

nectac Notes no. 27

Eligibility policies and practices for young children under Part B of IDEA

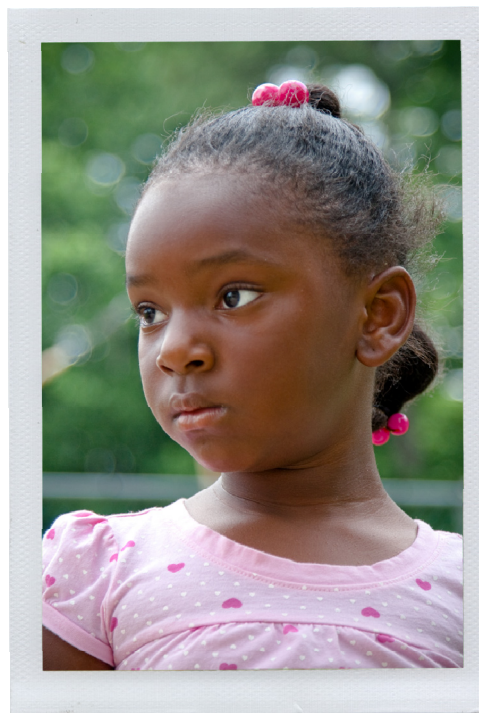
*by Joan Danaher
January 2011*

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.

To address 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 encouraged states to serve all eligible children with disabilities from age 3 and 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



The National Early Childhood Technical Assistance Center

919-962-2001 • phone 919-966-7463 • fax
www.nectac.org • web nectac@unc.edu • email

 **TA&D**
NETWORK

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 3 through 5 served under Part B of IDEA be counted by disability category. The Individuals with Disabilities Education 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 and/or provided by the coordinators of the state Part B-Section 619 programs, including the District of Columbia. The results of the analysis are discussed below and are summarized in Tables 3 and 4. Attachment 1 presents a summary of all the states' eligibility policies: disability term(s) for early childhood, the age range to which it applies, criteria for eligibility under that term, notes on the state's use of the term, including the relationship of the term to other Part B categories, whether eligibility policies address transition from Part C to Section 619 services, and additional information on the age range of developmental delay/other early childhood disability category, and other comments.

Table 1 Part B Disability Categories Under IDEA
<p>SEC. 602. DEFINITIONS Except as otherwise provided, in this title:</p> <p>(3) Child with a disability</p> <p>(A) In general — The term “child with a disability” means a child—</p> <p>(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</p> <p>(ii) who, by reason thereof, needs special education and related services.</p> <p>(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—</p> <p>(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, emotional development, or adaptive development; and</p> <p>(ii) who, by reason thereof, needs special education and related services.</p> <p style="text-align: right;">Individuals with Disabilities Education Improvement Act of 2004.</p> <p><i>*Note that in 2010, PL 111-256 changed the term "mental retardation" to "intellectual disability."</i></p>

FINDINGS

The analysis revealed a near universal adoption of an early childhood disability category and eligibility criteria, an increase in the number of states that extend the age range for the use of Developmental Delay or other early childhood category, a large number of states using the same or very similar quantitative criteria for delay while there is still a wide variation in degree of delay required, and relatively few explicit policies for continuity of eligibility from Part C early intervention to preschool special education.

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. As shown in Table 4, fifty of the fifty-one jurisdictions included in this analysis include a disability category unique to young children *or* a non-categorical approach to identification of eligible

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))

From Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities; Final Rule (August 14, 2006).

**Note that in 2010, PL 111-256 changed the term "mental retardation" to "intellectual disability."*

Table 3

Disability Terms and Age Ranges for Developmental Delay or Other Early Childhood Eligibility Special Education Classifications in the States

Disability Terms Used

“Developmental delay (DD)” or a variant such as “Significant Developmental Delay” is used by 42 (*an increase from 38 in 2007*) states:

AL, AK, AZ, CT, DE, DC, FL, GA, HI, ID, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, OH, OK, OR, PA, RI, SC, SD, TN, UT, VT, VA, WA, WI and WY.

Other disability terms are used by 11 states for some or all of the age range 3 through 9.

AZ	“Preschool severe delay” (<i>in addition to DD</i>)
AR	“Noncategorical”
CA	“Established medical disability”
CO, NJ	“Preschool child with a disability”
DE	“Preschool speech delay” (<i>in addition to DD</i>)
IA	“Eligible individual, noncategorical birth through age 21”
NY	“Preschool student with a disability”
ND	“Non-categorical delay”
TX	“Noncategorical early childhood”
WV	“Preschool special needs”

Age Ranges for Developmental Delay, Other Early Childhood Disability Categories and Noncategorical Policies

