

# EARLY INTERVENTION FOR INFANTS AND TODDLERS IN FOSTER CARE AND THE CHILD WELFARE SYSTEM

## *CHILDREN WITH DISABILITIES, DEVELOPMENTAL DELAYS AND OTHER CONCERNS*

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All young children need good developmental screening and many need early intervention. For children in the Child Welfare System, these needs are especially critical. Consider these facts:

- 17% of all children have some sort of disability or developmental issue, such as a speech or language delay, mental retardation, learning disability, hearing problem, autism, an emotional or behavioral concern, or delay in growth or development.<sup>1</sup>
- A child in foster care is four times more likely to have a disability than a child living with one or both parents. In fact, 21% of children in foster care have learning problems, compared to 4% of children living with a parent.<sup>2</sup>
- A child in the child welfare system is four times more likely to have a serious behavioral or emotional problem than a child living with one or both parents.<sup>3</sup>

Given these startling figures, it is not surprising that Congress has passed two laws requiring screening for young children who have been abused, neglected, or exposed to illegal drugs before birth.

- CAPTA – the Child Abuse Prevention and Treatment Act of 2003 – requires that states develop “provisions and procedures for referral of a child under the age of 3 who is involved in a substantiated case of child abuse or neglect to early intervention services funded under Part C of the Individuals with Disabilities Education Act.”<sup>4</sup>
- IDEA – the Individuals with Disabilities Education Improvement Act of 2004 – requires that states “have policies and procedures that require the referral for early intervention services . . . of a child under the age of 3 who:
  - \* is involved in a substantiated case of child abuse or neglect; or
  - \* is identified as affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure.”<sup>5</sup>

For ease of reading, the words “abused, neglected or drug-exposed child” are used in the text rather than the more precise and also more cumbersome language in the laws (children “involved with a substantiated case of child abuse or neglect” and “affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure”). The number of children covered by these laws is smaller than this shorthand wording might imply. At the same time, all of these children have a very high risk of having developmental issues. So, even if there were no legal requirements, it makes good sense (and good dollars and cents) for states and communities to screen all of these children, and provide help to those who need it.

In other words, every state must make sure that every child 0-36 months old in a substantiated case of child abuse or who was exposed to illegal drugs before birth receives developmental screening. Also, if screening indicates a possible problem, they must refer the child to the state’s Early Intervention program for services.

### **What Is the Early Intervention Program?**

Early Intervention is a federal program Congress created in 1986 as a part of the special education law, the Individuals with Disabilities Education Act (IDEA). In return for federal funding, all 50 states have agreed to find children who have disabilities and developmental delays and provide them with appropriate intervention services.

The Early Intervention Program goes by different names in different states: *Early Start*, *Early IDEA*, *Early Childhood Special Education, Part C, Part H*.

Early Intervention services depend on a child's needs and could include, for example, speech and language instruction, occupational and physical therapy, psychological services, counseling and home visits, health services, and transportation assistance.

**Early Intervention programs provide services to children under age 3 (ages 0-36 months) who have disabilities, developmental delays or diagnosed conditions likely to result in developmental delays.**

Early Intervention is a federal program, but it is not the same in all 50 states. In fact, the Early Intervention program can differ in at least two important ways from state to state:

- Since each state defines “developmental delay” for itself, an infant or toddler who has (or is likely to develop) a certain condition might qualify for Early Intervention services in one state but not another – depending on the how each state defines “developmental delay.”
- States can *choose* to provide early intervention services to young children *at risk of* developmental delays. Some states – such as California, Hawaii, Massachusetts, New Mexico and West Virginia – have chosen to serve infants and toddlers *at risk of* developmental delays as well as those who actually *have* identified developmental delays or disabilities.<sup>6</sup>

It is important to keep in mind that these differences are **by state**, not by county or city or agency or program. That is, *a specific child who is 0-36 months old is – or isn't – eligible for help through Early Intervention no matter where she lives in a state.* This may be especially important for a young child who was abused, neglected or exposed to drugs. If the Child Welfare System places her with a relative or foster parents, she might move to another neighborhood or city. But her eligibility for Early Intervention would not change unless she moved to another state.

### **Every Child Doesn't Need to Be Referred But Every Child Does Need to Be Screened**

A state *could refer* every infant and toddler who has been abused, neglected or exposed to drugs to its Early Intervention program for a full evaluation and services. A state or community that wanted to cut down on its long-term special education and disability costs might do just that. But the law does not require that states refer all of these children to Early Intervention.

The CAPTA and IDEA laws do require, however, that all of these children be **screened** to see if they need additional help. Screening simply means using a good tool to identify children likely to have a disability, developmental delay or other concern. If screening flags a concern, then the child

must then be referred to Early Intervention to determine whether or not he needs Early Intervention.<sup>7</sup>

### **Whose Job Is It to Make Sure These Infants and Toddlers Are Screened?**

It is up to each state to decide how it to screen infants and toddlers who have been abused, neglected or drug-exposed.

