



### 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



## Intellectual Disability

### *Why was the disability category Mental Retardation changed to Intellectual Disability? (August 13, 2009)*

The Virginia Board of Education and Department of Education through its special education regulations revision process officially changed the disability category of *mental retardation* to *intellectual disability*. The definition of intellectual disability found in the current state regulations is:

**"Intellectual disability"** means the definition formerly known as "mental retardation" and means significantly sub average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance. (8VAC20-81-10)

Individuals with intellectual disabilities have asserted that the term mental retardation does not communicate dignity or respect and, in fact, frequently results in the devaluation of such persons.

*Intellectual Disability* has been increasingly used by professional organizations, journals, agencies and published research as the preferred term for the disability historically referred to as mental retardation. The transition in terminology is used by organizations such as the American Association on Intellectual and Developmental Disabilities, the International Association for the Scientific Study of Intellectual Disabilities, and the President's Committee for People with Intellectual Disabilities.

The term *intellectual disability* covers the same population of students who were identified previously with *mental retardation*. This new change in terminology does not affect the continued need for individualized supports and services.

The Virginia Department of Education provides guidance designed to assist eligibility teams in accurately identifying students with intellectual disabilities for the purposes of qualifying for special education and related services. This information can be found on the Virginia Department of Education Web site.

For more information:

- Schalock, R., & Luckasson, R., & Shogren, K. "The Renaming of Mental Retardation: Understanding the Change to the Term Intellectual Disability" (2007). *Intellectual and Developmental Disabilities*, 45, 116-124.
- 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



**Severe Disability**

***Why was “severe disability” deleted in the 2007  
state special education regulations?***

***(August 13, 2009)***

In the past, the term “severe disability” as a disability category was used in the state special education regulations although it is not a disability category in the federal *Individuals with Disabilities Education Act* (IDEA). The Virginia Board of Education and Department of Education identified this as an area where Virginia could align with the federal reporting requirements.

In addition to aligning with the IDEA, “severe disability” is not as specific as the other categories in the regulations and therefore caused some confusion in the identification process.

This new change in terminology should not affect the continued need for individualized supports and services for students who were previously identified as having a severe disability. It is anticipated that students currently identified with this disability will qualify as either having multiple disabilities or another specific disability.

A school division may wait until the natural progression of the re-evaluation process to revise the category of a child with a severe disability. If circumstances warrant in an individual case, based on the child’s educational needs, a school division may re-evaluate the child earlier than the triennial date in order to revise the disability category.

Therefore, the child’s free appropriate public education entitlement remains preserved by waiting until the triennial process to change the disability category, if the child continues to have a disability.

The Virginia Department of Education provides guidance designed to assist eligibility teams in accurately identifying students with disabilities for the purposes of qualifying for special education and related services. This information can be found on the Virginia Department of Education Web site.

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