



Developmental Delay

The primary reason Colorado has chosen to add the eligibility category of Developmental Delay is that it aligns with the Individuals with Disabilities Education Act (IDEA). Adding the Developmental Delay category reduces inaccurate disability categories being determined for children between the ages of six and nine years. A young child's brain is still developing through the early elementary years and as a result one area of development can significantly impact other areas of development. This makes it difficult for an evaluation team to be clear about a child's true capabilities and area(s) of delay and disability.

Under IDEA the evaluation "shall ensure that the initial evaluation is sufficiently comprehensive to appropriately identify all of a child's special education and related services' needs, whether or not commonly linked to the disability category in which the child has been classified." {CFR 300.304 (c) (6)}. A child being considered eligible must meet one or more of the three criteria and "by reason thereof, needs special education and related services." {CFR 300.8 (b) (2)}.

[Determination of Eligibility: Developmental Delay](#)

If a student clearly meets the criteria in Speech and Language Impairment (SLI), should that eligibility category be used, even if the team has concerns about other areas of the child's development?

Not necessarily. A speech or language disorder can be a component to another eligibility category such as Autism Spectrum Disorder (ASD), Specific Learning Disability (SLD) or Developmental Delay or it can be a sole disability of SLI. When considering whether a speech and language disorder is a **component** of the Developmental Delay or as a **stand-alone eligibility** in Speech or Language Impairment, the team needs to complete a comprehensive evaluation in order to "appropriately identify all the child's special education and related needs." One of the most frequent reasons for referral to special education for a young child is due to speech or language concerns. When the student meets criteria for having a Speech or Language Impairment, the team must determine if there are concerns in other areas of development. If there are no other areas of concern, it would be appropriate to identify the student under the eligibility category of SLI. If, however, there are other areas of concern which may or may not clearly be identified under another eligibility category then eligibility under Developmental Delay needs to be considered.

If a child scores at or below the 7th percentile in expressive language but above the 7th percentile in receptive and overall language can he/she qualify under Developmental Delay when there are other concerns in development?

In the case of Developmental Delay a score of less than or equal to the 7th percentile in any of these areas: articulation, fluency, voice, functional communication or delayed language development (receptive and/or expressive) is used as part of a body of evidence. If there are no other developmental areas of concern then it would be appropriate to identify the student under the eligibility category of SLI as long as the student meets eligibility criteria under SLI. If, however, there are other developmental areas of concern which may or may not be clearly identified under another eligibility category then these concerns need to be considered and the team needs to determine if they are significant enough to meet eligibility criteria for Developmental Delay.



The definition states that this category can apply to a child who is experiencing delays in “one or more” area(s). What if the only area of delay is motor?

If the *only* area of identified delay is in the motor area, the team must ask, “does the delay prevent the child from receiving reasonable educational benefit from general education and does he/she need specialized instruction?” If the team determines the only services that are needed are related services, such as occupational and/or physical therapy, then the child does not qualify under IDEA. A child must need specialized instruction in order to meet eligibility criteria. Once determined eligible for specialized instruction, related services can be considered in order to support the child’s specialized instruction if they are required to assist the child to benefit from special education.

When should a school psychologist be involved in the evaluation of children ages 3 through 8 for whom there is a cognitive delay concern and what types of assessment should be administered?

If there is a concern about a student’s cognitive functioning, the team should gather a body of evidence to determine if further cognitive assessment is necessary. This can include pre-academic data, gaps in performance/behavior/development between same aged peers, academic delays, scores on adaptive behavior measures, language delays, social, health, and developmental history, observations across multiple settings, play-based assessment, interviews of teachers and families. A school psychologist may be involved at this point to interpret the body of evidence. If, based on the body of evidence, the team determines further cognitive assessment is warranted, then a school psychologist should be involved if not already a part of the process. If cognitive evaluations from an independent evaluator are being considered, the team must include an individual who can interpret the results of the evaluation(s).

How does a team determine if a student should be evaluated under Developmental Delay or any other disability category?

If a student meets eligibility criteria under any other disability category **and** there are no other concerns or questions about other areas of the student’s development, then the team would consider that disability category. If, however, there are other areas of concern which may not clearly be identified under another eligibility category then the team may consider qualifying under Developmental Delay.

Define “empirical data” as used in the second criteria and when would a team qualify a child under Developmental Delay versus Other Health Impairment or Orthopedic Impairment?

The term “empirical” is defined as *knowledge or research* (versus *theory*) that a particular medical condition is associated with significant delays in development, for example Down syndrome, cerebral palsy, spina bifida, etc. The IEP team makes a decision as to what eligibility category a child is determined eligible under IDEA.

A child may have an acute medical condition or an orthopedic impairment that is known to be associated with significant developmental delays *and* also have delays in other areas of development not commonly associated with that condition. Or the team may have concerns about other areas of development that cannot be attributed to the health or orthopedic impairment. In these instances the team may qualify the child under Developmental Delay.



