



Concept Paper

DEVELOPMENTAL DELAY AS AN ELIGIBILITY CATEGORY

Field Review: October 28- December 15, 2008

This document is being disseminated in draft form to elicit input. The field review period is from October 28 through December 15, 2008. Please submit written comments to the Division for Early Childhood via email at dec@dec-sped.org or fax to 406-543-0887.

This concept paper was developed to address policies and practices for using developmental delay as a category of eligibility for young children. These policies and practices have evolved in response to changes in federal legislation and recommended practices in the field of early intervention and early childhood special education. The purpose of this paper is to provide an update of the 1991, 1996, and 2001 Division for Early Childhood (DEC) concept papers on the use of a developmental delay eligibility category for young children and to make recommendations for policy and practice.

INTRODUCTION, RATIONALE, AND OVERVIEW

In the previous DEC concept papers (Kilgo et al., 1996; McLean, et al., 1991; McCormick et al., 2001) *developmental delay* was recommended as an appropriate eligibility category for young children and was defined as: “a condition which represents a significant delay in the process of development. It does not refer to a condition in which a child is slightly or momentarily lagging in development. The presence of developmental delay is an indication that the process of development is significantly affected and that without special intervention, it is likely that educational performance at school age will be [negatively] affected” (McLean et al., 1991, p.1).

Under the Infants and Toddlers with Disabilities Program, Part C of IDEA, states define Developmental Delay to describe their eligible children ages birth through age 2. Under Part B of IDEA, states may choose to define a category of developmental delay for ages 3 through 9, or any subset of that age range, including 3 through 5. In most states, Part C and Part B are administered by different lead agencies. Only two states have a single definition of Developmental Delay encompassing both programs. This paper will emphasize issues related to Developmental Delay under Part B, but will include a discussion of eligibility as it related to transition from Part C to Part B.

The Individuals with Disabilities Education Improvement Act Amendments of 2004 (IDEA, 2004) supports the availability of developmental delay as an eligibility category for young children under Part B of the Act and defines the category as such: *The term “child with a disability” for children aged three through nine or any subset of that age range including age 3 through 5) may, at the discretion of the State and Local Education Agency (LEA) include a child — (1) 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 (Individuals with Disabilities Education Improvement Act, 2004).

IDEA 1997 provided for the extension of developmental delay by allowing states to adopt the term for children ages 3 through 9 or any part of that age range. IDEA 1997 gave local districts the option to use the state developmental delay category; however, districts were not required to do so. IDEA 2004 reiterated the allowable age range of 3 through 9 or any subset including 3 through 5.

Although disability categories have been used in the determination of eligibility for special education services for many years, DEC believes that the categories used for older school-aged children are often inappropriate for young children. The identification of children by disability categories in the early years can result in a premature categorization or miscategorization of children and consequently inappropriate services. In addition, the use of a developmental delay category allows children with disabilities, who might otherwise go unserved because of the difficulties in applying traditional disability categories to young children, to be identified at younger ages.

DEC recommends that a developmental delay category of eligibility be available for all children from birth through age eight. The recommendation to use the developmental delay category for children birth through age eight is supported by a number of considerations. First, the period of childhood development typically characterized as early childhood is birth through age 8. This period of development is considered a unique developmental period by both the Division for Early Childhood (DEC) of The Council for Exceptional Children (CEC) and the National Association for the Education of Young Children (NAEYC). Young children's development is characterized by a broad range of behaviors across developmental domains and is better described by developmental metrics than by those with a more educational or academic focus. Second, the reliability of standardized and norm-referenced assessments for the identification of diagnostic categories for young children continues to be problematic across these ages, resulting in unnecessary miscategorization and potential loss of services. Third, for many children these early grades offer a pivotal foundation for acculturation within the school community. For the many children who are transient or enter school at kindergarten or beyond, opportunities to understand and practice school behaviors are limited. Categorical classification during these years would be premature and potentially inaccurate. The information presented in this concept paper is based on recommended practices, legislation, and experiences of states that have adopted a developmental delay eligibility category. Included in this paper are discussions of: (1) the status of state policies regarding the use of a developmental delay eligibility category, (2) assessment strategies to determine eligibility, (3) implications for personnel preparation, and (4) conclusions and recommendations. DEC hopes that as policy and practices regarding the use of a developmental delay eligibility category continue to evolve over the next several years, the information and suggestions provided in this paper will serve as a guide to families and professionals.

