

Developmental Delay Now Reaches Beyond Preschool

By **Adrienne Kirshner & David Hirt**

Ohio Governor Mike DeWine recently signed HB 554. Prior to passing, amendments unrelated to the bill's original goal of helping with the teacher shortage were added, including expanding the definition of a "child with a disability" to include children ages 3 through 9 years old who are experiencing a "developmental delay." This new definition goes into effect on April 6, 2023.

The current law, which expires in April, limits the definition of developmental delay to children ages 3 through 5 years old, so the change will alter the way districts transition students from preschool to kindergarten. Preschool-age children identified as having a developmental delay will no longer need to be re-evaluated prior to starting kindergarten unless the three-year timeline requires a re-evaluation.

Despite the change eliminating the necessity of re-evaluating in advance of children turning 6 years old or starting kindergarten taking effect on April 6, 2023, Ohio Administrative Code 3301-51 will not yet be updated to reflect this expanded language. The Ohio Department of Education has stated that the regulation update will be completed by July 1, 2023 and confirmed that: (1) children who turn 6 years old on or before June 30, 2023 are permitted to remain in preschool and continue to be identified as having a developmental delay; and (2) that children may now enter kindergarten and continue to receive special education with a developmental delay identification.

In addition, this change means, as of April 6, 2023, any child who is not yet 10 years old may be evaluated for eligibility under the developmental delay disability category. This also means a district's child find duty will require the evaluation of students suspected of having a developmental delay even if there is no suspicion of another disability. Districts may want to consider re-evaluating students who qualified for pre-school services under the developmental disability category but received no services once they transitioned to kindergarten.

Lastly, to assist with the costs associated with expanding the number of students who will qualify for special education services, all children identified as developmentally delayed have been moved into Category 2 of the special education funding formula instead of limiting funding for developmentally delayed students to preschool children.

For more information about the recent changes concerning developmental delay, or any other changes made by HB 554, please contact any of the listed Roetzel professionals.

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