How would an evaluation team use the third criteria; “A body of evidence indicating that patterns of learning are significantly different from age expectations across settings and there is written documentation by the evaluation team which includes the parent(s)” to qualify a child under Developmental Delay?

A team using these criteria must collect data from multiple sources (such as play-based and/or routines-based observations/assessments, language samples, developmental checklists, academic achievement, samples of classroom work, formal and informal assessments, parent and/or teacher interview, etc.) in order to assess how the child is functioning in different settings (e.g. classroom, child care, home, playground, etc.). The team must also consider how a delay in one area of development impacts other areas of development, especially for children ages three to six years. The team would then make the decision based on their in-depth knowledge of typical development that the child’s development and/or learning are significantly different from same age peers. It is imperative that examples of how the child’s development is significantly different be documented and that information gathered from the family is included in eligibility determination decisions.

How would you use the criteria of Developmental Delay with a child for whom you have concerns about their social/emotional development?

A standardized assessment for social emotional functioning could be used, such as the Behavior Assessment System for Children, Third Edition (BASC-3). A standardized adaptive behavior assessment could also be used such as the Vineland-3. Low adaptive behavior scores in the social domain may be used, as part of a body of evidence, to determine a delay in social/emotional functioning. These assessments need to be administered by a qualified professional (such as a school psychologist or school social worker) who can interpret the scores to determine if the child scores at or below the 7th percentile or if the scores are technically equivalent to a score at or below the 7th percentile. Alternatively, a body of evidence indicating that patterns of learning are significantly different from age expectations across settings with written documentation by the evaluation team, which includes the parent(s), can be obtained as outlined in the Social Emotional Disability (SED) guidelines on page 28.

Why is cognitive development included in the definition instead of academics or intellectual?

The definition of Developmental Delay in the Exceptional Children Education Act (ECEA) mirrors the language in the federal definition. However, in collecting and reviewing a body of evidence, especially for children in K-2, pre-academic and academic data can be utilized. This could include looking at gaps in academic performance and/or academic delays as compared to same age peers.

How does a team address the questions on the checklist that ask if the student’s performance is “not due to a lack of appropriate instruction” in reading and math when a child has not yet been in school?

When addressing these questions an evaluation team must consider whether or not the child is currently in a child care setting. If so, then information regarding instruction in math and reading should be gathered from the adults in those settings, as well as family members. When interpreting this question, teams can ask and reflect upon questions about early literacy practices in the home and/or child care setting such as, “Has the child been read to by adults?”, “Are there books in the home?”, “What are the kinds of story-telling and singing that happens when your family is together?”. As for math, “Does the child have access to toys or other items at home that they can sort and count?” Having



a dialogue about early literacy and math development also is a good first step toward partnering with families, as families are children's first teachers often providing appropriate instruction.

What services can be provided for a student who qualifies under Developmental Delay?

Part of the eligibility determination process includes answering the question if the disability prevents the child from receiving reasonable educational benefit from general education and needs specialized instruction. Therefore, at a minimum, the student must receive specialized instruction (which can be special education and/or speech & language services). Related services, such as occupational and/or physical therapy, may be provided based on the needs of the child. Regardless of the child's disability category services must be provided that meet the individual needs of the child.

The definition of Developmental Delay states that this category shall be used for children three through eight years of age, yet many students are being evaluated before they turn 3 and as early as 2.6 years of age. Can we qualify a student under Developmental Delay who is not yet age 3?

Yes. Many children being evaluated for eligibility under Developmental Delay are under the age of three at the time of the evaluation, specifically those transitioning from Part C Early Intervention services into Preschool Special Education services. Per IDEA, a child transitioning from Part C to Part B services must have an IEP implemented by the third birthday. Oftentimes this occurs 3-6 months prior to the child turning 3 and, in some administrative units (AU), services begin at age 2.6 years. The reason that evaluations are initiated and completed prior to the child's third birthday is because the child is entitled to a free and appropriate public education (FAPE) the day he or she turns 3 years old. If the AU were to wait until the 3rd birthday to commence the evaluation process, the child would not begin receiving services until after his or her third birthday, which would deprive the child of FAPE. In addition, AUs may begin providing special education services to eligible children who will turn 3 during the school year as per 300.323 (b) (1).

Community Centered Boards use the definition of "Developmental Disability" in order to qualify children and adults for services. How is that definition different from the "Developmental Delay" definition?

For individuals, ages 5 through adult, to qualify for services through a Community Centered Board the individual must be determined to have a developmental *disability*. As part of this determination an IQ test must be given in order to assess cognitive abilities. An IQ score is *not* required as part of the body of evidence when determining whether or not a child, age 3 through 8, is eligible under CDE's Developmental Delay category.

This CDE guidance document is meant for clarification, is not legally binding, and is not to be confused with legal advice. This guidance reflects CDE's recommendations, but Administrative Units (AUs) may have developed their own policies or procedures that differ from those described herein. Be sure to refer to your local AU's policies and procedures through the Director of Special Education. If you are seeking legal advice,

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