Birth through 8	(1) NE
through 9	(1) MS
Ages 2 through 6	(1) VA (<i>The only state to have lowered the age range since 2007, see http://www.doe.virginia.gov/special_ed/regulations/state/fast_facts/fast_fact_dev_delay.pdf for the rationale</i>)
Ages 3 through 4	(2) CA (<i>For Established medical disability</i>), DE (<i>For Preschool Speech Delay, DD is through age 8</i>)
through 5	(19) AR, CO, CT, FL, IN, ME, MO ¹ , MT, NV, NJ, NY, OH, OR, PA, SD, TX, VT, WV and WI <i>¹If identified as DD before kindergarten age</i>
through 6	(1) MN
through 7	(4) DC, MI, NC, and UT
through 8	(9) AL, AK, DE (DD), HI, KY, LA, OK, RI and WA
through 9	(13) AZ, GA ² , ID, IL, KS, MD, MA, NH, NM, ND, SC, TN ² and WY <i>²Initial eligibility determined before child's seventh birthday</i>
All Ages	(1) IA (<i>Eligible individual, birth through age 21</i>)

children. Forty-two (42) 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 “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. Eleven 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. Thirty (30) states (up from 23 in 2007) extend the age range for developmental delay beyond age five. The number of states having upper age limits at ages <5 through 9 for developmental delay/preschool disability category/noncategorical approach compared to the last analysis of this data is presented in Table 4.

Through age	2007	2011
<5	2	1
5	26	19
6	2	2
7	5	4
8	8	10
9	8	14
All Ages	2	1

Note: In 2007, one state had both DD through age 9 and a noncategorical option for all ages.

Relationship Between Developmental Delay and Other Part B Categories

Fifteen (15) states use developmental delay, or other early childhood disability term, only after considering other disability categories.

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

Four (4) states specify the other Part B disability categories that DD may be used in place of.

AR, DC, NY, OH, TX

One (1) state has a policy that separates preschool developmental delay from their extended age range developmental delay category, thus permitting LEAs to use developmental delay for preschool children and not for school age children.

NE - Developmental delay must be considered as one possible eligibility category for infants and toddlers birth through age four, and is a discretionary option for school districts and approved cooperatives to use for children age five through eight.

Eligibility Criteria

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

Thirty-nine (39) states use standard deviations (SD) below the mean on a norm-referenced instrument as criteria for delay, with 23 of them using a combination of 2.0 SD below the mean in at least one developmental area and/or 1.5 SD below the mean in 2 or more developmental areas. The range of all SD criteria used is 1.0 SD – 3.0 SD, ranging from one to three developmental areas.

Twenty-one (21) states use percent delay criteria ranging from 25-50% in one area and from 20-25% in two or more areas.

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, KY, MN, MO, NE, NM, NC, ND, OK and SD

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

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

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

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

Eligibility Policies and Transition

A comparison of states' Part C eligibility criteria (Ringwalt, 2011) with states' preschool special education eligibility criteria found seventeen (17) states, listed below, with at least one element of uniform quantitative eligibility criteria across the two programs. Note that this comparison did not address the likelihood of a child served in Part C being eligible for preschool special education, which may be addressed in another paper.

CT, GA, ID, IN, KY, LA, ME, MD, MS, NJ, NY, NC, OK, OR, PA, RI and TN

At least two (2) states have eligibility policies that may improve transition from Part C to Part B.

AL - Any evaluation is considered valid for determining initial eligibility for special education services if that evaluation is conducted within one year to the date of the IEP Team meeting to discuss what additional data, if any, is needed to determine eligibility.

VT - A child who received special instruction, developmental therapy services or speech services through an IFSP shall be eligible for EEE without need for additional evaluation.

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. While most states use quantitative criteria, many also use informed team consensus or eligibility based on a diagnosed condition associated with a disability. States have addressed the local option provision in the law to encourage the continued use of developmental delay. And, they are beginning to address policy provisions 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.

REFERENCES

Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities; Final Rule, 34 C.F.R. § 300-301 (2006). Retrieved from <http://www2.ed.gov/legislation/FedRegister/finrule/2006-3/081406a.html>

Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. § 1400 et seq. (2004). Retrieved from <http://www.copyright.gov/legislation/pl108-446.pdf>

Ringwalt, S. (2011). State Part C eligibility criteria. Manuscript in preparation.

Rosa's Law, Pub.L. No. 111-256, 124 Stat. 2643 (2010). Retrieved from <http://www.gpo.gov/fdsys/pkg/PLAW-111publ256/html/PLAW-111publ256.htm>

In addition, specific state policy citations are contained in Attachment 1- Summary Table of State Early Childhood Special Education Eligibility Criteria, January 2011.

Please cite as:

Danaher, J. (2011). *Eligibility policies and practices for young children under Part B of IDEA* (NECTAC Notes No. 27). Chapel Hill: The University of North Carolina, FPG Child Development Institute, National Early Childhood Technical Assistance Center.

This document appears at:

<http://www.nectac.org/~pdfs/pubs/nnotes27.pdf>

NECTAC Notes No. 27 is an update of NECTAC Notes No. 24 (2007). Previous editions were NECTAS & NECTAC Notes No. 6 (1998), No. 9 (2001), No. 13 (2004), and No. 15 (2005).

