

Evaluation and Eligibility



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Much of the code and regulation cited in this Handbook has been paraphrased for clarity and conciseness. For the full text of legislative code and regulation, refer online to the citation provided.

Notes:

KEY CONCEPTS OF EVALUATION AND ELIGIBILITY

- No single procedure can be used as the sole criterion for eligibility.
- All referred children have a right to evaluation to determine eligibility.
- Families must be afforded the opportunity to participate in all decisions regarding their child's eligibility and services.
- Evaluation is a process conducted by the multidisciplinary team, which includes the parent and qualified personnel of the regional center or local educational agency (LEA).

Notes:

OVERVIEW OF EVALUATION AND ELIGIBILITY

What Is Eligibility?

Eligibility is the state of being allowed to receive services, supports, or benefits because some specific conditions or standards have been met. To be eligible for Early Start services, infants and toddlers must:

- Be between birth and 36 months of age;
- Meet one of three eligibility criteria described below; and
- Need early intervention services.

Title 17 California Code of Regulations (CCR) Section 52020

The need for services may be to enhance the child's development, to minimize the potential for a child's developmental delay, to minimize the need for special education and related services at school age, to maximize the child's potential to live independently in society later in life, and to enhance the capacity for the family to meet the special needs of their child.

20 United States Code (USC) Section 1431

Who Determines Eligibility?

Eligibility is determined by qualified personnel of the regional center or LEA, with the participation of the multidisciplinary team including the parent.

Title 17 CCR Section 52082(a)

A multidisciplinary team is composed of two or more individuals of various disciplines or professions and the parent, who participate in the provision of integrated and coordinated services, including evaluation, assessment, and individualized family service plan (IFSP) development.

Title 17 CCR Section 52000(b)(40)

A multidisciplinary team is created when the parent and the service coordinator meet with professionals involved in evaluation, assessment, and provision of services. The team functions as a coordinated and integrated body. Information about the whole child and the needs and desires of the family is

shared across disciplines. The team process ensures that services are integrated and coordinated.

The Early Start Service Coordination Handbook Chapter 3, Multidisciplinary Team Process, (in development) provides more information on multidisciplinary teams.

What Are the Eligibility Criteria?

Infants and toddlers who are eligible for Early Start meet one of three eligibility criteria:

- Developmental delay
- Established risk
- High risk for developmental disability

Developmental Delay

A developmental delay exists if there is a significant difference between the infant or toddler's current level of functioning and the expected level of development for his or her age in one or more of the following developmental areas:

1. Cognitive
2. Physical, including fine and gross motor abilities, and vision and hearing status
3. Expressive communication
4. Receptive communication
5. Social or emotional
6. Adaptive

Title 14 CEISA Section 95014(a)(1)

Under the California Early Intervention Services Act (CEISA), a significant difference is defined as a 25-percent delay in one or more developmental areas.

Title 14 CEISA Section 95014(a)(1)

A developmental delay shall not be determined based on:

- Temporary physical disability;
- Cultural or economic factors;
- The normal process of second language acquisition; or
- Manifestation of dialect and sociolinguistic variance.

Title 17 CCR Section 52022(d)

Established Risk

Established risk conditions include:

1. Conditions of known etiology or conditions, including fetal alcohol syndrome, that have a high probability of resulting in developmental delay; or

Title 14 CEISA Section 95014(a)(2)

2. A solely low incidence disability. Specifically, this is a visual, hearing, or severe orthopedic impairment, or any combination of these.

Title 17 CCR Section 52022(b)

What Is a Condition of Known Etiology?

Conditions of known etiology include:

- Certain chromosomal and genetic disorders such as inborn errors of metabolism;
- Certain congenital malformations;
- Severe infections, especially of the central nervous system;
- Certain neurological disease or trauma; and
- Poisoning or toxic exposure with neurological sequelae.

These conditions must be diagnosed by qualified personnel such as a physician or geneticist who advises or participates on the multidisciplinary team. Delay may not be evident at the time of diagnosis.

What Is a Solely Low Incidence Disability?

A low incidence disability is a condition with a very low rate of occurrence (less than 1 percent of the total statewide enrollment in kindergarten through grade 12). Low incidence conditions include:

- Hearing impairments
- Vision impairments
- Severe orthopedic impairments or
- Any combination thereof

Title 17 CCR Section 52000(b)(58)

A solely low incidence disability means one or a combination of low incidence disabilities, which are vision impairment, severe orthopedic impairment, and hearing impairment, *which is the primary disability* and has a significant impact on learning and development of the infant or toddler as determined by the IFSP team of the LEA. The infant or toddler who has a solely low incidence disability shall not be eligible for services from a regional center.

