

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

*by Joan Danaher*

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.

In response to these concerns and to support states that had begun using noncategorical eligibility criteria for preschoolers, Congress incorporated several revisions addressing eligibility for preschoolers in subsequent reauthorizations of the law. In 1986, P. L. 99-457 — which 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 renamed 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,

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expanded the options that state and local education agencies (LEAs) have to identify young children with disabilities. States and locals may now 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 charge 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 it, 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, 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 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, at NECTAC, analyzed the current eligibility classifications and criteria as retrieved from states' web sites, the National State Policy Database (2004) 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 corrections and clarifications provided by the coordinators have been incorporated into this report. The results of 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, use of other Part B disability categories, restrictions on use of the early childhood disability category, and other comments. These data are maintained by the author at <http://www.nectac.org/pubs/pdfs/nnotes15.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-six (36) states have chosen to use "developmental delay" or a variant such as "significant developmental delay" as a disability category for eligible young children, ages 3 through 9, or a subset of that age range. In the 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 "preschool delay,"

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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****§300.7 Child with a disability.**

(a) General. (1) As used in this part, the term child with a disability means a child evaluated in accordance with §§300.530-300.536 as having mental retardation, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, serious emotional disturbance (hereafter referred to 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 §§300.530-300.536, 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 §300.26(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 3 through 9 experiencing developmental delays. The term child with a disability for children aged 3 through 9 may, at the discretion of the State and LEA and in accordance with §300.313, 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.

**§ 300.313 Children experiencing developmental delays.**

(a) Use of term developmental delay. (1) A State that adopts the term developmental delay under §300.7(b) determines whether it applies to children aged 3 through 9, or to a subset of that age range (e.g., ages 3 through 5).

(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 §300.7(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.

(b) Use of individual disability categories. (1) Any State or LEA that elects to use the term developmental delay for children aged 3 through 9 may also use one or more of the disability categories described in §300.7 for any child within that age range if it is determined, through the evaluation conducted under §§300.530-300.536, that the child has an impairment described in §300.7, and because of that impairment needs special education and related services.

(2) The State or LEA shall ensure that all of the child's special education and related services needs that have been identified through the evaluation described in paragraph (b)(1) of this section are appropriately addressed.

(c) Common definition of developmental delay. A State may adopt a common definition of developmental delay for use in programs under Parts B and C of the Act. (Authority: 20 U.S.C. §1401(3)(A) and (B))

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 “Early Childhood Developmental Delay” is used by 36 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, VA, WA, and WI.

Other disability terms are designated by 18 states for some or all of the age range 3 through 9.

|        |   |
|--------|---|
| AZ     | Preschool moderate delay, preschool severe delay, preschool speech/language delay   |
| AR     | Noncategorical  |
| CA     | Individual with exceptional needs   |
| CO     | Preschool child with a disability   |
| DE     | Preschool speech delay (in addition to DD)  |
| ID, IA | Noncategorical permitted for all ages (ID LEAs use DD unless apply for noncategorical waiver)                             |
| KS     | Early childhood disability (ages 3 through 5, use DD for ages 6 through 9)  |
| MT     | Child with disabilities (ages 3 through 5)  |
| NJ     | Preschool disabled  |
| NY     | Preschool student with a disability   |
| ND     | Noncategorical delay  |
| OH     | Preschool child with a disability   |
| SC     | Preschool child with a disability   |
| TX     | Noncategorical early childhood  |
| VT     | Eligible for essential early education – includes developmental delay, medical condition, extension of Part C eligibility |
| WV     | Preschool special needs   |
| WY     | Developmental disability  |

### Age Ranges for Developmental Delay and Other Early Childhood Disability Categories

|          |           |      |   |
|----------|-----------|------|---|
| Birth    | through 5 | (2)  | MS and OR   |
|          | through 7 | (1)  | MI  |
|          | 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, ND, OH, PA, RI, SC, SD, TX, VT, WV, WI, and WY |
|          | through 6 | (2)  | DC, MN  |
|          | through 7 | (4)  | GA, NC, OK, and UT  |
|          | through 8 | (6)  | AL, AK, HI, KY, LA, and WA  |
|          | through 9 | (6)  | ID, MD, MA, NH, NM, and TN  |
| Ages 6   | through 9 | (1)  | KS (developmental delay)  |
| All ages |           | (2)  | ID, IA (permit LEAs to use noncategorical for all ages)   |

## Application of Developmental Delay or Other Early Childhood Disability Categories

Twelve (12) states use developmental delay, or other disability term, for the age range to which it applies, *only after considering* other disability categories.

