



Developmental Delay Guidance

The Developmental Delay (DD) eligibility category [definition can be found at [19 TAC §89.1040\(c\)\(13\)](#)] may begin to be used by an admission review and dismissal (ARD) committee as of the 2024-2025 school year. ARD committees may no longer use the eligibility category of "Noncategorical Early Childhood" (NCEC) starting in the 2025-2026 school year.

- Any eligible child who begins the 2025-2026 school year already identified as NCEC may maintain this eligibility category, if determined appropriate by the child's ARD committee, until the required re-evaluation before the age of six.

Reasons for the Change:

- **Broader Support:** The DD category supports a wider age range, allowing for continued support as children grow and develop.
- **Flexibility:** This category provides flexibility in identifying children with developmental delays without needing a specific disability label, which can be challenging to determine at an early age.
- **Consistency:** Aligning with federal guidelines under IDEA, which allows states to define and apply the Developmental Delay category (CFR 34 300.8(b))

This quick guide outlines the criteria for identifying and determining eligibility for special education and related services for children with a developmental delay (DD). The frequently asked questions (FAQs) provide recommendations and best practices for identifying DD. The quick guide is a resource for teachers, special education personnel, administrators, and other professionals.

Developmental Delay Quick Guide and Frequently Asked Questions

INTRODUCTION

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ELIGIBILITY DEFINITION


Developmental delay is an eligibility category in the Individuals with Disabilities Education Act (IDEA) that may be used for certain children in a specific age group who are experiencing developmental delays, as determined and defined under state law. ([34 Code of Federal Regulations \(CFR\), §300.8\(b\)](#))

In Texas, DD ([19 Texas Administrative Code \(TAC\) 89.1040\(c\)\(13\)](#)) is one possible eligibility category for children beginning at age three and continuing through age nine.

Developmental Delay Criteria

- Between the ages of 3 through 9
- Evaluated by a [multidisciplinary team \(MDT\)](#) for at least one [disability category](#) (autism, deaf-blindness, deaf or hard of hearing, emotional disability, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech impairment, traumatic brain injury, or visual impairment) and
- Evaluation data indicates a need for special education and related services and shows evidence of, but does not clearly confirm, the presence of the suspected disability or disabilities due to the child's young age.

 NOTE: As its definition suggests, the disability criteria for DD is not the first consideration for the MDT. A child would be referred for evaluation based on a suspicion that the child has one or more of the other IDEA-eligible disabilities, and then the MDT would conduct a review of existing evaluation data (REED) to determine how best to proceed with the evaluation.

 NOTE: The eligibility category of [noncategorical early childhood \(NCEC\)](#) may be used until the 2025-2026 school year. Any eligible child who begins the 2025-2026 school year already identified as NCEC may maintain this eligibility category, if determined appropriate by the child's ARD committee, until the required re-evaluation before the age of six.

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To use this eligibility category, multiple sources of data must converge to indicate the child has a DD as described by one of the following (A, B or C):

A

- Performance on appropriate norm-referenced measures, including developmental measures, indicate that the child is **at least two standard deviations below the mean** or at the 2nd percentile of performance, when taking into account the standard error of measurement (SEM) **in one area of development**
 - Physical,
 - Cognitive,
 - Communication,
 - Social or emotional, or
 - Adaptive
- Along with additional convergent evidence**, such as interviews and observation data, that supports the delay in that area.

To use this eligibility category, multiple sources of data must converge to indicate the child has a DD as described by one of the following (A, B or C):

B

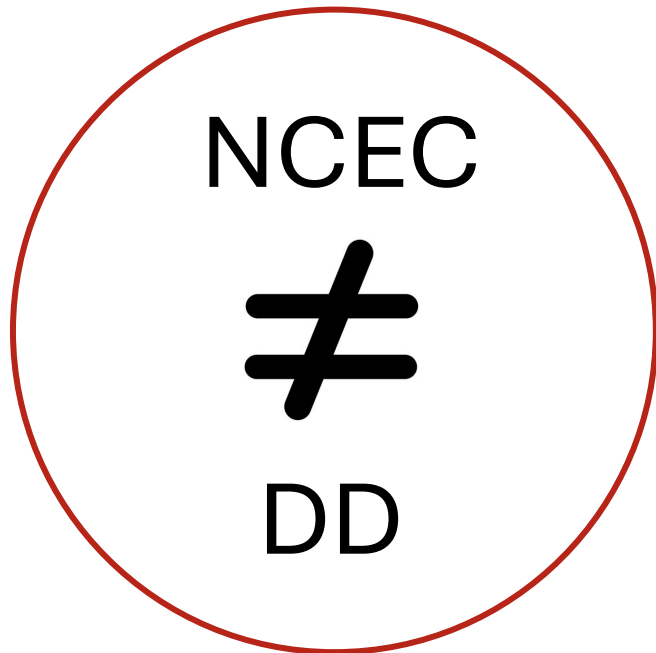
- Performance on appropriate norm-referenced measures, including developmental measures, indicate that the child is **at least 1.5 standard deviations below the mean** or at the 7th percentile of performance, when taking into account the SEM, **in at least two areas of development**
 - Physical,
 - Cognitive,
 - Communication,
 - Social or emotional, or
 - Adaptive
- Along with additional convergent evidence**, such as interviews and observation data, that supports the delay in those areas.

