

The Minnesota Department of Education (MDE), Division of Compliance and Monitoring has developed this document to provide technical assistance to school districts and parents about determining eligibility for students with a diagnosis of attention deficit disorder or attention deficit hyperactivity disorder (ADD/ADHD). This document also addresses which professionals are authorized to provide the written diagnosis of ADD/ADHD relied on for special education eligibility. The intention of this document is to provide helpful, general information to the public. It does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information below should not be relied upon as a comprehensive or definitive response to your specific legal situation. This document may not include a complete rendition of applicable state and federal law.

Question 1: How is eligibility for special education services under the Other Health Disability criteria and based on an ADD/ADHD diagnosis determined?

Answer: A student with ADD/ADHD may qualify for special instruction and related services under the Other Health Disability (OHD) eligibility criteria, if the individualized education program (IEP) team determines that the student is eligible and in need of special education services. This determination is based on written and signed documentation of a medical diagnosis, which must include documentation that DSM-IV criteria in items A to E have been met. In addition to the medical documentation, the team also must find that, in comparison with peers, the ADD/ADHD or other health condition adversely affects the student's ability to complete educational tasks within routine timelines, as specified in Minnesota Rule 3525.1335, subpart 2(B).

Authority: Minn. Stat. § 125A.02, Subd. 1, Minn. R. 3525.1335, subp. 2.

Question 2: Who can diagnose ADD/ADHD for purposes of determining special education eligibility?

Answer: According to the plain language of the OHD rule, to be found eligible under the rule, a pupil must have a diagnosis of ADD/ADHD that is signed by a physician for the purposes of making an OHD determination. The Minnesota legislation amended the rule by statute to say that a licensed physician, an advanced practice nurse, or a licensed psychologist can make a diagnosis and determination of ADD/ADHD. For the IEP team, this means that the written diagnosis of ADD/ADHD that is required under Minnesota Rule 3525.1335, subpart 2(A)(2), to determine eligibility can be made by a qualified practitioner including, not only a licensed physician, but also an advanced practice nurse or a licensed psychologist.

Authority: Minn. Stat. § 125A.02, Subd. 1.

Question 3: Is this a new clarification?

Answer: The language in Minnesota Statutes, section 125A.02, subdivision 1, which clarifies that the ADD/ADHD diagnosis may be made by a licensed physician, an advanced practice nurse, or a licensed psychologist was passed in 2008. Prior to that time, the OHD rule contained all of the language governing the criteria to be used by IEP teams when determining whether a student is eligible and in need of special education instruction and services based on a diagnosis of ADD/ADHD. The rule specifies that the written and signed documentation of a medical diagnosis must be made by a licensed physician. So, prior to 2008, eligibility based on a diagnosis of ADD/ADHD was always based on a written diagnosis provided by a physician.

In preparing this Q & A, MDE reviewed the legislative history of the language added in 2008 that expands the scope of practitioners qualified to provide a written diagnosis of ADD/ADHD for special education eligibility. That history, based on a review of committee hearing discussions and bill presentations on the floor of the Senate, confirms that the legislature intended to clarify that the written diagnosis of ADD/ADHD used to determine eligibility may be made not only by a licensed physician, but also by an advanced practice nurse or licensed psychologist.

Authority: 2008 Minn. Laws Ch. 326, Art. I, Sec. 1; SF 3415 Physicians and Psychologists ADD/ADHD Diagnosis Authorization: Minnesota Senate Education Committee Hearing, statements of Senator Ann Lynch, Tom Keliher of the Minnesota Psychological Association (March 10, 2008); Minnesota Senate Floor Session, Introduction and Passage of Amendment A23 to SF 3168 by Senator Linda Berglin (April 28, 2008).

Question 4: Does this interpretation extend to other diagnoses that might be relied on to determine a student is eligible under the OHD rule?

Answer: No. Minnesota rule provides that, in order to determine a student eligible for special education services under the OHD criteria for a disability that does not involve a diagnosis of ADD/ADHD, the team must base its determination on “written and signed documentation by a licensed physician of a medically diagnosed chronic or acute health condition.” Minn. R. 3525.1335, subp. 2(A). The statutory language that allows teams to rely on a diagnosis by a licensed physician, an advanced practice nurse, or a licensed psychologist is specifically limited to diagnoses involving ADD/ADHD.

Authority: Minn. R. 3525.1335, subp. 2(A); see also Minn. Stat. § 125A.02, Subd. 1.

Question 5: Who is an advanced practice nurse?

Answer: An advanced practice nurse, also referred to in Minnesota law as an advanced practice registered nurse or APRN, is an individual who is both licensed as a registered nurse by the Minnesota Board of Nursing and certified by a national nurse certification organization to practice as a clinical nurse specialist, nurse anesthetist, nurse-midwife, or nurse practitioner. Minn. Stat. § 148.171, Subd. 3. These practitioners receive advanced education and are able to diagnose and treat; case manage; educate; conduct research; refer patients; and consult, coordinate, and collaborate with other health care providers. Most categories of APRNs also can prescribe medications if they have entered into a written prescriptive agreement with a physician. For more information about APRNS, contact the Minnesota Board of Nursing.

Authority: Minn. Stat. § 148.171; see also Minn. Stat. § 148.235 and Minn. Stat. § 148.284.