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

Thirty-six (36) states add developmental delay to the list of Part B disability categories.

AL, AK, CO, CT, FL, GA, HI, IL, IN, KS (ages 6-9), KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NC, ND, OR, PA, RI, SD, TN, TX, UT, VA, WI, and WY

Ten (10) states use developmental delay or other early childhood category to subsume all other Part B categories.

CA, IL, KS (ages 3-5), MO (permissible), MT, OH, SC, SD, WA, and WV

Nine (9) states use developmental delay or other early childhood category to subsume disabilities such as learning disability, mental retardation, emotional disturbance, and/or autism.

AZ, AR, DE, DC, ID, NY, OK, SC, and TX

## Eligibility Criteria

Forty-three (43) states use quantitative criteria for determining developmental delay or state-designated early childhood disability category.

Thirty-five of the thirty-eight (35 of 38) 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).

Fifteen of the seventeen (15 of 17) 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

Ten (10) 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, NJ, ND, RI, and VT

Nine (9) states do not specify quantitative criteria, but may provide guidance, and/or permit LEAs to set criteria.

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

Four (4) states have eligibility policies that promote “seamless” eligibility 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.  |

“preprimary impaired,” “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. Eighteen states use terms other than developmental delay for disability in young children. Please note that three states use *both* developmental delay and another term unique to preschool. Each state’s terminology, definition and criteria, and age range is shown in Table 4.

### 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. To date, a total of twenty-one (21) states extend developmental delay beyond age five: two through age 6; five through age 7; eight through age 8; six through age 9; and, one uses developmental delay for ages 6 through 9. Two states permit LEAs to use a non-categorical approach for all ages.

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

State policies also vary in the application of the developmental delay, or other disability category in the context of the other early childhood disability categories. Thirty-seven (37) states add developmental delay to the list of Part B disability categories used for eligibility. Some state policies are constructed such that developmental delay subsumes or is a substitute for all, or some of, the other disability categories. Ten (10) states define developmental delay as subsuming all of the other Part B disability categories. In nine (9) other states developmental delay subsumes some, but not all, of the other Part B categories. Thus a state might have as eligibility categories developmental delay and the other disability categories except for learning disability, mental retardation, and emotional disturbance. There may be different reasons why states have constructed their policies in this manner. One may be to serve children for whom determination of a specific disabling condition is unclear. For example, speech delays may result from a number of causes. A second purpose may be to substitute developmental delay for some of the more stigmatizing disability terms such as emotional disturbance.

Twelve states limit the use of developmental delay to those children who do not qualify for one of the other disability categories. This policy may serve the purpose of identifying children who “fall through the cracks” in the early

years only to be referred for special education services later. Each state’s use of other Part B disability categories, and any restrictions on use of developmental delay, or other early childhood disability category, is shown in Table 4.

### Eligibility Criteria for Developmental Delay

The criteria for developmental delay vary across states. Forty-three (43) states use quantitative criteria such as scores on developmental tests. Thirty-five (35) of the thirty-eight (38) 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. Seventeen (17) states define delay in percentages. Fifteen (15) 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. Ten (10) states allow eligibility based on a diagnosis of a condition associated with delay or deviation in development. Nine (9) states do not specify quantitative criteria, but may provide guidance, and/or permit LEAs to set the criteria.

Finally, four states have eligibility policies regarding children transitioning from Part C early intervention to Part B preschool special education, or transferring into or within the state. 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.



## Conclusion

States have exhibited a strong interest in using the option of a developmental delay eligibility category for young children served by IDEA. Future changes in state eligibility policies may reflect several provisions related to eligibility policies and practices that are contained in the regulations. These provisions require that:

- ★ a variety of assessment tools and strategies, including information from parents, be used to gather relevant functional and developmental information to assist in determining eligibility (see 34 C.F.R. §300.532–Evaluation procedures);
- ★ a team of qualified professionals and the parent(s) of the child be involved in the eligibility decision (see 34 C.F.R. §300.534–Determination of eligibility); and
- ★ the IEP team for each eligible child include the parents of the child (see 34 C.F.R. §300.344–IEP team).

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.

