

# Laws, Statutes & Regulations

supporting the work of the  
Nebraska Early Childhood  
Interagency Coordinating Council (ECICC)

	<u>Page</u>
Overview.....	i & ii

## U.S. LAW:

- **Individuals with Disabilities Education Improvement Act of 2004 (IDEA)**  
Public Law 108-446
  - Sections 631-644: Part C-Infants and Toddlers with Disabilities..... 1
  - Section 641: State Interagency Coordinating Council.....9

*Entire Act may be accessed at:*  
<http://www.copyright.gov/legislation/pl108-446.pdf>

- **Improving Head Start for School Readiness Act of 2007**  
Public Law 110-134–Dec. 12, 2007 121, Stat.1411-1413
  - Section 11: Early Childhood Education, Coordination, and Improvement  
[42 U.S.C. 9837b]
    - Section 642B:
      - Head Start Collaboration (*Head Start State Collaboration Office*).....13
      - State Early Education and Care (*State Advisory Council*).....14

*Entire Act may be accessed at:*  
<http://www.gpo.gov/fdsys/pkg/PLAW-110publ134/pdf/PLAW-110publ134.pdf>

## NEBRASKA STATUTES:

### Statutes pertaining to the ECICC and its work:

- **Early Childhood Interagency Coordinating Council**
  - Chapter 43–Infants and Juveniles: Sections 43-3401 to 43-3403.....17
- **The Early Intervention Act—Infants with Disabilities**
  - Chapter 43–Infants and Juveniles: Sections 43-2501 to 43-2516.....19
- **The Quality Child Care Act—Child Care**
  - Chapter 43–Infants and Juveniles: Sections 43-2601 to 43-2625.....25
- **Early Childhood Education Grant Program (includes B-3 Endowment)**
  - Chapter 79-Schools: Sections 79-1101, 79-1103, 79-1104.01 to 79-1104.05.....29
- **Kindergarten**
  - Chapter 79-Schools: Sections 79-212, 79-214, 79-728 .....35

*Search Nebraska Revised Statutes by chapter and section at:*  
<http://www.nebraskalegislature.gov/laws/browse-statutes.php>

## NEBRASKA ADMINISTRATIVE CODE:

- **Regulations related to the work of the ECICC..... 37**

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# Overview of Laws, Statutes & Regulations

supporting the work of the

## Nebraska Early Childhood Interagency Coordinating Council (ECICC)

### FEDERAL LEGISLATION

#### ■ IDEA—Individuals with Disabilities Education Act

1986 The Education of the Handicapped Act (EHA) established:

- the Part H (Early Intervention—later becomes Part C) program for Infants and Toddlers with Disabilities, a federal grant program that assists states in operating a comprehensive statewide program of early intervention services for infants and toddlers with disabilities, ages birth-3. It required the governor to designate a lead agency to receive the grant and administer the program and appoint an Interagency Coordinating Council (ICC), including parents of young children with disabilities, to advise and assist the lead agency.
- Free and Appropriate Public Education (FAPE) for children with disabilities ages 3-5 (later becomes Part B-619)

*Note: Since 1979, Nebraska has provided FAPE for children with disabilities ages birth-21.*

1990 P.L. 99-457 EHA (Education of the Handicapped Act) becomes *Individuals with Disabilities Education Act (IDEA)*

#### 2004 Reauthorization of IDEA—Public Law 108-446

Section 641 –Requires states to establish a state interagency coordinating council (SICC).

- The SICC is to “advise and assist the lead agency in identification...support ... and integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.”
- Members are to be appointed by the Governor to “reasonably represent the population of the State.”
- Composition [representation] of the council membership is prescribed; meeting requirements and functions of the Council are described.

#### ■ Improving Head Start for School Readiness Act of 2007

Public Law 110-134-Dec 12, 2007 121, Stat. 1411-1413, Section 642B:

- Reauthorizes the Head Start State Collaboration Office (HSSCO) to build early childhood systems, create partnerships between Head Start grantees and local programs, and facilitate Head Start involvement in state policies.
- Amends the Head Start Act by adding that the Governor shall:
  - “designate or establish a council to serve as the State Advisory Council [SAC] on Early Childhood Education and Care for children from birth to school entry...”
  - appoint members to the SAC according to representation outlined in the Act.

### NEBRASKA LEGISLATION

#### ■ Quality Child Care Act [NRS 43-2601 to 43-2625]

The Quality Child Care Act was passed by the Nebraska Legislature in 1991, with the intent “to promote the growth and development of a comprehensive child care system which meets the needs of families in Nebraska...”

The Act sets priorities for training of child care providers and finds that funding provided by the federal Child Care and Development Block Grant Act of 1990 (CCDF) will “provide new funding to improve child care and early childhood education and school-age care in Nebraska.”

### ■ **Early Intervention Act**

Passed by the Nebraska Legislature in 1993 as LB 520, the intent of the Early Intervention Act was “to assist in securing early intervention services to infants and toddlers with disabilities and their families in accordance with the federal early intervention program...”

- It entitles services coordination for families who have an infant or toddler with a disability, requires family-centered interagency coordination of services, and is designed to maximize the effectiveness of state and community resources already in place, avoid duplication of services, and more clearly define the roles of state and community agencies.
- The act defines the roles of state agencies and establishes the planning regions to assist in the planning and implementation of the Early Intervention Act in local communities and regions.

### ■ **Early Childhood Interagency Coordinating Council (ECICC) [NRS 43-3401-43-3403]**

Passed by the Nebraska Legislature in 2000 as LB 1135, the statute created the Early Childhood Interagency Coordinating Council (ECICC).

- The ECICC is to “advise and assist the collaborating agencies in carrying out the provisions of:
  - Early Intervention Act
  - Quality Child Care Act
  - Other early childhood care and education initiatives under state supervision.
- Members are to be appointed by the Governor.
- Membership representation requirements and council advisory duties are described.

### ■ **Kindergarten**

Nebraska Revised Statutes, Sections 79-212, 29-214, and 79-278, revised in 2010.

- Sets requirements for number of hours for kindergarten programs offered by public school districts.
- Sets requirements pertaining to age, physical and visual examinations for admission of children.

## **NEBRASKA ADMINISTRATIVE CODE**

All Nebraska state agency regulations are compiled in the *Nebraska Administrative Code (NAC)*. Each agency is assigned certain *titles* of the Code for its rules and regulations.

### ■ **Regulations–Nebraska Department of Education (NDE)**

The following NDE Titles are related to the work of the ECICC:

- Rule 11–Regulations for Early Childhood Education Grant Programs
- Rule 51–Special Education Program Standards

### ■ **Regulations–Nebraska Department of Health and Human Services (DHHS)**

The following DHHS Titles are related to the work of the ECICC:

- Title 390: Child Welfare and Juvenile Services
- Title 391: Child Care Licensing
- Title 392: Child Care Subsidy Program
- Title 467: Medically Handicapped Children’s Program . . .
- Title 474: Social Services for Families, Children and Youth
- Title 477: Children’s Medical Assistance Program
- Title 480: Home and Community-based Waiver Services . . .

The following DHHS document provides vision, guidance, and standards for the implementation of early intervention services coordination and is related to the work of the ECICC:

- *Nebraska HHS Finance and Support Manual–Early Intervention Services Coordination*

# Individuals with Disabilities Education Improvement Act of 2004 (IDEA) Public Law 108-446

Entire Act may be accessed at: <http://www.copyright.gov/legislation/pl108-446.pdf>

## Sections 631-644: PART C—INFANTS AND TODDLERS WITH DISABILITIES

### Section 641: State Interagency Coordinating Council (page 9)

#### **SEC. 631.** <<NOTE: 20 USC 1431.>> **FINDINGS AND POLICY.**

(a) **Findings.**--Congress finds that there is an urgent and substantial need--

(1) to enhance the development of infants and toddlers with disabilities, to minimize their potential for developmental delay, and to recognize the significant brain development that occurs during a child's first 3 years of life ;

(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;

(3) to maximize the potential for individuals with disabilities to live independently in society ;

(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities; and

(5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of all children, particularly minority, low-income, inner city, and rural children, and infants and toddlers in foster care.

(b) **Policy.**--It is the policy of the United States to provide financial assistance to States--

(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families ;

(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage) ;

(3) to enhance State capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and

(4) to encourage States to expand opportunities for children under 3 years of age who would be at risk of having substantial developmental delay if they did not receive early intervention services.

#### **SEC. 632.** <<NOTE: 20 USC 1432.>> **DEFINITIONS.**

In this part:

(1) **At-risk infant or toddler.**--The term 'at-risk infant or toddler' means an individual under 3 years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual.

(2) **Council.**--The term 'council' means a State interagency coordinating council established under section 641.

(3) **Developmental delay.**--The term 'developmental delay', when used with respect to an individual residing in a State, has the meaning given such term by the State under section 635(a)(1).

(4) **Early intervention services.**--The term 'early intervention services' means developmental services that--

(A) are provided under public supervision;

(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees ;

(C) are designed to meet the developmental needs of an infant or toddler with a disability, as identified by the individualized family service plan team, in any 1 or more of the following areas:

(i) physical development ;

(ii) cognitive development ;

(iii) communication development ;

(iv) social or emotional development; or

(v) adaptive development ;

(D) meet the standards of the State in which the services are provided, including the requirements of this part ;

(E) include--

(i) family training, counseling, and home visits ;

(ii) special instruction ;

(iii) speech-language pathology and audiology services, and sign language and cued language services;

(iv) occupational therapy ;

(v) physical therapy;

(vi) psychological services ;

(vii) service coordination services;

- (viii) medical services only for diagnostic or evaluation purposes ;
  - (ix) early identification, screening, and assessment services ;
  - (x) health services necessary to enable the infant or toddler to benefit from the other early intervention services;
  - (xi) social work services ;
  - (xii) vision services ;
  - (xiii) assistive technology devices and assistive technology services; and
  - (xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive another service described in this paragraph ;
- (F) are provided by qualified personnel, including--
- (i) special educators ;
  - (ii) speech-language pathologists and audiologists ;
  - (iii) occupational therapists ;
  - (iv) physical therapists ;
  - (v) psychologists ;
  - (vi) social workers ;
  - (viii) registered dietitians ;
  - (ix) family therapists ;
  - (x) vision specialists, including ophthalmologists and optometrists ;
  - (xi) orientation and mobility specialists; and
  - (xii) pediatricians and other physicians;
- (G) to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate; and
- (H) are provided in conformity with an individualized family service plan adopted in accordance with section 636.
- (5) Infant or toddler with a disability.--The term 'infant or toddler with a disability'—
- (A) means an individual under 3 years of age who needs early intervention services because the individual--
- (i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in 1 or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or
  - (ii) has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay; and
- (B) may also include, at a State's discretion--

- (i) at-risk infants and toddlers; and
- (ii) children with disabilities who are eligible for services under section 619 and who previously received services under this part until such children enter, or are eligible under State law to enter, kindergarten or elementary school, as appropriate, provided that any programs under this part serving such children shall include--

(I) an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills; and

(II) a written notification to parents of their rights and responsibilities in determining whether their child will continue to receive services under this part or participate in preschool programs under section 619.

**SEC. 633.** <<NOTE: Grants. 20 USC 1433.>> **GENERAL AUTHORITY.**

The Secretary shall, in accordance with this part, make grants to States (from their allotments under section 643) to assist each State to maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

**SEC. 634.** <<NOTE: 20 USC 1434.>> **ELIGIBILITY.**

In order to be eligible for a grant under section 633, a State shall provide assurances to the Secretary that the State--

(1) has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State, infants and toddlers with disabilities who are homeless children and their families, and infants and toddlers with disabilities who are wards of the State; and

(2) has in effect a statewide system that meets the requirements of section 635.

**SEC. 635.** <<NOTE: 20 USC 1435.>> **REQUIREMENTS FOR STATEWIDE SYSTEM.**

(a) **In General.**--A statewide system described in section 633 shall include, at a minimum, the following components:

(1) A rigorous definition of the term 'developmental delay' that will be used by the State in carrying out programs under this part in order to

appropriately identify infants and toddlers with disabilities that are in need of services under this part.

(2) A State policy that is in effect and that ensures that appropriate early intervention services based on scientifically based research, to the extent practicable, are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State and infants and toddlers with disabilities who are homeless children and their families.

(3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State, and a family-directed identification of the needs of each family of such an infant or toddler, to assist appropriately in the development of the infant or toddler.

(4) For each infant or toddler with a disability in the State, an individualized family service plan in accordance with section 636, including service coordination services in accordance with such service plan.

(5) A comprehensive child find system, consistent with part B, including a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources and that ensures rigorous standards for appropriately identifying infants and toddlers with disabilities for services under this part that will reduce the need for future services.

(6) A public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established under paragraph (10) to all primary referral sources, especially hospitals and physicians, of information to be given to parents, especially to inform parents with premature infants, or infants with other physical risk factors associated with learning or developmental complications, on the availability of early intervention services under this part and of services under section 619, and procedures for assisting such sources in disseminating such information to parents of infants and toddlers with disabilities.

(7) A central directory that includes information on early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State.

(8) A comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in the State that--

(A) shall include--

(i) implementing innovative strategies and activities for the recruitment and retention of early education service providers ;

(ii) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part; and

(iii) training personnel to coordinate transition services for infants and toddlers served under this part from a program providing early intervention services under this part and under part B (other than section 619), to a preschool program receiving funds under section 619, or another appropriate program; and

(B) may include--

(i) training personnel to work in rural and inner-city areas; and

(ii) training personnel in the emotional and social development of young children.

