



NCCD

Nebraska Consortium for Citizens with Disabilities

IMPROVING EARLY CHILDHOOD SERVICES IS
CRITICAL TO NEBRASKA'S FUTURE

Policy Brief on Early Childhood

By

Nebraska Consortium for Citizens with Disabilities

Introduction

The Nebraska Consortium for Citizens with Disabilities (NCCD) is comprised of disability advocacy organizations throughout the state that are dedicated to enhancing the lives of citizens living with disabilities.

NCCD developed its priorities during the recent commemoration of the 40th anniversary of the Individuals with Disabilities Education Act (IDEA) and the 25th anniversary of the Americans with Disabilities Act (ADA) in 2015 by developing issue statements focused on improving the lives of Nebraskans with disabilities.

Given this, NCCD has assembled the following information on the state program for Early Childhood Intervention; as well, we have included our recommendations regarding Nebraska's system of services and supports provided to infants and toddlers with disabilities and their families.

Background

Prior to the passage of Education for All Handicapped Children Act ¹ in 1975, public education was routinely denied to one million or more children with disabilities and at least 4 million more were segregated from typical students.² Initially, the law applied to children ages three to 21. The option to serve infants and toddlers on a national level came with the Reauthorization of the Education for All Handicapped Children in 1986. The Act was later renamed the Individuals with Disabilities Education Act (IDEA.)³

Nebraska started recognizing and providing services to meet the needs of infants and toddlers with disabilities in legislation, starting in 1979 ⁴. It was one of the first seven states to do so. In 1993, the Nebraska Legislature responded to Federal initiatives regarding infants and toddlers and passed the Early Intervention Act⁵, intending to:

- Enhance the development of infants and toddlers with disabilities,
- Reduce the cost to our society by minimizing the need for special services, including Special Education and Related Services, after such infants and toddlers reach school age,
- Minimize the likelihood of institutionalization of persons with disabilities,
- Enhance the capacity of families to meet the needs of their infants or toddlers with disabilities,
- 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

1 *Statute 89 Pg 773 (Photocopy)*. Government Publishing Office, www.gpo.gov/fdsys/pkg/STATUTE-89/pdf/STATUTE-89-Pg773.pdf Statute 90=.

2 "Individuals with Disabilities Education Act (IDEA)." *Individuals with Disabilities Education Act (IDEA)*, Disability Rights Education & Defense Fund, dredf.org/legal-advocacy/laws/individuals-with-disabilities-education-act-idea/.

3 Rhodes, et al. "25 Year History of the IDEA." *Laws & Guidance SPECIAL EDUCATION & REHABILITATIVE SERVICES*, US Department of Education (ED), 27 July 2007, www2.ed.gov/policy/speced/leg/idea/history.html.

4 "Special Education Act." 79-1110 to 79-1167 *Nebraska Legislature - Legislative Document*, Nebraska Legislature, nebraskalegislature.gov/laws/statutes.php?statute=79-1110.

5 "Sections 43-2501 to 43-2516 Shall Be Known and May Be Cited as the Early Intervention Act." *Nebraska Legislature - Legislative Document*, Nebraska Legislature, nebraskalegislature.gov/laws/display_html.php?begin_section=43-2501&end_section=43-2516.

- 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.⁶

Notably, the changes increase the capacity of agencies and service providers to identify, evaluate, and meet family needs. Per the law, the family is recognized as the primary developmental context for infants and toddlers.⁷

During the first three years of their lives, as research has shown, infants and toddlers experience incredible growth in development.⁸ Providing supports and services at this stage helps build the foundation for positive learning experiences, increases high school graduation rates, and improves health outcomes.

Additionally, services in Early Childhood have been found to be economically advantageous, showing a \$7.00 return per \$1.00 investment; reduced need for future social services; lower criminal justice costs, and higher income potential for children who've participated.⁹

Current Issues

The Early Childhood Interagency Coordinating Council and local Planning Region Teams (PRT) of the Early Development Network (EDN), Nebraska's early intervention services system, provide for interagency collaboration and family involvement in insuring the mission of the EDN is carried out.

