



Developmental Delay

Why was the age of eligibility for the category, developmental delay, changed from ages 2 through 9, inclusive to 2 through 6, inclusive?

(August 13, 2009)

The term “developmental delay” as a disability category is not as specific as the other categories in the *Individuals with Disabilities Education Act (IDEA)* and the IDEA regulations. The Virginia Board of Education acknowledged that for some students, prior to the age of 7, there might be insufficient data to make an eligibility determination other than with the category, developmental delay. Consequently, to provide for these children, the Virginia Board of Education continued to use developmental delay in its regulations but limited to include only the ages of eligibility between age 2 through 6, inclusive.

The decision to lower the eligibility age for the developmental delay category was made to ensure that children are not inappropriately found to be disabled. Identifying a child as having a disability is a serious decision that can result in unintended consequences such as misperceptions about the child’s abilities, the use of special services as an unnecessary crutch, and the possibility of those services interfering in the child’s participation in curricular activities that are appropriately challenging.

The Office for Civil Rights has shown that when children are inappropriately identified at an early age, expectations may be lower, which can have a negative impact on outcomes, such as participating in advanced courses and graduating with a regular diploma. Data from the state’s special education child count in 2005 and 2006 indicated that there was a disproportionate number of children of minority groups identified as developmental delayed, which led policy makers to question the use of developmental delay as a contributing factor to the over-identification of children with disabilities.

The criteria for finding a child eligible using the category, developmental delay, is less specific and can result in the labeling of a student who may only need some appropriate, research-based interventions available to all children as required by Virginia and federal regulations that hold schools accountable for providing interventions within the general education program. Some Virginia school divisions that had eliminated identifying children as delayed in the upper age range reported their documented success in providing direct support to children who were at risk for academic or behavioral difficulty in the general education classroom. They also reported that they had reduced the over-identification, while at the same time placing more emphasis on timely interventions.

Requiring a more specific disability category will better ensure that children are not inappropriately labeled as having a disability, that appropriate research-based interventions are provided in the general education setting including data collection that measures response to these interventions, as well as ensuring appropriate access to special education and related services.

For more information:

- Virginia Department of Education Web site: <http://www.doe.virginia.gov/> or contact staff by phone at 804-225-2932, 1-800-422-2083, TDD 1-800-422-1098
- Office for Civil Rights Web site: <http://www.ed.gov/about/offices/list/ocr/index.html> or contact staff by phone at 1-800-421-3481, TDD 877-521-2172