



# nectac notes

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## **Eligibility Policies and Practices for Young Children Under Part B of IDEA**

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### **Introduction**

The identification of young children in need of special education and related services has been an issue with advocates, service providers, parents, researchers, and policy makers for years. The enactment in 1975 of the Education for All Handicapped Children Act (P. L. 94-142) required states and jurisdictions to provide special education and related services to children identified by the disability categories enumerated in the law (hereinafter referred to as Part B categories). This hard-won legislation was deemed an important civil rights act for children with disabilities, and it was important to specify just who was protected by this law.

As implementation of this legislation continued throughout the late 1970s and into the 1980s, concerns were raised in some quarters about how applicable and appropriate some of the disability categories are for very young children. The research community was, and remains, concerned that in young children, some developmental domains are so interrelated — e.g., cognition and language — that the underlying disability may not be readily determined. The emphasis on assignment of a disability category in order to provide access to services may result in inappropriate diagnoses and services. Some advocates maintain that labeling children with some disabling conditions in their early years creates a self-fulfilling prophecy and unfairly stigmatizes children who, with early intervention, may not continue to need special education.

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In response to these concerns and to support states that had begun using non-categorical eligibility criteria for preschoolers, Congress incorporated several revisions addressing eligibility for preschoolers in subsequent reauthorizations of the law. In 1986, P. L. 99-457 encouraged states to serve all eligible children with disabilities from age 3 — relieved states of reporting to the U. S. Department of Education the numbers of 3-through 5-year-olds served by disability category. In 1991, P. L. 102-119 amended the law, by then renaming the Individuals with Disabilities Education Act (IDEA), to allow states, at their option, to incorporate an additional disability category for children, ages 3 through 5 years, who are experiencing developmental delays. The IDEA Amendments of 1997, P. L. 105-17, expanded the options that state and local education agencies (LEAs) have to identify

young children with disabilities. States and LEAs could apply the term developmental delay, or a term defined by the state to include children experiencing developmental delay, to 3- through 9-year-olds. The regulations for P. L. 105-17 charged the states with defining developmental delay, the age range to which it applies, and the diagnostic instruments and procedures that will be used to determine delay in the developmental areas. If the state has such a definition, LEAs may choose to use the state term, applying it to the age range specified by the state, but they may not use a locally defined term. P.L. 105-17 also reinstated a reporting requirement that children ages three through five served under Part B of IDEA be counted by disability category. The IDEA Improvement Act of 2004, P.L. 108-446, clarified that the age range for developmental delay is ages 3 through 9, or any subset of that range, including ages 3 through 5. The most recent regulations reaffirmed the states' role in deciding whether to use a developmental delay category, defining it, and assigning an age range. LEAs may use developmental delay only if they use the states' definition and age range. The Part B disability categories currently included in IDEA are presented in Table 1. Table 2 presents the Part B regulations for developmental delay.

In response to states' interest in whether or how other states are using developmental delay or other eligibility category specific to 3- through 9-year-olds, the author reviewed the current eligibility classifications and criteria as retrieved from states' Web sites, the National State Policy Database (2007) and/or provided by the coordinators of the state Part B-Section 619 programs, including the District of Columbia. Periodically data presented in this report are sent to the coordinators for their review. The author has incorporated their corrections and clarifications into this report. The results of

Table 1

**Part B Disability Categories Under IDEA****SEC.602. DEFINITIONS**

Except as otherwise provided, in this title:

(3) Child with a disability

(A) In general — The term “child with a disability” means a child—

(i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this title as “emotional disturbance”), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

(ii) who, by reason thereof, needs special education and related services.

(B) Child aged 3 through 9 — The term “child with a disability” for a child aged 3 through 9 (or any subset of that age range, including ages 3 through 5), may, at the discretion of the State and the local educational agency, include a child—

(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

(ii) who, by reason thereof, needs special education and related services.

Individuals with Disabilities Education  
Improvement Act of 2004.

Table 2  
**IDEA Regulations Related to Developmental Delay  
 for Children Ages 3 Through 9 Years**

**§300.8 Child with a disability.**

(a) General. (1) Child with a disability means a child evaluated in accordance with Sec. Sec. 300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as "emotional disturbance"), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

(2)(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under Sec. Sec. 300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part.

(ii) If, consistent with Sec. 300.39(a)(2), the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be a child with a disability under paragraph (a)(1) of this section.

