

Questions and Answers for HB11 1277 Statutory Changes to Disability Categories

What are the House Bill 11-1277 Statutory Changes to IDEA? This legislation amended the Exceptional Children's Education Act (ECEA) to align Colorado's eligibility categories with corresponding federal terms and requirements and/or terminology used in the field. For the purposes of this document, statutory changes of the specific definitions of children with disabilities will be addressed. The legislation was passed in May 2011.

The statute requires the State Board of Education (SBE) to adopt the definition changes into ECEA Rules no later than December 2012; after adoption by the SBE, each Colorado administrative unit (AU) can begin the process of adopting the revised definitions. The new eligibility categories, definitions and criteria must be adopted in full by July 1, 2016.

What are Disability Categories? The federal law, Individuals with Disabilities Education Act (IDEA), provides broad disability category definitions and charges each State with expansion and clarification of criteria for each definition. *Definition* = a brief precise statement of what a word or expression means, e.g., in a dictionary. *Criteria* = an accepted standard used in making a decision or judgment about something. Under Colorado law, the Colorado Department of Education (CDE) is responsible for recommending to the State Board the rules necessary to implement the ECEA, including criteria for determining disability and eligibility for special education services, consistent with the broad federal definitions. C.R.S. § 22-20-104(1)(a)(II).

What Are Name Changes to Colorado's Disability Categories? There are 13 disability categories for school-age learners and one specific to infants and toddlers. Three of the disability categories did not change their titles; the remaining 11 have title changes per alignment with the federal IDEA definitions.

Two broad existing categories (*multiple disabilities* and *physical disability*) were further divided into new categories. Deaf-blindness is now a self-standing definition and not merged within the category of multiple disabilities. Traumatic Brain Injury, Autism Spectrum Disorder, Orthopedic Impairment, and Other Health Impaired are now four distinct definition categories instead of falling under the former category of Physical Disability. The following chart shows the names of each of the 13 disability categories.

DISABILITY CATEGORIES PRIOR TO HB11-1277	REVISED DISABILITY CATEGORIES AND ASSIGNED CDE CONSULTANT
<i>Infant /Toddler with a Disability</i>	<i>Infant /Toddler with a Disability</i> Penny Dell: dell_p@cde.state.co.us
<i>Hearing Disability</i>	<i>Hearing Impairment, Including Deafness</i> Ruth Mathers: mathers_@cde.state.co.us
<i>Multiple Disabilities</i>	<i>Multiple Disabilities</i> Gina Quintana: quintana_g@cde.state.co.us
<i>Multiple Disabilities</i>	<i>Deaf-Blindness</i> Tanni Anthony: anthony_t@cde.state.co.us Gina Quintana: quintana_g@cde.state.co.us
<i>Physical Disability</i>	<i>Autism Spectrum Disorder</i> Melinda Graham: graham_m@cde.state.co.us Brooke Young Carson: young_b@cde.state.co.us
<i>Physical Disability</i>	<i>Orthopedic Impairment</i> Kathy Patrick: Patrick_k@cde.state.co.us
<i>Physical Disability</i>	<i>Other Health Impaired</i> Kathy Patrick: Patrick_k@cde.state.co.us
<i>Physical Disability</i>	<i>Traumatic Brain Injury</i> Karen McAvoy: mcavoy_k@cde.state.co.us
<i>Preschool Child with a Disability</i>	<i>Developmental Delay</i> ¹ Penny Dell: dell_p@cde.state.co.us

¹ The HB11-1277 legislation changed “Preschool Child with a Disability” to “Preschooler with a Disability” but since HB11-1277, the 2012 Colorado legislature passed a new bill to change the definition category of Preschooler with a Disability to a child with Developmental Delay. This new definition is being rolled into the rulemaking process for the other 13 definitions.

<i>Significant Identifiable Emotional Disability</i>	<i>Serious Emotional Disability</i> Barb Bieber: Bieber_b@cde.state.co.us
<i>Specific Learning Disability</i>	<i>Specific Learning Disability</i> Candy Myers: myers_c@cde.state.co.us
<i>Significant Limited Intellectual Disability</i>	<i>Intellectual Disability</i> Gina Quintana: quintana_g@cde.state.co.us
<i>Speech or Language Impairment</i>	<i>Speech or Language Impairment</i> Cindy Millikin: millikin_c@cde.state.co.us
<i>Visual Disability</i>	<i>Visual Impairment, Including Blindness</i> Tanni Anthony: anthony_t@cde.state.co.us

For general inquiries about the revised definitions and implementation activities, contact Tanni Anthony (anthony_t@cde.state.co.us) or Wendy Armstrong (Armstrong_w@cde.state.co.us).

Will The Eligibility Criteria for Each Disability Category Change? Yes, ten of the disability categories have undergone substantive revisions to their eligibility criteria based on the disability definitions under the federal IDEA regulations, with specific criteria determined by the Colorado stakeholders via the process described below. Two of the disability categories (i.e., *specific learning disability* and *speech or language impairment*) do not have changes other than an alignment of new terminology and format. The disability category of *infant and toddler with a disability* is defined by the Colorado Department of Human Services, which is the lead agency for part C, and thus did not undergo revision by CDE as part of the current rulemaking to implement HB11-1277.

What Was the Process for Changing the Eligibility Criteria for Each Disability Definition? Each disability category definition was assigned to a CDE Exceptional Student Services (ESSU) consultant. The consultants worked with disability-specific stakeholder groups to draft initial criteria language during the summer and fall of 2011. The disability definitions and criteria were then reviewed and revised further by external stakeholders who met on two occasions (October 2011 and January 2012). External stakeholders included representatives from administrative units, higher education, school district associations, and parent advocates. The

definitions were then posted on the CDE website and underwent a sixty day public comment period from March 8 – through May 7, 2012.