(9) Policies and procedures relating to the establishment and maintenance of qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including the establishment and maintenance of qualifications that are consistent with any State-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing early intervention services, except that nothing in this part (including this paragraph) shall be construed to prohibit the use of paraprofessionals and assistants who are appropriately trained and supervised in accordance with State law, regulation, or written policy, to assist in the provision of early intervention services under this part to infants and toddlers with disabilities.

(10) A single line of responsibility in a lead agency designated or established by the Governor for carrying out--

(A) the general administration and supervision of programs and activities receiving assistance under section 633, and the monitoring of programs and activities used by the State to carry out this part, whether or not such programs or activities are receiving assistance made available under section 633, to ensure that the State complies with this part;

(B) the identification and coordination of all available resources within the State from Federal, State, local, and private sources ;

(C) the assignment of financial responsibility in accordance with section 637(a)(2) to the appropriate agencies ;

(D) the development of procedures to ensure that services are provided to infants and toddlers

with disabilities and their families under this part in a timely manner pending the resolution of any disputes among public agencies or service providers ;

(E) the resolution of intra- and interagency disputes; and

(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination.

(11) A policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this part, including the contents of the application used and the conditions of the contract or other arrangements.

(12) A procedure for securing timely reimbursements of funds used under this part in accordance with section 640(a).

(13) Procedural safeguards with respect to programs under this part, as required by section 639.

(14) A system for compiling data requested by the Secretary under section 618 that relates to this part.

(15) A State interagency coordinating council that meets the requirements of section 641.

(16) Policies and procedures to ensure that, consistent with section 636(d)(5)--

(A) to the maximum extent appropriate, early intervention services are provided in natural environments; and

(B) the provision of early intervention services for any infant or toddler with a disability occurs in a setting other than a natural environment that is most appropriate, as determined by the parent and the individualized family service plan team, only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.

**(b) Policy.--**In implementing subsection (a)(9), a State may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in subsection (a)(9).

**(c) Flexibility To Serve Children 3 Years of Age Until Entrance Into Elementary School.--**

(1) In general.--A statewide system described in section 633 may include a State policy, developed and implemented jointly by the lead agency and the State educational agency, under which parents of children with disabilities who are eligible for services under section 619 and previously received services under this part, may choose the continuation of early intervention services (which shall include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) for such children under this part until such children enter, or are eligible under State law to enter, kindergarten.

2) Requirements.--If a statewide system includes a State policy described in paragraph (1), the statewide system shall ensure that--

(A) parents of children with disabilities served pursuant to this subsection are provided annual notice that contains--

(i) a description of the rights of such parents to elect to receive services pursuant to this subsection or under part B; and

(ii) an explanation of the differences between services provided pursuant to this subsection and services provided under part B, including--

(I) types of services and the locations at which the services are provided ;

(II) applicable procedural safeguards; and

(III) possible costs (including any fees to be charged to families as described in section 632(4)(B)), if any, to parents of infants or toddlers with disabilities ;

(B) services provided pursuant to this subsection include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills ;

(C) the State policy will not affect the right of any child served pursuant to this subsection to instead receive a free appropriate public education under part B ;

(D) all early intervention services outlined in the child's individualized family service plan under section 636 are continued while any eligibility determination is being made for services under this subsection ;

(E) the parents of infants or toddlers with disabilities (as defined in section 632(5)(A)) provide informed written consent to the State, before such infants or toddlers reach 3 years of age, as to whether such parents intend to choose the continuation of early intervention services pursuant to this subsection for such infants or toddlers ;



(F) the requirements under section 637(a)(9) shall not apply with respect to a child who is receiving services in accordance with this subsection until not less than 90 days (and at the discretion of the parties to the conference, not more than 9 months) before the time the child will no longer receive those services; and

(G) there will be a referral for evaluation for early intervention services of a child who experiences a substantiated case of trauma due to exposure to family violence (as defined in section 320 of the Family Violence Prevention and Services Act).

**(3) Reporting requirement.**--If a statewide system includes a State policy described in paragraph (1), the State shall submit to the Secretary, in the State's report under section 637(b)(4)(A), a report on the number and percentage of children with disabilities who are eligible for services under section 619 but whose parents choose for such children to continue to receive early intervention services under this part.

**(4) Available funds.**--If a statewide system includes a State policy described in paragraph (1), the policy shall describe the funds (including an identification as Federal, State, or local funds) that will be used to ensure that the option described in paragraph (1) is available to eligible children and families who provide the consent described in paragraph (2)(E), including fees (if any) to be charged to families as described in section 632(4)(B).

**(5) Rules of construction.**--

(A) Services under part b.--If a statewide system includes a State policy described in paragraph (1), a State that provides services in accordance with this subsection to a child with a disability who is eligible for services under section 619 shall not be required to provide the child with a free appropriate public education under part B for the period of time in which the child is receiving services under this part.

(B) Services under this part.--Nothing in this subsection shall be construed to require a provider of services under this part to provide a child served under this part with a free appropriate public education.

**SEC. 636.** <<NOTE: 20 USC 1436.>>

**INDIVIDUALIZED FAMILY SERVICE PLAN.**

**(a) Assessment and Program Development.**--A statewide system described in section 633 shall provide, at a minimum, for each infant or toddler with a disability, and the infant's or toddler's family, to receive--

(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the

identification of services appropriate to meet such needs ;

(2) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the infant or toddler; and

(3) a written individualized family service plan developed by a multidisciplinary team, including the parents, as required by subsection (e), including a description of the appropriate transition services for the infant or toddler.

**(b) Periodic Review.**--The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).

**(c) Promptness After Assessment.**--The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is completed. With the parents' consent, early intervention services may commence prior to the completion of the assessment.

**(d) Content of Plan.**--The individualized family service plan shall be in writing and contain--

(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria ;

(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability ;

(3) a statement of the measurable results or outcomes expected to be achieved for the infant or toddler and the family, including pre-literacy and language skills, as developmentally appropriate for the child, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the results or outcomes is being made and whether modifications or revisions of the results or outcomes or services are necessary;

(4) a statement of specific early intervention services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services ;

(5) a statement of the natural environments in which early intervention services will appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment ;

(6) the projected dates for initiation of services and the anticipated length, duration, and frequency of the services ;

(7) the identification of the service coordinator from the profession most immediately relevant to the infant's or toddler's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this part) who will be responsible for the implementation of the plan and coordination with other agencies and persons, including transition services; and

(8) the steps to be taken to support the transition of the toddler with a disability to preschool or other appropriate services.

**(e) Parental Consent.**--The contents of the individualized family service plan shall be fully explained to the parents and informed written consent from the parents shall be obtained prior to the provision of early intervention services described in such plan. If the parents do not provide consent with respect to a particular early intervention service, then only the early intervention services to which consent is obtained shall be provided.

**SEC. 637. <<NOTE: 20 USC 1437.>> STATE APPLICATION AND ASSURANCES.**

**(a) Application.**--A State desiring to receive a grant under section 633 shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall contain--

(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 633 ;

(2) a certification to the Secretary that the arrangements to establish financial responsibility for services provided under this part pursuant to section 640(b) are current as of the date of submission of the certification ;

(3) information demonstrating eligibility of the State under section 634, including--

(A) information demonstrating to the Secretary's satisfaction that the State has in effect the statewide system required by section 633; and

(B) a description of services to be provided to infants and toddlers with disabilities and their families through the system ;

(4) if the State provides services to at-risk infants and toddlers through the statewide system, a description of such services ;

(5) a description of the uses for which funds will be expended in accordance with this part ;

(6) a description of the State policies and procedures that require the referral for early

intervention services under this part of a child under the age of 3 who--

(A) is involved in a substantiated case of child abuse or neglect; or

(B) is identified as affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure ;

(7) a description of the procedure used to ensure that resources are made available under this part for all geographic areas within the State ;

(8) a description of State policies and procedures that ensure that, prior to the adoption by the State of any other policy or procedure necessary to meet the requirements of this part, there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities ;

(9) a description of the policies and procedures to be used--

(A) to ensure a smooth transition for toddlers receiving early intervention services under this part (and children receiving those services under section 635(c)) to preschool, school, other appropriate services, or exiting the program, including a description of how--

(i) the families of such toddlers and children will be included in the transition plans required by subparagraph (C); and

(ii) the lead agency designated or established under section 635(a)(10) will--

(I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under part B, as determined in accordance with State law ;

(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency not less than 90 days (and at the discretion of all such parties, not more than 9 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and

(III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under part B, to

discuss the appropriate services that the child may receive ;

(B) to review the child's program options for the period from the child's third birthday through the remainder of the school year; and

(C) to establish a transition plan, including, as appropriate, steps to exit from the program ;

(10) a description of State efforts to promote collaboration among Early Head Start programs under section 645A of the Head Start Act, early education and child care programs, and services under part C; and

(11) such other information and assurances as the Secretary may reasonably require.

**(b) Assurances.--**The application described in subsection (a)--

(1) shall provide satisfactory assurance that Federal funds made available under section 643 to the State will be expended in accordance with this part ;

(2) shall contain an assurance that the State will comply with the requirements of section 640 ;

(3) shall provide satisfactory assurance that the control of funds provided under section 643, and title to property derived from those funds, will be in a public agency for the uses and purposes provided in this part and that a public agency will administer such funds and property ;

(4) shall provide for--

(A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part; and

(B) keeping such reports and affording such access to the reports as the Secretary may find necessary to ensure the correctness and verification of those reports and proper disbursement of Federal funds under this part;

(5) provide satisfactory assurance that Federal funds made available under section 643 to the State--

(A) will not be commingled with State funds; and

(B) will be used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds ;

(6) shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under section 643 to the State ;

(7) shall provide satisfactory assurance that policies and procedures have been adopted to ensure meaningful involvement of underserved groups, including minority, low-income, homeless, and rural

families and children with disabilities who are wards of the State, in the planning and implementation of all the requirements of this part; and

(8) shall contain such other information and assurances as the Secretary may reasonably require by regulation.

**(c) Standard for Disapproval of Application.--**The Secretary may not disapprove such an application unless the Secretary determines, after notice and opportunity for a hearing, that the application fails to comply with the requirements of this section.

**(d) Subsequent State Application.--**If a State has on file with the Secretary a policy, procedure, or assurance that demonstrates that the State meets a requirement of this section, including any policy or procedure filed under this part (as in effect before the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004), the Secretary shall consider the State to have met the requirement for purposes of receiving a grant under this part.

**(e) Modification of Application.--**An application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State determines necessary. This section shall apply to a modification of an application to the same extent and in the same manner as this section applies to the original application.

**(f) Modifications Required by the Secretary.--**The Secretary may require a State to modify its application under this section, but only to the extent necessary to ensure the State's compliance with this part, if--

(1) an amendment is made to this title, or a Federal regulation issued under this title ;

(2) a new interpretation of this title is made by a Federal court or the State's highest court; or

(3) an official finding of noncompliance with Federal law or regulations is made with respect to the State.

**SEC. 638. <<NOTE: 20 USC 1438.>> USES OF FUNDS.**

In addition to using funds provided under section 633 to maintain and implement the statewide system required by such section, a State may use such funds--

(1) for direct early intervention services for infants and toddlers with disabilities, and their families, under this part that are not otherwise funded through other public or private sources ;

(2) to expand and improve on services for infants and toddlers and their families under this part that are otherwise available ;

(3) to provide a free appropriate public education, in accordance with part B, to children with

disabilities from their third birthday to the beginning of the following school year ;

(4) with the written consent of the parents, to continue to provide early intervention services under this part to children with disabilities from their 3rd birthday until such children enter, or are eligible under State law to enter, kindergarten, in lieu of a free appropriate public education provided in accordance with part B; and

(5) in any State that does not provide services for at-risk infants and toddlers under section 637(a)(4), to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purposes of--

(A) identifying and evaluating at-risk infants and toddlers ;

(B) making referrals of the infants and toddlers identified and evaluated under subparagraph (A); and

(C) conducting periodic follow-up on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this part.

**SEC. 639.** <<NOTE: 20 USC 1439.>> **PROCEDURAL SAFEGUARDS.**

**(a) Minimum Procedures.**--The procedural safeguards required to be included in a statewide system under section 635(a)(13) shall provide, at a minimum, the following:

(1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(2) The right to confidentiality of personally identifiable information, including the right of parents to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law.

(3) The right of the parents to determine whether they, their infant or toddler, or other family members will accept or decline any early intervention service

under this part in accordance with State law without jeopardizing other early intervention services under this part.

(4) The opportunity for parents to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

(5) Procedures to protect the rights of the infant or toddler whenever the parents of the infant or toddler are not known or cannot be found or the infant or toddler is a ward of the State, including the assignment of an individual (who shall not be an employee of the State lead agency, or other State agency, and who shall not be any person, or any employee of a person, providing early intervention services to the infant or toddler or any family member of the infant or toddler) to act as a surrogate for the parents.

(6) Written prior notice to the parents of the infant or toddler with a disability whenever the State agency or service provider proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or placement of the infant or toddler with a disability, or the provision of appropriate early intervention services to the infant or toddler.

(7) Procedures designed to ensure that the notice required by paragraph (6) fully informs the parents, in the parents' native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.

(8) The right of parents to use mediation in accordance with section 615, except that--

(A) any reference in the section to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 635(a)(10) ;

(B) any reference in the section to a local educational agency shall be considered to be a reference to a local service provider or the State's lead agency under this part, as the case may be; and

(C) any reference in the section to the provision of a free appropriate public education to children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

**(b) Services During Pendency of Proceedings.**--During the pendency of any proceeding or action involving a complaint by the parents of an infant or toddler with a disability, unless the State agency and the parents otherwise agree, the infant or toddler shall continue to receive the appropriate early intervention services currently being provided or, if applying for initial services, shall receive the services not in dispute.