Title 17 CCR Section 52000(b)(58) (emphasis added)

Why Does It Matter?

Eligibility under the solely low incidence category can only be established by the IFSP team of the LEA.

Title 17 CCR Section 52000(b)(58)

Infants and toddlers with solely low incidence disabilities must be evaluated and assessed by qualified personnel of the LEA whose professional preparation, license, or credential authorization is specific to the suspected disability.

Title 17 CCR Section 52082(h)

Children with solely low incidence disabilities are served by LEAs and are not eligible for regional center services.

Title 17 CCR Section 52110(a)

Solely Low Incidence vs. Low Incidence: An Important Distinction

The distinction between solely low incidence and low incidence has important implications for the provision of services. “Low incidence” describes the disability: it is a disability that occurs infrequently. “Solely” describes the child’s condition: the low incidence disability is the only disability that the child has.

Children with solely low incidence disabilities certainly may experience delays in development as a result of their hearing, vision, or orthopedic impairments. Similarly, a child with developmental disabilities (an intellectual disability, cerebral palsy, autism, etc.) may also have a hearing loss, low vision or an orthopedic impairment. However, based on regulatory definition,

- The child who only has low incidence disabilities would be considered as having a solely low incidence disability and would be served by the LEA.
- The child who has primarily developmental disabilities, even though he also has a low incidence disability, would *not* be considered as having a solely low incidence disability and would be served by the regional center.

High Risk for Developmental Disability

High risk for a developmental disability exists when a multidisciplinary team determines an infant or toddler:

1. Has a combination of two or more specific high risk factors, or
2. Is a child of an individual with a developmental disability and requires early intervention services as determined by the IFSP team.

Title 17 CCR Section 52022(c)

Specific High Risk Factors Include:

1. Prematurity of less than 32 weeks’ gestation and/or low birth weight of less than 1500 grams.
2. Assisted ventilation for 48 hours or longer during the first 28 days of life.
3. Small for gestational age: below the third percentile on the National Center for Health Statistics growth charts.

4. Asphyxia neonatorum associated with a five-minute Apgar Score of 0 to 5.
5. Severe and persistent metabolic abnormality including, but not limited to, hypoglycemia, acidemia, and hyperbilirubinemia in excess of the usual exchange transfusion level.
6. Neonatal seizures or nonfebrile seizures during the first three years of life.
7. Central nervous system lesion or abnormality.
8. Central nervous system infection.
9. Biomedical insult including, but not limited to, injury, accident, or illness that may seriously or permanently affect developmental outcome.
10. Multiple congenital anomalies or genetic disorders that may affect developmental outcome.
11. Prenatal exposure to known teratogens.
12. Prenatal substance exposure, positive infant neonatal toxicology screen, or symptomatic neonatal toxicity or withdrawal.
13. Clinically significant failure to thrive including, but not limited to, weight persistently below the third percentile for age on standard growth charts or less than 85 percent of the ideal weight for age and/or acute weight loss or failure to gain weight with the loss of two or more major percentiles on the growth curve.
14. Persistent hypotonia or hypertonia, beyond that otherwise associated with a known diagnostic condition.

Title 17 CCR Section 52022(c)(1)

When a Parent Has a Developmental Disability

High risk for a developmental disability also exists when a multidisciplinary team determines that the parent of the infant or toddler is a person with a developmental disability and the infant or toddler requires early intervention services based on evaluation and assessment.

Title 17 CCR Section 52022(c)(2)

Working with a family where one or both parents have a developmental disability and the infant or toddler is to be served under Early Start may present service coordination challenges. The parent may have his or her own service coordinator. In this circumstance, collaboration and communication between service coordinators and service providers, and parent consent to do so, are essential. In some instances, a single service coordinator may be assigned to work with the entire family. When there are two service coordinators, it is important that they work out their roles and responsibilities and how they will communicate at the beginning of the relationship.

What Is “Dually Served”?

If LEAs have not reached their funded capacity, they may provide early intervention services to infants and toddlers who are eligible for regional center services, per Government Code Section 95014(c). These children are said to be “dually served.” Funded capacity means the number of eligible infants that the California Department of Education requires LEAs to serve to maintain funding for their programs and services in a given year.

Title 17 CCR Section 52000(b)(21)

What Is Evaluation?

