

# *Early Intervention Services or Individuals with Disabilities Education Act (IDEA)*

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## **OVERVIEW**

### ***What is it?***

The Early Intervention program consists of two separate programs for young children with special needs. The Infant-Toddler program covers children from birth through age two, and the Preschool program covers children from three to five (or until the child enters kindergarten).

### ***Who is it for?***

Children who have or are at risk of having a disability or other special need that may affect their development, health or education, are eligible for special services. There are no financial eligibility requirements, although some services for children under age three have sliding scale fees. Children who are “at risk” of developing a disability are not eligible for services once they reach age three. The Preschool program is only available to children with a diagnosed disability.

### ***Where are applications taken?***

Referrals for the Infants-Toddler Program can be made through area mental health centers, Developmental Evaluation Centers (DECs) or health departments. Referrals for the Preschool program is through the local school system. Children must receive an evaluation to determine whether they have a disability that meets the program requirements.

## **INTRODUCTION**

The Early Intervention system was created as a result of the Individuals with Disabilities Education Act (IDEA) originally passed by Congress in 1986. It is based on the belief that providing children with special needs with services early in their lives can help increase a child’s ability to develop and learn, and may reduce or prevent the need for special services later in life. Research has shown that early intervention produces substantial gains in physical, cognitive, language and speech development, as well as self-help skills, reduces family stress, and helps reduce the need for institutionalization or special education programs once the child reaches school age. North Carolina passed early intervention legislation to support and implement IDEA.

## **BENEFITS/ SERVICES**

The array of services varies depending on whether a child is receiving services through the Infant-Toddler program or the Preschool program. A lead agency helps administer each program: area Mental Health, Developmental Disability and Substance Abuse agencies (MH/DD/SAS) are the lead agencies for the Infant-Toddler program, and Local Education Agencies (LEAs) are the lead agencies for the

Preschool program. In addition, each county has a Local Interagency Coordinating Council (LICC), which is an advisory committee that provides input into the operation of the programs. The LICC is comprised of representatives from the DEC, public health department, area mental health program, local schools, parents and other service providers.

A consortia of area mental health, health departments and DECs (and often, parents) are responsible for determining eligibility for the birth to three services. Consortia are sometimes a subcommittee of the larger LICC.

### **Infant-Toddler Program (for children birth through age two)**

Children participating in the Infant-Toddler program are eligible for the following services:

- *Multi-disciplinary evaluation.* Any child who exhibits certain risk factors may obtain a multi-disciplinary evaluation to determine if the child is eligible to receive early intervention services. The evaluation will focus on the child's cognitive, physical (motor, vision and hearing), speech/language, psychosocial and self-help skills. The multi-disciplinary evaluation also requires a medical examination (which may be part of or separate from the rest of the evaluation). The evaluations are provided at no cost to the family and typically occur through the Developmental Evaluation Centers. Children are entitled to a multi-disciplinary evaluation and the development of an IFSP for eligible children within 45 days of the referral to the Infant-Toddler Program.
- *Service coordination.* Children who are eligible for the program will be assigned a Child Service Coordinator (See Chapter 13). The service coordinator helps the family identify and access needed services, and works with the family in designing the individualized family service plan.
- *Individualized Family Service Plan (IFSP).* Each child is entitled to an individualized treatment plan that identifies the scope of services needed to address the child's developmental needs and those of the family. The child service coordinator will work with the family and other appropriate health professionals in developing this treatment plan. The IFSP should be completed within 45 days of the date that the child is referred to the program. The written IFSP will include an evaluation of the child's strengths and needs, the family's resources and priorities, a list of needed services, who will provide them and how often, when services will begin and end, the name of the Child Service Coordinator, written goals for the child and family, the costs of any programs (if there is a charge), and plans for services when the child reaches age three.
- *Available Services.* An array of services are available to help infants and children in this program, including:
  - Assistive technology devices and services,
  - Audiology services,

- Family training and counseling,
- Health services needed to enable the child to benefit from early intervention services,
- Medical services for diagnosis or evaluation,
- Nursing services,
- Nutrition services,
- Psychological services,
- Respite services,
- Social work services,
- Special instruction (home and center based),
- Therapy services (occupation, physical and speech-language),
- Transportation (to designated early intervention service sites), and
- Vision services.