(b) Children aged three through nine experiencing developmental delays. Child with a disability for children aged three through nine (or any subset of that age range, including ages three through five), may, subject to the conditions described in Sec. 300.111(b), include a child--

(1) Who is experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

(2) Who, by reason thereof, needs special education and related services.

*[Note: (c) (1-13) includes definitions of other terms used in the definition of a child with a disability]*

**§ 300.111(b) Children experiencing developmental delays.**

(b) Use of term developmental delay. The following provisions apply with respect to implementing the child find requirements of this section:

(1) A State that adopts a definition of developmental delay under Sec. 300.8(b) determines whether the term applies to children aged three through nine, or to a subset of that age range (e.g., ages three through five).

(2) A State may not require an LEA to adopt and use the term developmental delay for any children within its jurisdiction.

(3) If an LEA uses the term developmental delay for children described in Sec. 300.8(b), the LEA must conform to both the State's definition of that term and to the age range that has been adopted by the State.

(4) If a State does not adopt the term developmental delay, an LEA may not independently use that term as a basis for establishing a child's eligibility under this part.

(c) Other children in child find. Child find also must include-- (1) Children who are suspected of being a child with a disability under Sec. 300.8 and in need of special education, even though they are advancing from grade to grade; and

(2) Highly mobile children, including migrant children.

(d) Construction. Nothing in the Act requires that children be classified by their disability so long as each child who has a disability that is listed in Sec. 300.8 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act.

(Authority: 20 U.S.C. 1401(3)); 1412(a)(3))

the analysis are discussed below and are summarized in Table 3. Table 4 details each state's chosen disability term(s) for early childhood, the age range to which it applies, criteria for eligibility under that term, restrictions on use of developmental delay/other early childhood disability category, and other comments. These data are maintained by the author at <http://www.nectac.org/~pdfs/pubs/nnotes24.pdf>.

### Findings

The analysis revealed variations among state policies in terminology, age range assigned to the category, eligibility criteria, and restrictions on its use.

### Disability Terminology Used for Young Children

State eligibility policies for young children under Part B of IDEA have evolved to reflect best practice and to respond to changes in the federal law. Fifty of the fifty-one jurisdictions included in this analysis include a disability category unique to young children. Two states offer LEAs the option of a non-categorical approach to identification of eligible children of all ages. Thirty-seven (37) states have chosen to use the term "developmental delay" or a variant such as "significant developmental delay" as a disability category for eligible young children. For many years before the addition of developmental delay as a disability category under Part B, some states chose to use more generic descriptors of disability for young children or may even have adopted non-categorical eligibility policies for all ages. Terms such as "early childhood disability" and "preschool special needs," among others, were adopted by states to more appropriately address the unique developmental status of young children and to avoid premature and self-fulfilling labeling. Seventeen states use terms other than developmental delay for disability in young children.

### Age Ranges Used by States for Developmental Delay

IDEA '97 provided for the extension of developmental delay by allowing states to adopt the term for the age range 3 through 9, or any subset of that age range. Twenty-three (23) states extend the age range for developmental delay beyond age five: two through age 6; five through age 7; eight through age 8; and eight through age 9. Two other states, Iowa and Idaho, permit LEAs to use a non-categorical approach for all ages. Two states have proposed rule changes that would increase the upper age limit for developmental delay. One currently uses an age range of three through seven and would extend to three through eight. The other would extend the age range from three through five to three through nine.

### Relationship Between Developmental Delay and Other Part B Categories

Two (2) states have policies that allow LEAs to use developmental delay or another early childhood disability category for preschool aged children while maintaining local discretion to use them for an extended age range. See Kansas and Nebraska in Table 4.

Eleven (11) states limit the use of developmental delay to those children who do not qualify for one of the other disability categories.

### Eligibility Criteria for Developmental Delay

The criteria for developmental delay vary across states. Forty-four (44) states use quantitative criteria such as scores on developmental tests. Thirty-six (36) of the thirty-nine (39) using norm referenced criteria use 2.0 standard deviations (SD) below the mean in one developmental area and/or 1.5 SD below the mean in two or more developmental areas. The range is 1.0 SD in one area to 3.0 SD in one area. Eighteen (18) states define delay in

percentages. Sixteen (16) of them specify a delay in the range of 20 to 33 percent in one or two developmental areas. For example, a 36-month-old child functioning at a 27-month developmental level would be said to have a 25 percent delay.

