tension, or agitation; glaucoma; tics, Tourette's syndrome, or family history of Tourette's syndrome; current or past use of monoamine oxidase inhibitor (MAOI); esophagus, stomach, or intestinal narrowing. Children under 6 years of age should not take CONCERTA®.

Abuse of methylphenidate may lead to dependence. Tell your healthcare professional if you or your child has had problems with alcohol or drugs; has had any heart problems, heart defects, high blood pressure, or a family history of these problems; has had depression, abnormal thoughts or visions, bipolar disorder, or seizure. Contact your healthcare professional immediately if you or your child: develops abnormal thinking or hallucinations, abnormal or extreme moods and/or excessive activity; or if aggressive behavior or hostility develops or worsens while taking CONCERTA®. Your child's healthcare professional should check height and weight often and may interrupt CONCERTA® treatment if your child is not growing or gaining weight as expected.

Stimulants may impair the ability of the patient to operate potentially hazardous machinery or vehicles. Caution should be used accordingly until you are reasonably certain that CONCERTA® does not adversely affect your ability to engage in such activities.

The most common adverse reaction (>5%) reported in children and adolescents was upper abdominal pain. The most common adverse reactions (>10%) reported in adults were dry mouth, nausea, decreased appetite, headache, and insomnia.

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