

Developmental Delay Eligibility

State Board of Education

May 1, 2024

Julie Bowers

Director

Office of Inclusive Education



IDEA – Individuals with Disabilities Education Act

- The Federal Individuals with Disabilities Education Act (IDEA) permits the identification of children with developmental delays and continuity of instructional supports through age 9 as measured by appropriate diagnostic assessments (Title 20 U.S. code 1401 (3)). However, the Nevada State Board of Education's current developmental delay rule NAC 388.430, limits developmental delay identification to children under the age of 6.

IDEA

Sec. 300.8 (b)

(b) Children aged three through nine experiencing developmental delays. Child with a disability for children aged three through nine (or any subset of that age range, including ages three through five), may, subject to the conditions described in §[300.111](#)(b), include a child—

(1) Who is 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.

NAC Provisions

NAC Provisions

NAC 388.430 Identification of certain pupils with developmental delays; termination of services. ([NRS 385.080](#), [388.419](#), [388.433](#))

1. Except as otherwise provided in subsection 5, a pupil under the age of 6 years may be identified with a developmental delay if the eligibility team, comprised of the persons described in subsections 2 and 3, concludes that the pupil has a developmental delay and, by reason thereof, needs special education and related services and that the pupil demonstrates a delay of at least two standard deviations in one, or at least one standard deviation in two or more, of the following areas:

- (a) Receptive or expressive language.
- (b) Cognitive abilities.
- (c) Gross or fine motor function.
- (d) Self-help.
- (e) Social or emotional condition.

2. In a case governed by this section, the eligibility team must consist of:

- (a) A special education teacher or specialist in the field of early childhood education;
- (b) A licensed school psychologist or a licensed or certified psychologist with documented training in the assessment of preschool pupils with disabilities;
- (c) A parent of the pupil; and
- (d) If not otherwise a member of the team, one or more persons qualified, because of personal knowledge of the pupil, to interpret information relating to the pupil's health, family, and social and emotional condition. This person may be, without limitation, a school administrator, school nurse, school counselor, school psychologist or any other certificated or licensed professional.

3. If the requirements of subsection 2 are satisfied, the eligibility team may include, if not otherwise a member of the team, one or more persons who provide related services, including speech and language therapy, physical or occupational therapy, and psychological services.

4. The conclusions of the eligibility team concerning the identification of the pupil with a developmental delay must be based upon an evaluation of the pupil. The evaluation must include an assessment of the health, developmental functioning, and social and emotional condition of the pupil.

5. In a case governed by this section, a pupil may no longer be identified with a developmental delay if the pupil maintains appropriate developmental functioning in all developmental areas for 6 months or more and the eligibility team concludes that special education services are no longer necessary.

(Added to NAC by Bd. of Education, eff. 7-14-88; A 11-23-93; R039-98, 5-29-98; R085-99, 2-16-2000; R058-07, 10-31-2007; R064-08, 9-18-2008; R017-18, 1-30-2019)



How does a team determine if a student should be evaluated under **Developmental Delay** or any other disability category?

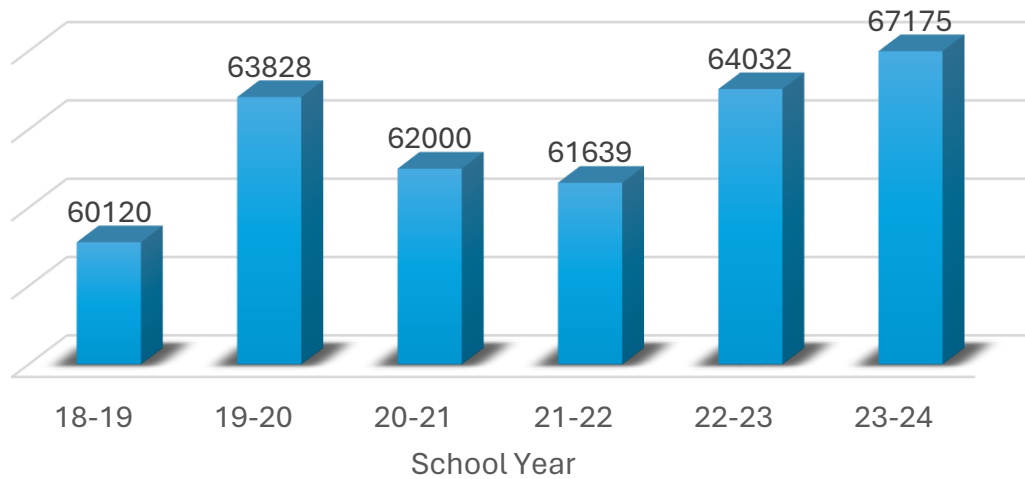
- If a student meets eligibility criteria under any other disability category and there are no other concerns or questions about other areas of the student's development, then the team would consider that disability category. If, however, there are other areas of concern which may not clearly be identified under another eligibility category then the team may consider qualifying under Developmental Delay.
-