WHAT ELIGIBILITY POLICIES ARE STATES CURRENTLY USING?

State eligibility policies for young children under Part B of IDEA have evolved over the years to reflect recommended practice and to respond to changes in the federal law. For example, by 2007 a majority of states, including the District of Columbia, used developmental delay as a disability category for at least a portion of eligible children ages 3 through 9 and a large number of additional states used other disability terms exclusive to young children (e.g., preschool disability) that were in their policies before developmental delay was added as a Part B disability category. Most states have at least one early childhood eligibility category (Danaher, 2007). States have also extended the age range for

developmental delay (see Danaher, 2007 for specific information regarding state policies for age range).

State policies vary in: (a) the relationship of developmental delay, (or the state's early childhood category) to other Part B disability categories; (b) the criteria used to determine eligibility; and, (c) the age range to which the category applies. Some states limit the use of developmental delay to those children who do not qualify for one of the other Part B disability categories. The criteria for developmental delay vary across states. Most states use quantitative criteria for developmental delay, typically 2.0 standard deviations below the mean in one developmental area or 1.5 standard deviations below the mean in two developmental areas on norm-referenced instruments. About half of the states allow the use of criterion referenced tests, some only when normed tests are inconclusive or inappropriate. States that use instruments that yield a developmental age typically specify 20% to 33% delay. However, states do not rely exclusively on quantitative criteria for determining developmental delay. Other eligibility criteria are informed team consensus, professional judgment, or informed clinical opinion; and the diagnosis of a condition that is associated with delay or deviation in development. In addition, some states permit local agencies to set criteria for delay (for more specific information see Danaher, 2007).

WHAT ARE THE IMPLICATIONS OF THE USE OF DEVELOPMENTAL DELAY FOR OVER IDENTIFICATION?

States and local districts have expressed a desire to serve children earlier but have been wary of expanding the number of children served beyond those for whom IDEA was intended. Because local districts can choose not to use the state-defined developmental delay category, states that have extended the age range have conducted pilot studies to determine the impact of the age extension on the number of children served. In those states, it was determined that there was a small increase in the number of children identified when the developmental delay category was extended to include ages 6 through 8; however, state personnel felt that the children simply were identified at younger ages than they otherwise would have been and that the impact on the overall number of children eventually served would be negligible (Beridon, 2001).

ARE THERE CHILDREN FOR WHOM SPECIFIC DISABILITY ELIGIBILITY CRITERIA ARE MORE APPROPRIATE?

There can be sound reasons for identifying some specific disabilities. For children with low incidence, multiple, or significant disabilities, being identified as developmentally delayed (rather than the specific disability) may result in the loss of services, authorization of inappropriate services, loss of access to appropriately qualified service providers, or adequate and appropriate funding resources. These children may require specialized interventions, amplification, corrective lenses, adaptive devices, material and environmental modifications, and/or alternative and augmentative communication systems. Assessment, intervention, and educational teams should include service providers who are qualified to meet these children's unique and complex learning needs. Families may have questions or concerns about their child's development or behaviors that are related to the child's specific disability. Referral and access to these resources may be difficult for a family to obtain without a specific disability label for their child. Moreover, educational programs may be eligible for additional funding from public or private agencies that is earmarked for services to children who are identified with certain disability categories. The early identification of young children with sensory impairments or autism is essential for referral to effective services that will improve the likelihood of positive social and educational outcomes. Therefore the use of a developmental delay category does not preclude the use of appropriate disability categories (e.g., multiple disabilities, visually impaired, deaf-blind, deaf, or autistic).

HOW ARE CHILDREN IDENTIFIED?