About the Author: Joan Danaher is Associate Director of NECTAC, and leads the Information Resources and Technology Unit.

Photos: *Alex Lazara*

All NECTAC publications are downloadable at no charge from www.nectac.org. NECTAC is committed to making the information it disseminates fully accessible to all individuals. To acquire this publication in an alternate format, please contact NECTAC Publications.

The National Early Childhood Technical Assistance Center (NECTAC) is supported by cooperative agreement H326H060005 with the Office of Special Education Programs (OSEP), U.S. Department of Education (ED). NECTAC is a part of OSEP's Technical Assistance and Dissemination (TA&D) Network. Grantees undertaking projects under government sponsorship are encouraged to express their judgment in professional and technical matters. Opinions expressed do not necessarily represent the Department of Education's position or policy.

Project Officer: *Julia Martin Eile*

Project Director: *Lynne Kahn*



UNC

FPG CHILD DEVELOPMENT INSTITUTE

NECTAC is a program of the FPG Child Development Institute at The University of North Carolina at Chapel Hill.

Summary Table of Early Childhood Special Education Eligibility Criteria in the States, and District of Columbia Compiled by NECTAC January 2011

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 of 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

- Use of the state’s Developmental Delay (DD), or other state-designated early childhood (EC) disability category, relative to other Part B disability categories, including: use limitations such as requiring that other Part B categories be used before DD; whether DD is used in place of one or more Part B categories; whether the state has eligibility criteria for any other Part B disability categories that are specific to preschool aged children
- Whether there are features of state eligibility policies that may ease transition for eligible children from Part C to Part B, or preschool special education to school age programs
- Additional information on age range

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

- State Statute, Rules or Regulations
- Guidance document such as Guidelines, Handbook
- 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

State	Developmental Delay (DD) or Early Childhood-Specific (EC) Category/Classification and Criteria	Age Range for DD or EC Category	Notes	Source and Date
AL	<p>“Developmental delay”: 2 SD in one area, validated by a second norm-referenced or criterion referenced instrument yielding 30% delay 1.5 SD in two areas, validated by a second norm-referenced or criterion referenced instrument yielding 25% delay</p>	3 through 8	<p>DD/EC use relative to other Part B categories, Transition, Age Range</p> <p><i>Transition:</i> Any evaluation is considered valid for determining initial eligibility for special education services if that evaluation is conducted within one year to the date of the IEP Team meeting to discuss what additional data, if any, is needed to determine eligibility.</p>	<p>Regulations 5/14/2009 http://www.alsde.edu/html/sections/doc_download.asp?section=65&id=10140&sort=1 (downloaded 1/6/2011)</p>
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	<p><i>Part B categories:</i> The category early childhood developmental delay should not be used when the child clearly meets the eligibility for another disability category.</p>	<p>Regulations 9/2007 http://www.eed.state.ak.us/tls/sped/handbook/Part_III_Eval_Elig.doc#sec8 (downloaded 1/6/2011)</p>
AZ	<p>“Developmentally delayed”: 1.5 to 3.0 SD in two areas Preschool severely delayed: More than 3 SD in one area</p>	3 through 9	<p><i>Part B categories:</i> Speech/language delay criteria for child younger than Kindergarten is specified as 1.5 SD and assessment indicates child not eligible under a different category or whose speech, out of context, is unintelligible to a listener who is unfamiliar with the child.</p>	<p>Statute 2007 http://www.azleg.state.az.us/FormalDocument.asp?mDoc=ars/15/00761.htm&Title=15&DocType=ARS (downloaded 1/6/2011)</p>
AR	<p>“Noncategorical”: 2 SD in one area 1.5 SD in two areas 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, <3%ile, 2 yr 1 mo or less-one area 8 months, <7%ile, 2 yr 4 mo or less-two areas 4 years: 14 months, <3%ile, 2 yr 10 mo or less-one area 11 months, <7%ile, 3 yr 1 mo or less-two areas 5 years: 18 months, <3%ile, 3 yr 6 mo or less-one area 14 months, <7%ile, 3 yr 10 mo or less-two areas</p>	3 through 5	<p><i>Part B categories:</i> Disability categories not used for ages 3 through 5 are: Emotional disturbance Mental retardation* Specific learning disability</p> <p><i>*Note that in 2010, PL 111-256, Rosa’s Law, changed the term mental retardation to intellectual disability. State policies are being changed as well.</i></p>	<p>Regulations 7/2008 http://arksped.k12.ar.us/sections/rulesandregulations.html#BOTTOM (downloaded 1/6/2011)</p>