Evaluation is defined as the procedures used by qualified personnel to determine an infant or toddler’s initial and continuing eligibility including present levels of development. Initial evaluation is defined as the child’s evaluation to determine his or her initial eligibility for early intervention services.

Title 17 CCR 52000 (b)(17)

Remember This About Developmental Screening...

Screening protocols or instruments, such as the M-CHAT (*Modified Checklist for Autism in Toddlers*) and the ASQ (*Ages and Stages Questionnaire*), are designed to determine whether a child requires further evaluation. Developmental screenings used alone are not sufficient to serve as a basis for determining eligibility.

Who Are Qualified Personnel?

People who meet state certification, licensing, credentialing, registration, or other comparable requirements for the area in which they are providing early intervention services or, in the absence of such approved or recognized requirements, meet the Department of Developmental Services (DDS) or California Department of Education (CDE) requirements.

Title 17 CCR Section 52000(b)(49)

Infants with solely low incidence disabilities shall be evaluated and assessed by qualified personnel of the LEA whose professional preparation, license, or credential is specific to the suspected disabilities.

Title 17 CCR Section 52082(h)

SERVICE COORDINATOR RESPONSIBILITIES

NOTE: The responsibilities of a service coordinator for evaluation and assessment often overlap. However, they are two different processes. Evaluation determines a child's initial and ongoing eligibility for the Early Start program. Assessment takes place after eligibility is determined and is the ongoing process of identifying a child's strengths and needs and services to meet those needs.

It is the service coordinator's responsibility to:

- Provide written notice to the parent about:
 - Personally identifiable information maintained;
 - Purpose and types of information used in evaluation and assessment; and
 - The methods used to protect confidentiality.

Title 17 CCR Section 52160

- Obtain written consent from the parent before the initial evaluation and assessment is conducted.

Title 17 CCR Section 52162(a)(1)

- Document in the infant's or toddler's record that the parent has been informed:
 - Of information relevant to evaluation or assessment and exchange of records for which consent is sought, in the language of the parent's choice, and that the parent agrees to the completion of the evaluation or assessment;
 - That consent is voluntary and may be revoked at any time;
 - That the parent may accept or decline any early intervention service, at any time, and continue to receive other early intervention services; and
 - Of who will receive the records and a listing of the records to be exchanged.

Title 17 CCR Section 52162(b)

- Ensure that, if consent for assessment is not given or is withdrawn, the parent has been informed:
 - Of the nature of the evaluation and assessment that would have been provided;
 - That the infant or toddler will not receive the evaluation and assessment unless consent is given; and
 - That the infant's or toddler's record contains documentation of the attempts to obtain consent.

Title 17 CCR Section 52162(c)

- Coordinate the performance of initial and subsequent evaluations and assessments.

Title 17 CCR Section 52121(a)(7)

- In the event that the initial evaluation and assessments are not completed within the required 45-day timeline:
 - Document in the child's early intervention records the exceptional family circumstances or repeated attempts by the lead agency or early intervention service provider to obtain parental consent (for a full explanation of "exceptional family circumstances," see page 11 of Chapter 7);
 - Complete the evaluation and assessments as soon as possible after the documented exceptional family circumstances no longer exist or parental consent is obtained.

34 CFR Section 303.310(c)(1-2)

- Provide written notice to the parent a reasonable time before a regional center or LEA proposes, or refuses, to initiate or change the evaluation or assessment of the infant or toddler.

Title 17 CCR Section 52161(a)(1)

- Facilitate the exchange of information among service providers including health providers, medical case managers, regional centers, and LEAs.

Title 17 CCR Section 52121(a)(11)

Procedures

Remember:

Evaluations for eligibility must be conducted in natural environments whenever possible.

Title 17 CCR Section 52082(j)

The determination of eligibility shall be made with the participation of the parents. The parents' participation in eligibility decisions or their decision to decline participation should be documented.

Title 17 CCR Section 52082(a)

In conducting an evaluation, no single procedure may be used as the sole criterion for determining a child's eligibility. Procedures must include:

1. Administering an evaluation instrument;
2. Taking the child's history (including interviewing the parent);
3. Identifying the child's level of functioning in each of the developmental areas;
4. Gathering information from other sources such as family members, other care-givers, medical providers, social workers, and educators, if necessary, to understand the full scope of the child's unique strengths and needs; and
5. Reviewing medical, educational, or other records.