The public comment period has just ended. The next step is for CDE to review and analyze all public comments and feedback in detail. Appropriate revisions will be made to the disability definitions and criteria, as needed. CDE will then finalize the proposed rules and present them to the Colorado State Board of Education for their review and adoption by December 2012.

What Is the Timeline of Next-Step Tasks?

DATE	TASK
May 7-18, 2012	The CDE reviews and considers public comments received, determines whether additional revisions to proposed rules are appropriate (including, if needed, convening another stakeholder meeting), and if possible, revises and finalizes the proposed rules
May 18, 2012	The proposed rules will be submitted to the State Board of Education to commence the rulemaking process.
August 2012	The State Board holds a public rulemaking hearing on the revised eligibility definitions and criteria.
September 2012	The State Board votes on the revised eligibility definitions and criteria.
December 1, 2012	Statutory deadline for having new rules passed
No later than December 2012	Rule-making complete – administrative units may adopt full eligibility, labels, definitions, and criteria for each or any disability category.
January – June 2013	CDE ESSU consultants will roll out training for special education directors, service providers, and parents on the changes to the disability definitions.
July 1, 2016	Administrative units <u>must</u> adopt and implement the revised eligibility labels, definitions, and criteria.

When Can My AU Begin to Use the Revised Disability Category Definitions? The new category labels may be used now with existing eligibility determination forms. However, the criteria for the new disability category definitions CANNOT be used until they are adopted by the Colorado State Board of Education by November or December 2012. For example, an administrative unit

may begin to utilize the disability category label of Intellectual Disability instead of Significant Limited Intellectual Disability (SLIC), using the eligibility checklist for the prior Significant Limited Intellectual Disability category. However, the current eligibility criteria for SLIC must continue to be used until the State Board adopts the revised eligibility definitions and criteria.

When Must Administrative Units Use the Revised Disability Category Definitions?

Administrative units will be given flexibility to develop their own phase-in plan with the understanding that all administrative units must use the revised eligibility category labels, definitions, and criteria by July 1, 2016. If every administrative unit adopts the revised eligibility labels, definitions, and criteria prior to July 1, 2016, then CDE will cease using the former definitions and eligibility criteria on all CDE paperwork regarding the State Individualized Education Program, data collections, etc.

C.R.S. § 22-20-119: "...The timelines shall encourage administrative units and state operated programs to implement the disability categories and related eligibility criteria ... as soon as possible after the State Board issues implementing rules, to be adopted on or before December 1, 2012. Administrative units and state-operated programs shall have until July 1, 2016, to implement any necessary changes without loss of special education funding or incurring any other penalties."

Will New Eligibility Checklists Be Created? The eligibility checklists with State Board of Education-approved criteria will be developed for each disability category. The checklists will be embedded in the State Individualized Education Program (IEP) system by January 2013. Administrative units will still have access to "old" eligibility checklists until revised definitions have been adopted by each administrative unit. The new eligibility checklists will be shared on the ESSU website for use by administrative units that are not adopting the State IEP system.

How Will Administrative Unit Staff Be Trained? CDE ESSU training budgets have been approved for school year 12-13 and will commence once the category definitions have been approved by the State Board of Education. Trainings will be provided in a variety of forums: face-to-face, webinar, web-posted PowerPoint recordings, Question and Answer documents. Training documents will be vetted internally to ensure consistency across trainers/presenters and delineation between requirements and program best practices.

How will Parents Be Informed and Trained on Eligibility Changes? The CDE will post training documents on the website. Administrative units are encouraged to work with their district-level Special Education Advisory Committees (SEACs) to ensure that parents are well informed of the definition changes and the phase-in process in each administrative unit.

How will the Revised Definitions be Applied to Current Students on IEPs?: Once the definitions have been approved by the State Board of Education, administrative units may begin to apply the revised definition criteria to existing students with Individualized Education Programs. The CDE recommends that after an administrative unit adopts the revised eligibility definitions and criteria, it apply those new definitions and criteria no later than at the students' next triennial evaluation, using the new or updated eligibility checklists provided by the CDE ESSU. These assignments of new categories to identified students will be reevaluations (not initial evaluations), and should be completed consistent with the regulations relating to reevaluations. For example, an IEP team may determine that in order to continue a student's identification as a child with a disability, additional data or formal testing are required, or, conversely, may review the existing data and determine that additional data are not needed.

If a student is no longer eligible for special education services based on the revised eligibility criteria, the AU should proceed with "exiting" the student from special education consistent with the IDEA's procedural safeguards, including providing prior written notice to the parents.

How will the CDE Data Collections Be Managed? Both the "old" and the "new" category information have been embedded into student data collections within CDE and the new State IEP system. Data Elements and Definitions that are posted on the CDE website at https://cdeapps.cde.state.co.us/doc_toc.htm#speddec for all special education data collections already reflect the crosswalk.

The December 2, 2015 data collection will be the last data collection in which both the old and new category information will be used. Administrative units that adopt and implement the revised eligibility category labels, definitions and criteria between December 2, 2015 and July 1, 2016 will need to assign the newly adopted disability categories to those students before reporting the disability categories in the December 1, 2016 data collection.

Questions? Please contact Tanni Anthony at anthony_t@cde.state.co.us (303) 866-6681 or Wendy Armstrong at armstrong_w@cde.state.co.us or (303) 866- 6213.

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