**SEC. 640.** <<NOTE: 20 USC 1440.>> **PAYOR OF LAST RESORT.**

(a) **Nonsubstitution.**--Funds provided under section 643 may not be used to satisfy a financial commitment for services that would have been paid for from another public or private source, including any medical program administered by the Secretary of Defense, but for the enactment of this part, except that whenever considered necessary to prevent a delay in the receipt of appropriate early intervention services by an infant, toddler, or family in a timely fashion, funds provided under section 643 may be used to pay the provider of services pending reimbursement from the agency that has ultimate responsibility for the payment.

**(b) Obligations Related to and Methods of Ensuring Services.--**

(1) Establishing financial responsibility for services.—

(A) In general.--The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency and the designated lead agency, in order to ensure--

(i) the provision of, and financial responsibility for, services provided under this part; and

(ii) such services are consistent with the requirements of section 635 and the State's application pursuant to section 637, including the provision of such services during the pendency of any such dispute.

(B) Consistency between agreements or mechanisms under part b.--The Chief Executive Officer of a State or designee of the officer shall ensure that the terms and conditions of such agreement or mechanism are consistent with the terms and conditions of the State's agreement or mechanism under section 612(a)(12), where appropriate.

(2) Reimbursement for services by public agency.--

(A) In general.--If a public agency other than an educational agency fails to provide or pay for the services pursuant to an agreement required under paragraph (1), the local educational agency or State agency (as determined by the Chief Executive Officer or designee) shall provide or pay for the provision of such services to the child.

(B) Reimbursement.--Such local educational agency or State agency is authorized to claim reimbursement for the services from the public agency that failed to provide or pay for such services and such public agency shall reimburse

the local educational agency or State agency pursuant to the terms of the interagency agreement or other mechanism required under paragraph (1).

(3) Special rule.--The requirements of paragraph (1) may be met through--

(A) State statute or regulation ;

(B) signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

(C) other appropriate written methods as determined by the Chief Executive Officer of the State or designee of the officer and approved by the Secretary through the review and approval of the State's application pursuant to section 637.

(c) **Reduction of Other Benefits.**--Nothing in this part shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act (relating to maternal and child health) or title XIX of the Social Security Act (relating to medicaid for infants or toddlers with disabilities) within the State.

**SEC. 641.** <<NOTE: 20 USC 1441.>> **STATE INTERAGENCY COORDINATING COUNCIL.****(a) Establishment.--**

(1) In general.--A State that desires to receive financial assistance under this part shall establish a State interagency coordinating council.

(2) Appointment.--The council shall be appointed by the Governor. In making appointments to the council, the Governor shall ensure that the membership of the council reasonably represents the population of the State.

(3) Chairperson.--The Governor shall designate a member of the council to serve as the chairperson of the council, or shall require the council to so designate such a member. Any member of the council who is a representative of the lead agency designated under section 635(a)(10) may not serve as the chairperson of the council.

**(b) Composition.--**

(1) In general.--The council shall be composed as follows:

(A) Parents.--Not less than 20 percent of the members shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. Not less than 1 such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger.

(B) Service providers.--Not less than 20 percent of the members shall be public or private providers of early intervention services.

(C) State legislature.--Not less than 1 member shall be from the State legislature.

(D) Personnel preparation.--Not less than 1 member shall be involved in personnel preparation.

(E) Agency for early intervention services.--Not less than 1 member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

(F) Agency for preschool services.--Not less than 1 member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

(G) State medicaid agency.--Not less than 1 member shall be from the agency responsible for the State medicaid program.

(H) Head start agency.--Not less than 1 member shall be a representative from a Head Start agency or program in the State.

(I) Child care agency.--Not less than 1 member shall be a representative from a State agency responsible for child care.

(J) Agency for health insurance.--Not less than 1 member shall be from the agency responsible for the State regulation of health insurance.

(K) Office of the coordinator of education of homeless children and youth.--Not less than 1 member shall be a representative designated by the Office of Coordinator for Education of Homeless Children and Youths.

(L) State foster care representative.--Not less than 1 member shall be a representative from the State child welfare agency responsible for foster care.

(M) Mental health agency.--Not less than 1 member shall be a representative from the State agency responsible for children's mental health.

(2) Other members.--The council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs (BIA), or where there is no BIA- operated or BIA- funded school, from the Indian Health Service or the tribe or tribal council.

**(c) Meetings.**--The council shall meet, at a minimum, on a quarterly basis, and in such places as the council determines necessary. The meetings shall be publicly

announced, and, to the extent appropriate, open and accessible to the general public.

**(d) Management Authority.**--Subject to the approval of the Governor, the council may prepare and approve a budget using funds under this part to conduct hearings and forums, to reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives), to pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business, to hire staff, and to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.

**(e) Functions of Council.**--

(1) Duties.--The council shall--

(A) advise and assist the lead agency designated or established under section 635(a)(10) in the performance of the responsibilities set forth in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements ;

(B) advise and assist the lead agency in the preparation of applications and amendments thereto ;

(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to preschool and other appropriate services; and

(D) <<NOTE: Reports.>> prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

(2) Authorized activity.--The council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children from birth through age 5. The council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.

**(f) Conflict of Interest.**--No member of the council shall cast a vote on any matter that is likely to provide a direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

**SEC. 642.** <<NOTE: Applicability. 20 USC 1442.>>  
**FEDERAL ADMINISTRATION.**

Sections 616, 617, and 618 shall, to the extent not inconsistent with this part, apply to the program authorized by this part, except that--

(1) any reference in such sections to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 635(a)(10) ;

(2) any reference in such sections to a local educational agency, educational service agency, or a State agency shall be considered to be a reference to an early intervention service provider under this part; and

(3) any reference to the education of children with disabilities or the education of all children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

**SEC. 643.** <<NOTE: 20 USC 1443.>> **ALLOCATION OF FUNDS.**

**(a) Reservation of Funds for Outlying Areas.--**

(1) In general.--From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve not more than 1 percent for payments to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs for assistance under this part.

(2) Consolidation of funds.--The provisions of Public Law 95-134, permitting the consolidation of grants to the outlying areas, shall not apply to funds those areas receive under this part.

**(b) Payments to Indians.--**

(1) In general.--The Secretary shall, subject to this subsection, make payments to the Secretary of the Interior to be distributed to tribes, tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act), or consortia of the above entities for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary schools and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for such fiscal year.

(2) Allocation.--For each fiscal year, the Secretary of the Interior shall distribute the entire payment received under paragraph (1) by providing to each tribe, tribal organization, or consortium an amount based on the number of infants and toddlers residing on the reservation, as determined annually, divided

by the total of such children served by all tribes, tribal organizations, or consortia.

(3) Information.--To receive a payment under this subsection, the tribe, tribal organization, or consortium shall submit such information to the Secretary of the Interior as is needed to determine the amounts to be distributed under paragraph (2).

(4) Use of funds.--The funds received by a tribe, tribal organization, or consortium shall be used to assist States in child find, screening, and other procedures for the early identification of Indian children under 3 years of age and for parent training. Such funds may also be used to provide early intervention services in accordance with this part. Such activities may be carried out directly or through contracts or cooperative agreements with the Bureau of Indian Affairs, local educational agencies, and other public or private nonprofit organizations. The tribe, tribal organization, or consortium is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

(5) Reports.--To be eligible to receive a payment under paragraph (2), a tribe, tribal organization, or consortium shall make a biennial report to the Secretary of the Interior of activities undertaken under this subsection, including the number of contracts and cooperative agreements entered into, the number of infants and toddlers contacted and receiving services for each year, and the estimated number of infants and toddlers needing services during the 2 years following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis to the Secretary of Education along with such other information as required under section 611(h)(3)(E). The Secretary of Education may require any additional information from the Secretary of the Interior.

(6) Prohibited uses of funds.--None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

**(c) State Allotments.--**

(1) In general.--Except as provided in paragraphs (2) and (3), from the funds remaining for each fiscal year after the reservation and payments under subsections (a), (b), and (e), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

(2) Minimum allotments.--Except as provided in paragraph (3), no State shall receive an amount under

this section for any fiscal year that is less than the greater of--

(A)  $\frac{1}{2}$  of 1 percent of the remaining amount described in paragraph (1); or

(B) \$500,000.

(3) Ratable reduction.--

(A) In general.--If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allotments to such States for such year.

(B) Additional funds.--If additional funds become available for making payments under this subsection for a fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis the allotments were reduced.

(4) Definitions.--In this subsection--

(A) the terms 'infants' and 'toddlers' mean children under 3 years of age; and

(B) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

**(d) Reallocation of Funds.**--If a State elects not to receive its allotment under subsection (c), the Secretary shall reallocate, among the remaining States, amounts from such State in accordance with such subsection.

**(e) Reservation for State Incentive Grants.**—

(1) In general.--For any fiscal year for which the amount appropriated pursuant to the authorization of appropriations under section 644 exceeds \$460,000,000, the Secretary shall reserve 15 percent of such appropriated amount to provide grants to States that are carrying out the policy described in section 635(c) in order to facilitate the implementation of such policy.

(2) Amount of grant.--

(A) In general.--Notwithstanding paragraphs (2) and (3) of subsection (c), the Secretary shall provide a grant to each State under paragraph (1) in an amount that bears the same ratio to the amount reserved under such paragraph as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States receiving grants under such paragraph.

(B) Maximum amount.--No State shall receive a grant under paragraph (1) for any fiscal year in an amount that is greater than 20 percent of the amount reserved under such paragraph for the fiscal year.

(3) Carryover of amounts.--

(A) First succeeding fiscal year.--Pursuant to section 421(b) of the General Education

Provisions Act, amounts under a grant provided under paragraph (1) that are not obligated and expended prior to the beginning of the first fiscal year succeeding the fiscal year for which such amounts were appropriated shall remain available for obligation and expenditure during such first succeeding fiscal year.

(B) Second succeeding fiscal year.--Amounts under a grant provided under paragraph (1) that are not obligated and expended prior to the beginning of the second fiscal year succeeding the fiscal year for which such amounts were appropriated shall be returned to the Secretary and used to make grants to States under section 633 (from their allotments under this section) during such second succeeding fiscal year.

**SEC. 644.** <<NOTE: 20 USC 1444.>>

**AUTHORIZATION OF APPROPRIATIONS.**

For the purpose of carrying out this part, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2005 through 2010.



# Improving Head Start for School Readiness Act of 2007

## Public Law 110-134—DEC. 12, 2007 121, STAT. 1411-1413

Entire Act may be accessed at: <http://www.gpo.gov/fdsys/pkg/PLAW-110publ134/pdf/PLAW-110publ134.pdf>

### Section 11: EARLY CHILDHOOD EDUCATION, COORDINATION, AND IMPROVEMENT [42 U.S.C. 9837b]

#### Section 642B:

#### Head Start Collaboration (*Head Start State Collaboration Office*) State Early Education and Care (*State Advisory Council*)

#### SEC. 11. EARLY CHILDHOOD EDUCATION, COORDINATION, AND IMPROVEMENT.

(a) HEAD START COLLABORATION.—The Head Start Act (42 U.S.C. 9831 et seq.) is amended by inserting after section 642A the following:

#### HEAD START COLLABORATION; STATE EARLY EDUCATION AND CARE

**SEC. 642B.** (a)(1) From amounts made available under section 640(a)(2)(B)(vi), the Secretary shall award the collaboration grants described in paragraphs (2), (3), and (4).

(2) (A) The Secretary shall award, upon submission of a written request, a collaboration grant to each State and to each national administrative office serving Indian Head Start programs and migrant or seasonal Head Start programs to facilitate collaboration among Head Start agencies (including Early Head Start agencies) and entities that carry out activities designed to benefit low-income children from birth to school entry, and their families. The national

administrative offices shall use the funds made available through the grants to carry out the authorities and responsibilities described in subparagraph (B) and paragraphs (3) and (4), as appropriate.

(B) Grants described in subparagraph (A) shall be used to—

(i) assist Head Start agencies to collaborate with entities involved in State and local planning processes to better meet the needs of low-income children from birth to school entry, and their families;

(ii) assist Head Start agencies to coordinate activities with the State agency responsible for administering the State program carried out under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) and entities providing resource and referral services in the State, to make fullworking-day and full calendar year services available to children;

(iii) promote alignment of curricula used in Head Start programs and continuity of services with the Head Start Child Outcomes Framework and, as appropriate, State early learning standards;

(iv) promote better linkages between Head Start agencies and other child and family health, mental health, or family services, or other child or family supportive services, such as services provided under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.); and

(v) carry out the activities of the State Director of Head Start Collaboration authorized in paragraph (4).

(3) In order to improve coordination and delivery of early childhood education and development to children in the State, a State that receives a collaboration grant under paragraph (2) shall—

(A) appoint or designate an individual to serve as, or carry out the responsibilities of, the State Director of Head Start Collaboration;

(B) ensure that the State Director of Head Start Collaboration holds a position with sufficient authority and access to ensure that the collaboration described in paragraph (2) is effective and involves a range of State agencies; and

(C) involve the State Head Start Association in the selection of the Director and involve the Association in determinations relating to the ongoing direction of the collaboration office involved.

