

## Division of Special Education/Early Intervention Services Students with Developmental Delay (DD)

### 1. Who may be identified as a student with a developmental delay?

The Individuals with Disabilities Education Act (IDEA) provides States the discretion of adopting developmental delay (DD) as an additional categorical option for students. Maryland established the age range of three (3) through nine (9) years of age for the use of the DD option.

[34 CFR §300.111(b) and COMAR 13A.05.01.03B(77)].

### 2. Why would a local school system want to use the DD categorical option?

The categorical option of DD provides parents and service providers an extended timeframe in which to assess the learning needs of students, and to build a more complete profile of a child's strengths, challenges, and approaches to learning. This is particularly applicable when the child's Individualized Education Program (IEP) team has identified delays or specific conditions, yet the identification of a specific disabling condition under IDEA is unclear based on available information.

The use of DD provides an opportunity for parents and service providers to proactively intervene through observing a child's progress over time and collecting data on appropriate instructional approaches and learning needs. Use of the DD category may also help to prevent the over-identification of young children and students with learning differences as being disabled.

### 3. How does the State define developmental delay?

A student with a developmental delay means a student from three (3) through nine (9) years old assessed and evaluated in accordance with IDEA and Code of Maryland Annotated Regulations (COMAR) regulations who meets one of the following criteria:

- A 25 percent or greater delay in adaptive, cognitive, communicative, emotional, physical, or social development, as measured and verified by appropriate diagnostic instruments and procedures; or,
- Atypical development or behavior, as defined in the Code of Maryland Annotated Regulations (COMAR) 13A.13.01.02B(21)(b); this can be demonstrated by abnormal quality of performance and function in one or more of the specified developmental areas, which interferes with current development, and is likely to result in subsequent delay, even when diagnostic instruments and procedures do not document a 25 percent delay; or,

- A diagnosed physical or mental condition, as defined in COMAR 13A.13.01.02B(21)(c), which has a high probability of resulting in a developmental delay, including, but not limited to students with sensory impairments, inborn errors of metabolism, microcephaly, fetal alcohol syndrome, epilepsy, and Down Syndrome, and other chromosomal abnormalities.

[COMAR 13A.05.01.03B(77); 13A.13.01.02B(21)(b) and (c)]

**4. What is an atypical development or behavior?**

The manifestation of atypical development or behavior means a student demonstrates an abnormal quality of performance and function that interferes with the child's current development and is likely to result in subsequent delay even when diagnostic instruments or procedures do not document a 25 percent delay.

**5. What types of conditions are included in a diagnosed physical or mental condition?**

Conditions that have a high probability of resulting in developmental delay, such as chromosomal abnormalities, genetic or congenital disorders, severe sensory impairments, inborn errors of metabolism, disorders reflecting disturbance of the development of the nervous system, congenital infections, disorders secondary to exposure to toxic substances, including fetal alcohol syndrome, and severe attachment disorders.

**6. Must a local school system use the DD category to identify students?**

No. The use of the DD category is at the discretion of local school systems. The Maryland State Department of Education (MSDE) cannot require a local school system to use the DD category for any student, ages three (3) through nine (9) years, within its jurisdiction [34 CFR §300.311(b)(2)]. The category of DD may be used at local discretion for preschool and young students ages three (3) through nine (9), but not beyond the age of nine. Local school systems are not prohibited from continuing the thirteen disability categories established in 34 CFR §300.8(a)(1) and COMAR 13A.05.01.03B(78), as appropriate. Any use of DD beyond age nine is prohibited under current federal and State regulations.

**7. May a local school system use DD for a specific age range subset of students between ages three through nine?**

No. Local school system implementation of the DD category must be consistent with the age range of three (3) through nine (9) years of age established for Maryland. The DD category must be universally available for all students with disabilities. A local school system may not elect to serve only a select group of students, such as, for example making the DD category available only for students with significant delays. Use of the DD category by a local school system is not prohibited from including students identified for the first time regardless of age, as long as the child's age is within the established age range of three (3) through nine (9) years of age.

**8. How are students suspected of a developmental delay assessed?**

At any time a student is suspected of a disability or developmental delay, the child's Individualized Education Program (IEP) team shall review existing data including information

provided by the parents, instructional interventions and strategies, current classroom-based assessments, and observations by teachers and related service providers. Based upon this information, the IEP team must decide if additional assessments are needed to determine whether or not a student is experiencing developmental delay. The emphasis of assessment of young students is not standardized diagnostic instruments, but rather functional quantitative performance data that provides the IEP team, including the parents, an accurate picture of what the student can and/or cannot do in the developmental areas as compared to typical developmental performance. A psychological assessment is not required and a local school system may not require the administration of a psychological assessment as a condition for determining a student eligible under the DD categorical option.

**9. What parameters are to be considered by an IEP team when determining a student's eligibility under the DD option?**

A public agency shall convene an IEP team meeting to determine if a child has a disability or developmental delay that *requires the provision of special education and related services*. For the preschool age child, special education and related services include areas of early learning that are prerequisite to and support and promote school readiness. Special education and related services for the young child provide meaningful access to the general education curriculum at a level of instruction appropriate to the identified needs of the individual child. Documentation of adverse impact of the disability or developmental delay on performance in formal academic content areas is therefore not required for eligibility under the DD category.

Eligibility for DD is independent of a determination of eligibility under any of the 13 existing disability categories. A student does not need to meet the eligibility criteria for an existing disability category in order to be considered for eligibility under DD. For a student found eligible for special education under an existing disability category [34 CFR §§300.8(b), .111(b); COMAR 13A.05.01.03(77)], the IEP team may choose to have the student identified under either that category or opt instead to have the student identified under the DD category.

**10. Is the identification, assessment, and evaluation process the same?**

Yes. At any time a student is suspected of a disability or developmental delay, the child's IEP team shall review existing data including information provided by the parents, instructional interventions and strategies, current classroom-based assessments, and observations by teachers and related service providers. Through a review of this information, the IEP team will decide if additional assessments are needed to determine whether or not a student is experiencing a developmental delay.

**11. Are student's identified as having a developmental delay to receive special education and related services through an IEP?**

Yes. After an IEP team identifies a student as a student with a developmental delay, the team is to develop an IEP to address the unique needs of the student that requires specialized instruction and related services. The IEP shall be developed in accordance with 34 CFR §300.324 and COMAR 13A.05.01.07 – .10.

**12. May a student identified as a student with a DD receive a single related service and no special instruction?**

No. A student with a DD should receive special instruction in addition to the specific related service(s). The child's service provider, special education specialist, and general education early learning personnel should work cooperatively to provide the student appropriate support in whatever environment the student may receive his or her services. This practice allows for the transfer and application of the related service skill into a variety of instructional settings. It can also enable quick and responsive intervention for any "newly identified" or "emerging" special education needs of the student that may impact the child's education.

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