As has been pointed out in many recent discussions of the assessment of young children, including DEC's Recommended Practices (Sandall, Hemmeter, Smith, & McLean, 2005; NAEYC, 2003) the use of results from standardized, norm-referenced assessment formats is fraught with problems. If these are used, what is represented as a delay in development may actually be due to one or more of a number of problems in the tests or the testing situations. Although the validity and reliability of these tests seem to improve as children get older, there is still sufficient concern for children through age 9 to make reliance upon their use problematic, especially if additional information provided by more authentic instruments and procedures is not also included (Bredenkamp & Copple, 1997; Shepard, Kagan, & Wurtz, 1998). Furthermore, the use of age equivalent scores generated by these tools is also problematic because the delay represented by these metrics is not equal across ages.

WHAT ARE THE RECOMMENDED ALTERNATIVES TO SIMPLE RELIANCE ON STANDARDIZED, NORM-REFERENCED ASSESSMENT?

Assessment is the process of gathering information for the purpose of making decisions (McLean, 1996). A holistic assessment process is recommended when making decisions about program planning for young children. Such a process, which incorporates multiple measures of a child in multiple settings (most importantly those with which the child is familiar and comfortable) and employs information from multiple informants (including, of course, families and other individuals who are familiar with the child's culture), has become the process of choice (Neisworth & Bagnato, 2005).

This holistic process is critical to obtain an accurate understanding of the child in the context of his or her world. It incorporates assessment procedures that are child centered and interactive rather than using those that simply enumerate the absence or presence of isolated skills. It yields information about child behavior within natural environments and typical routines in response to people, objects, events, and settings, thus helping to determine whether perceived delays are indeed "real" and pervasive.

Procedures for accurately observing and reporting this information are widely available in the early childhood community and have been used frequently to link assessment to program planning. This process can also serve to gather data for eligibility determination. Information about a child's developmental status in comparison to typical children his age is likely to be much more accurate when obtained from this type of developmentally appropriate and ecologically valid assessment than from a traditional psychometric assessment process. This is especially true for children from diverse cultures that are at particular risk of appearing delayed when we assume the common acculturation necessary for valid measurement predictions. For more information about the assessment of young children see the NAEYC publication at <http://www.naeyc.org/about/positions/pdf/CAPEexpand.pdf>.

Therefore, definitions of developmental delay should include "informed team consensus" based on authentic, developmentally appropriate, and ecologically valid assessment tools and practices as the most important determinant of development. (We prefer the term "informed team consensus" to the term "professional judgment" or "informed clinical opinion," because it emphasizes the importance of team decision making, which includes the nonprofessional and nonclinical members on the team.) An added benefit of this approach is that the team members' time is spent in assessment activities that will also be useful for program planning for children rather than an assessment solely for determining eligibility. Scores from standardized, norm-referenced assessment may be used if the team agrees that

they are an accurate reflection of the child's functioning; however, these test data should be supported with information from other sources and should never be used in isolation. A team can make more valid decisions related to documenting developmental delay by including observations of children in natural environments and typical routines.

WHAT ARE THE CONCERNS IN USING DEVELOPMENTAL DELAY AS AN ELIGIBILITY CATEGORY?

It has been suggested by some family members, service providers, and administrators that using the term "developmental delay," might mask the true nature of a child's disability from families. Another expressed concern is that it might also prevent a child from receiving services for which he might otherwise be eligible or cause problems in the future when it becomes necessary for a child to be determined eligible using one of the other disability categories specified in IDEA. DEC argues that if families and care-givers are included appropriately in evaluation/eligibility discussions as the law requires, the team's decision-making will include meaningful discussion of the child's delays, other diagnoses that may be relevant for the acquisition of services outside the agency or school, and eligibility options for when the child leaves the age range for which the developmental delay category can be applied (Pierce & Danaher, 2000). IDEA requires that services be individualized and determined by the IEP/IFSP team independent of eligibility category. Individual services are based on the child's unique needs and the goals identified by the IEP/IFSP team to meet those needs and cannot be limited by or based solely on an eligibility category (IDEA, 2004).

WHAT IS THE STATUS OF TRANSITION OF ELIGIBILITY FROM PART C TO PART B, PRESCHOOL TO SCHOOL-AGE?

