

California Code of Regulations
Title 17, Division 2
Chapter 2 - Early Intervention Services
SubChapter 1 - General Provisions
Article 2 - Eligibility for California's Early Start Program

§52022. Eligibility Criteria.

(a) Developmental Delay

A developmental delay exists if there is a significant difference pursuant to 52082 between the infant's 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, vision, and hearing;
- (3) Communication;
- (4) Social or emotional;
- (5) Adaptive.

(b) Established Risk

- (1) An established risk condition exists when an infant or toddler has a condition of known etiology which has a high probability of resulting in developmental delay; or
- (2) An established risk condition exists when an infant or toddler has a solely low incidence disability.

(c) High Risk for Developmental Disability

(1) High risk for a developmental disability exists when a multidisciplinary team determines that an infant or toddler has a combination of two or more of the following factors that requires early intervention services based on evaluation and assessment pursuant to section 52082 and section 52084 :

- (A) Prematurity of less than 32 weeks gestation and/or low birth weight of less than 1500 grams.
- (B) Assisted ventilation for 48 hours or longer during the first 28 days of life.
- (C) Small for gestational age: below the third percentile on the National Center for Health Statistics growth charts.
- (D) Asphyxia neonatorum associated with a five minute Apgar score of 0 to 5.
- (E) Severe and persistent metabolic abnormality, including but not limited to hypoglycemia, acidemia, and hyperbilirubinemia in excess of the usual exchange transfusion level.
- (F) Neonatal seizures or nonfebrile seizures during the first three years of life.
- (G) Central nervous system lesion or abnormality.
- (H) Central nervous system infection.
- (I) Biomedical insult including, but not limited to, injury, accident or illness which may seriously or permanently affect developmental outcome.
- (J) Multiple congenital anomalies or genetic disorders which may affect developmental

outcome.

- (K) Prenatal exposure to known teratogens.
 - (L) Prenatal substance exposure, positive infant neonatal toxicology screen or symptomatic neonatal toxicity or withdrawal.
 - (M) 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% 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.
 - (N) Persistent hypotonia or hypertonia, beyond that otherwise associated with a known diagnostic condition.
- (2) 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 as specified in section 52082 and section 52084 .
- (d) A developmental delay shall not be determined based on:
- (1) Temporary physical disability;
 - (2) Cultural or economic factors;
 - (3) The normal process of second language acquisition; or
 - (4) Manifestation of dialect and sociolinguistic variance.

Note

Authority cited: Sections 95009 and 95028, Government Code. Reference: Sections 1432(5), 1432(3) and 1435(a)(1), Title 20 United States Code; Sections 303.10, 303.16 and 303.300, Title 34 Code of Federal Regulations; Sections 95014 and 95028(b)(2), Government Code; and Section 4642, Welfare and Institutions Code.

History

1. New section filed 8-4-97 as an emergency; operative 8-4-97 (Register 97, No. 32). Pursuant to Government Code section 95028(c), a Certificate of Compliance must be transmitted to OAL by 1-31-98, or emergency language will be repealed by operation of law on the following day.
2. New section, including amendment of Note, refiled 1-30-98 as an emergency; operative 1-31-98 (Register 98, No. 5). A Certificate of Compliance must be transmitted to OAL by 6-1-98 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 6-1-98 as an emergency; operative 6-1-98 (Register 98, No. 23). A Certificate of Compliance must be transmitted to OAL by 9-29-98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 6-1-98 order, including amendment of section and Note, transmitted to OAL 6-16-98 and filed 7-28-98 (Register 98, No. 31).

Source: California Department of Developmental Services