States do not rely exclusively on quantitative criteria for developmental delay, however. Fourteen (14) states permit informed team consensus, professional judgment, or informed clinical opinion in lieu of test scores to determine eligibility. Nine (9) states allow eligibility based on a diagnosis of a condition associated with delay or deviation in development. Eight (8) states do not specify quantitative criteria, but may provide guidance, and/or permit LEAs to set the criteria.

#### **Eligibility Policies and Transition**

Five states have eligibility policies that may improve transition from Part C early intervention to Part B preschool special education. Vermont children who receive special instruction, developmental therapy services, or speech services through an IFSP and Minnesota children served under Part C retain eligibility as they transition to Part B at age three. They are reevaluated no more than 3 years after eligibility under Part C was determined. Florida has a temporary assignment policy. With parental permission, a child previously enrolled in early intervention may be assigned temporarily to preschool special education for a six month period during which eligibility for permanent assignment will be determined through evaluation. Colorado encourages Part C and Part B dual eligibility determination for two-year-old children, so that children, their families, and agencies are not burdened by repeated evaluations. Alabama regulations state that evaluations done within one year of the date of the initial eligibility determination meeting are considered valid for determining initial eligibility for special education services.

Thus, a child evaluated for Part C eligibility around age two would have valid evaluation data for a Part B eligibility determination.

#### **Conclusion**

States have exhibited a strong interest in using the option of a developmental delay eligibility category for young children served by IDEA, and in extending the age range to which it applies. They use a variety of assessment procedures. States have begun to address the local option provision in the law to encourage the continued use of developmental delay. And, they are beginning to address policy provision that might ease transition from Part C to Part B.

NECTAC maintains information on states' early intervention and special education eligibility policies for young children on our web site. Please address your updates, questions, or clarifications to the author at NECTAC.

Table 3  
**Summary of State Eligibility Classifications and Criteria  
 for Young Children Under Part B of IDEA**

**Disability Terms Used**

“Developmental delay” or a variant such as “Significant Developmental Delay” is used by 37 states: AL, AK, CT, DE, DC, FL, GA, HI, ID, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NV, NH, NM, NC, OK, OR, PA, RI, SD, TN, UT, VT, VA, WA, and WI.

Other disability terms are used by 17 states for some or all of the age range 3 through 9.

AZ	Preschool moderate delay, preschool severe delay, preschool speech/language delay
AR	Non-categorical
CA	Individual with exceptional needs
CO	Preschool child with a disability
DE	Preschool speech delay (in addition to DD)
ID, IA	Non-categorical permitted for all ages
KS	Early childhood disability (ages 3 through 5, use DD for ages 3 through 9)
MT	Child with disabilities (ages 3 through 5)
NJ	Preschool disabled
NY	Preschool student with a disability
ND	Non-categorical delay
OH, SC	Preschool child with a disability
TX	Non-categorical early childhood
WV	Preschool special needs
WY	Developmental disability

**Age Ranges for Developmental Delay, Other Early Childhood Disability Categories  
 and Non-categorical Policies**

Birth	through 5	(1)	MS
	through 8	(1)	NE
Ages 2	through 8	(1)	VA
Age 3	only	(1)	DE (developmental delay)
Ages 3	through 4	(1)	DE (preschool speech delay)
	through 5	(26)	AZ, AR, CA, CO, CT, FL, IL, IN, KS (early childhood disability), ME, MO, MT, NV, NJ, NY, OH, OR, PA, RI, SC, SD, TX, VT, WV, WI, and WY*
	through 6	(2)	DC, MN
	through 7	(5)	GA, MI, NC, OK**, and UT
	through 8	(6)	AL, AK, HI, KY, LA, and WA (**OK, proposed)
	through 9	(8)	ID, KS, MD, MA, NH, NM, ND, and TN (*WY, proposed)
All ages		(2)	ID, IA (permit LEAs to use non-categorical for all ages)

### Relationship Between Developmental Delay and Other Part B Categories

Eleven (11) states use developmental delay, or other disability term, for the age range to which it applies, *only after considering* other disability categories.

AZ, CO, DC, ID, MI, NM, ND, TN, UT, WI, and WY

Two (2) states have policies that separate preschool developmental delay from their extended age range, thus permitting LEAs to use developmental delay for preschool children and not for school age children.