## References

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**Table 4**  
**Summary Table of Early Childhood Special Education Eligibility Criteria**  
**in the States, and District of Columbia, as of January 2004**

How to Read This Table

Column 1 – State abbreviation

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 – Use of Part B Disability Categories/Restriction on Developmental Delay or Early Childhood-Specific Category

- "Used" indicates which Part B disability categories are used for children in the early childhood age range designated by the state
- "Subsumed" indicates which Part B disability categories the state includes within its definition or criteria for DD or for its early childhood-specific category; developmental delay is used for categories such as learning disabilities which may be difficult to definitively diagnose in younger children
- "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

Column 5 – Source and Date. Sources include:

- 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. NASDSE's FORUM project has provided leadership in the National State Policy Database and maintains a table of expected state regulations revisions. The database is found on the Web at <http://128.146.206.233/Resources/NSPD.cfm>



| State | Developmental Delay (DD) or Early Childhood-Specific Category/Classification and Criteria   | Age Range for DD or Early Childhood-Specific Category   | Use of other Part B Categories (those used, those subsumed in definition of DD) ----- Restriction on DD/EC Category  | Source and Date     |
|-------|---|---|--|---------------------|
| AL    | <p>"Developmental delay":<br/>2 SD in one area<br/>1.5 SD in two areas</p> <p>Supporting evidence on criterion-referenced or other norm-referenced instrument and evidence delay adversely affects performance of age appropriate activities</p>  | 3 through 8   | Used: All  | Regulations<br>9/01 |
| AK    | <p>"Early childhood developmentally delayed":<br/>2 SD or 25% delay in one area<br/>1.7 SD or 20% delay in two areas</p>  | 3 through 8   | Used: All<br>Restriction: "Early childhood developmentally delayed" should not be used when child meets criteria for another disability category                         | Regulations<br>7/02 |
| AZ    | <p>"Preschool moderately delayed":<br/>1.5 SD in two areas</p> <p>"Preschool severely delayed":<br/>More than 3 SD in one area</p> <p>"Preschool speech/language delayed":<br/>1.5 SD and assessment indicates child not eligible under a different category<br/><i>plus</i><br/>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) | Used: Hearing, vision impairment<br>Subsumed: All others<br>Restriction: Preschool speech/language delayed used only if child is not eligible under a different category | Statute<br>5/00     |
| AR    | <p>"Noncategorical":<br/>Means a condition of developmental delay which impairs a child's functioning<br/>2 SD in one area<br/>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:<br/>3 years: 11 months, &lt;3%ile, 2 yr 1 mo or less-one area<br/>8 months, &lt;7%ile, 2 yr 4 mo or less-two areas<br/>4 years: 14 months, &lt;3%ile, 2 yr 10 mo or less-one area<br/>11 months, &lt;7%ile, 3 yr 1 mo or less-two areas<br/>5 years: 18 months, &lt;3%ile, 3 yr 6 mo or less-one area<br/>14 months, &lt;7%ile, 3 yr 10 mo or less-two areas</p> | 3 through 5   | Subsumed: Mental retardation, emotional disturbance, learning disability<br>Used: All others   | Regulations<br>6/00 |
| CA    | <p>"Individual with exceptional needs" has one of the other disabling conditions, or an "established medical disability" - a disabling medical condition or congenital syndrome...high predictability of requiring special education and services</p>   | 3 through 5   | Subsumed: All  | Statute<br>1/00     |

