

## **Students with Disabilities**

### **23. How does the rule affect a student with an IEP?**

A student with an IEP (Individualized Education Program) is not subject to “pass all.” The student is not to be denied eligibility on the basis of grades if the student is making adequate progress, as determined by school officials, towards the goals and objectives on the student’s IEP.

### **24. May a school set higher requirements for students with disabilities, such as by holding students with disabilities to the “pass all” rule applicable to students without disabilities?**

No. So long as the student is making adequate progress toward goals, on the student’s IEP, as determined by school officials, the student “shall not be denied eligibility” based on scholarship. What constitutes adequate progress will vary based on the facts of each student’s case. (See also #28 below.)

### **25. Who determines “adequate progress” for a student with an IEP?**

“School officials” make that determination, not the student’s IEP team and not the student’s parents.

### **26. What happens after school officials determine what progress a student with disabilities is required to achieve to be eligible for competition?**

Those officials must immediately communicate what “adequate progress” constitutes to the student and the student’s parents, teachers, and others who assign grades to or monitor the progress of the student.

### **27. Are students with IEPs required to attain their goals to be eligible?**

The rule requires adequate progress toward goals, not goal attainment. In some cases, a student may make adequate progress toward a goal without necessarily attaining it. In other cases, goal attainment might be the only outcome that would constitute “adequate progress.” Whether goal attainment constitutes the required “adequate progress” depends on the facts of each case.

### **28. What if a student with an IEP fails a class for which there are no express IEP goals and no specially designed instruction?**

Examine the relationship between the IEP goals and the failed course. If there is a close relationship between the IEP goal(s) and the failed course, and the student made adequate progress on the IEP’s goal(s), then the student is eligible. If there is a close relationship and the student did not make adequate progress toward an IEP goal, then the student is not eligible. If there is little or no relationship between an IEP goal and the course failed, the student is not eligible.

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### **29. What if a student with an IEP passes all classes yet does not make “adequate progress” on IEP goals?**

In this extremely unlikely event, the competitor is eligible.

### **30. What if an ineligible student’s IEP provides for “participation” in interscholastic activities?**

An ineligible student may participate (e.g., practicing, serving as team manager) without competing. An IEP team has no authority to provide that a student with an IEP, who otherwise would be academically ineligible for competition, must be allowed to compete in interscholastic competition.

### **31. What if a student is being currently evaluated for special education?**

Until the evaluation is complete, the student must meet requirements applicable to students without IEPs. Once the evaluation is complete and an IEP is developed, apply this rule to determine the student’s eligibility.

### **32. What happens if a student with a disability is not eligible under this rule?**

As is true of non-disabled students, the student may practice, but may not participate in competition or dress for competition. A local district may provide, however, that ineligible competitors are not permitted to practice.

### **33. Does the rule apply to students with only Section 504 accommodation plans?**

No. The purpose of a 504 accommodation plan is to put the student on equal footing with

the student's non-disabled peers, whereas an IEP is for students for whom a level playing field is not the expected outcome. Thus, when a student on a 504 plan fails a course, the school should ask itself two questions: (1) are the accommodations in the plan appropriate and (2) were they adequately provided to the student? If the answers are both in the affirmative, the student is ineligible.

**34. Does the rule apply to an ELL (English Language Learner) student who may have difficulty with school work because of lack of proficiency in English?**

No. Much like a student with a section 504 accommodation plan, an ELL student is to be receiving services designed to make the student proficient in the English language, but in the meantime, the student may produce work to be graded in the student's native language.