All services identified in the IFSP must be made available to the family. The child is entitled to receive services within 30 days after the IFSP is developed and agreed to by the family.

- *Fees for Services.* All families are entitled to an initial evaluation, child service coordination, development and modification of the IFSP without charge. However, agencies may charge for other services listed on the IFSP (each agency can set its own fees). The fees must be based on a sliding fee scale, taking into account the family's income, family size, and other special circumstances. Services can not be denied because of a family's inability to pay for them.

### **Preschool program**

The Preschool Program is available to children ages three to five (or when the child enters kindergarten). Preschool children are entitled to free and appropriate special education service in the least restrictive environment through the local school system. Services available for preschool children include the following:

- *Multi-disciplinary evaluations.* Preschool children are entitled to a multi-disciplinary evaluation to determine the child's developmental needs. The evaluation should consist of a variety of assessment tools and strategies needed to gather functional and developmental information that would assist in determining whether the child has a disability, and if so, what services are needed to address the identified needs. Children who were receiving services through the Infant-Toddler program may need to be re-evaluated to determine continued eligibility for services. The evaluations are usually conducted through the Developmental Evaluation Centers, but the schools are responsible for seeing that they are completed in a timely manner. Parents may request an independent educational evaluation at no cost to the parents.
- *Individualized Education Program (IEP).* Each eligible child is entitled to an individualized education plan that is a tailored plan to address that child's need for special education and related services. The IEP must be developed with involvement from the school (special education teacher, regular

teacher and someone who can commit funds, such as the Director or other appropriate personnel), as well as the parent(s), other agencies that may be providing services, individuals who have knowledge or special expertise about the child, and someone involved in or with knowledge of the child's evaluation results. The IEP should be developed within 30 days of when the child is determined to be in need of services. The school must hold meetings at least once a year, or more often if necessary, to review and/or modify each child's IEP.

- *Available services.* Children in the Preschool program may be eligible for some of the following services:
  - Assistive technology devices,
  - Audiology,
  - Counseling services,
  - Medical services for diagnosis or evaluation,
  - Parent counseling and training,
  - Psychological services,
  - Recreation,
  - School health services,
  - Screening and evaluation,
  - Social work services in schools,
  - Special education services,
  - Related services (including occupational, physical and speech therapy),
  - Transportation, and
  - Vision services.

Each school system must serve all eligible children.

## **REFERRALS**

Infants and toddlers can be referred into early intervention services through area mental health centers, Developmental Evaluation Centers (DECs) or health departments. Referrals for the Preschool program are through the local school system. Children must receive an evaluation to determine whether they have a disability that meets the program requirements.

## **ELIGIBILITY REQUIREMENTS**

### **General Eligibility Requirements**

Children who have certain disabilities are eligible for the services. In addition, infants and toddlers (birth through age two) are eligible if they have a risk of developing a disability. Children must be residents of a county to receive services there (or resident of a school system in the Preschool Program), but there are no citizenship or immigration status restrictions. Early intervention services are available to all children who meet the disability definitions, and are not based on the income or resources of the family. However, there are sliding scale fees for some of the services.

## Need

### ***Infant-Toddler Program***

To be eligible for services, a young child must have a developmental delay, atypical development, or have a high probability of developing these conditions (“at-risk”).

- *Developmental Delay.* Children who qualify on the basis of developmental delay must be delayed in one or more of the following areas: cognitive development, physical development (including gross and fine motor function, vision and hearing), communication development, social-emotional development, and/or adaptive development. The specific delay must be documented by scores 1.5 standard deviations below the mean of the composite score (total test score) on standardized tests or by a 20% delay on instruments which determine scores in at least one of the above areas of development.
- *Atypical Development.* Children may qualify for the Infant-Toddler program on the basis of significant atypical behavior, socio-emotional, motor or sensory development such as:
  - Diagnosed hyperactivity, attention deficit disorder, autism, severe attachment disorder or other behavioral disorder;
  - Emotional or behavior disorders including delay or abnormality in achieving milestones (in such areas as attachment, parent-child interaction, ability to communicate emotional needs or tolerate frustration), persistent failure to initiate or respond to most social interactions, fearfulness or other distress that does not respond to comforting, indiscriminate sociability, or self-injurious or other aggressive behavior;
  - Substantiated physical or mental conditions known to result in developmental delay or atypical behavior. These conditions are limited to chromosomal anomaly or genetic disorder, metabolic disorder, infectious disease, neurologic disease, congenital malformation, sensory disorder (vision and hearing), and toxic exposure.
- *High Risk Potential.* Infants and toddlers can also qualify for the early intervention program if they have indicators associated with patterns of development which have a high probability of meeting the criteria for developmental delay or atypical development as the child matures. To qualify, the child must meet at least three indicators, based on:
  - parent or familial factors (such as parents with mental illness, mental retardation, substance abuse or difficulty providing basic parenting or meeting the child's basic needs);
  - neonatal conditions (including low birth weight children or children with other prescribed conditions); or
  - post-neonatal conditions (such as suspected visual or hearing impairment, failure on standard developmental or sensory screening tests, or significant parental concerns).

