



State of New Jersey

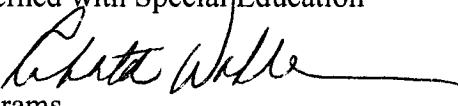
DEPARTMENT OF EDUCATION
PO Box 500
TRENTON, NJ 08625-0500

JON S. CORZINE
Governor

LUCILLE E. DAVY
Acting Commissioner

January 9, 2007

TO: Chief School Administrator
Director of Special Education
Administrator of a State Facility
Administrator of a Charter School
Administrator of an Approved Private School for the Disabled
Administrator of a College-Operated Program
Statewide Special Education Advisory Council
Agencies or Organizations Concerned with Special Education

FROM: Roberta Wohle, Acting Director 
Office of Special Education Programs

SUBJECT: Preschool Child with a Disability

I am writing to provide clarification with respect to the definition of "Preschool child with a disability" in N.J.A.C. 6A:14-3.5(c)10. The definition of this term was amended in the September 5, 2006 re-adoption with amendments of N.J.A.C. 6A:14. Those amendments define a preschool child with a disability as a child experiencing a developmental delay in accordance with the provisions of that regulation. However, the amendment inadvertently removed from the definition the provision that a child with an identified disabling condition also falls within the definition of a preschool child with a disability. Because the Individuals with Disabilities Education Act of 2004 (IDEA 2004) defines a preschool student with a disability as a child with an identified disabling condition or a child experiencing a developmental delay as defined by State law (20 U.S.C. §1402(3) 34 C.F.R. §§300.8(b) and 300.111(b)), its omission from the final State regulations does not eliminate that component of the definition for purposes of determining eligibility of children in New Jersey as a preschool child with a disability. Therefore, when determining whether a preschooler is a child with a disability, either factor, (disabling condition or developmental delay) can be utilized pursuant to the provisions of N.J.A.C. 6A:14.

The regulations will be amended as soon as practicable in accordance with IDEA 2004 to reflect that the existence of a disabling condition and/or a developmental delay may serve as a basis for determining a child eligible as a preschool child with a disability.

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Thank you for your attention to this matter.

RW/CK/JW

c: Members, State Board of Education
Commissioner Lucille E. Davy
Isaac Bryant
Barbara Gantwerk
Senior Staff
Rochelle Hendricks
Diane Shoener
County Superintendent
County Supervisor of Child Study
Members, NJ LEE Group
Garden State Coalition of Schools