| State | Developmental Delay (DD) or Early Childhood-Specific Category/Classification and Criteria  | Age Range for DD or Early Childhood-Specific Category | Use of other Part B Categories (those used, those subsumed in definition of DD)<br><u>Restriction on DD/EC Category</u>  | Source and Date                                  |
|-------|--|---|--|--|
| CO    | <p>"Preschool child with a disability":<br/>1.5 SD in one area or 7%ile or standard score of 76<br/>or<br/>Has identifiable condition known through empirical data to be associated with significant delays in development<br/>or<br/>Informed opinion of assessment team with written documentation</p> <p>Note: for 2 year old children, CO encourages Part C and Part B dual eligibility determination.</p> | 3 (by the end of the first semester) through 5        | <p>Used: Long-term physical impairment or illness, significant limited intellectual capacity, significant identifiable emotional disorder, identifiable perceptual or communicative disorder, or speech disorder</p> <p>Restriction: Child for whom appropriate category (above) can not be determined may qualify under criteria at left</p>                              | Regulations 5/02 and Personal Communication 1/05 |
| CT    | <p>"Developmental delay":<br/>2 SD in one area<br/>1.5 SD in two areas<br/>or<br/>Informed clinical opinion of multidisciplinary team, with written documentation when standardized instrument is not appropriate<br/>and/or<br/>child requires significant adaptation to perform on a standardized instrument</p>   | 3 through 5   | Used: All  | Guidance 6/00                                    |
| DE    | <p>"Developmental delay" – 3-year-olds only (categorical for 4-year-olds):<br/>2 SD in one area<br/>1.5 SD in two areas<br/>or<br/>Professional judgment of IEP team based on multiple sources of information and written justification</p>  | 3 only  | <p>For 3-year-olds -<br/>Used: Autism, deaf-blindness, hearing impairment, severe and trainable mental disability, physical impairment, traumatic brain injury, visual impairment, preschool speech delay<br/>Subsumed: Learning disability, emotional disturbance, educational mental disability</p> <p>For 4 year olds-<br/>Used: Preschool speech delay, all others</p> | Regulations 7/00                                 |
| DC    | <p>"Preschool speech delay" –Significant delay in one or more areas: articulation, conversational speech, oral motor involvement, speech fluency, voice quality</p> <p>"Developmental Delay":<br/>Child... experiences severe developmental delays of at least two years below his or her chronological age<br/>and/or<br/>2 SD in one area</p>  | 3 through 4<br><br>3 through 6                        | <p>Used: Autism, traumatic brain injury, mental retardation, emotional disturbance, other health impairment, orthopedic impairment, visual impairment/blindness, hearing impairment/deafness, speech/</p>  | Regulations 2/03                                 |

| State        | Developmental Delay (DD) or Early Childhood-Specific Category/Classification and Criteria  | Age Range for DD or Early Childhood-Specific Category       | Use of other Part B Categories (those used, those subsumed in definition of DD)<br><u>Restriction on DD/EC Category</u>  | Source and Date                                  |
|--------------|--|---|--|--|
| DC<br>con't. |  |   | language impairment<br><i>Subsumed:</i> Learning disability<br><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.     |  |
| FL           | "Developmentally delayed":<br>2 SD or 25% delay in one area<br>1.5 SD or 20% delay in two areas<br>or<br>Informed clinical opinion<br><br>Note: Also permits temporary assignment up to 6 months for children previously enrolled in early intervention, pending evaluation for eligibility.   | 3 through 5   | <i>Used:</i> All   | Regulations<br>9/04                              |
| GA           | "Significant developmental delay":<br>2 SD in one area<br>1.5 SD in two areas  | 3 through 7   | <i>Used:</i> All   | Regulations<br>8/01                              |
| HI           | "Developmental delay":<br>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)<br>1.5 SD in 3 areas (6 through 8)<br>or<br>Team, including parent, determines that patterns of learning deviate from age expectations across settings and provides the basis and method used in determining eligibility                     | 3 through 8<br><br>Note: Different criteria for 6 through 8 | <i>Used:</i> All   | Regulations<br>6/00                              |
| ID           | "Developmental delay":<br>Used when other disability categories don't apply<br>2 SD or 30% delay in age equivalency or function at less than the third percentile in one area<br>1.5 SD or 25% delay in age equivalency or function at less than the seventh percentile in two or more areas<br>or<br>Professional judgment<br><br>Noncategorical: LEAs may apply for and use a noncategorical waiver. | 3 through 9   | <i>Subsumed:</i> Learning disabled (for 3 through 5)<br><i>Used:</i> All others<br><br><i>Restriction:</i> "Developmental delay" should not be used when a student clearly meets the criteria of another disability category | Regulations<br>4/00<br>and<br>Guidelines<br>4/97 |