- *High Risk Established.* Infants and toddlers can also qualify if they have a diagnosed physical or mental condition known to result in a developmental delay or atypical development as the child matures.

The consortia make the actual eligibility determinations. Consortia are comprised of representatives from area mental health programs, Developmental Evaluation Centers, and local health departments. Often, family representatives are also members of the consortia.

### ***Preschool Program***

To qualify for services in the preschool program, a child must have a permanent or temporary cognitive, communication, social/emotional or adaptive disability which requires special education and related services. Children ages three to five (or until the child enters kindergarten), who have one of the following conditions are eligible for services through the Preschool Program:

- Autism,
- Delayed or atypical development,
- Hearing impaired/Deaf,
- Other health impaired,
- Orthopedically impaired,
- Speech-language impaired,
- Visually impaired/Blind, or
- Traumatic brain-injury.

#### **NUMBERS SERVED**

Approximately 8,317 children were served through the Infant-Toddler program in SFY 1997-98, and 11,300 children were served through the Preschool Program.

#### **PRIORITIZATION SYSTEM**

All children who meet the eligibility requirements for early intervention services are eligible to be served. Services listed on the IFSP or IEP must be available wherever the child lives. However, the availability of services may be limited in some areas. While all children are eligible for services, sometimes children may have to wait for particular services or travel to obtain needed services. However, no child should be required to wait for more than 30 days for any services. Generally, a service coordinator or the school system is responsible for working with the family to determine what services the child receives.

#### **APPEAL RIGHTS**

The appeals process is somewhat different for both the Infant-Toddler program and the Preschool program. Families or others acting on the child's behalf can challenge the initial eligibility decision, or can file a complaint if they are dissatisfied with the results of the multi-disciplinary evaluation, development of the IFSP/IEP, or provision of educational or other services. There are basically three different routes which a family can take to try to resolve problems: informal complaint process, mediation or an administrative hearing.

### ***Infant-Toddler Program***

- *Informal Complaint Process.* Families (or others acting on a child's behalf) who are dissatisfied with the operation of the Infant-Toddler program can file a formal written complaint with the North Carolina Infant-Toddler Program Coordinator within the Developmental Disabilities Section, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, NC Department of Health and Human Services.
- *Mediation.* If the parents and the early intervention agency cannot agree on the initial eligibility determination, evaluation, IFSP, or provision of educational or related services, then they can seek mediation. Mediation is a process offered through the lead agency where both sides can talk to a trained, impartial mediator to help resolve the problem. The mediation process is voluntary and can be stopped by either party at any time. The Infant-Toddler program encourages families to try mediation before filing a formal appeal, as mediation is a less formal mechanism that may be able to resolve the problem. Mediation can be requested by notifying the director of the area mental health program.
- *Administrative Hearing.* Families who are still dissatisfied with the outcome of the mediation can request a formal hearing. It is not necessary to first file an informal complaint or go through mediation to seek an Administrative Hearing. Requests for hearings in the Infant-Toddler Program must be made to the director of the Area Mental Health Program, who will appoint a hearing officer from a list approved by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services. The Administrative Hearing is the last stage in the appeals process for the Infant-Toddler program.

The agency has 30 days to investigate and to try to resolve the complaint. This 30-day period begins when the complaint is filed, and ends at the last stage of the appeals process. In other words, the area mental health program has 30 days to try to successfully resolve complaints, regardless of how many steps in the appeals process the family pursues.