- The Child Welfare System (also called Child Protective Services, Social Services Agency, Department of Children and Family Services, etc.) could take the lead.
- The state's Early Intervention (Part C) program could take the lead.
- Or both agencies could work collaboratively and also involve other agencies to screen these children and refer them for evaluation and services when screening signals a possible developmental delay or disability.

In other words, while a state doesn't have a choice about *whether* or not to screen all of these infants and toddlers, it does have a choice about *how* to make sure the job gets done, and done well.

### **Can a State Also Screen Siblings?**

Yes. The state or agency *can* also screen the brothers and sisters of a child involved in a substantiated case of child abuse, neglect or prenatal exposure to illegal drugs. In fact, these siblings may also be at high risk for developmental problems that early intervention could nip in the bud, before they escalate.

At the same time, the federal laws (CAPTA and IDEA) do not *require* states and agencies to screen every sibling of a child involved in a "substantiated" case of abuse or neglect or affected by prenatal exposure to illegal drugs.

### **What About Infants and Toddlers Prenatally Exposed to *Legal* Drugs, Like Alcohol?**

Again, the law doesn't *require* that a child prenatally exposed to alcohol, and who might have Fetal Alcohol Syndrome (FAS), be screened. And, again, a state could choose screen all of these children, since FAS is a leading cause of developmental delays and disability.

### **What About Screening Requirements for *Older Children* in the Child Welfare System?**

The law does not require developmental screening for children who have been abused, neglected or exposed to drugs once they pass their third birthday. But, especially since these children run a very high chance of having developmental delays or disabilities, a state interested in cutting its special education and disability costs over the long haul might choose to screen these older children as well.

Several short, accurate developmental screening tools also work for children older than age three. The ASQ (Ages and Stages Questionnaires) has forms for children up to age 5. The PEDS (Parent's Evaluation of Developmental Status) and PEDS-Developmental Milestones are appropriate for children up to age 8.

### **Developmental Screening Sounds Like a Good Idea for *All* Children**

True. Regular developmental screening with a good screening tool is a good idea for all children. In fact, the American Academy of Pediatrics recommends that pediatricians regularly screen every young child with a standardized developmental screening tool.<sup>8</sup>



## Sources

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- <sup>1</sup> Boyle, Coleen A., Decoufle, P., and Yeargin-Allsopp, Marshalyn. "Prevalence and Health Impact of Developmental Disabilities in U.S Children." *Pediatrics*, 1994, Vol. 93, No. 3, pages 399-403.
- <sup>2</sup> US Census Bureau, *Children and the Households They Live In*, Census 2000, page 8, Table 3, "Characters of Children Under 18 by Relationship to Householder: 2000."
- <sup>3</sup> Kortenkamp, Katherine and Earle, Jennifer, "The Well-Being of Children Involved with the Child Welfare System: A National Overview." The Urban Institute, New Federalism, National Survey of America's Families. Series, B, No. B-43, January 2002, page 2. This study found that 27% of children ages 6-17 involved with child welfare (compared to 7% of children in parent care and 13% of children in "high-risk parent care") had high levels of behavioral and emotional problems.
- <sup>4</sup> Congress enacted these CAPTA provisions in 2003 (42 U.S.C. 5101 et seq.).
- <sup>5</sup> Congress reauthorized IDEA in 2004 (Public Law 108-446). The Early Intervention (Part C) provisions begin with Section 631 of the law.
- <sup>6</sup> Shackelford, Jo. (2006) *State and Jurisdictional Eligibility Definitions for Infants and Toddlers with Disabilities Under IDEA* (NECTAC Notes No. 21). Chapel Hill: The University of North Carolina. FPG Child Development Institute, National Early Childhood Technical Assistance Center. This report, which spells out Part C eligibility definitions for all 50 states as well as other US jurisdictions (including the District of Columbia, American Samoa, the Northern Mariana Islands and Puerto Rico), is available online at: <http://www.nectac.org/~pdfs/pubs/nnotes21.pdf>.
- <sup>7</sup> See Administration for Children and Families, U.S. Department of Health and Human Services, *Child Welfare Policy Manual*, 2006. See 2.1I for information regarding referrals to IDEA, Part C and the CAPTA requirements. This manual is available online at [http://www.acf.hhs.gov/j2ee/programs/cb/laws\\_policies/laws/cwpm/policy\\_dsp\\_pf.jsp?id=2](http://www.acf.hhs.gov/j2ee/programs/cb/laws_policies/laws/cwpm/policy_dsp_pf.jsp?id=2). The Department of Education published proposed regulations for IDEA, Part C in the May 9, 2007 *Federal Register*.
- <sup>8</sup> American Academy of Pediatrics, "Identifying Infants and Young Children with Developmental Disorders in the Medical Home: An Algorithm for Developmental Surveillance and Screening," *Pediatrics*, Volume 118, Number 1, July 2006, pages 405-420.