

Developmental Delay Quick Guide and Frequently Asked Questions

INTRODUCTION

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.




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	<ul style="list-style-type: none"><input checked="" type="checkbox"/> 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<ul style="list-style-type: none"><input type="checkbox"/> Physical,<input type="checkbox"/> Cognitive,<input type="checkbox"/> Communication,<input type="checkbox"/> Social or emotional, or<input type="checkbox"/> Adaptive<input checked="" type="checkbox"/> Along with additional convergent evidence, such as interviews and observation data, that supports the delay in that area.
B	<ul style="list-style-type: none"><input checked="" type="checkbox"/> 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<ul style="list-style-type: none"><input type="checkbox"/> Physical,<input type="checkbox"/> Cognitive,<input type="checkbox"/> Communication,<input type="checkbox"/> Social or emotional, or<input type="checkbox"/> Adaptive<input checked="" type="checkbox"/> Along with additional convergent evidence, such as interviews and observation data, that supports the delay in those areas.
C	<ul style="list-style-type: none"><input checked="" type="checkbox"/> 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<ul style="list-style-type: none"><input type="checkbox"/> Physical,<input type="checkbox"/> Cognitive,<input type="checkbox"/> Communication,<input type="checkbox"/> Social or emotional, or<input type="checkbox"/> Adaptive

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EVALUATION PROCEDURES

Any evaluation or re-evaluation of a child must be conducted in accordance with [34 CFR, §§300.301-300.306](#). The MDT that collects or reviews evaluation data in connection with the determination of a child's eligibility must include, but is not limited to, the following:

- (1) a licensed specialist in school psychology (LSSP)/school psychologist, an educational diagnostician, or other appropriately certified or licensed practitioner with experience and training in the area of the disability; or
- (2) a licensed or certified professional for a specific eligibility category defined in [19 TAC §89.1040\(c\)](#).

When conducting a comprehensive evaluation, the IDEA ([34 CFR, §300.304](#)) requires the MDT to:

Use a **variety of assessment tools and strategies** to gather relevant functional, developmental, and academic information about the child, including information provided by the parent.

Not use any single measure or assessment as the sole criterion.

Utilize **technically sound instruments**.

Ensure the child is **assessed in all areas** related to the suspected disability.

The assessments and other evaluation materials must be:

- **Nondiscriminatory** based on race or culture.
- Administered in the child's **native language** or mode of communication.
- Likely to yield accurate data on what the child knows and can do **academically, developmentally, and functionally**.
- Used for the purposes for which they are **valid** and **reliable**.
- Administered by **trained** and **knowledgeable personnel**.
- Administered according to **instrument instructions**.
- Aligned to specific areas of **educational need**.
- Reflective of the child's **aptitude** and **achievement**.

The evaluation must be adequately comprehensive to identify **all the child's special education and related service needs**, regardless of whether those needs are commonly linked to the disability or not. ([34 CFR §300.304\(c\)\(6\)](#))

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The evaluation conducted for any suspected disability will assist in determining the following:

- Whether the child is a child with a disability in need of special education and related services,
- The impact of the disability on the child’s access to and progress in the general curriculum and
- The content of the child’s IEP, including information related to enabling the child to be involved in and progress in the general education curriculum.

Early Childhood (ages 0-3)	Prekindergarten (ages 3-4)	K-12 (ages 5+)
Texas Infant, Toddler, and Three-Year-Old Early Learning Guidelines	Texas Prekindergarten Guidelines	Texas Essential Knowledge and Skills (TEKS)
		

ELIGIBILITY

To be eligible for special education services under the DD category, the following requirements must be met as determined by the student’s ARD committee, in accordance with [34 CFR §300.306](#):

1. **Meet the eligibility criteria.** Upon completion of the full individual and initial evaluation, the ARD committee must determine whether the child meets the specific criteria outlined in [19 TAC §89.1040\(c\)\(13\)](#) and [34 CFR §300.8\(b\)\(1\)](#). Documentation, including observation and/or assessment, of how the child’s DD adversely affects the child’s involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children) or for preschool children, as appropriate, how the disability affects the child’s participation in appropriate activities is needed. It is best practice that the full individual and initial evaluation documents adverse effects on educational performance. It is required for this information to be included in the present levels of academic achievement and functional performance (PLAAPF) statement in the IEP ([34 CFR, §300.320\(a\)\(1\)](#)).
2. **Determination of a need for special education.** The ARD committee must determine that the child who is experiencing DD requires special education and related services in order for the student to make progress. [34 CFR §300.8\(b\)\(2\)](#)


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FREQUENTLY ASKED QUESTIONS

1. How are the eligibility categories of NCEC and DD different?

NCEC and DD are different in several ways, as each has distinct criteria. Review the table below for a detailed description of each.

	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>

 Note: A child's eligibility category may not be changed without an evaluation. IDEA states that an evaluation is required before a change in eligibility. ([34 CFR, §300.305\(e\)](#))

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2. Are LEAs **required** to use the eligibility category of DD?

No. No LEA will be required to use the eligibility category of DD; however, if a district chooses to use this category, it must use the definition and criteria described in [19 TAC 89.1040\(c\)\(13\)](#).

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.

5. What is meant by “through age nine” in the criteria for DD?

“Through age nine” indicates that any eligible child identified as having DD may maintain this eligibility category, if determined appropriate by the child's ARD committee, until the required re-evaluation before the age of ten.

6. If a child meets the criteria for one of the other [12 disability categories](#) (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), is the ARD committee required to use the eligibility category of DD because the child is between the ages of 3 and 9?

No. If the child is evaluated and meets the criteria for one (or more) of the other 12 disability categories, then the ARD committee should consider eligibility for special education and related services for the disability category(ies) identified and not also identify the DD disability category. Developmental delay should be used if the child's 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. ([19 TAC 89.10409\(c\)\(13\)](#))

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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\(c\)\(13\)](#).

8. Can a child with DD receive speech therapy?

Yes. Special education and related services are based on the child's identified needs and not on the disability category in which the child is classified. In conducting the evaluation, the MDT must ensure "the child is assessed in all areas related to the suspected disability" [34 CFR, §300.304\(c\)\(4\)](#) and "...the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified." [34 CFR §300.304\(c\)\(6\)](#).

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.

If you ever have a question, concern, comment, suggestion, or find a broken link within this document, please email the TEA Division of Special Education Programs at sped@tea.texas.gov