KS, NE

### Eligibility Criteria

Forty-four (44) states use quantitative criteria for determining developmental delay or state-designated early childhood disability category.

Thirty-six of the thirty-nine (36 of 39) states that use standard deviations use 2.0 SD below the mean in one developmental area and/or 1.5 SD below the mean in 2 developmental areas. (Range 1.0 SD – 3.0 SD in one area).

Sixteen of the eighteen (16 of 18) states that use percent delay specify criteria within the range of 20 - 33% delay in one or two developmental areas. (Range 10-50% delay in one area)

A total of twenty-eight (28) states permit eligibility based on other than quantitative scores, including team consensus, diagnosed conditions, and/or locally determined criteria.

Fourteen (14) states specify quantitative criteria but expressly permit informed team consensus, professional judgment or informed clinical opinion in lieu of quantitative criteria.

CO, CT, DE, FL, HI, ID, KY, MD, MN, MO, NE, NM, NC, and ND

Nine (9) states expressly permit early childhood eligibility based on the diagnosis of a condition associated with a disability. Note that eligibility criteria for other categories such as mental disability or other health impaired may include diagnosed conditions.

CA, CO, MD, MN, MS, NE, ND, RI, and VT

Eight (8) states do not specify quantitative criteria, but may provide guidance, and/or permit LEAs to set criteria.

CA, IL, IA, KS, MA, NH, TX, and VA

### Eligibility Policies and Transition

Five (5) states have eligibility policies that may improve transition from Part C to Part B

VT Eligibility is extended for three years from initial Part C eligibility if a child received special instruction, developmental therapy services or speech services on an IFSP under Part C.

MN Children served under Part C retain eligibility as they transition to Part B at age three. They are re-evaluated no more than 3 years after eligibility under Part C is determined.

FL A child previously enrolled in early intervention may be assigned temporarily to preschool special education for a six-month period during which eligibility for permanent assignment will be determined through evaluation.

CO Part C and Part B dual eligibility determination for 2-year-old children is encouraged.

AL Evaluations done within one year of the date of the initial eligibility determination meeting are considered valid for determining initial eligibility for special education services

Table 4  
**Summary Table of Early Childhood Special Education Eligibility Criteria  
 in the States, and District of Columbia, as of May 2007**

How to Read This Table

Column 1 – State abbreviation, alphabetized by complete name

Column 2 – Developmental Delay or Early Childhood-Specific Category/Classification and Criteria

- Contains the state's term(s) in quotation marks for disability category used only for young children, typically in the age range 3 through 9 or a subset thereof
- Contains the eligibility criteria or said term(s)
- Criteria for early-childhood-specific eligibility categories typically reference a child's status in one or more developmental areas. The term "area" in this column refers to developmental area. Although states vary somewhat, most list five areas (or some variation thereof): cognitive, language, physical, psychosocial and self-help. SD refers to standard deviations below the mean on a norm-referenced standardized instrument. The number of developmental areas in which a delay is required is the minimum. For example 2 SD below the mean in one area means *at least* one developmental area.

Column 3 – Age Range for Developmental Delay or Early Childhood-Specific Category - the age range to which the category in column 2 applies

Column 4 – Notes

- "Restriction" indicates whether the state policy is to use developmental delay, or other disability term specific to early childhood, only if the child is not eligible under another category but meets the criteria for developmental delay, or other term
- "Transition" notes describe features of state eligibility policies that may ease transition, for eligible children, from Part C to Part B

Column 5 – Source and Date. State policies used in the analysis were current at the time of analysis. The sources included:

- Rules or regulations
- Guidance document such as Guidelines, Handbook
- State statute, code
- Departmental correspondence, bulletin, memo distributed within the state on implementing eligibility policy
- State's plan and procedures for implementing IDEA submitted to OSEP
- Personal communication from Section 619 Coordinator or other state official
- Date on the source document, date effective, or most recent date acknowledged. For example, some state documents on-line may show the most recent date that volume of regulations was updated. It may not mean that the regulations for special education changed on that date. The National State Policy Database ( <http://www.rrfnetwork.org/NSPD> ) and state Web sites were sources of the policies. Where proposed regulations were available those were also reviewed and their dates are cited.

