

7.3 Terminology Used in this Chapter

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Incapacity to proceed is defined under North Carolina’s statutes to mean a juvenile who “by reason of mental illness or defect . . . is unable to understand the nature and object of the proceedings against him, to comprehend his own situation in reference to the proceedings, or to assist in his defense in a rational or reasonable manner.” G.S. 15A-1001(a). The term “incapable of proceeding” is used interchangeably. The term “incompetent” (see definition below) has a separate and distinct legal definition under current North Carolina law and is not interchangeable with “capacity,” but is sometimes used as such. Older North Carolina cases, as well as opinions from federal court and courts of other states, may also use the terms interchangeably.

Incompetent refers to an individual who has been adjudicated incompetent to make or communicate important decisions concerning one’s person, family, or property pursuant to the procedures of Chapter 35A, “Incompetency and Guardianship,” and who has been appointed a guardian pursuant to that chapter. *See* G.S. 35A-1101(7), (8).

Individualized education program (IEP) is the unique plan developed for each public school child with a disability who needs special education and related services. The IEP is developed by a team of qualified professionals and the child’s parents to address the specific needs of the child within the school setting. The IEP must be designed to meet the requirements of the Individuals with Disabilities Education Act (IDEA), Part B. *See* [A Guide to the Individualized Education Program, U.S. Department of Education](#) (July 2000).