(4) The State Director of Head Start Collaboration shall—

(A) not later than 1 year after the State receives a collaboration grant under paragraph (2), conduct an assessment that—

(i) addresses the needs of Head Start agencies in the State with respect to collaboration, coordination and alignment of services, and alignment of curricula and assessments used in Head Start programs with the Head Start Child Outcomes Framework and, as appropriate, State early learning standards;

- (ii) shall be updated on an annual basis; and
  - (iii) shall be made available to the general public within the State;
- (B) develop a strategic plan that is based on the assessment described in subparagraph (A) that will—
- (i) enhance collaboration and coordination of Head Start services by Head Start agencies with other entities providing early childhood education and development (such as child care or services offered by museums), health care, mental health care, welfare, child protective services, education and community service activities, family literacy services, reading readiness programs (including such programs offered by public and school libraries), services relating to children with disabilities, other early childhood education and development for limited English proficient children and homeless children, and services provided for children in foster care and children referred to Head Start programs by child welfare agencies, including agencies and State officials responsible for services described in this clause;
  - (ii) assist Head Start agencies to develop a plan for the provision of full working-day, full calendar year services for children enrolled in Head Start programs who need such services;
  - (iii) assist Head Start agencies to align curricula and assessments used in Head Start programs with the Head Start Child Outcomes Framework and, as appropriate, State early learning standards;
  - (iv) enable Head Start agencies to better access professional development opportunities for Head Start staff, such as by working with Head Start agencies to enable the agencies to meet the degree requirements described in section 648A(a)(2)(A), including providing distance learning opportunities for Head Start staff, where needed to make higher education more accessible to Head Start staff; and (v) enable the Head Start agencies to better conduct outreach to eligible families;
- (C) promote partnerships between Head Start agencies, State and local governments, and the private sector to help ensure that children from low-income families, who are in Head Start programs or are preschool age, are receiving comprehensive services to prepare the children for elementary school;
- (D) consult with the chief State school officer, local educational agencies, and providers of early childhood education and development, at both the State and local levels;
- (E) promote partnerships between Head Start agencies, schools, law enforcement, relevant community-based organizations, and substance abuse and mental health treatment agencies to strengthen

family and community environments and to reduce the impact on child development of substance abuse, child abuse, domestic violence, and other high-risk behaviors that compromise healthy development;

(F) promote partnerships between Head Start agencies and other organizations in order to enhance Head Start program quality, including partnerships to promote inclusion of more books in Head Start classrooms;

(G) identify other resources and organizations (both public and private) for the provision of in-kind services to Head Start agencies in the State; and

**(H) serve on the State Advisory Council** in order to assist the efforts of Head Start agencies to engage in effective coordination and collaboration. .

**(b) STATE EARLY EDUCATION AND CARE.**—Section 642B of the Head Start Act, as

added by subsection (a), is amended by adding at the end the following:

**(b)(1)(A) The Governor of the State shall—**

**(i) designate or establish a council** to serve as the State Advisory Council on Early Childhood Education and Care for children from birth to school entry (in this subchapter referred to as the ‘**State Advisory Council**’); and

(ii) designate an individual to coordinate activities of the State Advisory Council, as described in subparagraph (D)(i).

(B) The Governor may designate an existing entity in the State to serve as the State Advisory Council, and shall appoint representatives to the State Advisory Council at the Governor’s discretion. In designating an existing entity, the Governor shall take steps to ensure that its membership includes, to the extent possible, representatives consistent with subparagraph (C).

(C) **Members** of the State Advisory Council shall include, to the maximum extent possible—

(i) a representative of the State agency responsible for child care;

(ii) a representative of the State educational agency;

(iii) a representative of local educational agencies;

(iv) a representative of institutions of higher education in the State;

(v) a representative of local providers of early childhood education and development services;

(vi) a representative from Head Start agencies located in the State, including migrant and seasonal Head Start programs and Indian Head Start programs;

(vii) the State Director of Head Start Collaboration;

(viii) a representative of the State agency responsible for programs under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.);

(ix) a representative of the State agency responsible for health or mental health care; and

(x) representatives of other entities determined to be relevant by the Governor of the State.

(D)(i) The State Advisory Council shall, in addition to any **responsibilities** assigned to the Council by the Governor of the State—

(I) conduct a periodic statewide needs assessment concerning the quality and availability of early childhood education and development programs and services for children from birth to school entry, including an assessment of the availability of high-quality pre-kindergarten services for low-income children in the State;

(II) identify opportunities for, and barriers to, collaboration and coordination among Federally-funded and State-funded child development, child care, and early childhood education programs and services, including collaboration and coordination among State agencies responsible for administering such programs;

(III) develop recommendations for increasing the overall participation of children in existing Federal, State, and local child care and early childhood education programs, including outreach to underrepresented and special populations;

(IV) develop recommendations regarding the establishment of a unified data collection system for public early childhood education and development programs and services throughout the State;

(V) develop recommendations regarding statewide professional development and career advancement plans for early childhood educators in the State;

(VI) assess the capacity and effectiveness of 2- and 4-year public and private institutions of higher education in the State toward supporting the development of early childhood educators, including the extent to which such institutions have in place articulation agreements, professional development and career advancement plans, and practice or internships for students to spend time in a Head Start or prekindergarten program; and

(VII) make recommendations for improvements in State early learning standards and undertake efforts to develop

high-quality comprehensive early learning standards, as appropriate.

(ii) The State Advisory Council shall hold public hearings and provide an opportunity for public comment on the activities described in clause (i). The State Advisory Council shall submit a statewide strategic report addressing the activities described in clause (i) to the State Director of Head Start Collaboration and the Governor of the State.

(iii) After submission of a statewide strategic report under clause (ii), the State Advisory Council shall meet periodically to review any implementation of the recommendations in such report and any changes in State and local needs.

(2) (A) The Secretary shall use the portion reserved under section 640(a)(4)(A)(iii) to award, on a competitive basis, one-time startup grants of not less than \$500,000 to eligible States to enable such States to pay for the Federal share of developing and implementing a plan pursuant to the responsibilities included under paragraph (1)(D)(i). A State that receives funds under this paragraph shall use such funds to facilitate the development or enhancement of high-quality systems of early childhood education and care designed to improve school preparedness through one or more of the following activities—

(i) promoting school preparedness of children from birth through school entry, including activities to encourage families and caregivers to engage in highly interactive, developmentally and age-appropriate activities to improve children's early social, emotional, and cognitive development, support the transition of young children to school, and foster parental and family involvement in the early education of young children;

(ii) supporting professional development, recruitment, and retention initiatives for early childhood educators;

(iii) enhancing existing early childhood education and development programs and services (in existence on the date on which the grant involved is awarded), including quality improvement activities authorized under the Child Care and Development Block Grant Act of 1990; and

(iv) carrying out other activities consistent with the State's plan and application, pursuant to subparagraph (B).

(B) To be eligible to receive a grant under this paragraph, a State shall prepare and submit to the Secretary a plan and application, for a 3-year period, at such time, in such manner, and containing such information as the Secretary shall require, including—

(i) the statewide strategic report described in paragraph (1)(D)(ii), including a description of the State Advisory Council's responsibilities under paragraph (1)(D)(i);

(ii) a description, for each fiscal year, of how the State will make effective use of funds available under this paragraph, with funds described in subparagraph (C), to create an early childhood education and care system, by developing or enhancing programs and activities consistent with the statewide strategic report described in paragraph (1)(D)(i);

(iii) a description of the State early learning standards and the State's goals for increasing the number of children entering kindergarten ready to learn;

(iv) information identifying the agency or joint interagency office, and individual, designated to carry out the activities under this paragraph, which may be the individual designated under paragraph (1)(A)(ii); and

(v) a description of how the State plans to sustain activities under this paragraph beyond the grant period.

(C) The Federal share of the cost of activities proposed to be conducted under subparagraph (A) shall be 30 percent, and the State shall provide the non-Federal share.

(D) Funds made available under this paragraph shall be used to supplement, and not supplant, other Federal, State, and local funds expended to carry out activities related to early childhood education and care in the State.

(E) Not later than 18 months after the date a State receives a grant under this paragraph, the State shall submit an interim report to the Secretary. A State that receives a grant under this paragraph shall submit a final report to the Secretary at the end of the grant period. Each report shall include—

(i) a description of the activities and services carried out under the grant, including the outcomes of such activities and services in meeting the needs described in the periodic needs assessment and statewide strategic report;

(ii) information about how the State used such funds to meet the goals of this subsection through activities to develop or enhance high-quality systems of early childhood education and care, increase effectiveness of delivery systems and use of funds, and enhance existing programs and services;

(iii) information regarding the remaining needs described in the periodic statewide needs assessment and statewide strategic report that have not yet been addressed by the State; and

(iv) any other information that the Secretary may require.

(F) Nothing in this subsection shall be construed to provide the State Advisory Council with authority to modify, supersede, or negate the requirements of this subchapter.

# Early Childhood Interagency Coordinating Council (ECICC) Nebraska Revised Statutes

*Search Revised Statutes by chapter and section at:  
<http://www.unicam.state.ne.us/laws/browse-chapters.php?chapter=43>*

## Chapter 43: INFANTS AND JUVENILES Sections 43-3401 to 43-3403

**43-3401 Early Childhood Interagency Coordinating Council; created; membership; terms; expenses.** The Early Childhood Interagency Coordinating Council is created. The council shall advise and assist the collaborating agencies in carrying out the provisions of the Early Intervention Act, the Quality Child Care Act, sections 79-1101 to 79-1104, and other early childhood care and education initiatives under state supervision. Membership and activities of the council shall comply with all applicable provisions of federal law. Members of the council shall be appointed by the Governor and shall include, but not be limited to:

(1) Parents of children who require early intervention services, early childhood special education, and other early childhood care and education services; and

(2) Representatives of school districts, social services, health and medical services, family child care and center-based early childhood care and education programs, agencies providing training to staff of child care programs, resource and referral agencies, mental health services, developmental disabilities services, educational service units, Head Start, higher education, physicians, the Legislature, business persons, and the collaborating agencies.

Terms of the members shall be for three years, and a member shall not serve more than two consecutive three-year terms. Members shall be reimbursed for their actual and necessary expenses, including child care expenses, with funds provided for such purposes through the Early Intervention Act, the Quality Child Care Act, and sections 79-1101 to 79-1104.

Members of the Nebraska Interagency Coordinating Council serving on July 13, 2000, shall constitute the Early Childhood Interagency Coordinating Council and shall serve for the remainder of their terms. The Governor shall make additional appointments as required by this section and to fill vacancies as needed. The Governor shall set the initial terms of additional appointees to result in staggered terms for members of the council. The Department of Health and Human Services and the State Department of Education shall provide and coordinate staff assistance to the council.

Source: Laws 2000, LB 1135, § 6; Laws 2006, LB 994, § 63; Laws 2007, LB296, § 170.

**43-3402 Council; advisory duties.** With respect to the Early Intervention Act, the Quality Child Care Act, and sections 79-1101 to 79-1104, the Early Childhood Interagency Coordinating Council shall serve in an advisory capacity to state agencies responsible for early childhood care and education, including care for school-age children, in order to:

(1) Promote the policies set forth in the Early Intervention Act, the Quality Child Care Act, and sections 79-1101 to 79-1104;

(2) Facilitate collaboration with the federally administered Head Start program;

(3) Make recommendations to the Department of Health and Human Services, the State Department of Education, and other state agencies responsible for the regulation or provision of early childhood care and education programs on the needs, priorities, and policies relating to such programs throughout the state;

(4) Make recommendations to the lead agency or agencies which prepare and submit applications for federal funding;

(5) Review new or proposed revisions to rules and regulations governing the registration or licensing of early childhood care and education programs;

(6) Study and recommend additional resources for early childhood care and education programs; and

(7) Report biennially to the Governor and Legislature on the status of early intervention and early childhood care and education in the state. Such report shall include (a) the number of license applications received under section 71-1911, (b) the number of such licenses issued, (c) the number of such license applications denied, (d) the number of complaints investigated regarding such licensees, (e) the number of such licenses revoked, (f) the number and dollar amount of civil penalties levied pursuant to section 71-1920, and (g) information which may assist the Legislature in determining the extent of cooperation provided to the Department of Health

and Human Services by other state and local agencies pursuant to section 71-1914.

Source: Laws 2000, LB 1135, § 7; Laws 2006, LB 994, § 64; Laws 2007, LB296, § 171.

**43-3403 Council; Early Intervention Act; duties.**

With respect to the Early Intervention Act, the Early Childhood Interagency Coordinating Council and collaborating agencies shall make recommendations to the lead agency or agencies relating to:

- (1) The general administration, supervision, and monitoring of programs and activities receiving federal funds under the federal early intervention program to ensure compliance with federal law;
- (2) The identification and coordination of all available resources within the state from federal, state, local, and private sources;
- (3) The development of procedural safeguards, including procedures for complaints and appeals, to ensure that services coordination is provided to eligible infants or toddlers with disabilities or possible disabilities and their families in a timely manner pending the resolution of any disputes among public agencies or service providers;
- (4) The entry into formal interagency agreements that include components necessary to ensure meaningful cooperation and coordination; and
- (5) The coordination of interagency rules and regulations pursuant to the Early Intervention Act.

Source: Laws 2000, LB 1135, § 8.

# Early Intervention Act

## Nebraska Revised Statutes

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### Chapter 43: INFANTS AND JUVENILES

#### Sections 43-2501 to 43-2516

**43-2501 Act, how cited.** Sections 43-2501 to 43-2516 shall be known and may be cited as the Early Intervention Act.

**Source:** Laws 1991, LB 701, § 1; Laws 1993, LB 520, § 1

**43-2502 Legislative intent.** It is the intent of the Legislature to assist in securing early intervention services to infants or toddlers with disabilities and their families in accordance with the federal early intervention program and whenever possible in concert with the family policy objectives prescribed in sections 43-532 to 43-534 and federal and state initiatives. Such services are necessary to:

- (1) Enhance the development of infants and toddlers with disabilities;
- (2) Reduce the costs to our society by minimizing the need for special services, including special education and related services, after such infants or toddlers reach school age;
- (3) Minimize the likelihood of institutionalization of persons with disabilities and maximize their potential for independent living in society;
- (4) Enhance the capacity of families to meet the needs of their infants or toddlers with disabilities;
- (5) Strengthen, promote, and empower families to determine the most appropriate use of resources to address the unique and changing needs of families and their infants or toddlers with disabilities; and
- (6) Enhance the capacity of state and local agencies and service providers to identify, evaluate, and meet the needs of historically underrepresented populations, particularly minority, low-income, and rural populations.

