

**§ 115C-106.3. Definitions.**

The following definitions apply in this Article:

- (1) Child with a disability. – A child with at least one disability who because of that disability requires special education and related services.
- (2) Disability. – Includes intellectual disability; hearing impairment, including deafness; speech or language impairment; visual impairment, including blindness; serious emotional disturbance; orthopedic impairment; autism; traumatic brain injury; other health impairments, specific learning disability, or other disability as may be required to be included under IDEA. For a child ages three through seven, this term also includes developmental delay.
- (3) Dispute. – A disagreement between the parties.
- (3a) Educational services. – All of the following:
  - a. The necessary instructional hours per week in the form and format as determined by the child's IEP team and consistent with federal and State law. The instruction shall be delivered by an appropriately qualified teacher to the extent required by federal and State law, which requires a free appropriate public education and the opportunity for a sound basic education.
  - b. Related services included in the child's IEP.
  - c. Behavior intervention services to the extent required by federal law.
- (4) Free appropriate public education. – Special education and related services that satisfy all of the following:
  - a. Are provided at public expense, under public supervision and direction, and without charge.
  - b. Meet the standards of the State Board.
  - c. Include an appropriate preschool, elementary school, or secondary school education in the State.
  - d. Are provided in conformity with an individualized education program.
- (5) Hearing officers. – Administrative law judges as defined in G.S. 150B-2(1).
- (5a) Homebound instruction. – Educational services provided to a student outside the school setting.
- (6) IDEA. – The Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1400, et seq., (2004), as amended, and federal regulations adopted under this act.
- (7) IEP Team. – As defined in IDEA.
- (8) Individualized education program (IEP). – A written statement for each child with a disability that is developed, reviewed, implemented, and revised consistent with IDEA and State law.
- (9) Infant or toddler with a disability. – As defined in IDEA.
- (10) Least restrictive environment. – To the maximum extent appropriate, children with disabilities are educated with children who do not have disabilities, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.
- (11) Local educational agency. – Includes any of the following that provides special education and related services to children with disabilities:
  - a. A local school administrative unit.
  - b. A charter school.
  - c. The Department of Health and Human Services.

- d. The Division of Juvenile Justice of the Department of Public Safety.
  - e. Repealed by Session Laws 2017-186, s. 2(yyyy), effective December 1, 2017.
  - f. Any other State agency or unit of local government.
- (12) Mediation. – An informal process conducted by a mediator with the objective of helping parties voluntarily settle their dispute.
- (13) Mediator. – A neutral person who acts to encourage and facilitate a resolution of a dispute.
- (14) Parent. – Any of the following:
- a. A natural, adoptive, or foster parent.
  - b. A guardian, but not the State if the child is a ward of the State.
  - c. An individual acting in the place of a natural or adoptive parent, including a grandparent, stepparent, or other relative, and with whom the child lives.
  - d. An individual who is legally responsible for the child's welfare.
  - e. A surrogate if one is appointed under G.S. 115C-109.2.
- (15) Party or parties. – The local educational agency or the parents, or both.
- (16) Petition. – A request for a due process hearing as provided for under IDEA.
- (17) Preschool child with a disability. – A child with one or more disabilities who meets all of the following criteria:
- a. Has reached his or her third birthday and whose parents have requested services from the public schools.
  - b. Is not eligible to enroll in public kindergarten.
  - c. Because of the disability, needs special education and related services in order to prepare the child to benefit from the educational programs provided by the public schools, beginning with kindergarten.
- (18) Related services. – As defined in IDEA.
- (18a) Residence. – The place where a child with a disability is entitled to be enrolled in a North Carolina public school under G.S. 115C-366 except for the age requirements of that section. This definition does not apply to children with disabilities who were (i) enrolled in a particular local school administrative unit on the last day of school for the 2006-2007 school year, or (ii) enrolled in and attending a school in a particular local school administrative unit on August 1, 2007, for the 2007-2008 school year for as long as they live within and are continuously enrolled in that local school administrative unit. "Reside" means to have a residence as defined in this subdivision.
- (19) Rules. – Includes rules, policies, and procedures. Rules as defined in G.S. 150B-2(8a) shall be adopted in accordance with Article 2A of Chapter 150B of the General Statutes.
- (20) Special education. – Specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability. The term includes instruction in physical education and instruction conducted in a classroom, the home, a hospital or institution, and other settings. (1977, c. 927, s. 1; 1981, c. 423, s. 1; 1983, c. 247, ss. 1, 2; 1983 (Reg. Sess., 1984), c. 1034, ss. 23, 24; 1985, c. 479, s. 26(a); 1985, c. 780, ss. 3, 4; 1989(Reg. Sess., 1990), c. 1003, s. 5; 1996, 2nd Ex. Sess., ch. 18, s. 18.24(b); 2006-69, s. 2; 2007-292, s. 1; 2007-429, s. 1; 2008-90, s. 1; 2011-145, s. 19.1(h), (l); 2017-186, s. 2(yyyy); 2018-47, s. 9; 2021-180, ss. 7.25(a), 19C.9(y).)