State	Developmental Delay (DD) or Early Childhood-Specific (EC) Category/Classification and Criteria	Age Range for DD or EC Category	Notes <u>DD/EC use relative to other Part B categories, Transition, Age Range</u>	Source and Date
CA	<p>“A preschool child, between the ages of three and five years, qualifies as a child who needs early childhood special education services if the child meets the following criteria: (1) Is identified as having one of the following [13] disabling conditions, as defined in Section 300.8 of Title 34 of the Code of Federal Regulations, or an established medical disability, as defined in subdivision (d)... (d) For purposes of this section, ‘established medical disability’ is defined as a disabling medical condition or congenital syndrome that the individualized education program team determines has a high predictability of requiring special education and services.”</p>	3 through 5 (3 through 4 for established medical disability)		<p>http://www3.scoe.net/speced/laws_search/searchDetailsLaws.cfm?id=652&keywords=56026 (Age Law)</p> <p>http://www3.scoe.net/speced/laws_search/searchDetailsLaws.cfm?id=659&keywords=56441.11 (Part B disability categories or ‘Established medical disability’) (downloaded 1/24/2011)</p>
CO	<p>“Preschool child with a disability”: One or more of the following conditions: long-term physical impairment or illness, significant limited intellectual capacity, significant identifiable emotional disorder, specific learning disability, or speech language impairment.</p> <p>Children ages three through five who would otherwise qualify according to one or more of the above categorical conditions but for whom the category cannot be appropriately determined may qualify for preschool special education if multiple sources of information are utilized and if such children meet one or more of the following criteria: 1.5 SD in one area or 7%ile or standard score of 76 <i>or</i> Has identifiable condition known through empirical data to be associated with significant delays in development <i>or</i> Informed opinion of assessment team including the parent(s) with documentation of the rationale for the inability to obtain a standardized score</p>	3 (by the end of the first semester) through 5	<p><i>Transition:</i> Document at http://www.cde.state.co.us/cdesped/download/pdf/Guidance_DS-CDE_Transition_TA.pdf April 2010 says: The evaluation to determine eligibility for preschool (Part B) services may be done at the same time as EI eligibility or may be one of the steps listed in the transition plan.</p>	<p>Rules 2009 http://www.cde.state.co.us/spedlaw/download/2009CEARules.pdf (downloaded 1/6/2011)</p>
CT	<p>“Developmental delay”: 2 SD in one area 1.5 SD in two areas <i>or</i> Informed clinical opinion of multidisciplinary team, with written documentation when standardized instrument is not appropriate <i>and/or</i> child requires significant adaptation to perform on a standardized instrument</p>	3 through 5		<p>Guidance/State Coordinator 1/6/2011 Law http://www.cga.ct.gov/2009/pub/chap164.htm#Sec10-76a.htm (downloaded 1/6/2011)</p>

State	Developmental Delay (DD) or Early Childhood-Specific (EC) Category/Classification and Criteria	Age Range for DD or EC Category	Notes DD/EC use relative to other Part B categories, Transition, Age Range	Source and Date
GA	<p>“Significant developmental delay”: 2 SD in one area 1.5 SD in two areas</p>	3 through 9	<p><i>Age range:</i> Initial eligibility determined and IEP in place before child’s seventh birthday.</p>	<p>Regulations 3/11/2010 http://public.doe.k12.ga.us/_documents/legal/services/160-4-7-.05.pdf accessed through http://www.doe.k12.ga.us/ci_exceptional.aspx?PageReq=CIEXCAdoptedRules (downloaded 1/5/2011)</p>
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	<p><i>Age range:</i> Different criteria for 6 through 8</p>	<p>Rules 11/23/2009 http://iitimote.k12.hi.us/PUBLIC/ADMINR1.NSF/85255a0a0010ae8285255340060479d/a96bfdfcf49e72a390a2576790079de56?OpenDocument (downloaded 1/27/2011)</p>
ID	<p>“Developmental delay”: 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</p>	3 through 9	<p><i>Part B categories:</i> Developmental delay should not be used when a student clearly meets the criteria of another disability category.</p>	<p>Regulations 2006 and Manual 2/07 http://www.sde.idaho.gov/SpecialEducation/docs/Manual/Chapter4.pdf (downloaded 1/5/2011)</p>
IL	<p>“Developmental delay”: Delay in physical development, cognitive development, communication development, social or emotional development, or adaptive development</p>	3 through 9		<p>Regulations 3/21/2008 http://www.isbe.net/rules/archive/pdfs/226ark.pdf (downloaded 1/5/2011)</p>
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)		<p>Regulations 12/2010 http://www.doe.in.gov/exceptional/speed/docs/Art_7.pdf (downloaded 1/5/2011)</p>