| State | Developmental Delay (DD) or Early Childhood-Specific Category/Classification and Criteria   | Age Range for DD or Early Childhood-Specific Category                                     | Use of other Part B Categories (those used, those subsumed in definition of DD) | Source and Date  |
|-------|---|---|---|--|
| IL    | "Developmentally delayed":<br>Meet the criteria of one or more of the other disability categories and are experiencing delay in at least one area   | 3 through 5   | Used: All<br>Subsumed: All  | Regulations<br>4/03  |
| IN    | "Developmental delay":<br>2 SD in one area<br>1.5 SD in two areas   | 3 through 5<br>and not eligible to be enrolled in kindergarten<br>(5 on or before July 1) | Used: All   | R<br>6/00  |
| IA    | AEAs and LEAs may identify students of all ages using either a categorical or noncategorical model.<br>"... 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." | N/A   | Used: All   | Regulations<br>2/00<br>and<br>IDEA Eligibility Document<br>11/01 |
| KS    | "Early Childhood Disability":<br>Significant delay in one or more developmental areas<br>-----<br>"Developmental delay": Definition as per federal regulations  | 3 through 5<br>-----<br>3 through 9   | Subsumed: All<br>-----<br>Used: All   | Regulations<br>5/00  |
| KY    | "Developmental delay":<br>2 SD in one area<br>1.5 SD in two areas<br><br>or<br>Professional judgment of significant atypical quality or pattern of development if normed scores are inconclusive and there is written documentation   | 3 through 8   | Used: All   | Regulations<br>9/00  |
| LA    | "Developmental delay":<br>1.5 SD or 25% delay in one area   | 3 through 8   | Used: All   | Guidelines<br>Pupil Appraisal Handbook<br>7/00                   |
| ME    | "Developmental delay":<br>2 SD in one area<br>1.5 SD in two areas<br><1.5 SD if other measures indicate significant delay<br><br>Follow-up assessment in 1 year for 1.0-1.5 SD below the mean in 2 areas  | 3 through 5   | Used: All   | Regulations<br>8/00  |

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|-------|--|--|--|--|
| MD    | "Developmental delay":<br>25% delay in one area<br>or<br>Atypical development or behavior<br>or<br>Diagnosed condition with high probability of delay  | 3 through 9  | Used: All  | Regulations and MD Technical Assistance Bulletin 8 03/03 |
| MA    | "Developmental delay":<br>Learning capacity significantly limited, impaired, or delayed and is exhibited by difficulties in one or more areas  | 3 through 9  | Used: All  | Regulations 9/00   |
| MI    | "Early Childhood developmental delay":<br>50% delay in one or more areas   | Birth through 7  | Used: All<br><br>Restriction: If primary delay can not be differentiated through other criteria (categories) | Regulations 11/02  |
| MIN   | "Developmental delay":<br>1.5 SD in two areas<br>or<br>Medically diagnosed syndrome or condition<br>or<br>Professional judgment (i.e., team override)<br><br>Note: A child served under Part C retains eligibility for 3 years from initial Part C eligibility determination.  | 3 through 6  | Used: All  | Regulations 6/00   |
| MS    | "Developmental delay":<br>1.5 SD or 25% delay in two areas<br>or<br>Diagnosis of disorder of known etiology or chronic or acute medical condition by physician with research to support predicted delays   | Birth through 5  | Used: All for ages 3 through 5   | Regulations 7/03   |
| MO    | "Young Child with a Developmental Delay" (YCDD):<br>2 SD or equivalent levels in one area<br>1.5 SD or equivalent levels in two areas<br>or<br>Professional judgment – significant deficit that does not meet stated criterion; or, functioning above criterion due to intensive early intervention, to avoid regression | 3 through 5 if identified prior to age of kindergarten eligibility | Used: All<br><br>Subsumed: All<br><br>Note: LEAs may use all categories plus YCDD or only YCDD               | State Plan 2001  |
| MT    | "Child with disabilities... ages 3 through 5": experiences a severe delay in development, meets criteria of one of the disability categories<br>or<br>2 SD in one area<br>1.5 SD in two areas  | 3 through 5  | Subsumed: All  | Regulations 7/00   |

