



## *Tips for Special Education Directors from OSCAS*

OSCAS “Tips” are offered to support local education agencies in their efforts to ensure special education compliance. Tips serve as easy-to-reference reminders of existing regulatory requirements and are not intended as supplementary guidance.

### *Topic: Children Aged 3 Through 8: Determining Developmental Delay/ Disability*

Due to a variety of factors, determining eligibility during the preschool years can be particularly challenging. Not only must LEA’s consider the individual disability categories but they must also pay particular attention to the category of developmental delay. During early childhood, children display a wide range of developmental patterns and growth; they participate in a variety of early childhood settings and may in fact not yet participate in any formal educational environment. For preschool-aged children, the team must ensure that its evaluation considers all developmental domains (physical development, cognitive development, communication development, social or emotional development, and adaptive development) as potential assessment areas of early childhood educational performance. Evaluating whether development is adversely affected requires the use of valid, reliable measures of early childhood developmental domains.

In conducting a full and individual evaluation of a child within the age range of three years old up to the ninth birthday, the evaluation team must determine whether the child is experiencing a developmental delay (DD) or disability and who, by reason thereof, needs special education and related services. In determining disability under DD and the need for special education, the evaluation team must consider areas beyond academic skills. All of the following areas of early childhood development must be considered- physical development, cognitive development, communication development, social or emotional development, and adaptive development. It is important to recognize that deficits in academic skills are not required for eligibility. For example, children with social emotional needs that meet the regulatory criteria for developmental delay do not need to also present with a deficit in the cognitive domain.

In addition to information collected from a variety of sources, an Evaluation Team’s assessment of development in each area of need must include determination of the child’s development relative to established norms. This requires the inclusion of valid, reliable norm-referenced measures across the cited developmental domains. This enables the team to determine the extent to which the child’s development meets or deviates from expected norms as well as the number of developmental areas which are of concern. This data is a required element for evaluating the child’s developmental strengths and needs in relation to the regulatory criteria for children experiencing development delays.

Because special education evaluations must be comprehensive but also individualized, a team may choose from a variety of evaluation methods and tools when creating the evaluation plan. The team should first consider all currently available data and information, and then decide what additional information is necessary to determine whether the child has a disability and is in need of special education. Teams are encouraged to access and consider other types of data which will supplement the diagnostic measures discussed above. Such measures might include observation of the child in his/her natural environment, parent interview, teacher interview, or formative assessment data (for example, Teaching Strategies GOLD child assessment). Teams may also reference the RI Early Learning & Development Standards as an indication of what children should know and be able to do.

*Please see reverse side.*

***Topic: Children Aged 3 Through 8: Determining Developmental Delay/Disability.***

***Excerpts: Rhode Island Board of Education Regulations Governing the Education of Children with Disabilities***

**300.8 Child with a disability.**

(a) *General.* (1) *Child with a disability* means a child, aged 3 to 21, evaluated in accordance with §§ 300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as —emotional disturbance, an orthopedic impairment, autism spectrum disorder, traumatic brain injury, other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

(2)(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under §§ 300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, *the child is not a child with a disability under this part.*

(ii) If, consistent with § 300.39(a)(2), the related service required by the child is considered special education rather than a related service under State standards, *the child would be determined to be a child with a disability under paragraph (a)(1) of this section.*

(b) *Children aged 3 through 8 experiencing developmental delays.* (1) Child with a disability, for children aged 3 through 8 (up to the child's ninth birthday), includes a child who shall qualify for special education and related services when the child is experiencing a developmental delay or a disability, as determined by the evaluation process; and

(2) Who, by reason thereof, needs special education and related services.

(3) A developmental delay or disability is defined as a twenty five per cent (25%) delay and/or score equal to or greater than two standard deviations below the mean in one of the following areas of development; or a score equal to or greater than 1.5 standard deviations below the mean in two (2) or more of the following areas: Physical development, cognitive development, communication development, social or emotional development, or adaptive development.

**300.304 Evaluation procedures.**

(b) *Conduct of evaluation.* In conducting the evaluation, the public agency must —

(1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining —

(i) Whether the child is a child with a disability under §300.8; and

(ii) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);

(2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and

(3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(c) *Other evaluation procedures.* Each public agency must ensure that— ...

(2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient...

(4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities...