

Introduction to Iowa's Birth Mandate For Special Education Services

**Birth Mandate
definition**

In 1974, Iowa law established a policy that required school districts and state operated programs to provide a free and appropriate public education (FAPE) to meet the needs of all children under twenty-one years of age requiring special education [Chapter 256B.2(3)].

For children requiring special education who are less than five years of age, this means the provision of aids and services that will reasonably permit the child to enter the educational process or school environment when the child attains school age.

The term *birth mandate* is used federally to indicate those states that require special education from birth for eligible children (IA, MD, MI, MN, and NE). *Birth mandate* will be used throughout this document to refer to Iowa code Chapter 256B.2(3) requiring FAPE, as described above. The following two definitions provide more information about the birth mandate.

**Children
Requiring
Special
Education
definition**

Iowa Code definition:

Children requiring special education means persons under twenty-one years of age, including children under five years of age, who have a disability in obtaining an education because of a head injury, autism, behavioral disorder, or physical, mental, communication, or learning disability, as defined by rules of the department of education [Iowa Code, Chapter 256B.2(1)].

**Special
Education
definition**

Iowa Code definition:

Special education for purposes of providing FAPE means a classroom, home, hospital, institution, or other instruction designed to meet the needs of children requiring special education: transportation and corrective and supporting services required to assist children requiring special education in taking advantage of, or responding, to, educational programs and opportunities. [Iowa Code, Chapter 256B.2(2)].

Relationship of Iowa’s Birth Mandate to Provide a Free Appropriate Public Education (FAPE) and Early ACCESS

Outcomes of Early ACCESS Early ACCESS is a system of early intervention services for infants and toddlers with special needs and their families. As provided within Iowa Administrative Code, Title XVIII, Chapter 120, 281-120.2 and 34 CFR 303 of Part C, Individuals with Disability Education Act (IDEA), Early ACCESS outcomes include:

1. Enhancing the development of eligible children;
2. Reducing the educational costs to society by minimizing the need for special education and related services after such children reach school age;
3. Maximizing the potential of eligible children for independent living in society; and
4. Enhancing the capacity of families to meet the needs of their eligible children.

Early ACCESS eligible children definition Early ACCESS rule definition: Eligible children means infants and toddlers from birth to three years of age who meet *one* of the following criteria [Iowa Administrative Rules for Early ACCESS, Title XVII, Chapter 120, Division II, 281-126.4]:

1. Have a condition, based on informed clinical opinion, known to have a high probability of resulting in later delays in growth and development if early intervention services are not provided.
2. Have a 25% developmental delay, as measured by appropriate diagnostic instruments and procedures and based on informed clinical opinion, in one or more of the following developmental areas: cognitive development, physical development including vision and hearing, communication development, social or emotional development or adaptive development.

Federal regulation re birth mandate states A federal regulation regarding birth mandate specifies birth mandate state’s responsibility regarding no fee for service.

Individuals with Disabilities Education Act, Part C regulation [34 CFR 303.521 Fees].

(c) States with mandates to serve children from birth. If a State has in effect a State law requiring the provision of a free appropriate public education to children with disabilities from birth, the State may not charge parents for any [early intervention] services (e.g. physical or occupational therapy) required under that law that are provided to children eligible under Part C and their families.

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Early intervention Services provided within the Early ACCESS system

Consistent with the above outcomes, Early ACCESS provides early intervention services for all eligible children.

Iowa Administrative Rules for Early ACCESS defines the type of early intervention services that may be provided for eligible children within Early ACCESS, as included within the child’s individual family service plan (IFSP). [Title XVII, Chapter 120, Division IV, 281-120.14(34 CFR.303)]

Early intervention services include:

- Assistive technology services;
- Audiology services including signed language;
- Family training, counseling, and home visits;
- Health services;
- Medical services only for diagnostic and evaluation purposes;
- Nursing services;
- Nutrition services;
- Occupational therapy;
- Physical therapy;
- Psychological services;
- Social work services,
- Special instruction;
- Speech-language pathology services including cued speech;
- Transportation and other related costs, and
- Vision services

[Title XVII, Chapter 120, Division IV, 281-120.14(34 CFR.303)]

Broader Early ACCESS eligibility

Within the Iowa birth mandate, many infants and toddlers served within the Early ACCESS system may qualify as those requiring special education. However, Early ACCESS serves not only those requiring special education, it also serves a broader group of children needing early intervention services.

Data from the last 15-20 years has shown that the early intervention system, as it has evolved, has long identified children eligible under the birth mandate and has more recently increased its identification of the broader group of children that meet the requirements for eligibility for Early ACCESS.

Special education eligibility determination process

A disability for purposes of the Individuals with Disabilities Education Improvement Act, Part B (IDEA, 2004) is referred to as an “educational disability.” An educational disability requiring the services of Special Education is a skills deficit, a health or physical condition, a functional limitation, or a pattern of behavior that adversely affects educational performance. In rare circumstances, the IFSP team may suspect that a child has an “educational disability” and the need to consider special education instructional services prior to a child’s third birthday. Typically, this discussion occurs when the IFSP Team completes an analysis of the ongoing child and family assessment data as a component in transition planning to determine the transition pathway prior to the child’s third birthday.

In rare and unusual circumstances, the IFSP Team may conclude that a child is suspected of being a child with a disability prior to the transition planning. The determination that a child is suspected of being a child with a disability requires the consideration of all relevant facts and circumstances as a whole. If the IFSP Team suspects that a child's educational difficulties arise from a disability, the IFSP Team, in collaboration with the AEA special education staff, seeks parental consent to conduct a Full and Individual Initial Evaluation. However, if a child is younger than 2 years 9 months, the team must contact the AEA Director of Special Education for approval.