State	Developmental Delay (DD) or Early Childhood-Specific (EC) Category/Classification and Criteria	Age Range for DD or EC Category	Notes <u>DD/EC use relative to other Part B categories, Transition, Age Range</u>	Source and Date
IA	<p>"Eligible individual": noncategorical designation for all individuals, birth through age 21.</p> <p>Specific disability designations are rarely utilized. The RTI process assures that all individuals with such disabilities as defined in IDEA are identified and served. The Iowa Performance Domains encompass the federal disability categories.</p>	N/A		<p>Special Education Eligibility Standards 7/2006</p> <p>http://www.iowa.gov/educate/index.php?option=com_content&view=article&id=619&Itemid=1644 (downloaded 1/5/2011)</p>
KS	<p>"Developmental delay": Measured by appropriate diagnostic instruments and procedures.</p> <p>KS uses a decision making process including parents and professionals, and sources of data known as GRIOT: General intervention/progress in the general curriculum; Record review; Interviews with significant adults in the child's life; Observations in environment appropriate for child's age; Tests- wide range of options are permitted. Details of the eligibility process are found in the Kansas Special Education Process Handbook.</p>	3 through 9		<p>KS Special Education Process Handbook 2/2008</p> <p>http://www.ksde.org/Default.aspx?tabid=3152</p> <p>Regulations 2008</p> <p>http://www.ksde.org/LinkClick.aspx?fileticket=17EDZ2jKf4%3d&tabid=3152&mid=6622 (downloaded 1/5/2011)</p>
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		<p>Regulations 8/26/2008</p> <p>http://www.education.ky.gov/KDE/Instructional+Resources/Exceptional+Children/Special+Education+Regulations/Kentucky+Administrative+Regulations.htm (downloaded 1/6/2011)</p>
LA	<p>"Developmental delay": 1.5 SD or 25% in one or more areas</p>	3 through 8		<p>LA Admin. Code 9/2010</p> <p>http://www.doa.louisiana.gov/osr/lac/28v43/28v43.doc</p> <p>Pupil Appraisal Handbook 7/1/2009</p> <p>http://www.louisianaschools.net/ld uploads/14241.doc (downloaded 1/5/2011)</p>

State	Developmental Delay (DD) or Early Childhood-Specific (EC) Category/Classification and Criteria	Age Range for DD or EC Category	Notes DD/EC use relative to other Part B categories, Transition, Age Range	Source and Date
ME	<p>"Developmental delay": 2 SD in one area 1.5 SD in two areas</p>	3 through 5, or through the Kindergarten year	<p><i>Part B categories:</i> Every effort will be made to identify a child's primary disability under one of the other Part B eligibility criteria, reserving developmental delay for those situations in which a clear determination cannot be made under any other category.</p> <p><i>Transition:</i> For a five-year-old who has transitioned from early childhood special education to a public school, and who has been determined eligible under developmental delay by CDS, and for whom the IEP Team cannot achieve consensus on Part B criteria for the kindergarten year, the eligible child may continue under the developmental delay criteria for that year. During the kindergarten year, the IEP Team will determine by means of further evaluation, assessments and classroom observations, whether the child is eligible as a child with a disability under Part B criteria.</p>	<p>Regulations 5/2010 http://www.maine.gov/education/speced/documents/071c101-2010final2010.pdf (downloaded 1/6/2011)</p>
MD	<p>"Developmental delay": 25% delay in one area <i>or</i> Atypical development or behavior <i>or</i> Diagnosed condition with high probability of delay</p>	3 through 9		<p>MD Technical Assistance Bulletin 8 12/2009 http://www.marylandpublicschools.org/NR/rdonlyres/0F00C262-9EFD-4F58-80C3-3DA05A224B2E/22583/TAB8RevisedDecember2009.pdf Regulations 5/7/2007 http://www.dsd.state.md.us/comar/comarhtml/13a/13a.05.01.03.htm (downloaded 1/5/2011)</p>

State	Developmental Delay (DD) or Early Childhood-Specific (EC) Category/Classification and Criteria	Age Range for DD or EC Category	Notes <u>DD/EC use relative to other Part B categories, Transition, Age Range</u>	Source and Date
MA	<p>“Developmental delay”: Learning capacity significantly limited, impaired, or delayed and is exhibited by difficulties in one or more areas</p>	3 through 9		Regulations 2/27/2007 http://www.doc.mass.edu/lawsregs/603cmr28.html?section=02#start (downloaded 1/5/2011)
MI	<p>“Early childhood developmental delay”: 50% delay in one or more areas</p>	3 through 7	<p><i>Part B categories:</i> Use DD if primary delay can not be differentiated through other criteria (categories)</p>	Regulations 6/2010 http://www.michigan.gov/documents/mde/2009-043_ED_Special_Education_Rule_Update_June2010_324752_7.pdf (downloaded 1/5/2011)
MN	<p>“Developmental delay”: 1.5 SD in two areas <i>or</i> Diagnosed physical or mental condition or disorder with high probability of resulting in developmental delay <i>or</i> Professional judgment (i.e., team override)</p>	3 through 6		Regulations 10/12/2007 https://www.revisor.mn.gov/rules/?id=3525 (downloaded 1/5/2011)
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 9	<p><i>Part B categories:</i> If the eligibility criteria are clearly met for one or more of the other twelve (12) eligibility categories, DD should not be used.</p>	Policies 7/2009 http://www.mde.k12.ms.us/SPECIAL_EDUCATION/policies/2009/POLICY_06-17-09.pdf (downloaded 1/5/2011)
MO	<p>“Developmental delay”: 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	<p><i>Age range:</i> Children kindergarten age eligible may continue eligibility as a Young Child with a Developmental Delay if they were identified as such prior to attaining kindergarten age eligibility.</p>	State Plan 2010 http://dese.mo.gov/schoollaw/rules/regs/Inc_By_Ref_Mat/IDEAPartB.html Standards 1/3/2011 http://dese.mo.gov/divspeced/Compliance/StandardsManual/index.html (downloaded 1/5/2011)
MT	<p>“Developmental delay”: 2 SD in one area 1.5 SD in two areas</p>	3 through 5		Rules 10/29/2005 http://www.mtrules.org/gateway/ruleneno.asp?RN=10%2E16%2E3010 (downloaded 1/5/2011)