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|-------|---|--|--|----------------------|
| NE    | "Developmental delay":<br>2 SD in one area<br>1.3 SD in two areas<br><br>or<br><br>Informed clinical opinions of qualified professionals in consultation with the family<br><br>or<br><br>Diagnosed condition with high probability of resulting in a substantial delay | Birth through 8+<br>(at discretion of LEA beyond age 5)                      | Used: All  | Regulations<br>10/00 |
| NV    | "Developmentally delayed":<br>2 SD in one area<br>1 SD in two areas   | 3 until 6 <sup>th</sup> birthday if on or before 9/30 of current school year | Used: All  | Regulations<br>2001  |
| NH    | "Developmental delay":<br>Has impairment in development and has been determined to have one of the other educationally disabling conditions   | 3 through 9  | Used: All  | Regulations<br>7/01  |
| NJ    | "Preschool disabled":<br>Identified disabling condition or measurable developmental impairment  | 3 through 5  | Used: All  | Regulations<br>3/02  |
| NM    | "Developmentally delayed":<br>2 SD or 30% in one area<br><br>or<br><br>Professional judgment of qualified evaluator and IEP team  | 3 through 9  | Used: All<br><i>Restriction:</i> "Developmentally delayed" may only be used if child does not qualify under another category<br><br>Note: Extension of DD for ages 5 through 9 does not affect continued availability of this category for ages 3 through 4                        | Regulations<br>8/00  |
| NY    | "Preschool student with a disability":<br>2 SD or 33% delay in one area<br>1.5 SD or 25% delay in two areas<br><br>or<br><br>12-month delay in one or more areas  | 3 through 5, if 5 <sup>th</sup> birthday not on or before December 1         | Used: Autistic, deaf, deaf-blind, hearing impaired, orthopedically impaired, other health impaired, traumatic brain-injured, visually impaired<br><i>Subsumed:</i> Mentally retarded, multiple disabilities, emotionally disturbed, learning disabled, speech or language impaired | Regulations<br>6/02  |



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|-------|--|---|---|---------------------|
| NC    | <p>"Developmentally Delayed":</p> <p>(a) Delayed/Atypical Development<br/>2 SD or 30% delay in one area<br/>1.5 SD or 25% delay in two areas<br/>and<br/>Informed educational/clinical opinion and appropriate assessment measures.</p> <p>or</p> <p>(b) Delayed/Atypical Behavior<br/>evidence that the patterns of behavior occur in more than one setting over an extended period of time.<br/>(i) for ages 3-5, one or more of the following:<br/>a. delayed or abnormalities in achieving milestones and/or difficulties with issues, such as:<br/>1. attachment and/or interaction with other adults, peers, materials, and objects;<br/>2. ability to communicate emotional needs;<br/>3. ability to tolerate frustration and control behavior, or<br/>4. ability to inhibit aggression.<br/>b. fearfulness, withdrawal, or other distress that does not respond to comforting or interventions;<br/>c. indiscriminate sociability, for example, excessive familiarity with relative strangers; or<br/>d. Self-injurious or other aggressive behavior.<br/>(ii) ages 6-7, two or more of the following:<br/>a. the inability to interact appropriately with adults and peers;<br/>b. the inability to cope with normal environmental or situational demands;<br/>c. the use of aggression or self-injurious behavior, or<br/>d. the inability to learn due to social/emotional deficits.<br/>(iii) Identification based on informed educational/clinical opinion and appropriate assessment measures.</p> | 3 through 7   | Used: All   | Regulations<br>8/00 |

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|-------|---|--|---|---------------------|
| ND    | <p>"Non-categorical delay":<br/>2.0 SD or 30% delay in one area,<br/>1.5 SD or 20% in two areas<br/>or<br/>Syndromes and disorders associated with disability; children functioning above stated criteria but eligible based on expected regression if intervention discontinued; children impacted by severe environmental deprivation such as both parents being developmentally disabled.<br/>Use limited to unclear diagnosis and well documented delay.</p> <p>"Preschool child with a disability":<br/>2 SD in one area (if cognitive or adaptive must have delay in one other area)<br/>1.5 SD in two areas</p> <p>or</p> <p>Meets specific criteria for vision or hearing deficit</p> | 3 through 5<br>(through the end of the school year in which the child turns 6) | <p>Used: All</p> <p>Restriction: Use limited to unclear diagnosis and well documented delay</p>   | Guidelines<br>8/99  |
| OH    |   | 3 through 5  | Subsumed: All   | Regulations<br>7/02 |
| OK    | <p>"Developmental delay":<br/>2 SD or 50% in one area<br/>1.5 SD or 25% delay in two areas<br/>For ages 6 – 7, a child identified under a specific disability category will not be re-evaluated for eligibility for developmental delay. May also use categorical criteria for initial eligibility under developmental delay.</p>   | 3 through 7  | <p>Used: Deaf-blindness, deafness or hearing impairment, visual impairment including blindness</p> <p>Subsumed: Autism, emotional disturbance, mental retardation, multiple disabilities, orthopedic impairments, other health impairments, specific learning disabilities, speech or language impairments, traumatic brain injury</p> <p>-or-</p> <p>Used: All<br/>LEA must declare annually its decision to use "developmental delay." If LEA does not use DD, then use all disability categories</p> | Regulations<br>7/01 |
| OR    | "Developmental delay":<br>1.5 SD in two areas or meet criteria for other disability category  | Birth to age of eligibility for public school                                  | Used: All   | Regulations<br>4/03 |
| PA    | "Developmental delay":<br>1.5 SD or 25% delay in one or more areas  | 3 to first grade entry, could be 5.5 years as set by LEA                       | Used: All   | Regulations<br>6/01 |