**Source:** Laws 1991, LB 701, § 2; Laws 1993, LB 520, § 6

**43-2502.01 General findings and declarations.** The Legislature hereby finds and declares that: (1) All families have strengths; (2) families strengthen communities; (3) families are the primary decisionmakers for their children; and (4) all families have needs that change over time and require the support of their communities.

**Source:** Laws 1993, LB 520, § 2.

**43-2502.02 Legislative findings.** The Legislature further finds that: (1) Many state initiatives for improving or reforming the current service delivery systems for children and their families have been identified and are currently underway within

Nebraska; (2) there is a need to facilitate coordination and promote communication across these efforts to identify common visions and approaches and to establish linkages across health, social services, family support services, mental health, and education initiatives at the state and community levels; and (3) these initiatives need continued support and nurturing in order to empower communities and families and to provide and promote an integrated service delivery system.

**Source:** Laws 1993, LB 520, § 3.

**43-2502.03 Legislative declarations.** The Legislature declares that it shall be the policy of the State of Nebraska to promote the development of a statewide system of comprehensive, coordinated, family-centered, community-based, and culturally competent services for children and their families to assure that services help build strong families and provide appropriate environments prenatally and for children from birth through their early years in programs and services which are:

- (1) Family-centered, recognizing that parents have the primary responsibility for their children's development and learning and that programs must recognize and support the role of parents through family-friendly criteria in planning their structure, services, staffing, and delivery;
- (2) Comprehensive, recognizing that services must include attention to all aspects of the child and family and address needed health and nutrition, education, family support, and social services. Such a service system should allow families to choose the services they need with minimal costs and requirements;

(3) Coordinated, recognizing that collaboration among the state agencies and variety of private and community programs and services is required to assure that comprehensive child and family needs are met and that the most efficient use is made of public resources, community services, and informal support systems of families;

(4) Quality, recognizing that outcomes for children in the early years are strengthened when programs and services display indicators of quality, including developmentally appropriate practices, extensive family involvement, trained staff, and culturally responsive approaches;

(5) Inclusive, recognizing that all children benefit when they have optimum opportunities to interact with peer groups of children with diverse backgrounds and characteristics; and

(6) Equitable, recognizing that program practices strive for potential achievement of all children including children from minority groups, with disabilities, from less advantaged backgrounds, and from less populated geographic areas.

**Source:** Laws 1993, LB 520, § 4.

**43-2502.04 Declaration of policy.** The Legislature further declares that it shall be the policy of the State of Nebraska, through the implementation of the Early Intervention Act, to promote, facilitate, and support:

(1) Healthy families, enhancing the well-being of each family member as well as that of the family as a unit and encouraging family independence and decisionmaking about the future of their children;

(2) Service systems which are responsive, flexible, integrated, and accessible to children and their families;

(3) Community ownership, recognizing that families live and children grow up in communities, that programs are implemented in communities, and that all families need supportive communities; and

(4) Maximum impact of prevention and early intervention, encouraging and supporting active parent and family partnership in all programs and services.

**Source:** Laws 1993, LB 520, § 5.

**43-2503 Purposes of act.** The purposes of the Early Intervention Act shall be to:

(1) Develop and implement a statewide system of comprehensive, coordinated, family-centered, community-based, and culturally competent early intervention services for infants or toddlers with disabilities and their families through the collaboration of the Department of Health and Human Services, the State Department of Education, and all other relevant agencies or organizations at the state, regional, and local levels;

(2) Establish and implement a billing system for accessing federal medicaid funds;

(3) Establish and implement services coordination through a community team approach;

(4) Facilitate the coordination of payment for early intervention services from federal, state, local, and private sources including public and private insurance coverage; and

(5) Enhance Nebraska's capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to eligible infants or toddlers with disabilities and their families.

**Source:** Laws 1991, LB 701, § 3; Laws 1993, LB 520, § 7; Laws 1996, LB 1044, § 210; Laws 2007, LB296, § 139.

**43-2504 Repealed.** Laws 1993, LB 520, §31.

**43-2505 Terms, defined.** For purposes of the Early Intervention Act:

(1) Collaborating agencies means the Department of Health and Human Services and the State Department of Education;

(2) Developmental delay has the definition found in section 79-1118.01;

(3) Early intervention services may include services which:

(a) Are designed to meet the developmental needs of each eligible infant or toddler with disabilities and the needs of the family related to enhancing the development of their infant or toddler;

(b) Are selected in collaboration with the parent or guardian;

(c) Are provided in accordance with an individualized family service plan;

(d) Meet all applicable federal and state standards; and

(e) Are provided, to the maximum extent appropriate, in natural environments including the home and community settings in which infants and toddlers without disabilities participate;

(4) Eligible infant or toddler with disabilities means a child who needs early intervention services and is two years of age or younger, except that toddlers who reach age three during the school year shall remain eligible throughout that school year. The need for early intervention services is established when the infant or toddler experiences developmental delays or any of the other disabilities described in the Special Education Act;

(5) Federal early intervention program means the federal early intervention program for infants and toddlers with disabilities, 20 U.S.C. 1471 to 1485;

(6) Individualized family service plan means the process, periodically documented in writing, of determining appropriate early intervention services for an eligible infant or toddler with disabilities and his or her family;

(7) Interagency planning team means an organized group of interdisciplinary, interagency representatives, community leaders, and family members in each local community or region;

(8) Lead agency or agencies means the Department of Health and Human Services, the State Department of Education, and any other agencies designated by the Governor for general administration, supervision, and monitoring of programs and activities receiving federal funds under the federal early intervention program and state funds appropriated for early intervention services under the Early Intervention Act; and

(9) Services coordination means a flexible process of interaction facilitated by a services coordinator to assist the family of an eligible infant or toddler with disabilities within a community to identify and meet their needs pursuant to the act. Services coordination



under the act shall not duplicate any case management services which an eligible infant or toddler with disabilities and his or her family are already receiving or eligible to receive from other sources.

**Source:** Laws 1991, LB 701, § 4; Laws 1993, LB 520, § 8; Laws 1996, LB 900, § 1048; Laws 1996, LB 1044, § 211; Laws 1997, LB 346, § 1; Laws 1999, LB 813, § 2; Laws 2000, LB 1135, § 9; Laws 2006, LB 994, § 56; Laws 2007, LB296, § 140.

**43-2506 Repealed.** Laws 2000, LB 1135, §34.

**43-2507 Collaborating agency; statewide system; components; duties; sharing information and data.**

(1) Planning for early intervention services shall be the responsibility of each collaborating agency. The planning shall address a statewide system of comprehensive, coordinated, family-centered, community-based, and culturally competent early intervention services to all eligible infants or toddlers with disabilities and their families in Nebraska. The statewide system shall include the following minimum components:

(a) A public awareness program, including a central directory;

(b) A comprehensive early identification system, including a system for identifying children and making referrals for infants or toddlers who may be eligible for early intervention services;

(c) Common intake, referral, and assessment processes, procedures, and forms to determine eligibility of infants and toddlers and their families referred for early intervention services;

(d) An individualized family service plan, including services coordination, for each eligible infant or toddler with disabilities and his or her family;

(e) A comprehensive system of personnel development;

(f) A uniform computer data base and reporting system which crosses agency lines; and

(g) Services coordination to access the following early intervention services: Audiology; family training, counseling, and home visits; health services; medical services only for diagnostic or evaluation purposes; nursing services; nutrition services; occupational therapy; physical therapy; psychological services; social work services; special instruction; speech-language pathology; transportation and related costs that are necessary to enable an eligible infant or toddler with disabilities and his or her family to receive early intervention services; assistive technology devices and assistive technology services; vision services; and hearing services.

(2) Collaborating agencies shall review standards to ensure that personnel are appropriately and

adequately prepared and trained to carry out the Early Intervention Act.

(3) Collaborating agencies shall be responsible for designing, supporting, and implementing a statewide training and technical assistance plan which shall address preservice, inservice, and leadership development for service providers and parents of eligible infants and toddlers with disabilities.

(4) Policies and procedures shall be jointly examined and analyzed by the collaborating agencies to satisfy data collection requirements under the federal early intervention program and to assure the confidentiality of the data contained in the statewide system. Notwithstanding any other provision of state law, the collaborating agencies shall be permitted to share information and data necessary to carry out the provisions of the federal early intervention program, including the personal identification or other specific information concerning individual infants, toddlers, or their families, except that the vital and medical records and health information concerning individuals provided to the Department of Health and Human Services may be released only under the laws authorizing the provision of such records and information. Nothing in this section shall prohibit the use of such data to provide for the preparation of reports, fiscal information, or other documents required by the Early Intervention Act, but no information in such reports, fiscal information, or other documents shall be used in a manner which would allow for the personal identification of an individual infant, toddler, or family.

**Source:** Laws 1991, LB 701, § 6; Laws 1993, LB 520, § 10; Laws 1996, LB 1044, § 212; Laws 2006, LB 994, § 57; Laws 2007, LB296, § 141.

**43-2507.01 Eligible infants and toddlers with disabilities; entitlements.**

(1) Infants or toddlers who are referred because of possible disabilities shall be entitled, at no cost to their families, to early identification of eligible infants or toddlers, evaluation and assessment in order to determine eligibility under the Special Education Act, and procedural safeguards.

(2) By June 1, 1995, eligible infants or toddlers with disabilities shall also be entitled, at no cost to their families, to services coordination and development of the individualized family service plan.

(3) For other early intervention services not mandated under the Special Education Act and not paid through any other source, including, but not limited to, insurance, medicaid, or other third-party payor, payment for such services shall be the responsibility of the parent, guardian, or other person responsible for the eligible infant or toddler.

(4) Except for services coordination, the Early Intervention Act shall not be construed to create new

early intervention or family services or establish an entitlement to such new services.

**Source:** Laws 1993, LB 520, § 11.

#### **43-2507.02 State Department of Education; duties.**

The State Department of Education shall maintain its responsibility under the Special Education Act regarding special education and related services. The department shall provide grants for the costs of such programs to the school district of residence as provided in section 79-1132.

**Source:** Laws 1993, LB 520, § 12; Laws 1996, LB 900, § 1049.

#### **43-2508 Department of Health and Human Services; duties.** (

1) The Department of Health and Human Services shall be responsible for providing or contracting for services.

(2) Whenever possible, the medical assistance program prescribed in the Medical Assistance Act shall be used for payment of services coordination.

(3) It is the intent of this section that the department shall apply for and implement a Title XIX medicaid waiver as a way to assist in the provision of services coordination to eligible infants or toddlers with disabilities and their families.

**Source:** Laws 1991, LB 701, § 7; Laws 1993, LB 520, § 13; Laws 1996, LB 1044, § 213; Laws 2006, LB 994, § 58; Laws 2006, LB 1248, § 55; Laws 2007, LB296, § 142.

#### **43-2509 Department of Health and Human Services; duties.**

The Department of Health and Human Services is responsible for incorporating components required under the federal early intervention program into the state plans developed for the Special Supplemental Nutrition Program for Women, Infants, and Children, the Commodity Supplemental Food Program, the maternal and child health program, and the developmental disabilities program. The department shall provide technical assistance, planning, and coordination related to the incorporation of such components.

**Source:** Laws 1991, LB 701, § 8; Laws 1993, LB 520, § 14; Laws 1996, LB 1044, § 214; Laws 2006, LB 994, § 59; Laws 2007, LB296, § 143.

#### **43-2510 Department of Health and Human Services; duties.**

The Department of Health and Human Services is responsible for incorporating components required under the federal early intervention program into the mental health and developmental disabilities planning responsibilities of the department. The department shall provide technical assistance, planning, and coordination related to the incorporation of such components.

**Source:** Laws 1991, LB 701, § 9; Laws 1993, LB 520, § 15; Laws 1996, LB 1044, § 215; Laws 2006, LB 994, § 60; Laws 2007, LB296, § 144.

#### **43-2511 Statewide billing system; establishment; participation required.**

There is hereby established

a statewide billing system for accessing federal medicaid funds for special education and related services provided by school districts. The system shall apply to all students verified with disabilities from date of diagnosis to twenty-one years of age as allowed under the federal Medicare Catastrophic Coverage Act of 1988. The system shall be developed jointly by the Department of Health and Human Services and the State Department of Education. School districts, educational service units, or approved cooperatives providing special education and related services shall be required to participate in the statewide billing system. It is the intent of this section that costs to school districts associated with the implementation of such a system shall be eligible for payment through the medicaid reimbursement rates to be established for each therapy.

**Source:** Laws 1991, LB 701, § 10; Laws 1993, LB 520, § 16; Laws 1996, LB 1044, § 216; Laws 2007, LB296, § 145.

#### **43-2511.01 Statewide services coordination system; development; implementation.**

The lead agencies shall develop and implement a statewide services coordination system for eligible infants or toddlers with disabilities and their families pursuant to the Early Intervention Act. The amount and duration of services coordination shall be based on need, as specified on the individualized family service plan. Services coordination under the act shall not duplicate any case management services which an eligible infant or toddler with disabilities and his or her family are already receiving or eligible to receive from whatever source.

**Source:** Laws 1993, LB 520, § 17.

#### **43-2512 Interagency planning team; members; duties; Department of Health and Human Services; provide services coordination.**

Each region established pursuant to section 79-1135 shall establish an interagency planning team, which planning team shall include representatives from school districts, social services, health and medical services, parents, and mental health, developmental disabilities, Head Start, and other relevant agencies or persons serving children from birth to age five and their families and parents or guardians. Each interagency planning team shall be responsible for assisting in the planning and implementation of the Early Intervention Act in each local community or region. The Department of Health and Human Services, in collaboration with each regional interagency planning team, shall provide or contract for services coordination.