To use this eligibility category, multiple sources of data must converge to indicate the child has a DD as described by one of the following (A, B or C):

C

- A body of evidence from **multiple direct and indirect sources**, such as play-based assessments, information from the child's parent, interviews, observations, work samples, checklists, and other informal and formal measures of development, that **clearly document a history and pattern of atypical development that is significantly impeding the child's performance and progress across settings** when compared to age-appropriate expectations and developmental milestones **in one or more areas of development**
 - Physical,
 - Cognitive,
 - Communication,
 - Social or emotional, or
 - Adaptive

How are the eligibility categories of NCEC and DD different?



	Age range of eligibility	Disability conditions considered	Additional criteria
<u>NCEC</u>	Ages 3 through 5	<p>A child who is evaluated by the MDT as having:</p> <ul style="list-style-type: none"> Intellectual disability Emotional disability Specific learning disability, or Autism 	
<u>DD</u>	Ages 3 through 9	<p>A child who is evaluated by the MDT for at least one disability category:</p> <ul style="list-style-type: none"> Autism Deaf-blindness Deaf or hard of hearing Emotional disability Intellectual disability Multiple disabilities Orthopedic impairment Other health impairment Specific learning disability Speech impairment Traumatic brain injury, or Visual impairment <p>The evaluation indicates a need for special education and related services and shows evidence of, but does not clearly confirm, the presence of the suspected disability or disabilities due to the child's young age.</p>	<p>Data supports the identification of developmental delay in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development.</p> <p>To use this eligibility category, multiple sources of data must converge to indicate the student has a developmental delay as described by (A), (B), or (C) [see page 2 for those descriptions]</p>

3. Did the amendment of the commissioner rule to add DD and phase out NCEC mean that LEAs must immediately reevaluate children who are eligible as a child with an NCEC?

While the eligibility category of NCEC may be used during the 2024-2025 school year, it can no longer be used by any LEA beginning with the 2025-2026 school year.

However, any eligible child who begins the 2025-2026 school year already identified as NCEC may maintain this eligibility category, if determined appropriate by the child's ARD committee, until the required re-evaluation before the age of six. ([19 TAC 89.1040\(d\)\(3\)](#))

4. May an LEA determine which criteria [\(A, B, or C\)](#) will be used for all children in the evaluation process?

No. Our [19 TAC 89.1040\(c\)\(13\)](#) states that to use this eligibility category, multiple sources of data must converge to indicate the child has a DD as described by one of the following: (A), (B), or (C). The MDT decides which description best identifies the **individual** child. The LEA does not determine which description will be used.

7. Can DD be used in combination with other disability conditions?

Yes. If the evaluation clearly confirms the presence of one disability category (e.g., speech impairment) but does not clearly confirm the presence of another suspected disability category (e.g., autism), the child could be identified with both speech impairment and developmental delay if he/she meets the criteria specified in [19 TAC 89.1040\(c\)\(13\)](#).

9. Should the evaluation report for a child with DD include the disability(ies) that were suspected but not confirmed?

Yes. In conducting the evaluation, the MDT must ensure “the child is assessed in all areas related to the suspected disability” [34 CFR, §300.304\(c\)\(4\)](#). If a disability condition is suspected but not clearly confirmed, this should be noted in the evaluation report.

Developmental Delay Training Webinar for Evaluators



The grantee will create a webinar on the Evaluation of Students with Developmental Delay. It will address the:

1. Context and criteria used for identifying the disability condition of DD, and
2. Impact and needs statements of the disability and recommendations for evidence-based interventions.

We anticipate this webinar to be launched by May/June 2025.