34 CFR Section 303.321(b)

Evaluation to determine eligibility must be based on informed clinical opinion* and include:

1. A review of pertinent records related to the infant or toddler's health status and medical history provided by qualified health professionals who have evaluated or assessed the infant or toddler;
2. A review of educational or other early intervention records;
3. Gathering information from other sources as necessary to understand the infant's or toddler's unique strengths and needs;
4. Information obtained from parental observation and report; and
5. Evaluation by qualified personnel of the child's level of functioning in each of the following developmental areas:
 - a. Cognitive
 - b. Physical and motor, including vision and hearing
 - c. Communication
 - d. Social or emotional and
 - e. Adaptive

Title 17 CCR Section 52082(b)

*Qualified personnel must use informed clinical opinion when conducting an evaluation of the child. In addition, the lead agency must ensure that

informed clinical opinion may be used as an independent basis to establish a child's eligibility under this part even when other instruments do not establish eligibility. However, in no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility.

34 CFR Section 303.321(a)(3)(ii) ; Title 17 CCR Section 52082(d)

Standardized tests or instruments may be used as part of the evaluation, and, if used, they shall:

1. Be selected to ensure that, when administered to an infant or toddler with impaired sensory, motor, or speaking skills, the tests produce results that accurately reflect the infant or toddler's aptitude, developmental level, or any other factors the test purports to measure and not the infant or toddler's impaired sensory, motor, or speaking skills unless those skills are the factors the test purports to measure; and
2. Be validated for the specific purpose for which they are used.

Title 17 CCR Section 52082(e)

If standardized, normed, or criterion-referenced instruments are used as part of the evaluation, significant difference between an infant or toddler's current level of functioning and the expected level of development for his or her age shall be established when an infant or toddler's age-equivalent score falls one-third below age expectation.

Title 17 CCR Section 52082(f)

Procedures and materials for evaluation of infants and toddlers shall be selected and administered so as not to be racially or culturally discriminatory.

Title 17 CCR Section 52082(g)

Infants or toddlers with solely low incidence disabilities shall be evaluated by qualified personnel of the LEA whose professional preparation, license, or credential authorization are specific to the suspected disability.

Title 17 CCR Section 52082(h)

When conducting an evaluation of an infant or toddler or their family, regional centers, LEAs and multidisciplinary teams shall not presume or determine eligibility, including eligibility for medical services provided through the Department of Health Care Services, for any other state or local government program or service.

Title 17 CCR Section 52082(i)

Procedural Safeguards

Written notice must be provided about personally identifiable information maintained; types of information used in identification and evaluation; and the methods used to protect confidentiality.

Title 17 CCR Section 52160

Written notice must be provided before a regional center or LEA proposes or refuses to initiate or change identification or evaluation of the infant or toddler.

Title 17 CCR Section 52161(a)(1)

Written parental consent must be obtained before conducting the initial evaluation.

Title 17 CCR Section 52162(a)(1)

The child's record must contain written evidence that the parent was informed of information relevant to evaluation or exchange of records, in the preferred language of the parent, and agrees to the completion of the evaluation.

Title 17 CCR Section 52162(b)(1)

The child's record must contain written evidence that the parent was informed about who will receive records on the child and a listing of records exchanged.

Title 17 CCR Section 52162(b)(4)

If the parent does not give or withdraws consent for evaluation, the service coordinator must inform the parent of the nature of the evaluation that would have been completed, inform the parent that the child will not be evaluated for eligibility unless consent is given, and document attempts to obtain consent in the child's record.

Title 17 CCR Section 52162(c)

Timelines

The initial evaluation and assessment for eligibility must be completed within 45 days of the date that the regional center or LEA received the referral.

Title 17 CCR Section 52086(a)

When the child or parent is unavailable to complete the evaluation due to documented exceptional family circumstances or when the parent has not provided consent for the initial evaluation, the 45-day timeline does not apply.

34 CFR Section 303.310(b)(1-2)

QUALITY PRACTICES

The following evaluation practices are adapted from the *DEC Recommended Practices in Early Intervention/Early Childhood Special Education 2014* (see Resources at the end of this chapter):

- Work with the family to identify family preferences for evaluation activities and processes.
- Work as a team with the family and other professionals to gather evaluation information.
- Ensure that instruments and strategies used for evaluation are appropriate for the child's age and level of development and accommodate the child's sensory, physical, communication, cultural, linguistic, social, and emotional characteristics.
- Ensure that all areas of development and behavior are considered to learn about the child's strengths, needs, preferences, and interests.
- Ensure that evaluation instruments, if used, are administered in the child's dominant language and in additional languages if the child is learning more than one language.
- Ensure that a variety of methods are used, including observation and interviews, to gather assessment information from multiple sources, including the child's family and other significant individuals in the child's life.
- Ensure that evaluation activities occur within and pay attention to the child's and family's daily activities, routines, and environments such as home, center, and community.
- Ensure that both clinical reasoning and evaluation results are considered to determine the child's eligibility.
- Ensure that evaluation information is reported in languages and formats that are understandable and useful to families.