After developmental delay was added as an optional eligibility category under Part B, advocates had hoped that state definitions for developmental delay would be the same under Part C and Part B resulting in seamless eligibility between the two programs within each state. Currently, only two states have identical eligibility criteria across the two programs. An analysis and comparison of all states' eligibility policies for both programs revealed that differences in definitions and criteria for developmental delay presented concerns for potential discontinuity in 21 states (Danaher et al., 2004). The differences vary in level of measured delay, use of informed clinical opinion including parent input, and eligibility based on the diagnosis of a condition associated with developmental delay. However, despite the continued disparity in developmental delay definition, states' policies have improved to make eligibility less of a concern at transition. Several states' recent Part B policy changes specifically address eligibility at transition. Policies in two states allow children who receive services under Part C to retain their eligibility for services under Part B. Two other states' policies encourage joint Part C and Part B eligibility determinations for two-year-old children or recognize evaluations done for Part C eligibility when conducted within a year of as valid for Part B when the children transition. Another state permits a six-month temporary assignment for Part C children transitioning to Part B while the child adjusts to a new environment and evaluations are completed (Danaher, 2007). State practices for transition at the upper age limit for developmental delay require re-evaluation and determination of another disability category. While 23 states have extended the upper age limit for developmental delay beyond age 5, some do not permit the initial assignment of developmental delay after the preschool years. For example, a preschool age child might be served as a child with developmental delay from age 3 through 8. A child entering first grade might only be able to be served under one of the other disability categories.

WHAT ARE THE IMPLICATIONS FOR PERSONNEL PREPARATION?

The use of developmental delay as a category of eligibility for children from birth through age 9 has broad and direct implications for personnel preparation programs. Because eligibility determination should be a collaborative decision-making process conducted by teams of professionals representing various disciplines as well as families, the implications are far-reaching. Personnel preparation programs in early intervention/early childhood special education and related disciplines, such as speech-language pathology, occupational therapy, physical therapy, school psychology, and social work, must include information about the unique assessment needs of young children and the concomitant assessment process. Personnel must understand eligibility criteria and policies for young children at different ages (birth to 3, 3 to 5, and 6 to 9 years), the appropriate use of the developmental delay eligibility category, recommended assessment procedures to determine eligibility, and how to explain the use of the developmental delay category to others. Traditional special education personnel preparation programs for school age children must include similar information as well. In these programs, the focus must move from using only the traditional categories of disability (e.g., learning disabilities, mental retardation, behavior disorders) when determining eligibility to the identification of a disability category that is determined through delays in developmental areas. For those programs charged with preparing personnel to assess children from birth through age 5, this focus is not new; however, it is quite different for the programs designed for those who will primarily be assessing children in the primary grades and above. This will necessitate consideration of appropriate instruments, procedures, and strategies for measuring child functioning in developmental areas (e.g., communication, motor, cognition, social emotional and adaptive behavior) in 6-, 7-, 8-, and 9-year old children.

All those professionals representing various disciplines participating on assessment teams to determine eligibility for children in the birth to 3, 3 to 5, and 6 to 9 age ranges must be skilled in determining the presence of delays in development that warrant early intervention/early childhood special education services. Each of the aspects mentioned in the previous sections should be incorporated into personnel preparation programs for those who will be assessing young children. The inclusion of recommended assessment policies, practices, and skill development should be accompanied by carefully planned and supervised field experiences..

CONCLUSIONS AND RECOMMENDATIONS

The use of a developmental delay category is not simply a way to avoid the use of other categories of disability. Assessment and evaluation strategies must be individually determined by the needs of the child. These strategies must be appropriate, comprehensive, and inclusive of all categories and classifications. No single strategy, instrument, classification, or category is appropriate for all children.

Consistent with DEC's Recommended Practices (Sandall, Hemmetter, Smith, & McLean, 2005), for children from birth through age 5 and DEC's endorsement of these concepts for children birth through age 8, this paper has suggested the following:

1. A holistic assessment process that incorporates multiple measures in multiple settings and from multiple informants;
2. A team assessment that allows for informed team consensus as the basis for decision-making;
3. An assessment that effectively obtains information from families and involves them in every aspect of the process;
4. An assessment that provides for increased validity through assessment of the child's functioning in

typical and familiar routines and activities;

- a. Use of other categories where appropriate;
- b. IFSP/IEP goals and services dictated by child need not by label; and
- c. Personnel preparation efforts that are responsive to the unique assessment needs of young children from birth through age 8.