State	Developmental Delay (DD) or Early Childhood-Specific (EC) Category/Classification and Criteria	Age Range for DD or EC Category	Notes DD/EC use relative to other Part B categories, Transition, Age Range	Source and Date
NE	"Developmental delay": 2 SD in one area 1.3 SD in two areas <i>or</i> Informed clinical opinion of qualified professionals in consultation with the family <i>or</i> Diagnosed physical or mental condition with high probability of resulting in developmental delay	Birth through 8	<i>Part B categories:</i> Developmental delay must be considered as one possible eligibility category for infants and toddlers birth through age four, and is a discretionary option for school districts to use for children ages five through eight.	Guidelines 9/2008 http://www.childfind.ne.gov/cdocs/VerificationGuidelines.pdf (downloaded 1/18/2011)
NV	"Developmental delay": 2 SD in one area 1 SD in two areas	3 until 6 th birthday if on or before 9/30 of current school year		Regulations 9/18/2008 http://nde.doe.nv.gov/SpecialEdResources/R064-08A.pdf (downloaded 1/27/2011)
NH	"Developmental delay": A delay in one of the five developmental areas and needing special education and related services	3 through 9		Regulations 6/30/08 http://www.education.nh.gov/instruction/special_ed/documents/nhrules_child_disab.pdf (downloaded 1/1/2011)
NJ	"Preschool child with a disability": 33% in one area 25% in two areas	3 through 5		Regulations 12/6/2010 http://www.state.nj.us/education/college/current/title6a/chap14.pdf (downloaded 1/5/2011)
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>Part B categories:</i> Developmentally delayed may only be used if child does not qualify under another category.	Regulations 12/31/2009 http://www.nmcp.state.nm.us/nmac/parts/title06/06.031.0002.htm (downloaded 1/6/2011)
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 <i>or</i> Meet the criteria for Autism, Deafness, Deaf-blindness, Hearing impairment, Orthopedic impairment, Other health impairment, Traumatic brain injury, Visual impairment	3 through 5, if 5 th birthday not on or before December 1	<i>Part B categories:</i> Does not use disability categories of Emotional disturbance, Learning disabilities, Mental retardation*, Multiple disabilities, Speech/language impairment *Note that in 2010, PL 111-256, Rosa's Law, changed the term mental retardation to intellectual disability. State policies are being changed as well.	Regulations 8/2009 http://www.p12.nysed.gov/specialed/lawsregs/part200.htm (downloaded 1/27/2011)

State	Developmental Delay (DD) or Early Childhood-Specific (EC) Category/Classification and Criteria	Age Range for DD or EC Category	Notes DD/EC use relative to other Part B categories, Transition, Age Range	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) <i>for ages 3-5</i>, one or more of the following:</p> <ol style="list-style-type: none"> a. delayed or abnormalities in achieving milestones and/or difficulties with issues, such as: <ol style="list-style-type: none"> 1. attachment and/or interaction with other adults, peers, materials, and objects; 2. ability to communicate emotional needs; 3. ability to tolerate frustration and control behavior, or 4. ability to inhibit aggression. b. fearfulness, withdrawal, or other distress that does not respond to comforting or interventions; c. indiscriminate sociability, for example, excessive familiarity with relative strangers; or d. Self-injurious or other aggressive behavior. <p>(ii) <i>for ages 6-7</i>, two or more of the following:</p> <ol style="list-style-type: none"> a. the inability to interact appropriately with adults and peers; b. the inability to cope with normal environmental or situational demands; c. the use of aggression or self-injurious behavior, or d. the inability to learn due to social/emotional deficits. <p>(iii) Identification based on informed educational/clinical opinion and appropriate assessment measures.</p>	3 through 7		Regulations 6/2010 http://www.ncpublicschools.org/doscs/ec/policy/policies/policies-62010.pdf Guidance 8/2008 http://www.ncpublicschools.org/doscs/ec/policy/forms/guiding-practices.pdf (downloaded 1/5/2011)