Notes:

TIPS FOR SUCCESS

- If possible, the same person should be both the initial and the ongoing service coordinator.
- Use a phrase such as “Your child appears to meet eligibility criteria” when discussing a child’s eligibility status with parents prior to determining eligibility.
- Work as a team with the family to define the child’s strengths, skills, behaviors, and concerns as the focus of the evaluation.
- Use multiple methods and procedures to evaluate the child’s development (for example, observations, rating scales, parental interviews and reports, review of records, evaluation instruments).
- Gather evaluation information from the parents and others who know the child.
- Gather evaluation information in multiple settings, observing the child’s participation in everyday activities, routines, and play.
- Work as a team to compile the data from the tools, methods, people, and settings.
- Engage the team in summarizing and describing the functional impact of the child’s delays and differences in terms of needing early intervention.
- Reach a consensus on eligibility based on all the available evaluation information.
- Give parents an easily understood written summary of the methods and procedures used to evaluate the child’s functioning.
- Document the team’s decision and rationale about the child’s eligibility for early intervention on the IFSP form.

Some of the tips above are adapted from the *DEC Recommended Practices Informed Clinical Reasoning Checklist*, which is included in the Resource section of this chapter.

Notes:

RESOURCES

Informed Clinical Reasoning Checklist23

Division for Early Childhood. (2014). *DEC recommended practices in early intervention/early childhood special education 2014*. Retrieved from <http://www.dec-sped.org/recommendedpractices>. Available for download from <http://ectacenter.org/decrp/type-checklists.asp>.

Informed Clinical Reasoning Checklist

[Download the Informed Clinical Reasoning Checklist \(PDF\)](#)

DEC Recommended Practices Topic Area: **ASSESSMENT**

This checklist includes practices that are important for using informed clinical reasoning/opinion for evaluation and eligibility determination. This checklist can help individuals and team members insure that the evaluation and assessment informs an accurate eligibility determination.

The checklist indicators can be used to develop a plan to promote a

formalized and structured process using informed clinical reasoning for eligibility determination.

The checklist rating scale can be used for a self-evaluation to determine whether the different practice characteristics were part of using the practice when conducting an eligibility determination.

Practitioner: _____ Child: _____ Date: _____

Please indicate which practice characteristics you were able to use as part of evaluation and assessment of a child:

	Seldom or Never (0-25%)	Some of the Time (25-50%)	As Often as I Can (50-75%)	Most of the Time (75-100%)	Notes
1. Work as a team with the family to identify the child's strengths, skills, behaviors, and concerns as the focus of the evaluation or assessment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2. Use multiple methods and procedures to evaluate and assess the child's behavior (e.g. observations, rating scales, parental interview and report, review of records, assessment instruments)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3. Gather information from the parents and others who know the child	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4. Gather evaluation and assessment information in multiple settings by observing the child's participation in everyday activities, routines, and play	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5. Work as a team to compile the results from the assessment tools, methods, people, and settings					
6. Describe unusual, questionable, or atypical child behaviors (e.g., responses to sensory stimuli; abnormal muscle tone, reflexes, range of motion, and poor quality of movement; failure to initiate or respond to social interactions; restrictive or repetitive interests or behaviors that interfere with skill development)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7. Engage the team in summarizing and describing the impact of the child's delays and differences in terms of needing early intervention or preschool special education	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8. Reach a consensus concerning eligibility based on all the available evaluation and assessment information	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
9. Provide the parents an easily understood written summary of (a) the methods and procedures used to assess the child's functioning and (b) the team's decision and rationale about the child's eligibility for early intervention or preschool special education	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

DEC Recommended Practices are available at <http://www.dec-spel.org/recommendedpractices>
 Access this checklist and other ECTA Center products at <http://www.ectacenter.org/decrp/>
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PUBLISHING INFORMATION

Early Start Service Coordination Handbook was developed by the California Department of Developmental Services (DDS), through a contract with WestEd.

For information about California Early Start, contact DDS at 800.515.BABY, visit www.dds.ca.gov/services/early-start, or email earlystart@dds.ca.gov.

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