### ***Preschool Program***

- *Informal Complaint Process.* Families who are dissatisfied with some aspect of the Preschool program can file a written complaint with the Exceptional Children Division of the NC Department of Public Instruction. The agency has 60 days to investigate the complaint and issue its written findings. Either party to the complaint can request that the Secretary of the US Department of Education review the results of the investigation.
- *Mediation.* If the parents and the early intervention agency cannot agree on the initial eligibility determination, evaluation, IEP or provision of educational or related services, then they can seek mediation. Mediation can be requested by notifying the Superintendent of the local public school system.

- *Formal Contested Case Hearings/Judicial Actions.* Parents may also file a formal appeal (called a contested case hearing). This appeal can be made at any time in the process (i.e., the family need not first go through the mediation process). To request a hearing, the parent must file a petition within 60 days of the action that the family is contesting with the Office of Administrative Hearings. For more information about the contested case hearing process, a parent can call the Office of Administrative Hearings at 919-733-2698.

An impartial Administrative Law Judge will hear the Preschool program cases. The decision of the Administrative Law Judge within the Office of Administrative Hearings can be appealed further, first to the Superintendent of Public Schools in North Carolina, and if the family is still dissatisfied, then to NC Superior Court or federal district court. There are specific time limits to file an appeal in each of these forums.

Families seeking to exercise their rights through an administrative or judicial hearing may want the assistance of an attorney. Free legal assistance may be available through the Governor's Advocacy Council for Persons with Disabilities (1-800-821-6922) or from a local Legal Services Office (limited to certain low income families, see Chapter 32).

## **FINANCING**

*Infant-Toddler program:* FY 1997-98

Federal: \$21.1 million  
 State: \$36.2 million  
 Local: \$ 4.2 million

*Preschool program:*

Federal: \$11 million  
 State: \$23 million (some local school districts also contribute)

## **ADMINISTRATION**

The program is supervised at the federal level by the Office of Special Education Programs within the US Department of Education. The Infant-Toddler program is administered at the state level by the Developmental Disabilities Section, NC Division of Mental Health, Developmental Disabilities and Substance Abuse Services within the NC Department of Health and Human Services, and at the local level, by the Area Mental Health, Developmental Disabilities and Substance Abuse Services programs. The Preschool program is administered through the Exceptional Children's Division within the NC Department of Public Instruction, and at the local level by the Local Education Agency (LEA).

## **SOURCES OF LAW**

Federal law: 20 USC 1400 *et. seq.*, P.L. 105-17 (IDEA)  
 Federal regulations: 34 CFR Part 303 (Infants and Toddlers)  
 34 CFR Part 300, 301 (Preschool Program)  
 State statute: NCGS 122C-11(a) (mental health's requirements)



State regulations: Standards for Area Programs and Their Contract Agencies 10 NCAC 0800 (Infant and Toddlers program)  
16 NCAC 6H.0005 *et. seq.* (Preschool program)

State policy manual: North Carolina Infant and Toddler Program Manual  
Procedures Governing Programs and Services for Children with Special Needs (Preschool program)

**FOR MORE  
INFORMATION**

Infant-Toddler Program Coordinator  
Developmental Disabilities Section  
Division of Mental Health, Developmental Disabilities and  
Substance Abuse Services  
325 N. Salisbury St.  
Raleigh, NC 27603  
919-733-3654

Preschool Program Coordinator  
Exceptional Childrens Division  
North Carolina Department of Public Instruction  
301 N. Wilmington St.  
Raleigh, NC 27601  
919-715-1598

Family Support Network of North Carolina  
CB# 7340  
University of North Carolina  
Chapel Hill, NC 27599-7340  
800-852-0042  
919-966-2841

The Family Support Network provides information and assistance to families who have children with special needs.

Exceptional Children's Assistance Center  
PO Box 16  
Davidson, NC 28036  
704-892-1321

The Exceptional Children's Assistance Center provides information and assistance to families who have children with special needs.

Governor's Advocacy Council for Persons with Disabilities  
2113 Cameron Street, Suite 218  
Raleigh, NC 27605-1344  
800-821-6922  
919-733-9250

The Governor's Advocacy Council provides information, assistance and advocacy on behalf of persons with disabilities.