State	Developmental Delay (DD) or Early Childhood-Specific (EC) Category/Classification and Criteria	Age Range for DD or EC Category	Notes DD/EC use relative to other Part B categories, Transition, Age Range	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> Professional judgment <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><i>Part B categories</i>: Limited to unclear diagnosis and well documented delay</p>	<p>Guidelines 3/2007 http://www.dpi.state.nd.us/specced/guide/NCDguidelines.pdf (downloaded 1/5/2011)</p>
OH	<p>"Developmental delay": 2 SD in one area (if developmental area is cognitive or adaptive, child must have delay in one other area) 1.5 SD in two areas</p>	3 through 5	<p><i>Part B categories</i>: (1) First consider the applicability of the other disability categories; (2) If child is eligible under Cognitive disability, Emotional disturbance, Speech or language impairment, DD may be used if more appropriate; or (3) Determine if the child meets the criteria for DD</p>	<p>Guidance 9/10 http://www.edresourcesohio.org/ogdse/10_-_preschool/10-1/document (downloaded 1/19/2010)</p>
OK	<p>"Developmental delay": 2 SD or 50% in one area 1.5 SD or 25% delay in two areas <i>or</i> In extraordinary cases when a standardized score cannot be determined, a child may be determined to have a disability based on functionality and the informed opinion of the group with documentation of the rationale for the inability to obtain a standardized score. For children Kindergarten school age (turning five by September 2) to age nine, criteria for delay in developmental domains or indicators for specific disability categories may be used to determine eligibility.</p>	3 through 8		<p>Procedures 2007 http://sde.state.ok.us/Curriculum/SpeccEd/pdf/Compliance/Policies_Procedures.pdf Developmental Delay Definition effective 1/31/2008 http://sde.state.ok.us/Curriculum/SpeccEd/Early_Childhood.html (downloaded 1/3/2011)</p>
OR	<p>"Developmental delay": 1.5 SD in two areas</p>	3 up to the age of eligibility for public school		<p>Rules 6/2010 http://www.ode.state.or.us/offices/slp/spedoars.pdf (downloaded 1/3/2011)</p>

State	Developmental Delay (DD) or Early Childhood-Specific (EC) Category/Classification and Criteria	Age Range for DD or EC Category	Notes <u>DD/EC use relative to other Part B categories, Transition, Age Range</u>	Source and Date
PA	"Developmental delay": 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		Regulations 7/1/2008 http://www.pattan.net/regsforms/chapter14(schooldistricts).aspx (downloaded 1/3/2011)
RI	"Developmental delay": 2 SD or 25% delay in one area 1.5 SD in two areas	3 through 8		Regulations 7/1/2010 http://www.ride.ri.gov/Special_Populations/State_federal_regulations/RI_Board_of_Regents_for_Elementary_and_Secondary_Education_Regulations_Governing_the_Education_of_Children_With_Disabilities_Adopted_June_3_2010.pdf (downloaded 1/3/2011)
SC	"Developmental delay": 2 SD in one area 1.5 SD in two areas	3 through 9		Regulations 2007 http://ed.sc.gov/agency/offices/ec/stateregs/StateRegulations2007.htm 1 Process Guide 10/1/2010 http://ed.sc.gov/agency/Standards-and-Learning/Exceptional-Children/old/ec/stateregs/documents/SEPG100110.doc (downloaded 1/3/2011)
SD	"Developmental delay": Has Part B disability or severe delay which is defined as 2 SD in one area 1.5 SD in two areas <i>or</i> Professional judgment (i.e., team override)	3 through 5		Regulations 12/8/2009 http://doe.sd.gov/oess/documents/S PED_ADMIN_RULES.pdf Eligibility Guide 10/2010 http://doe.sd.gov/oess/documents/Eligibilt.pdf (downloaded 1/6/2011)

State	Developmental Delay (DD) or Early Childhood-Specific (EC) Category/Classification and Criteria	Age Range for DD or EC Category	Notes		Source and Date
			DD/EC use relative to other Part B categories, Transition, Age Range		
TN	"Developmental delay": 2 SD or 40% delay in one area 1.5 SD or 25% delay in two areas	3 through 9	<p><i>Age range:</i> Initial eligibility as Developmental Delay shall be determined before a child's 7th birthday.</p> <p><i>Part B categories:</i> When one area is determined to be deficit by 2.0 standard deviations or 40% of the child's chronological age, the existence of other disability categories that are more descriptive of the child's learning style shall be ruled out.</p>	<p>Rules 8/2009 http://www.state.tn.us/education/speced/doc/82809staterules.pdf</p> <p>Special Education Manual 5/2008 http://www.state.tn.us/education/speced/doc/80608SEMManualfinal.pdf (downloaded 1/3/2011)</p>	
TX	"Noncategorical early childhood": May be used when a child meets criteria for specific 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	<p><i>Part B categories:</i> May be used when the child meets the criteria for specific learning disability, mental retardation*, emotional disturbance, or autism</p> <p><i>*Note that in 2010, PL 111-256, Rosa's Law, changed the term mental retardation to intellectual disability. State policies are being changed as well.</i></p>	<p>Regulations 11/11/2007 http://ritter.tea.state.tx.us/rules/tac/chapter089/ch089aa.html (downloaded 1/3/2011)</p>	
UT	"Developmental delay": 2.5 SD or < 1%ile in one area 2.0 SD or < 2%ile in two areas 1.5 SD or < 7%ile in three areas	3 through 7	<p><i>Part B categories:</i> When adequate evaluation data are available, children must be classified in one of the other specific disabilities categories.</p>	<p>Regulations In effect 12/2010 per URL below http://www.schools.utah.gov/sats/DOCS/law/finalrules.aspx (downloaded 1/3/2011)</p>	