State	Developmental Delay (DD) or Early Childhood-Specific Category/Classification and Criteria	Age Range for DD or Early Childhood-Specific Category	Notes	Source and Date
AL	<p>“Developmental delay”: 2 SD in one area 1.5 SD in two areas</p> <p><i>plus</i></p> <p>Supporting evidence on criterion-referenced or other norm-referenced instrument and evidence delay adversely affects performance of age appropriate activities. In rare circumstances age-equivalent scores from criterion-referenced test may be used to determine the percent of delay.</p>	3 through 8	<p>Restriction on DD/EC Category Transition from Part C to Part B</p> <p><i>Transition:</i> Any evaluation conducted within one year prior to the date of the initial eligibility determination meeting is considered valid for determining initial eligibility for special education services.</p>	Regulations 9/05
AK	<p>“Early childhood developmentally delayed”: 2 SD or 25% delay in one area 1.7 SD or 20% delay in two areas</p>	3 through 8		Regulations 9/05
AZ	<p>“Preschool moderately delayed”: 1.5 SD in two areas</p> <p>“Preschool severely delayed”: More than 3 SD in one area</p> <p>“Preschool speech/language delayed”: 1.5 SD and assessment indicates child not eligible under a different category</p> <p><i>plus</i></p> <p>Parent input, comprehensive developmental assessment and preponderance of information</p>	3 to “required age for kindergarten” (LEA may admit child within 90 days of third birthday but receives no state or federal funds until date of third birthday)	<p><i>Restriction:</i> Preschool speech/language delayed used only if child is not eligible under a different category</p>	Statute 1/07
AR	<p>“Noncategorical”: Means a condition of developmental delay which impairs a child’s functioning</p> <p>2 SD in one area 1.5 SD in two areas</p> <p>Delays in self-help and motor skills (gross and fine) can be expressed in months, %ile, or age equivalents using criterion-referenced tests: 3 years: 11 months, &lt;3%ile, 2 yr 1mo or less-one area 8 months, &lt;7%ile, 2 yr 4 mo or less-two areas 4 years: 14 months, &lt;3%ile, 2 yr 10 mo or less-one area 11 months, &lt;7%ile, 3 yr 1 mo or less-two areas 5 years: 18 months, &lt;3%ile, 3 yr 6 mo or less-one area 14 months, &lt;7%ile, 3 yr 10 mo or less-two areas</p>	3 through 5		Regulations 6/00



State	Developmental Delay (DD) or Early Childhood-Specific Category/Classification and Criteria	Age Range for DD or Early Childhood-Specific Category	Notes	Source and Date
DC	<p>“Developmental Delay”:                      Child... experiences severe developmental delays of at least two years below his or her chronological age  <i>and/or</i>                      2 SD in one area</p>	3 through 7	<p>Restriction on DD/EC Category Transition from Part C to Part B</p> <p><i>Restriction:</i> No child may be classified as having Developmental Delay based solely on deficits in the area of social and/or emotional development.</p>	Regulations 2/03
FL	<p>“Developmentally delayed”:                      2 SD or 25% delay in one area                      1.5 SD or 20% delay in two areas  <i>or</i>                      Informed clinical opinion</p>	3 through 5	<p><i>Transition:</i> Temporary assignment up to 6 months for children previously enrolled in early intervention, pending evaluation for eligibility.</p>	Regulations 2006 TA Paper 7/03
GA	<p>“Significant developmental delay”:                      2 SD in one area                      1.5 SD in two areas</p>	3 through 7		Regulations 8/01
HI	<p>“Developmental delay”:                      1.5 SD in one area, except if the area is cognitive, then adaptive development must also be 1.5 SD below the mean (3 through 5)                      1.5 SD in 3 areas (6 through 8)  <i>or</i>                      Team, including parent, determines that patterns of learning deviate from age expectations across settings and provides the basis and method used in determining eligibility</p>	3 through 8  Note: Different criteria for 6 through 8		Regulations 6/00