**Source:** Laws 1991, LB 701, § 11; Laws 1993, LB 520, § 18; Laws 1996, LB 900, § 1050; Laws 1996, LB 1044, § 217; Laws 2006, LB 994, § 61; Laws 2007, LB296, § 146.

**43-2513 Special grant funds; designation.** For purposes of the general fund budget of expenditures as defined in section 79-1003, funds received to carry out the services coordination functions and the

administration of the billing system shall be considered special grant funds.

**Source:** Laws 1991, LB 701, § 12; Laws 1993, LB 520, § 19; Laws 1994, LB 1290, § 1; Laws 1995, LB 840, § 1; Laws 1996, LB 900, § 1051.

**43-2514 Repealed.** Laws 1993, LB 520, §31.

**43-2515 Federal medicaid funds; certification; appropriations.** On or before October 1, 1993, and for each year thereafter, the Department of Health and Human Services and the State Department of Education shall jointly certify to the budget administrator of the budget division of the Department of Administrative Services the amount of federal medicaid funds paid to school districts pursuant to the Early Intervention Act for special education services for children five years of age and older. The General Fund appropriation to the State Department of Education for state special education aid shall be decreased by an amount equal to the amount that would have been reimbursed with state general funds to the school districts through the special education reimbursement process for special education services for children five years of age and older that was paid to school districts or approved cooperatives with federal medicaid funds.

It is the intent of the Legislature that an amount equal to the amount that would have been reimbursed with state general funds to the school districts, certified to the budget administrator, be appropriated from the General Fund to aid in carrying out the provisions of the Early Intervention Act and other related early intervention services.

**Source:** Laws 1993, LB 520, § 20; Laws 1996, LB 1044, § 218; Laws 1998, Spec. Sess., LB 1, § 4; Laws 2007, LB296, § 147.

**43-2516 Rules and regulations.** The lead agencies shall adopt and promulgate rules and regulations pursuant to the Early Intervention Act.

**Source:** Laws 1993, LB 520, § 21.

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# Quality Child Care Act

## Nebraska Revised Statutes

Search Revised Statutes by chapter and section at:  
<http://www.unicam.state.ne.us/laws/browse-chapters.php?chapter=43>

### Chapter 43: INFANTS AND JUVENILES

#### Sections 43-2601 to 43-2625

**43-2601 Act**, how cited. **Sections 43-2601 to 43-2625** shall be known and may be cited as the **Quality Child Care Act**.

Source: Laws 1991, LB 836, § 1; Laws 1995, LB 401, § 2.

**43-2602 Legislative intent.** It is the intent of the Legislature to promote the growth and development of a comprehensive child care system which meets the needs of families in Nebraska by encouraging high-quality, affordable, and accessible child care services that are educationally and developmentally appropriate. The Legislature finds that existing child care resources are inadequate to meet the need for services and that high-quality services can substantially increase the well-being of children and families.

Source: Laws 1991, LB 836, § 2.

**43-2603 Legislative declarations.** The Legislature declares that it shall be the policy of the State of Nebraska to:

- (1) Recognize the family as the most important social and economic unit of society and support the central role parents play in raising children. All parents are encouraged to care for and nurture their children through the traditional methods of parental care at home. However, to the extent early childhood care and education and school-age-care programs are used, parents are encouraged to participate fully in the effort to improve the quality of such programs;
- (2) Promote a variety of culturally and developmentally appropriate child care programs of high quality;
- (3) Promote the growth, development, and safety of children by working with community groups and agencies, including providers and parents, to establish standards for high-quality programs, training of providers, fair and equitable monitoring, and salary levels commensurate with provider responsibilities and support services;
- (4) Promote equal access to high-quality, affordable, and socioeconomically integrated programs for all children and families; and
- (5) Facilitate broad community and private sector involvement in the provision of high-quality

programs to foster economic development and assist business.

The Legislature supports the full integration of children with special needs into the same child care environments serving children with no identified handicapping conditions.

The Legislature also finds that family child care homes should be the primary focus in upgrading child care programs in Nebraska at this time. There is a need for a larger, more visible, and better trained supply of family child care homes.

Source: Laws 1991, LB 836, § 3; Laws 1995, LB 401, § 3

**43-2604 Legislative findings and priorities.** The Legislature finds that since the majority of children of prekindergarten age will continue to be served in private child care settings and programs, an investment of public resources in upgrading the training levels of staff will be an investment in all the children of the state. Coordination of existing training opportunities offered by agencies would greatly enhance the ability of providers in local communities to gain access to relevant training and would also enhance efforts to provide training which is sensitive to local needs. The Legislature also finds that training which brings together staff from various programs can provide a setting in which to initiate and promote collaborative efforts at the local level.

The Legislature finds that the highest priority need for training is for family child care home providers.

The Legislature further finds that the funding provided by the federal Child Care and Development Block Grant Act of 1990 will provide significant new funding to improve child care and early childhood education and school-age care in Nebraska.

Source: Laws 1991, LB 836, § 4; Laws 1995, LB 401, § 4.

**43-2605 Terms, defined.** For purposes of the Quality Child Care Act:

- (1) Child care shall mean the care and supervision of children in lieu of parental care and supervision and shall include programs; and
- (2) Programs shall mean the programs listed in subdivision (2) of section 71-1910.

Source: Laws 1991, LB 836, § 5; Laws 1995, LB 401, § 5; Laws 2007, LB296, § 148

**43-2606 Providers of child care and school-age-care programs; training requirements.**

(1) The Department of Health and Human Services shall adopt and promulgate rules and regulations for mandatory training requirements for providers of child care and school-age-care programs. Such requirements shall include preservice orientation and at least four hours of annual inservice training. All child care programs required to be licensed under section 71-1911 shall show completion of a preservice orientation approved or delivered by the department prior to receiving a provisional license.

(2) The department shall initiate a system of documenting the training levels of staff in specific child care settings to assist parents in selecting optimal care settings.

(3) The training requirements shall be designed to meet the health, safety, and developmental needs of children and shall be tailored to the needs of licensed providers of child care programs. The training requirements for providers of child care programs shall include, but not be limited to, information on sudden infant death syndrome, shaken baby syndrome, and child abuse.

(4) The department shall provide or arrange for training opportunities throughout the state and shall provide information regarding training opportunities to all providers of child care programs at the time of registration or licensure, when renewing a registration, or on a yearly basis following licensure.

(5) Each provider of child care and school-age-care programs receiving orientation or training shall provide his or her social security number to the department.

(6) The department shall review and provide recommendations to the Governor for updating rules and regulations adopted and promulgated under this section at least every five years.

Source: Laws 1991, LB 836, § 6; Laws 1995, LB 401, § 6; Laws 1996, LB 1044, § 219; Laws 1997, LB 307, § 89; Laws 1997, LB 310, § 2; Laws 1997, LB 752, § 106; Laws 1999, LB 594, § 22; Laws 1999, LB 828, § 4; Laws 2006, LB 994, § 62; Laws 2007, LB296, § 149.

**43-2607 Early Childhood Program Training Fund; created; use; investment; contracts authorized.**

There is hereby created the Early Childhood Program Training Fund. The fund shall be administered by the State Department of Education and shall be used to enhance, provide, and coordinate training for providers of programs. Emphasis shall be placed on the coordination of and dissemination of information about existing training opportunities. Such training may include:

- (1) Programs targeted to parents needing or using child care to assist them in selecting optimum child care settings;
- (2) Specialized training regarding the care of children with special needs; and
- (3) Programs concerning health, safety, or developmental needs of children.

The department may contract with any public or private entity to provide such training. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1991, LB 836, § 7; Laws 1994, LB 1066, § 28; Laws 1995, LB 401, § 7

**43-2608 Toll-free hotline for providers; established.**

The Department of Health and Human Services shall establish a statewide toll-free hotline to provide immediate responses to the needs of providers of programs. Such hotline may be operated by the department, or the department may contract with a state agency or with any other public or private entity capable of providing such service to operate the hotline.

Source: Laws 1991, LB 836, § 8; Laws 1995, LB 401, § 8; Laws 1996, LB 1044, § 220; Laws 1997, LB 307, § 90

**43-2609 Family child care homes; voluntary registration; department; powers and duties; payments; restricted.**

(1) The Legislature finds that a system of voluntary registration would provide a mechanism for participation in the food programs offered by the United States Department of Agriculture, for eligibility to receive funds under the federal Child Care Subsidy program, for support and assistance to unlicensed family child care home providers, and for voluntary participation in training.

(2) The Department of Health and Human Services shall institute a system of voluntary registration for family child care homes not required to be licensed under section 71-1911. The department shall promulgate standards for such voluntary registration. The application for registration shall include the applicant's social security number. The department shall not make payments for child care, from any state or federal funds, to any family child care home provider not voluntarily registered under this section.

(3) The department shall issue a certificate of registration to any family child care home provider registered pursuant to this section.

(4) For purposes of implementing voluntary registration, the department may contract with family child care home associations or full-service community-based agencies to carry out such voluntary registration procedures for the department.

**Source:** Laws 1991, LB 836, § 9; Laws 1995, LB 401, § 9; Laws 1996, LB 1044, § 221; Laws 1997, LB 307, § 91; Laws 1997, LB 752, § 107.

43-2610 Repealed. Laws 2000, LB 1135, §34.  
 43-2611 Repealed. Laws 2000, LB 1135, §34.  
 43-2612 Repealed. Laws 2000, LB 1135, §34.  
 43-2613 Repealed. Laws 2000, LB 1135, §34.  
 43-2614 Repealed. Laws 2000, LB 1135, §34.  
 43-2615 Repealed. Laws 2000, LB 1135, §34.

**43-2616 Family child care home; location.**

Notwithstanding any other provision of law, including section 71-1914, family child care homes licensed by the Department of Health and Human Services pursuant to section 71-1911 or by a city, village, or county pursuant to subsection (2) of section 71-1914 may be established and operated in any residential zone within the exercised zoning jurisdiction of any city or village.

**Source:** Laws 1991, LB 836, § 16; Laws 1995, LB 401, § 16; Laws 1996, LB 1044, § 227; Laws 1997, LB 307, § 98; Laws 1999, LB 594, § 25; Laws 2007, LB296, § 150.

**43-2617 Program provider; communicable**

**disease; notice to parents.** A provider of a program shall notify the parents of enrolled children of the outbreak of any communicable disease in any child in the program on the same day the provider is informed of or observes the outbreak. The Department of Health and Human Services shall develop appropriate procedures to carry out this section.

**Source:** Laws 1991, LB 836, § 17; Laws 1995, LB 401, § 17; Laws 1996, LB 1044, § 228; Laws 1997, LB 307, § 98; Laws 2007, LB296, § 151.

**43-2618 Family child care homes; inspections.** All family child care homes required to be licensed under section 71-1911 or which are registered pursuant to section 43-2609 shall be inspected within sixty days of licensure or registration. All family child care homes licensed under section 71-1911 shall be inspected after the initial inspection pursuant to section 71-1912. All family child care homes registered under section 43-2609 shall be inspected at least every two years after the initial inspection. It is the intent of the Legislature that registered family child care homes be inspected annually if sufficient funds are made available under the federal Child Care and Development Block Grant Act of 1990 for such purposes.

**Source:** Laws 1991, LB 836, § 18; Laws 1995, LB 401, § 18; Laws 1997, LB 310, § 3

**43-2619 Office for child development and early childhood education services.** There is hereby created within the State Department of Education an office for child development and early childhood education services.

A. **Source:** Laws 1991, LB 836, § 19

**43-2620 Collaboration of activities; duties.** The Department of Health and Human Services and the State Department of Education shall collaborate in their activities and may:

- (1) Encourage the development of comprehensive systems of child care programs and early childhood education programs which promote the wholesome growth and educational development of children, regardless of the child's level of ability;
- (2) Encourage and promote the provision of parenting education, developmentally appropriate activities, and primary prevention services by program providers;
- (3) Facilitate cooperation between the private and public sectors in order to promote the expansion of child care;
- (4) Promote continuing study of the need for child care and early childhood education and the most effective methods by which these needs can be served through governmental and private programs;
- (5) Coordinate activities with other state agencies serving children and families;
- (6) Strive to make the state a model employer by encouraging the state to offer a variety of child care benefit options to its employees;
- (7) Provide training for early childhood education providers as authorized in sections 79-1101 to 79-1103;
- (8) Develop and support resource and referral services for parents and providers that will be in place statewide by January 1, 1994;
- (9) Promote the involvement of businesses and communities in the development of child care throughout the state by providing technical assistance to providers and potential providers of child care;
- (10) Establish a voluntary accreditation process for public and private child care and early childhood education providers, which process promotes program quality;
- (11) At least biennially, develop an inventory of programs and early childhood education programs provided to children in Nebraska and identify the number of children receiving and not receiving such services, the types of programs under which the services are received, and the reasons children not receiving the services are not being served; and
- (12) Support the identification and recruitment of persons to provide child care for children with special needs.

**Source:** Laws 1991, LB 836, § 20; Laws 1995, LB 401, § 19; Laws 1996, LB 900, § 1052; Laws 1996, LB 1044, § 229; Laws 1997, LB 307, § 99; Laws 1999, LB 594, § 26; Laws 2000, LB 1135, § 10; Laws 2007, LB296, § 152.

**43-2620.01 State Board of Education; voluntary accreditation process; rules and regulations.** The State Board of Education may adopt and promulgate reasonable rules and regulations to establish the voluntary accreditation process referred to in subdivision (10) of section 43-2620.