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|-------|--|---|---|----------------------|
| RI    | "Developmental delay":<br>2 SD or 25% delay in one area<br>1.5 SD in two areas<br><br>or<br>Diagnosed physical or mental condition which would adversely affect educational performance  | 3 through 5   | Used: All   | Regulations<br>12/00 |
| SC    | "Preschool child with a disability":<br>2 SD in one area<br>1.5 SD in two areas<br><br>or<br>Meets state criteria for speech or language, orthopedic, visual, deafness or hearing impairments, deaf-blindness, autism, traumatic brain injury, or multiple disabilities          | 3 through 5   | Subsumed: All   | Regulations<br>9/03  |
| SD    | "Developmental delay":<br>Has Part B disability or severe delay which is defined as<br>2 SD in one area<br>1.5 SD in two areas   | 3 through 5   | Used: All<br>Subsumed: All  | Regulations<br>9/98  |
| TN    | "Developmental delay":<br>2 SD or 40% delay in one area<br>1.5 SD or 25% delay in two areas<br>and<br>Professional observation in the child's natural environment<br>and<br>Interview with family member documenting child's strengths and needs                                 | 3 through 9<br>(initial eligibility before age 7)     | Used: All<br>TN also uses a "functionally delayed" category of disability<br><br>Restriction: other categories should be used if they are more descriptive of child's strengths and needs | Regulations<br>2002  |
| TX    | "Noncategorical Early Childhood":<br>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 | 3 through 5   | Used: All<br>Subsumed: LD, MR, ED, Autism   | Regulations<br>3/01  |
| UT    | "Developmental delay":<br>2.5 SD or < 1%ile in one area<br>2.0 SD or < 2%ile in two areas<br>1.5 SD or < 7%ile in three areas  | 3 through 7   | Used: All<br>Restriction: When adequate evaluation data are available, children must be classified in one of the other specific disabilities categories.                                  | Regulations<br>6/00  |

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|-------|---|--|---|--|
| VT    | Eligible for essential early education based on:<br>Developmental delay<br>40% delay in one area<br><br>or<br><br>Medical condition that may result in significant delays<br><br>Note: 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. | 3 through 5  | Used: None  | Regulations<br>8/01  |
| VA    | "Developmental delay":<br>Delay in one or more areas<br>(local standards used, 25% delay or 1.0 SD per anecdotal reports)   | 2 through 8<br>(2 through 5 required, 5 through 8 optional)            | Used: All   | Regulations<br>3/02  |
| WA    | "Developmental delay":<br>Child meets criteria for developmental delay –<br>2 SD in one area<br>1.5 SD in two areas (does not apply for 6 through 8)<br><br>or<br><br>Qualify for one of the other Part B categories  | 3 through 8<br><br>Note: Different criteria for 6 through 8            | Subsumed: All<br>Used: All  | Regulations<br>1/00  |
| WV    | "Preschool special needs":<br>25% delay in two areas  | 3 through 5<br>(beginning of school year if child turns 3 in the fall) | Subsumed: All   | Regulations<br>1/00  |
| WI    | "Significant developmental delay":<br>1.5 SD in two areas (or equivalent score)<br>Other suspected handicapping conditions shall be considered  | 3 through 5 or below compulsory school age                             | Used: All<br>Restriction: "Significant developmental delay" used after other categories considered            | Regulations<br>2/97<br>Departmental Bulletin<br>4/97, 8/98 |
| WY    | "Developmental disability":<br>Child does not qualify in other categories;<br>2 SD in one area<br>1.5 SD in two areas<br><br>and<br><br>Confirmation of developmental disability through observation data and information obtained from the child's parent(s), teachers, and/or primary caregivers.   | 3 to enrollment in a public school program                             | Used: All<br>Restriction: Child does not qualify in other categories  | Regulations<br>5/00  |