What services can be provided for a student who qualifies under Developmental Delay?

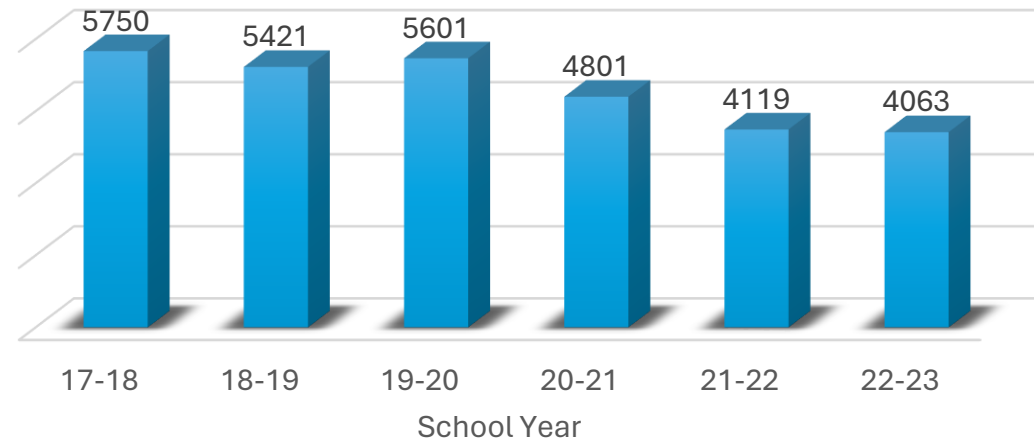
- Part of the eligibility determination process includes answering the question if the disability prevents the child from receiving reasonable educational benefit from general education and needs specialized instruction. Therefore, at a minimum, the student must receive specialized instruction (which can be special education and/or speech & language services). Related services, such as occupational and/or physical therapy, may be provided based on the needs of the child. Regardless of the child's disability category services must be provided that meet the individual needs of the child

Current DD Eligibility Counts

Total IDEA Counts Trend from 2018-2024



DD Eligibility Counts Trend from 2017-2023, ages 3-5



National Trends in Developmental Delay age Ranges

States and Jurisdictions that Use Developmental Delay to Determine IDEA Part B Eligibility and Age Ranges Applied

Ages 3–9	AS AZ FM GA ID IL KS MA MS NH NM ND MH MN MP OK OR SC TN VT VI WI WY
Ages 3–8	AL AK CO DE HI IN KY LA MT NE RI WA
Ages 3–7	DC MD MI NC UT
Ages 3–6	ME MO OH PA VA
Ages 3–5	AR CT FL GU NV NJ PU SD WV
Ages 3–4	NY

Notes:

- CA, IA, PR, and TX do not use the *developmental delay* category.
- BIE applies the *developmental delay* category to ages 4–9.

Source: [OSEP Data Documentation](#), U.S. Department of Education (2021). [IDEA Part B Child Count and Educational Environments for School Year 2020–2021](#), pp. 29–32.



DD Under the Age of 6 Rational

Natural Development: By age 6, most children have achieved key developmental milestones. This suggests that early intervention for delays is crucial, but continued DD eligibility beyond this point might not be necessary for all students.