Source: Laws 1995, LB 401, § 21

**43-2621 Block grant funds; use.** Funds provided to the State of Nebraska pursuant to the Child Care and Development Block Grant Act of 1990 shall be used to implement the Quality Child Care Act.

Source: Laws 1991, LB 836, § 21.

**43-2622 Child Care Grant Fund; established; use; investment.** The Child Care Grant Fund is hereby established to be administered by the Department of Health and Human Services. The fund shall be used to make grants pursuant to section 43-2624. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1991, LB 836, § 23; Laws 1994, LB 1066, § 29; Laws 1996, LB 1044, § 230; Laws 1997, LB 307, § 100.

**43-2623 Appropriation to Child Care Grant Fund; legislative intent.** The Legislature recognizes that a shortage of quality, affordable, and accessible child care exists to the detriment of families and employers throughout the state. Workers are unable to enter or remain in the work force due to a shortage of child care resources. The high costs of starting or expanding a child care business creates a barrier to the creation of additional space, especially for infants and children with special needs. It is the intent of the Legislature to appropriate two hundred fifty thousand dollars annually to the Child Care Grant Fund from funds designated by the State of Nebraska under the Child Care and Development Block Grant Act of 1990.

Source: Laws 1991, LB 836, § 22.

**43-2624 Child care grants.** The Department of Health and Human Services shall award grants to persons, community-based organizations, or schools needing assistance to start or improve a child care program or needing assistance to provide staff training for a child care program. No grant shall exceed ten thousand dollars. A recipient of a grant shall not be eligible for a grant more than once in a three-year period. Child care grants shall be awarded on the basis of need for the proposed services in the community. Grants shall be given only to grantees who do not discriminate against children with disabilities or children whose care is funded by any

state or federal funds. When considering grant applications of equal merit, the department shall award the grant to the applicant which has not previously received a grant from the Child Care Grant Fund.

Source: Laws 1991, LB 836, § 24; Laws 1995, LB 401, § 20; Laws 1996, LB 1044, § 231; Laws 1997, LB 307, § 101; Laws 1998, LB 1073, § 32.

**43-2625 Child care grants; rules and regulations.** The Department of Health and Human Services shall adopt and promulgate rules and regulations setting forth criteria, application procedures, and methods to assure compliance with the criteria for grants to be awarded pursuant to section 43-2624.

Source: Laws 1991, LB 836, § 25; Laws 1996, LB 1044, § 232; Laws 1997, LB 307, § 102.



# Early Childhood Education Grant Program

## Nebraska Revised Statutes

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### Chapter 79: SCHOOLS

#### Sections 79-1101, 79-1103, 79-1104.01 to 79-1104.05

#### 79-1101 Legislative findings and intent.

(1) The Legislature finds and declares that:

(a) Early childhood education programs can assist children in achieving their potential as citizens, workers, and human beings and can strengthen families;

(b) early childhood education has been proven to be a sound public investment of funds not only in assuring productive, taxpaying workers in the economy but also in avoidance of increasingly expensive social costs for those who drop out as productive members of society;

(c) the key ingredient in an effective early childhood education program is a strong family development and support component because the role of the parent is of critical importance;

(d) while all children can benefit from quality, developmentally appropriate early childhood education experiences, such experiences are especially important for at-risk infants and children;

(e) current early childhood education programs serve only a fraction of Nebraska's children and the quality of current programs varies widely;

(f) well-designed early childhood education programs increase the likelihood that children who participate will enter school prepared to achieve high standards;

(g) effective early childhood education programs require staff with knowledge about child growth, development, and learning and family systems; and

(h) both public and nonpublic programs which meet recognized standards of quality can address the growth, development, and learning needs of young children.

(2) It is the intent of the Legislature and the public policy of this state to encourage schools and community-based organizations to work together to provide high-quality early childhood education programs for infants and young children which include family involvement. The purposes of sections 79-1101 to 79-1104.05 are to provide state assistance to selected school districts, cooperatives of school districts, and educational service units for early childhood education, to encourage coordination between public and private service providers of early

childhood education and child care programs, and to provide state support for efforts to improve training opportunities for staff in such programs.

(3) For purposes of sections 79-1101 to 79-1104.05:

(a) Board of trustees means the Early Childhood Education Endowment Board of Trustees;

(b) Early childhood education program means any prekindergarten part-day or full-day program or in-home family support program with a stated purpose of promoting social, emotional, intellectual, language, physical, and aesthetic development and learning for children from birth to kindergarten-entrance age and family development and support;

(c) Endowment agreement means an agreement between the State Department of Education and an endowment provider entered into pursuant to section 79-1104.01; and

(d) Endowment provider means an endowment that has met the criteria described in section 79-1104.01 and that has entered into an endowment agreement.

Source: Laws 1990, LB 567, § 1; R.S.1943, (1994), § 79-3701; Laws 1996, LB 900, § 783; Laws 2001, LB 759, § 1; Laws 2006, LB 1256, § 1.

#### **79-1103 Early Childhood Education Grant Program; established; administration; priorities; programs; requirements; report; endowment agreement; effect.**

(1) (a) The State Department of Education shall establish and administer the Early Childhood Education Grant Program. Upon the effective date of an endowment agreement, administration of the Early Childhood Education Grant Program with respect to programs for children from birth to age three shall transfer to the board of trustees. If there is no endowment agreement in effect, the department shall request proposals in accordance with this section for all early childhood education programs from school districts, individually or in cooperation with other school districts or educational service units, working in cooperation with existing nonpublic programs which meet the requirements of subsection (2) of section 79-1104. If there is an endowment agreement in effect, the board of trustees shall administer the

Early Childhood Education Grant Program with respect to programs for children from birth to age three pursuant to section 79-1104.02 and the department shall continue to administer the Early Childhood Education Grant Program with respect to other prekindergarten programs pursuant to sections 79-1101 to 79-1104.05. All administrative procedures of the board of trustees, including, but not limited to, rules, grant applications, and funding mechanisms, shall harmonize with those established by the department for other prekindergarten programs.

(b) The first priority shall be for

(i) continuation grants for programs that received grants in the prior school fiscal year and for which the state aid calculation pursuant to the Tax Equity and Educational Opportunities Support Act does not include early childhood education students, in an amount equal to the amount of such grant, except that if the grant was a first-year grant the amount shall be reduced by thirty-three percent,

(ii) continuation grants for programs for which the state aid calculation pursuant to the act includes early childhood education students, in an amount equal to the amount of the grant for the school fiscal year prior to the first school fiscal year for which early childhood education students were included in the state aid calculation for the school district's local system minus the calculated state aid amount, and

(iii) for school fiscal year 2007-08, continuation grants for programs for which the state aid calculation pursuant to the act includes early childhood education students, but such state aid calculation does not result in the school district receiving any equalization aid, in an amount equal to the amount of the grant received in school fiscal year 2006-07. The calculated state aid amount shall be calculated by multiplying the basic funding per formula student for the school district by the formula students attributed to the early childhood education programs pursuant to the Tax Equity and Educational Opportunities Support Act.

(c) The second priority shall be for new grants and expansion grants for programs that will serve at-risk children who will be eligible to attend kindergarten the following school year. New grants may be given for up to three years in an amount up to one-half of the total budget of the program per year. Expansion grants may be given for one year in an amount up to one-half of the budget for expanding the capacity of the program to serve additional children.

(d) The third priority shall be for new grants, expansion grants, and continuation grants for programs serving children younger than those who

will be eligible to attend kindergarten the following school year. New grants may be given for up to three years in an amount up to one-half the total budget of the program per year. Expansion grants may be given for one year in an amount up to one-half the budget for expanding the capacity of the program to serve additional children. Continuation grants under this priority may be given annually in an amount up to one-half the total budget of the program per year minus any continuation grants received under the first priority.

(e) Programs serving children who will be eligible to attend kindergarten the following school year shall be accounted for separately for grant purposes from programs serving younger children, but the two types of programs may be combined within the same classroom to serve multi-age children. Programs that receive grants for school fiscal years prior to school fiscal year 2005-06 to serve both children who will be eligible to attend kindergarten the following school year and younger children shall account for the two types of programs separately for grant purposes beginning with school year 2005-06 and shall be deemed to have received grants prior to school fiscal year 2005-06 for each year that grants were received for the types of programs representing the age groups of the children served.

(2) Each program proposal which is approved by the department shall include

(a) a planning period,

(b) an agreement to participate in periodic evaluations of the program to be specified by the department,

(c) evidence that the program will be coordinated or contracted with existing programs, including those listed in subdivision (d) of this subsection and nonpublic programs which meet the requirements of subsection (2) of section 79-1104,

(d) a plan to coordinate and use a combination of local, state, and federal funding sources, including, but not limited to, programs for children with disabilities below five years of age funded through the Special Education Act, the Early Intervention Act, funds available through the flexible funding provisions under the Special Education Act, the federal Head Start program, 42 U.S.C. 9831 et seq., the federal Even Start Family Literacy Program, 20 U.S.C. 6361 et seq., Title I of the federal Improving America's Schools Act of 1994, 20 U.S.C. 6301 et seq., and child care assistance through the Department of Health and Human Services,

(e) a plan to use sliding fee scales and the funding sources included in subdivision (d) of this subsection to maximize the participation of economically and categorically diverse groups and to ensure that participating children and families have access to comprehensive services,

- (f) the establishment of an advisory body which includes families and community members,
  - (g) the utilization of appropriately qualified staff,
  - (h) an appropriate child-to-staff ratio,
  - (i) appropriate group size,
  - (j) compliance with minimum health and safety standards,
  - (k) appropriate facility size and equipment,
  - (l) a strong family development and support component recognizing the central role of parents in their children's development,
  - (m) developmentally and culturally appropriate curriculum, practices, and assessment,
  - (n) sensitivity to the economic and logistical needs and circumstances of families in the provision of services,
  - (o) integration of children of diverse social and economic characteristics,
  - (p) a sound evaluation component, including at least one objective measure of child performance and progress,
  - (q) continuity with programs in kindergarten and elementary grades,
  - (r) instructional hours that are similar to or less than the instructional hours for kindergarten,
  - (s) well-defined language development and early literacy emphasis, including the involvement of parents in family literacy activities,
  - (t) a plan for ongoing professional development of staff, and
  - (u) inclusion of children with disabilities as defined in the Special Education Act, all as specified by rules and regulations of the department in accordance with sound early childhood educational practice.
- (3) The department shall make an effort to fund programs widely distributed across the state in both rural and urban areas.
- (4) A report evaluating the programs shall be made to the State Board of Education and the Legislature by January 1 of each odd-numbered year. Up to five percent of the total appropriation for the Early Childhood Education Grant Program may be reserved by the department for evaluation and technical assistance for the programs.
- (5) Programs may be approved for purposes of the Tax Equity and Educational Opportunities Support Act, expansion grants, and continuation grants on the submission of a continuation plan demonstrating that the program will continue to meet the requirements of subsection (2) of this section and a proposed operating budget demonstrating that the program will continue to receive resources from other sources equal to or greater than the sum of any grant received pursuant to this section for the prior school year plus any calculated state aid as calculated pursuant to subsection (1) of this section for the prior school year.

(6) The State Board of Education may adopt and promulgate rules and regulations to implement the Early Childhood Education Grant Program, except that if there is an endowment agreement in effect, the board of trustees shall recommend any rules and regulations relating specifically to the Early Childhood Education Grant Program with respect to programs for children from birth to age three. It is the intent of the Legislature that the rules and regulations for programs for children from birth to age three be consistent to the greatest extent possible with those established for other prekindergarten programs.

Source: Laws 1990, LB 567, § 3; Laws 1991, LB 511, § 70; Laws 1992, LB 245, § 75; Laws 1993, LB 348, § 70; R.S.1943, (1994), § 79-3703; Laws 1996, LB 900, § 785; Laws 1997, LB 346, § 8; Laws 2001, LB 759, § 2; Laws 2005, LB 577, § 5; Laws 2006, LB 1256, § 2; Laws 2007, LB603, § 7; Laws 2008, LB1153, § 3.

**79-1104.01 Nebraska Early Childhood Education Endowment; endowment provider; requirements; endowment agreement; Early Childhood Education Endowment Fund; Early Childhood Education Endowment Cash Fund; created; investment.**

(1) Within ninety days after July 14, 2006, the State Department of Education shall request proposals from private endowments with experience in managing public and private funds for the benefit of children and families in multiple locations in Nebraska to be the endowment provider for the Nebraska Early Childhood Education Endowment upon the terms set forth in this section.

(2) An endowment seeking to become the endowment provider for the Nebraska Early Childhood Education Endowment shall agree to:

(a) Irrevocably commit, subject to subdivision (4)(a) of this section, no less than twenty million dollars in a private endowment to be used solely as part of the Nebraska Early Childhood Education Endowment within five years after the effective date of the endowment agreement, of which no less than five million dollars shall be pledged on the effective date of the endowment agreement. A minimum of one million dollars shall be placed in the private endowment prior to December 31, 2006, and a minimum of five million dollars shall be placed in the private endowment prior to June 30, 2007;

(b) Commit all earnings deposited from such private endowment for deposit into the Early Childhood Education Endowment Cash Fund;

(c) Permit the board of trustees to determine the allocation of funds from the Early Childhood Education Endowment Cash Fund pursuant to section 79-1104.02; and

(d) Submit to the State Department of Education an annual financial statement of the private

endowment, audited by an independent auditor and complying with all applicable Internal Revenue Service requirements. The financial statement shall report details on the private endowment, including the current value of the corpus and the annual receipts to the private endowment categorized by donations and interests, together with a report listing the amount and purpose of expenditures from the private endowment.

(3) Upon selection of an endowment provider, the State Department of Education and such endowment provider shall enter into an endowment agreement pursuant to which the state and the endowment provider will agree to deposit funds as provided in subsection (4) of this section.