State	Developmental Delay (DD) or Early Childhood-Specific Category/Classification and Criteria	Age Range for DD or Early Childhood-Specific Category	Notes	Source and Date
ID	<p>“Developmental delay”: Used when other disability categories don't apply 2 SD or 30% delay in age equivalency or function at less than the third percentile in one area 1.5 SD or 25% delay in age equivalency or function at less than the seventh percentile in two or more areas <i>or</i> Professional judgment</p> <p>Noncategorical: LEAs may apply for and use a noncategorical waiver.</p>	3 through 9	<p>Restriction on DD/EC Category Transition from Part C to Part B</p> <p><i>Restriction:</i> “Developmental delay” should not be used when a student clearly meets the criteria of another disability category</p>	Regulations 2006 and Manual 2/07
IL	<p>“Developmentally delayed”: Meet the criteria of one or more of the other disability categories and are experiencing delay in at least one area</p>	3 through 5		Regulations 4/03
IN	<p>“Developmental delay”: 2 SD in one area 1.5 SD in two areas</p>	3 through 5 and not eligible to be enrolled in kindergarten (5 on or before July 1)		Regulations 6/02
IA	<p>AEAs and LEAs may identify students of all ages using either a categorical or noncategorical model. “... in certain circumstances the educational diagnosis of specific disability, such as autism or sensory impairment may enhance the development and ongoing provision of an appropriate educational program.”</p>	N/A		Regulations 2/00 and IDEA Eligibility Document 11/01
KS	<p>“Early Childhood Disability”: Significant delay in one or more developmental areas “Developmental delay”: Measured by appropriate diagnostic instruments and procedures.</p>	3 through 5 3 through 9		Regulations 5/01

State	Developmental Delay (DD) or Early Childhood-Specific Category/Classification and Criteria	Age Range for DD or Early Childhood-Specific Category	Notes	Source and Date
KY	<p>"Developmental delay": 2 SD in one area 1.5 SD in two areas</p> <p><i>or</i></p> <p>Professional judgment of significant atypical quality or pattern of development if normed scores are inconclusive and there is written documentation</p>	3 through 8	Restriction on DD/EC Category Transition from Part C to Part B	Regulations 9/00
LA	"Developmental delay": 1.5 SD or 25% delay in one area	3 through 8		Regulations 4/04
ME	<p>"Developmental delay": 2 SD in one area 1.5 SD in two areas &lt;1.5 SD in two areas, if other measures indicate significant delay</p> <p>Follow-up assessment in 1 year for 1.0-1.5 SD below the mean in 2 areas</p>	3 through 5		Regulations 6/03
MD	<p>"Developmental delay" : 25% delay in one area</p> <p><i>or</i></p> <p>Atypical development or behavior</p> <p><i>or</i></p> <p>Diagnosed condition with high probability of delay</p>	3 through 9		Regulations 1/02 MD Technical Assistance Bulletin 8 03/03
MA	"Developmental delay": Learning capacity significantly limited, impaired, or delayed and is exhibited by difficulties in one or more areas	3 through 9		Regulations 7/05
MI	"Early Childhood developmental delay": 50% delay in one or more areas	3 through 7	Restriction: If primary delay can not be differentiated through other criteria (categories)	Regulations 5/05
MN	<p>"Developmental delay": 1.5 SD in two areas</p> <p><i>or</i></p> <p>Medically diagnosed syndrome or condition</p> <p><i>or</i></p> <p>Professional judgment (i.e., team override)</p>	3 through 6	Transition: A child served under Part C retains eligibility for 3 years from initial Part C eligibility determination.	Regulations 1/05

State	Developmental Delay (DD) or Early Childhood-Specific Category/Classification and Criteria	Age Range for DD or Early Childhood-Specific Category	Notes	Source and Date
MS	<p>“Developmental delay”: 1.5 SD or 25% delay in two areas <i>or</i> Diagnosis of disorder of known etiology or chronic or acute medical condition by physician with research to support predicted delays</p>	Birth through 5		Regulations 7/03 (Same in draft regulations 3/06)
MO	<p>“Young Child with a Developmental Delay” (YCDD): 2 SD or equivalent levels in one area 1.5 SD or equivalent levels in two areas <i>or</i> Professional judgment – significant deficit that does not meet stated criterion; or, functioning above criterion due to intensive early intervention, to avoid regression</p>	3 through 5 if identified prior to age of kindergarten eligibility		Regulations 2005
MT	<p>“Child with disabilities... ages 3 through 5”: experiences a severe delay in development, meets criteria of one of the disability categories <i>or</i> 2 SD in one area 1.5 SD in two areas</p>	3 through 5		Regulations 7/04
NE	<p>“Developmental delay”: 2 SD in one area 1.3 SD in two areas <i>or</i> Informed clinical opinions of qualified professionals in consultation with the family <i>or</i> Diagnosed condition with high probability of resulting in a developmental delay</p>	Birth through 4+ At discretion of LEA through age 8		Regulations 5/06
NV	<p>“Developmentally delayed”: 2 SD in one area 1 SD in two areas</p>	3 until 6 <sup>th</sup> birthday if on or before 9/30 of current school year		Regulations 2/01

State	Developmental Delay (DD) or Early Childhood-Specific Category/Classification and Criteria	Age Range for DD or Early Childhood-Specific Category	Notes	Source and Date
NH	"Developmental delay": Has impairment in development <u>and</u> has been determined to have one of the other educationally disabling conditions	3 through 9	Restriction on DD/EC Category Transition from Part C to Part B	Regulations 7/02
NH	"Developmental delay": Has impairment in development <u>and</u> has been determined to have one of the other educationally disabling conditions	3 through 9		Regulations 7/02
NJ	"Preschool disabled": 33% in one area 25% in two areas	3 through 5		Regulations 9/06
NM	"Developmentally delayed": 2 SD or 30% in one area <i>or</i> Professional judgment of qualified evaluator and IEP team	3 through 9	<i>Restriction:</i> "Developmentally delayed" may only be used if child does not qualify under another category	Regulations 8/04 (Same in proposed rules 2/07 to take effect 7/07)
NY	"Preschool student with a disability": 2 SD or 33% delay in one area 1.5 SD or 25% delay in two areas <i>or</i> 12-month delay in one or more areas	3 through 5, if 5 <sup>th</sup> birthday not on or before December 1		Regulations 1/07

State	Developmental Delay (DD) or Early Childhood-Specific Category/Classification and Criteria	Age Range for DD or Early Childhood-Specific Category	Notes ..... Restriction on DD/EC Category Transition from Part C to Part B	Source and Date
NC	<p>“Developmentally Delayed”:</p> <p>(a) Delayed/Atypical Development                      2 SD or 30% delay in one area                      1.5 SD or 25% delay in two areas                      and</p> <p>Informed educational/clinical opinion and appropriate assessment measures.</p> <p><i>or</i></p> <p>(b) Delayed/Atypical Behavior                      evidence that the patterns of behavior occur in more than one setting over an extended period of time.</p> <p>(i) for ages 3-5, one or more of the following:</p> <ul style="list-style-type: none"> <li>a. delayed or abnormalities in achieving milestones and/or difficulties with issues, such as:                             <ul style="list-style-type: none"> <li>1. attachment and/or interaction with other adults, peers, materials, and objects;</li> <li>2. ability to communicate emotional needs;</li> <li>3. ability to tolerate frustration and control behavior, or</li> <li>4. ability to inhibit aggression.</li> </ul> </li> <li>b. fearfulness, withdrawal, or other distress that does not respond to comforting or interventions;</li> <li>c. indiscriminate sociability, for example, excessive familiarity with relative strangers; or</li> <li>d. Self-injurious or other aggressive behavior.</li> </ul> <p>(ii) ages 6-7, two or more of the following:</p> <ul style="list-style-type: none"> <li>a. the inability to interact appropriately with adults and peers;</li> <li>b. the inability to cope with normal environmental or situational demands;</li> <li>c. the use of aggression or self-injurious behavior, or</li> <li>d. the inability to learn due to social/emotional deficits.</li> </ul> <p>(iii) Identification based on informed educational/clinical opinion and appropriate assessment measures.</p>	3 through 7		Regulations 10/04

State	Developmental Delay (DD) or Early Childhood-Specific Category/Classification and Criteria	Age Range for DD or Early Childhood-Specific Category	Notes	Source and Date
ND	<p>"Non-categorical delay": 2.0 SD or 30% delay in one area, 1.5 SD or 20% in two areas <i>or</i> Syndromes and disorders associated with disability; children functioning above stated criteria but eligible based on expected regression if intervention discontinued; children impacted by severe substantiated environmental deprivation such as both parents being developmentally disabled.</p>	3 through 9	<p>Restriction: Use limited to unclear diagnosis and well documented delay</p>	Guidelines 9/04
OH	<p>"Preschool child with a disability": 2 SD in one area (if cognitive or adaptive must have delay in one other area) 1.5 SD in two areas <i>or</i> Meets specific criteria for vision or hearing deficit</p>	3 through 5		Guidance 6/05 (Same in proposed rules 4/07)
OK	<p>"Developmental delay": 2 SD or 50% in one area 1.5 SD or 25% delay in two areas</p>	3 through 7 (3 through 8 proposed, 2007)	<p>Restriction: LEA must declare annually its decision to use "developmental delay." If LEA does not use DD, then use all disability categories</p>	Procedures 7/02 (Age range change only in proposed procedures 4/07)
OR	<p>"Developmental delay": 1.5 SD in two areas</p>	3 up to the age of eligibility for public school		Rules current 4/07 (Same in proposed rules dated 1/07)
PA	<p>"Developmental delay": 1.5 SD or 25% delay in one or more areas</p>	3 to first grade entry, could be 5.5 years as set by LEA		Regulations 6/01 (Same in working draft regulations 3/07)

