

## PP-D2

### NON-CATEGORICAL DELAY (NCD)

#### ELIGIBILITY

Eligibility for early childhood special education services in North Dakota can be determined in one of two ways:

**Categorical definition:** Eligibility based on a diagnosis in one of the thirteen categorical areas listed in Public Law 105-17, the Individuals with Disabilities Education Act Amendments of 1997, (IDEA).

There must be a determination by the multidisciplinary team that the child has a disability and requires special education in order to benefit from age-appropriate developmental learning opportunities. Specific criteria for each categorical area are contained in *Special Education in North Dakota: Guide I Laws, Policies, and Regulations for Special Education for Exceptional Children*.

**Non-categorical definition:** Eligibility based on developmental delay or inconsistencies in demonstrating developmental milestones.

Developmental delay is defined as demonstrating a developmental profile that documents skill acquisition that is significantly below that of chronologically same-age peers in one or more of the following areas: 1) cognitive; 2) fine motor; 3) motor; 4) vision; 5) hearing; 6) communication, may include speech and language; 7) preacademic; 8) socialization, may include interactional and emotional development; and 9) adaptive skills which may include self-help, attending, behavior control, and creative play; exhibited by a preschool child, three through six years of age, who is determined by a multidisciplinary assessment team to be in need of special education.

Significantly below average is defined as meeting criteria in one of the following three categories:

Criteria A:     √ Performance at/or below 1.5 Standard Deviations of the mean in any **TWO** areas of development.

OR

√ Performance at/or below 2.0 Standard Deviations of the mean in **ONE** area of development.

Criteria B:     √ A **30% delay** in developmental age functioning in one area of development

OR

√ A **20% delay** in developmental age functioning in two areas of development.

Criteria C:     √ **Known risk indicators.** This category includes children diagnosed with:

1.     Syndromes and disorders which have a high probability of resulting in a disability. Examples include Down's Syndrome, Fetal Alcohol Syndrome, and Spina Bifida.

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2. This category also includes children who are functioning above the stated criteria in Category A and B because of intensive early intervention but who are eligible for services based on expected regression if services were to be terminated.
3. Environmentally at risk students can be included after the impact of severe environmental deprivation can be substantiated, such as when both parents are developmentally disabled.

When using Category A or B Criteria, developmental functioning levels in all six domains must be documented. Multiple reference points should be utilized when assessing developmental delay including developmentally referenced, norm referenced, and criterion or curriculum referenced. The evaluation must be completed by a multidisciplinary team and must utilize observations of the child in normalized community and home environments. Diagnostic information sources such as medical records, social service agency reports, parent or caretaker interviews, and anecdotal information from observations should be incorporated to assist in determining eligibility and specific programmatic needs.

When it is not possible to obtain valid results from formal tests due to the severity of the delay, language barriers, behavior of the child, etc., at least two independent sources of diagnostic information must be utilized to substantiate the deficit. This can consist of medical reports, allied medical reports, social service cases where the assessment data does not allow the use of specified criteria for the eligibility definition, the professional or clinical judgement resulting in the determination of eligibility may be substantiated through documentation of incidental observations, informal test results, and professional judgement.

### **Adversive Effects on Educational Performance (or requiring special education):**

Determination of adverse educational effects must reflect consideration of the effect of the child's disability on overall performance in developmentally appropriate small and large group activities and how the disability impacts the child's access and participation in the normalized activities. It is not intended to imply that the child must be below level or considered to be failing in order to be eligible for special education and related services.

### **Multidisciplinary Evaluation Team Composition:**

Team composition may vary based upon consideration of each individual child. The team must include a certified early childhood special education teacher, a professional knowledgeable about the child's performance in normalized community activities (child-care provider, nurse, social worker), and the parents. Other team members should include professionals with necessary qualifications to assess the child's functioning in the areas of suspected disability. Examples include a speech and language pathologist, occupational therapist, physical therapist, audiologist, psychologist, etc.