(4) (a) Upon the effective date of an endowment agreement, the state shall provide for the Early Childhood Education Endowment Fund, which is hereby created, in accordance with section 79-1104.05. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The endowment agreement may provide that the obligations of the endowment provider will terminate if the funds allocated to the Early Childhood Education Endowment Fund pursuant to subsection (11) of section 84-612 terminate as set forth in such section and are not replaced by a minimum of forty million dollars from another source on and after July 1, 2007.

(b) All interest, earnings, and proceeds from the Early Childhood Education Endowment Fund shall be deposited in the Early Childhood Education Endowment Cash Fund, which is hereby created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. All interest, earnings, and proceeds from the Early Childhood Education Endowment Cash Fund shall be retained in such fund.

in the endowment agreement into a private endowment for the sole benefit of the Early Childhood Education Endowment Fund. Money in the private endowment shall be managed by the endowment provider in accordance with sound, professional, fiduciary practices and in accordance with the endowment agreement.

(d) Earnings deposited from the private endowment shall be deposited into the Early Childhood Education Endowment Cash Fund at least annually or as the endowment agreement provides.

Source: Laws 2006, LB 1256, § 4; Laws 2008, LB1153, § 4.

#### **79-1104.02 Early Childhood Education Endowment Cash Fund; use; grants; program requirements.**

(1) The Early Childhood Education Endowment Cash Fund, consisting of the interest, earnings, and proceeds from the Early Childhood Education Endowment Fund and the earnings from the private endowment created by the endowment provider, and any additional private donations made directly thereto, shall be used exclusively to provide funds for the Early Childhood Education Grant Program for at-risk children from birth to age three as set forth in this section.

(2) Grants provided by this section shall be to school districts and cooperatives of school districts for early childhood education programs for at-risk children from birth to age three, as determined by the board of trustees pursuant to criteria set forth by the board of trustees. School districts and cooperatives of school districts may establish agreements with other public and private entities to provide services or operate programs.

(3) Each program selected for a grant pursuant to this section may be provided a grant for up to one-half of the total budget of such program per year. Programs selected for grant awards may receive continuation grants subject to the availability of funding and the submission of a continuation plan which meets the requirements of the board of trustees.

(4) Programs shall be funded across the state and in urban and rural areas to the fullest extent possible.

(5) Each program selected for a grant pursuant to this section shall meet the requirements described in subsection (2) of section 79-1103, except that the periodic evaluations of the program are to be specified by the board of trustees and the programs need not include continuity with programs in kindergarten and elementary grades and need not include instructional hours that are similar to or less than the instructional hours for kindergarten.

(6) Up to ten percent of the total amount deposited in the Early Childhood Education Endowment Cash Fund each fiscal year may be reserved by the board of trustees for evaluation and technical assistance for the Early Childhood Education Grant Program with respect to programs for at-risk children from birth to age three.

Source: Laws 2006, LB 1256, § 5; Laws 2008, LB1153, § 5.

#### **79-1104.03 Early Childhood Education Endowment Board of Trustees; created; administrative support.**

To administer the Early Childhood Education Grant Program with respect to children from birth to age three, the Early Childhood Education Endowment Board of Trustees is created. For administrative

support and budgetary purposes only, the board of trustees shall be within the State Department of Education.

**Source:** Laws 2006, LB 1256, § 6.

**79-1104.04 Board of trustees; members; terms; expenses.**

(1) The board of trustees shall include the following six members:

(a) The Commissioner of Education or his or her designee;

(b) The chief executive officer of the Department of Health and Human Services or his or her designee; and

(c) The following persons appointed by the Governor, in his or her discretion:

(i) Two persons nominated by the endowment provider;

(ii) An early childhood professional representing an urban at-risk area appointed pursuant to subsection (5) of this section; and

(iii) An early childhood professional representing a rural at-risk county appointed pursuant to subsection (6) of this section.

(2) The terms of office for members initially appointed under subsection (1) of this section shall be three years. Upon completion of the initial terms of such members, the Governor shall appoint the two members under subdivision (1)(c)(i) of this section for terms of one and two years, the member under subdivision (1)(c)(ii) of this section for a term of three years, and the member under subdivision (1)(c)(iii) of this section for a term of two years. Succeeding appointees shall be appointed for terms of three years. An appointee to a vacancy occurring from an unexpired term shall serve out the term of his or her predecessor. Members whose terms have expired shall continue to serve until their successors have been appointed and qualified.

(3) The board of trustees shall by majority vote annually elect a chairperson from among the members of the board of trustees.

(4) The members of the board of trustees shall be reimbursed for their actual and necessary expenses incurred while engaged in the performance of their official duties as provided in sections 81-1174 to 81-1177.

(5) The Governor shall, in his or her discretion, appoint one member to the board of trustees who resides or works in an at-risk urban area consisting of not less than ten contiguous census tracts, as determined by the United States Bureau of the Census for the 2000 United States Census, within a city of the metropolitan class, which each contain a percentage of families below the poverty line of

greater than twenty percent, as reported by the United States Bureau of the Census for the 2000 United States Census.

(6) The Governor shall, in his or her discretion, appoint one member to the board of trustees who resides or works in a county which does not contain a city of the metropolitan class or a city of the primary class and which contains a percentage of families below the poverty line of greater than eight and one-half percent, as reported by the United States Bureau of the Census for the 2000 United States Census.

**Source:** Laws 2006, LB 1256, § 7; Laws 2007, LB296, § 713; Laws 2008, LB1153, § 6.

**79-1104.05 Early Childhood Education Endowment Fund; funding.**

(1) From the effective date of an endowment agreement until June 30, 2007, the Early Childhood Education Endowment Fund shall consist of forty million dollars of the Cash Reserve Fund. Such forty million dollars shall remain within the Cash Reserve Fund and remain a part thereof for all purposes, except that interest earned on that portion deemed to constitute the Early Childhood Education Endowment Fund shall accrue to the Early Childhood Education Endowment Cash Fund in accordance with section 84-613.

(2) On and after July 1, 2007, the Early Childhood Education Endowment Fund shall consist of any funds allocated to the Early Childhood Education Endowment Fund from funds belonging to the state for educational purposes described in Article VII, section 7, of the Constitution of Nebraska.

**Source:** Laws 2006, LB 1256, § 8.

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# Kindergarten

## Nebraska Revised Statutes

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<http://www.unicam.state.ne.us/laws/browse-chapters.php?chapter=79>

### Chapter 79: SCHOOLS

#### Sections 79-212, 79-214, and 79-278

#### **79-212 Kindergarten program; minimum hours.**

The school board or board of education of any school district offering a kindergarten program shall provide a program of at least four hundred clock hours each school year.

Source: Laws 1967, c. 520, § 1, p. 1742; Laws 1977, LB 430, § 1; Laws 1978, LB 596, § 2; R.S.1943, (1981), § 79-549; Laws 1985, LB 633, § 4; R.S.1943, (1994), § 79-201.10; Laws 1996, LB 900, § 16.

#### **79-214 Admission of children; kindergarten or beginner grade; age; evidence of physical examination; visual evaluation; when; exception.**

(1) For school years before school year 2012-13:

(a) Except as provided in subdivision (1)(b) of this section, the school board of any school district shall not admit any child into the kindergarten of any school of such school district unless such child has reached the age of five years or will reach such age on or before October 15 of the current year; and

(b) The board may admit a child who will reach the age of five between October 16 and February 1 of the current school year if the parent or guardian requests such entrance and provides an affidavit stating that (i) the child attended kindergarten in another jurisdiction in the current school year, (ii) the family anticipates relocation to another jurisdiction that would allow admission within the current year, or (iii) the child has demonstrated through recognized assessment procedures approved by the board that he or she is capable of carrying the work of kindergarten.

(2) For school year 2012-13 and each school year thereafter:

(a) Except as provided in subdivision (2)(b) of this section, the school board of any school district shall not admit any child into the kindergarten of any school of such school district unless such child has reached the age of five years on or before July 31 of the calendar year in which the school year for which the child is seeking admission begins; and

(b) The board may admit a child who will reach the age of five years on or after August 1 and on or before October 15 of such school year if the parent or guardian requests such entrance and provides an affidavit stating that (i) the child attended

kindergarten in another jurisdiction in the current school year, (ii) the family anticipates relocation to another jurisdiction that would allow admission within the current year, or (iii) the child has demonstrated through a recognized assessment procedure approved by the board that he or she is capable of carrying the work of kindergarten. On or before January 1, 2012, each school board shall, for purposes of this subdivision, approve and make available a recognized assessment procedure for determining if a child is capable of carrying the work of kindergarten. The school board shall update approved procedures as the board deems appropriate.

(3) The board shall comply with the requirements of subsection (2) of section [43-2007](#) and shall require evidence of: (a) A physical examination by a physician, a physician assistant, or an advanced practice registered nurse, practicing under and in accordance with his or her respective certification act, within six months prior to the entrance of a child into the beginner grade and the seventh grade or, in the case of a transfer from out of state, to any other grade of the local school; and (b) for school year 2006-07 and each school year thereafter, a visual evaluation by a physician, a physician assistant, an advanced practice registered nurse, or an optometrist within six months prior to the entrance of a child into the beginner grade or, in the case of a transfer from out of state, to any other grade of the local school, which consists of testing for amblyopia, strabismus, and internal and external eye health, with testing sufficient to determine visual acuity, except that no such physical examination or visual evaluation shall be required of any child whose parent or guardian objects in writing. The cost of such physical examination and visual evaluation shall be borne by the parent or guardian of each child who is examined.

Source: Laws 1931, c. 139, § 1, p. 385; C.S.Supp.,1941, § 79-412; R.S.1943, § 79-414; Laws 1949, c. 258, § 1, p. 869; Laws 1949, c. 256, § 83, p. 720; Laws 1965, c. 519, § 1, p. 1644; Laws 1967, c. 532, § 1, p. 1766; Laws 1973, LB 403, § 20; Laws 1979, LB 59, § 1; Laws 1986, LB 68, § 2; Laws 1987, LB 367, § 66; Laws 1988, LB 1013, § 4; Laws 1991, LB 836, § 33; Laws 1993, LB 348, § 18; Laws 1995, LB 214, § 1; Laws 1995, LB 401, § 42; R.S.Supp.,1995, § 79-444; Laws 1996, LB 900, § 18; Laws 1998, LB 1229, § 2; Laws 2000, LB 1115, § 87; Laws 2001, LB 797, § 4;

Laws 2005, LB 114, § 1; Laws 2005, LB 256, § 96; Laws 2010, LB1006, § 2. *Effective Date: July 15, 2010*

**Annotations**

This section deals with the subject of minimum age requirements at which pupils may enter kindergarten and first grade. State ex rel. Shineman v. Board of Education, 152 Neb. 644, 42 N.W.2d 168 (1950).

**79-228 Repealed.** Laws 1997, LB 347,§59. (Kindergarten program; minimum hours)



## Nebraska Administrative Code:

All Nebraska state agency regulations are compiled in the *Nebraska Administrative Code* (NAC). Each agency is assigned certain **titles** of the Code for its rules and regulations.

The NAC may be accessed at: <http://www.sos.ne.gov/rules-and-regs/>

### Regulations–Nebraska Department of Education (NDE):

The Nebraska Department of Education administration regulations are contained in Title 92 and 93 of the NAC, and each of the Department of Education's "rules" are actually "chapters" of Title 92 of the NAC. Thus, the formal legal citation to the Department's "Rule 11" is "Title 92, *Nebraska Administrative Code*, Chapter 11", or "92 NAC 11" when abbreviated.

All current NDE Rules may be accessed at:

[http://www.education.ne.gov/LEGAL/Current\\_NDE\\_Rules.html](http://www.education.ne.gov/LEGAL/Current_NDE_Rules.html)

The following NDE Titles (Rules) are related to the work of the ECICC:

- **Rule 11: Regulations for Early Childhood Education Programs**

*Rule 11 may be accessed online at:*

<http://www.education.ne.gov/LEGAL/webrulespdf/CLEANrule112007.pdf>

- **Rule 19: Regulations regarding School Enrollment**

*Rule 19 may be accessed online at:*

[http://www.education.ne.gov/LEGAL/webrulespdf/Clean19\\_2010.pdf](http://www.education.ne.gov/LEGAL/webrulespdf/Clean19_2010.pdf)

- **Rule 51: Special Education Programs**

*Rule 51 may be accessed online at:*

[http://www.education.ne.gov/LEGAL/webrulespdf/CLEAN51\\_2010.pdf](http://www.education.ne.gov/LEGAL/webrulespdf/CLEAN51_2010.pdf)

### Regulations–Nebraska Department of Health and Human Services (DHHS):

The following DHHS Titles are related to the work of the ECICC:

- **Title 390: Child Welfare and Juvenile Services**
- **Title 391: Child Care Licensing**
- **Title 392: Child Care Subsidy Program**
- **Title 467: Medically Handicapped Children's Program . . .**
- **Title 474: Social Services for Families, Children and Youth**
- **Title 477: Children's Medical Assistance Program**
- **Title 480: Home and Community-based Waiver Services . . .**

*The titles above may be accessed at: <http://www.hhs.state.ne.us/req/regs.htm>*

The following DHHS document provides vision, guidance, and standards for the implementation of early intervention services coordination and is related to the work of the ECICC:

- **Nebraska HHS Finance and Support Manual–Early Intervention Services Coordination**

*The document may accessed at: [http://www.sos.state.ne.us/rules-and-regs/regsearch/Rules/Health\\_and\\_Human\\_Services\\_System/Title-480/Chapter-10.pdf](http://www.sos.state.ne.us/rules-and-regs/regsearch/Rules/Health_and_Human_Services_System/Title-480/Chapter-10.pdf)*