State	Developmental Delay (DD) or Early Childhood-Specific Category/Classification and Criteria	Age Range for DD or Early Childhood-Specific Category	Notes	Source and Date
RI	<p>"Developmental delay": 2 SD or 25% delay in one area 1.5 SD in two areas</p> <p><i>or</i></p> <p>Diagnosed physical or mental condition which would adversely affect educational performance</p>	3 through 5	Restriction on DD/EC Category Transition from Part C to Part B	Regulations 12/00
SC	<p>"Preschool child with a disability": 2 SD in one area 1.5 SD in two areas</p> <p><i>or</i></p> <p>Meets state criteria for speech or language, orthopedic, visual, deafness or hearing impairments, deaf-blindness, autism, traumatic brain injury, or multiple disabilities</p>	3 through 5		Regulations 9/03
SD	<p>"Developmental delay": Has Part B disability or severe delay which is defined as 2 SD in one area 1.5 SD in two areas</p>	3 through 5		Regulations 5/00
TN	<p>"Developmental delay": 2 SD or 40% delay in one area 1.5 SD or 25% delay in two areas</p> <p><i>and</i></p> <p>Professional observation in the child's natural environment</p> <p><i>and</i></p> <p>Interview with family member documenting child's strengths and needs</p>	3 through 9 (initial eligibility before age 7)	Restriction: other categories should be used if they are more descriptive of child's strengths and needs	Rules 7/05 Manual 5/03
TX	<p>"Noncategorical Early Childhood": May be used when a child meets criteria for learning disability, mental retardation, emotional disturbance, or autism, or when evaluation data establish a belief that the child meets the requirements for one or more of these categories</p>	3 through 5		Regulations 6/04 (Same in proposed rules 4/07)
UT	<p>"Developmental delay": 2.5 SD or &lt; 1%ile in one area 2.0 SD or &lt; 2%ile in two areas 1.5 SD or &lt; 7%ile in three areas</p>	3 through 7	Restriction: When adequate evaluation data are available, children must be classified in one of the other specific disabilities categories.	Regulations 9/03

State	Developmental Delay (DD) or Early Childhood-Specific Category/Classification and Criteria	Age Range for DD or Early Childhood-Specific Category	Notes	Source and Date
VT	Eligible for essential early education based on: Developmental delay 2 SD or 40% or 2%ile in one area 1.5 SD or 7%ile in two areas <i>or</i> Medical condition that may result in significant delays	3 through 5	<i>Transition:</i> If a child receives special instruction, developmental therapy services, or speech services through an IFSP, eligibility is established until 3 years from initial Part C eligibility determination.	Regulations 8/06
VA	"Developmental delay": Delay in one or more areas (local standards used, 25% delay or 1.0 SD per anecdotal reports)	2 through 8		Regulations 3/02
WA	"Developmental delay": Child meets criteria for developmental delay — 2 SD in one area 1.5 SD in two areas (doesn't apply to ages 6 through 8)	3 through 8		Rules 4/02 (Same in proposed rules 4/07)
WV	"Preschool special needs": 25% delay in two areas	3 through 5 (beginning of school year if child turns 3 in the fall)		Regulations 3/05
WI	"Significant developmental delay": 1.5 SD in two areas (or equivalent score) Other suspected handicapping conditions shall be considered	3 through 5 <i>or</i> below compulsory school age	<i>Restriction:</i> "Significant developmental delay" used after other categories considered	Regulations 7/01
WY	"Developmental disability": Child does not qualify in other categories; 2 SD in one area 1.5 SD in two areas <i>and</i> Results of hearing and vision screening confirm child's performance is not a results of hearing or vision impairment	3 to enrollment in a public school program (3 through 9 proposed)	<i>Restriction:</i> Child does not qualify in other categories	Rules 5/00 (Age range change only in proposed rules 4/07)

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