

(Current) Federal Definition of Developmental Disability

A. IN GENERAL.—The term “developmental disability” means a severe, chronic disability of an individual that— i. is attributable to a mental or physical impairment or combination of mental and physical impairments; ii. is manifested before the individual attains age 22; iii. is likely to continue indefinitely; iv. results in substantial functional limitations in 3 or more of the following areas of major life activity: v. Self-care. vi. Receptive and expressive language. vii. Learning. viii. Mobility. ix. Self-direction. x. Capacity for independent living. xi. Economic self-sufficiency; and xii. reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

B. INFANTS AND YOUNG CHILDREN.—An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

Source: The Developmental Disabilities Assistance and Bill of Rights Act of 2000; Sec. 102. Definitions [42 USC 15002]

http://www.acl.gov/Programs/AIDD/DDA_BOR_ACT_2000/p2_tI_subtitleA.aspx

Current State Law:

Excerpt of definitions found in GL c. 123B section 1: [emphasis supplied]

“Person with a developmental disability”, (1) an individual 5 years of age or older with a severe, chronic disability that: (i) is attributable to a mental or physical impairment resulting from **intellectual disability**, autism, smith-magenis syndrome or Prader-Willi syndrome; (ii) is manifested before the individual attains age 22; (iii) is likely to continue indefinitely; (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (1) self-care; (2) receptive and expressive language; (3) learning; (4) mobility; (5) self-direction; (6) capacity for independent living; and (7) economic self-sufficiency; and (v) reflects the individual's need for a combination and sequence of special, interdisciplinary or generic services, supports or other assistance that is of a lifelong or extended duration and is individually planned and coordinated; or (2) an individual under the age of 5 who has a substantial developmental delay or specific congenital or acquired condition with a high probability that the condition will result in a developmental disability if services are not provided. A person who has a developmental disability may be considered to be mentally ill; provided, however, that no person with a developmental disability shall be considered to be mentally ill solely by reason of the person's developmental disability.

“Person with an **intellectual disability**”, a person who has an intellectual disability, characterized by significant limitations in both intellectual functioning and adaptive behavior as expressed in conceptual, social and practical adaptive skills and beginning before age 18, and consistent with the most recent definition provided by the American Association on Intellectual

and Developmental Disabilities; provided, that in applying this definition the following shall be considered: (i) limitations in present functioning within the context of community environments typical of the individual's age, peers and culture; (ii) cultural and linguistic diversity and differences in communication, sensory, motor and behavioral factors; (iii) limitations often coexist with strengths within an individual; (iv) an important purpose of describing limitations is to develop a profile of needed supports; and (v) with appropriate personalized supports over a sustained period, the life functioning of a person with an intellectual disability will generally improve; and provided further, that a person who has an intellectual disability may be considered to be mentally ill; provided, however, that no person with an intellectual disability shall be considered to be mentally ill solely by reason of the person's intellectual disability.

Credits

Added by St.1986, c. 599, § 39. Amended by [St.2008, c. 451, § 85, eff. June 30, 2009](#); [St.2010, c. 239, §§ 39 to 41, eff. Nov. 1, 2010](#); [St.2012, c. 433, eff. April 8, 2013](#); [St.2014, c. 226, § 26, eff. Nov. 3, 2014](#).

Excerpt from 115 CMR 2.01:

Developmental Disability means for persons who are five years of age or older, a severe, chronic disability that: (a) is attributable to a mental or physical impairment resulting from Intellectual Disability, Autism Spectrum Disorder, Smith-Magenis Syndrome or Prader-Willi Syndrome; (b) is manifested before the individual attains 22 years of age; (c) is likely to continue indefinitely; (d) results in substantial functional limitations.

Intellectual Disability means, consistent with the standard contained in the 11th edition of the American Association of Intellectual Disabilities: Definition, Classification, and Systems of Supports (2010), significantly sub-average intellectual functioning existing concurrently with and related to significant limitations in adaptive functioning. Intellectual Disability originates before 18 years of age. A person with Intellectual Disability may be considered to be mentally ill as defined in 104 CMR: Department of Mental Health, provided that no person with Intellectual Disability shall be considered to be mentally ill solely by reason of his or her Intellectual Disability. The determination of the presence or absence of Intellectual Disability requires that exercise of clinical judgment.

Prior (2013) amendment to state law:

2012 Mass. Legis. Serv. Ch. 433 (H.B. 4252) (WEST)
MASSACHUSETTS 2012 LEGISLATIVE SERVICE
General Court, 2012 Second Annual Session
Additions and deletions are not identified in this document.
Vetoed are indicated by ;
stricken material by .

CHAPTER 433

H.B. No. 4252

MENTALLY RETARDED AND DEVELOPMENTALLY DISABLED PERSONS—
DEFINITIONS

AN ACT providing for a definition of intellectual disability consistent with the American Association of Intellectual and Developmental Disabilities.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1 of chapter 123B of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the definition of “Person with an intellectual disability” and inserting in place thereof the following definition:—

<< MA ST 123B § 1 >>

“Person with an intellectual disability”, a person who has an intellectual disability, characterized by significant limitations in both intellectual functioning and adaptive behavior as expressed in conceptual, social and practical adaptive skills and beginning before age 18, and consistent with the most recent definition provided by the American Association on Intellectual and Developmental Disabilities; provided, that in applying this definition the following shall be considered: (i) limitations in present functioning within the context of community environments typical of the individual's age, peers and culture; (ii) cultural and linguistic diversity and differences in communication, sensory, motor and behavioral factors; (iii) limitations often coexist with strengths within an individual; (iv) an important purpose of describing limitations is to develop a profile of needed supports; and (v) with appropriate personalized supports over a sustained period, the life functioning of a person with an intellectual disability will generally improve; and provided further, that a person who has an intellectual disability may be considered to be mentally ill; provided, however, that no person with an intellectual disability shall be considered to be mentally ill solely by reason of the person's intellectual disability.

Approved January 8, 2013.

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Law prior to 2013 (Taken from Tartarini decision):

General Laws c. 123B, § 1, defines "mentally retarded person" as follows:

"[A] person who, as a result of inadequately developed or impaired intelligence, as determined by clinical authorities as described in the regulations of the department is substantially limited in his ability to learn or adapt, as judged by established standards available for the evaluation of a person's ability to function in the community"

115 Code Mass. Regs. § 2.01, as adopted in 2006, provides the following definition of "mental retardation":

"Mental Retardation means significantly sub-average intellectual functioning existing concurrently and related to significant limitations in adaptive functioning. Mental retardation manifests before age 18." (Emphasis supplied.)

The same regulation defines "significantly sub-average intellectual functioning" to mean:

"an intelligence test score that is indicated by a score of 70 or below as determined from the findings of assessment using valid and comprehensive, individual measures of intelligence that are administered in standardized formats and interpreted by qualified practitioners."

The mechanism for measuring intelligence is set forth in 115 Code Mass. Regs. § 6.02(3)(b) (2006).

In addition, the regulations define "adaptive functioning" to include three areas: (1) independent living/practical skills; (2) cognitive, communication, and academic/conceptual skills; and (3) social competence/social skills. 115 Code Mass. Regs. § 2.01. Significant limitations in adaptive functioning are defined, in part, by reference to scores on standardized tests that measure the individual's adaptive functioning in these areas.