State	Developmental Delay (DD) or Early Childhood-Specific (EC) Category/Classification and Criteria	Age Range for DD or EC Category	Notes DD/EC use relative to other Part B categories, Transition, Age Range	Source and Date
VT	<p>“Eligible for Essential Early Education (EEE)” based on:</p> <p>Developmental delay: 2 SD (2%ile) or 40% delay in one area 1.5 SD (7%ile) in two areas</p> <p><i>or</i></p> <p>Medical condition diagnosed by a licensed physician that may result in significant delays by the time of the child’s sixth birthday</p> <p><i>or</i></p> <p>A child who received special instruction, developmental therapy services or speech services through an IFSP shall be eligible for EEE without need for additional evaluation.</p>	3 through 5	<p><i>Transition:</i> A child who receives special instruction, developmental therapy services, or speech services through an IFSP shall be eligible for EEE without need for additional evaluation. For children who transition to EEE services, the parent shall be asked to consent to EEE placement for the period of time between age 3 and the date the initial evaluation under Part B is due. Initial consent for evaluation and placement under Part B shall occur when the initial evaluation for early intervention expires after 3 years or sooner if requested by the parent or responsible agency.</p>	<p>Regulations 6/10/2010 http://education.vermont.gov/new/pdffoc/board/rules/2360.pdf (downloaded 1/3/2011)</p>
VA	<p>“Developmental delay”: Delay in one or more areas</p> <p><i>or</i></p> <p>An established physical or mental condition that has a high probability of resulting in a developmental delay</p>	2 through 6	<p><i>Age range:</i> VA changed age range from 2 through 8 to 2 through 6 in 2010. A document explaining the rationale for the change is linked in the next column.</p>	<p>Regulations 1/25/ 2010 http://www.doe.virginia.gov/specialed/regulations/state/regs_speced_disability_va.pdf (downloaded 1/3/2011)</p> <p>Developmental Delay: [Age Change] http://www.doe.virginia.gov/specialed/regulations/state/fast_facts/fast_fact_dev_delay.pdf 4/2010 (downloaded 1/3/2011)</p>
WA	<p>“Developmental delay”: Child meets criteria for developmental delay — 2 SD in one area 1.5 SD in two areas</p>	3 through 8		<p>Rules 11/1/2009 http://apps.leg.wa.gov/WAC/default.aspx?cite=392-172A-01035 (downloaded 1/3/2011)</p>
WV	<p>“Preschool special needs”: 25% delay in two areas</p>	3 through 5 (beginning of school year if child turns 3 in the fall)		<p>Regulations 1/2010 http://wvde.state.wv.us/osp/policy2419.html (downloaded 1/3/2011)</p>

State	Developmental Delay (DD) or Early Childhood-Specific (EC) Category/Classification and Criteria	Age Range for DD or EC Category	Notes DD/EC use relative to other Part B categories, Transition, Age Range	Source and Date
WI	<p>“Significant developmental delay”: 1.5 SD in two areas (or equivalent score)</p>	3 through 5 or below compulsory school age	<p><i>Part B categories:</i> All other suspected handicapping conditions shall be considered before identifying a child’s primary disabling condition as Significant Developmental Delay.</p>	<p>Regulations 7/01 http://dpi.wi.gov/sped/pil1_0701.html#11.35</p> <p>Interactive Handbook 6/2009 http://www.specaled.us/issues-eligibility/significantdd.html (downloaded 1/3/2011)</p>
WY	<p>“Developmental delay”: Child does not qualify in other categories; 1.75 SD in one area 1.5 SD in two or more areas <i>and</i> Results of hearing and vision screening confirm child’s performance is not a result of hearing or vision impairment</p>	3 through 9	<p><i>Part B categories:</i> Developmental Delay is a category available to children ages 3 through 9 who do not qualify in other categories but meet the Developmental Delay criteria.</p>	<p>Rules 3/23/2010 http://wdh.state.wy.us/Media.aspx?mediald=9157 (downloaded 1/3/2011)</p>