Therefore, DEC recommends that a developmental delay category of eligibility be available for all children from birth through age 8. It is important to note, however, that we do not disagree with the provision in IDEA 2004 permitting its use for children birth through age 9.

REFERENCES

Beridon, V. (2001). A state director's perspective. *Proceedings of developmental delay: A review of the research and future directions*. (Available from Project FORUM, National Association of State Directors of Special Education, 1800 Diagonal Road, Suite 320, King Street Station 1, Alexandria VA 22314). Alexandria: VA: National Association of State Directors of Special Education.

Bredenkamp, S., & Copple, C. (1997). *Developmentally appropriate practice in early childhood programs*. Washington, DC: National Association for the Education of Young Children.

Danaher, J. (2007). *Eligibility policies and practices for young children under Part B of IDEA* (NECTAC Notes No. 24). Chapel Hill, NC: National Early Childhood Technical Assistance Center.

Danaher, J., Shackelford, J., & Harbin, G. (2004). Revisiting a comparison of eligibility policies for infant/toddler programs and preschool special education programs. *Topics in Early Childhood Special Education*, *24* (2), 59-67.

Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. § 1400 (2004). Retrieved June 20, 2007 from <http://www.copyright.gov/legislation/p108-446.pdf>.

Kilgo, J., Danaher, J., McLean, M., McCormick, K., Smith, B., & Schakel, J. (1996). *Developmental delay as an eligibility category*. A concept paper of the Division for Early Childhood of the Council for Exceptional Children. Washington, DC: Council for Exceptional Children.

McLean, M., Smith, B., McCormick, K., Schakel, J., & McEvoy, M. (1991). *Developmental delay: Establishing parameters for a preschool category of exceptionality*. Position statement of the Division for Early Childhood, Council for Exceptional Children. Washington, DC: Council for Exceptional Children.

McLean, M. (1996). Assessment and its importance in early intervention/early childhood special education. In M. McLean, D.B. Bailey, & M. Wolery (Eds.), *Assessing infants and preschoolers with special needs* (2nd edition). Englewood Cliffs, NJ: Prentice-Hall.

Neisworth, J.T., & Bagnato, S.J. (2005). DEC recommended practices: Assessment. In S. Sandall, M.L. Hemmeter, M. Mclean, & B.J. Smith (Eds.), *DEC recommended practices. A comprehensive guide for practical application in early intervention/early childhood special education* (pp. 45-62). Missoula, MT: DEC.

Pierce, L., & Danaher, J. (2000, December). *Developmental delay birth through age nine: An evolving*

policy portrait. Paper presented at the 16th Annual DEC International Early Childhood Conference on Children with Special Needs. Albuquerque, NM.

Sandall, S., Hemmeter, M.L., Smith, B.J. & McLean, M. (2005). *DEC recommended practices. A comprehensive guide for practical application in early intervention/early childhood special education*. Missoula, MT: DEC.

Shepard, L., Kagan, S., & Wurtz, E. (1998). *Principles and recommendations for early childhood assessments*. Washington, DC: National Educational Goals Panel. Available from <http://www.negp.gov>.

This document is being disseminated in draft form. Your input is encouraged. The field review period is from October 28 through December 15, 2008. Please submit written comments to the Division for Early Childhood via email at dec@dec-sped.org or fax to 406-543-0887.

Document History

APPROVED BY THE DEC EXECUTIVE BOARD: May 1991

REAFFIRMED: September 1996

REAFFIRMED: November 2001

APPROVED FOR FIELD REVIEW: October 25, 2007

Acknowledgements:

DEC appreciates the work of DEC members who participated in the revision of this concept paper: Katherine McCormick (chair), Joan Danaher, Deborah Chen, Jennifer Kilgo, Kristen Missall, Mark Innocenti, Jennifer Grisham Brown, & Sharon Walsh.