Targeted Support: Determining eligibility in specific disability categories (e.g., Autism) allows for more tailored support. This ensures students receive interventions specifically designed to address their unique needs, leading to potentially better outcomes.

Early Autism Diagnosis: Early diagnosis of Autism is considered best practice. Ending DD eligibility at age 6 encourages a shift towards identifying specific disabilities that require specialized interventions.

Parental Knowledge and Advocacy: Knowing a child's specific disability empowers parents to seek additional resources, care, and support tailored to their child's needs.

Specialized Instruction: Eligibility in specific disability categories allows for instruction from teachers with specialized knowledge of those disabilities. This ensures students receive evidence-based interventions delivered by qualified professionals.

Focus on Learning Disabilities: After age 6, the focus often shifts towards identifying specific learning disabilities (LDs) like dyslexia or dyscalculia. A DD designation might be too broad at this stage. A more precise diagnosis allows for targeted interventions to address the student's specific challenges in reading, writing, or math.

DD Under the Age of 10

Why Change?

- **Continued Access to Special Education Services:** Students with ongoing developmental delays may still require specialized instruction and support beyond age 6 (typical cut-off for DD eligibility in some areas). This continued eligibility ensures they can access Individualized Education Programs (IEPs) with targeted interventions to address their specific learning needs.
- **More Time for Accurate Diagnosis:** A diagnosis of a specific learning disability (LD) or other condition might not be clear by age 6. Extending DD eligibility allows for additional time for assessments and observations to pinpoint the precise needs of the student.
- **Improved Social and Emotional Development:** Special education programs can provide social and emotional learning supports alongside academic interventions. This can be especially helpful for students with DD who might struggle with social interaction, self-regulation, or emotional expression.

Potential Impact on the Student Counts

- Increase in child find for students over 6 (just entering system)
- Increase in eligibility in already growing system
- Increase in requests to assess or re-assess students who were ineligible at age 6 and who are not yet 9.



What Do the Numbers Look Like LEA Example

FY23-24 Students from DD to new Eligibility Category or Dismissed Count:

- FY22-23 Count Day = **514 DD students.**
- FY23-24 Count Day = **439** Continued special education services under a new Disability Category
- FY23-24 Count Day = **40** were dismissed from special education,
- FY23-24 Count Day = **35** students did not continue with

Potential Changes Needed?

- Teacher preparation would need to encompass the specific learning and developmental needs of children through grade 3, including foundational literacy and math skills.
- A comprehensive review of eligibility forms would be required, focusing on potential changes and the need for new considerations.
- The focus of evaluations would need to shift from solely assessing developmental delays to a multifaceted approach that considers both developmental levels and academic readiness for grade-level curriculum beyond kindergarten.
- Investment in recruiting and retaining qualified teachers, special education professionals, and support staff would need to be increased to provide special education services.
- More comprehensive assessments would need to be developed and implemented for students who are potentially deemed ineligible for special education services at age 6, with a clear pathway for re-evaluation before age 9.

Things to Think About:

Impact on Nevada's Education System:

- **Impact on Resources:** Will increased identification of DD students strain Nevada's resources for providing adequate support services?
- **Equity and Access:** How can Nevada ensure equitable access to DD evaluations and support services for all students, regardless of location or socioeconomic background?

Stakeholder Input:

- **Local Education Agencies (LEAs):** Could we request additional data from LEAs to examine DD eligibility/Non eligibility effects?
- **Parents and Advocacy Groups:** How can Nevada involve parents and advocacy groups in discussions about changing DD eligibility age and ensure their voices are heard?

MTSS & RTI Interventions:

- **Early Intervention Focus:** Can Nevada prioritize MTSS use of (Multi-Tiered System of Supports) and RTI (Response to Intervention) frameworks for early intervention and to support students beyond eligibility?

Long-Term Impact:

- What is the potential long-term impact on students with learning disabilities if identification and support are delayed due to a raised DD eligibility age?



Contact Information

Julie Bowers

Director Office of Inclusive Education

Phone: 775-687-9146

Email: jabowers@doe.nv.gov