A requirement of the EDN is to insure the voices of families are included at all levels of the discussion around services and supports by requiring that at least 20% of the members of the Council and Planning Region Teams be family representatives. Planning Region Teams in many areas of the state routinely fall below that level. Furthermore, many of these same teams lack concrete plans for addressing this concern.

Historically, Nebraska routinely fell short of federally predicted service levels.¹⁰ While this has slightly improved, many parents have reportedly having been unaware of the existence of these services until they are involved with Child Welfare.¹¹ This underscores the need to continue increased outreach to the medical and legal fields and the public at large. In many ways, the EDN remains a "best kept secret."

The number of Nebraska children under age 5 has increased slightly over the past 5 years (131K to 133K) remaining at 28% of the overall population. The number of infants and toddlers (ages 0 to 3) fluctuated little 2012 through 2014 and increased significantly FFY 2015. However, there was a dramatic drop in the percentage of toddlers moving to special education services with timely transition planning (see table 1.)

6 "NEBRASKA LEGISLATURE." 43-2502. *Legislative Intent*, Nebraska Legislature - Legislative Document, nebraskalegislature.gov/laws/statutes.php?statute=43-2502.

7 "Rule 11." *Rule 11_2015.Pdf*, Nebraska Department of Education, www.education.ne.gov/oec/rule-11/.

8 "Early Development & Well-Being." *ZERO TO THREE*, www.zerotothree.org/early-development.

9 Heckman, James. "Invest in Early Childhood Development: Reduce Deficits, Strengthen the Economy." *The Heckman Equation*, 15 Feb. 2017, www.heckmanequation.org/content/resource/invest-early-childhood-development-reduce-deficits-strengthen-economy. And *Economics of Early Childhood Investments Report Update*. White House, 2015, *Economics of Early Childhood Investments Report Update*.

10 *FFY 2015 Part C State Performance Plan Annual Report. FFY 2015 Part C State Performance Plan Annual Report*, FFY 2015 Part C State Performance Plan (SPP)/Annual Performance Report (APR).

11 Testimony before the Legislature's Education Committee on the Draft Vision for Education under LB 1103 10/6/2014

The Early Development Network has demonstrated increases in outreach. The data supports that more children are being referred. However, the number of children verified (found eligible) has not increased.

	Number of children under 5 ¹²	Number with Individualized Family Service Plans (IFSP) ¹³	Timely transition planning ¹⁴
FY 12	130969	1485 ¹⁵	94.8%
FY 13	130714	1434 ¹⁶	84%
FY14	131728	1492 ¹⁷	91.67%
FY 15	132468	1619 ¹⁸	75.76%
FY 16	133061		

Table 1 Service & Timeliness

This is true despite the fact that infants and toddlers who are involved in founded cases of abuse and neglect have been required under the federal Child Abuse Prevention and Treatment Act (CAPTA) to be referred to state Early Development Network Services; this has been in effect now for the past several years.¹⁹ Relatively few CAPTA-referred infants and toddlers have continued to be verified for EDN services compared to the anticipated number of children referred, especially given the data indicating that disability tends to be more frequent in at-risk populations.²⁰

Reports from the field indicate that post-referral screening tests are being conducted by phone in some areas of Nebraska. This is an unacceptable practice per current state standards and will require continued attention. Furthermore, anecdotal evidence indicates that some parents are being discouraged from proceeding with a full Multiple Disciplinary Team assessment based on screening results. This also runs counter to EDN rules and must continue to be addressed.

Concerns continue regarding transition from EDN to Special Education services in the state. Overall state performance on timely transition planning has been erratic. The most recent record is far below its 2005 baseline.²¹ One distinction that has been most evident is the difference in the environmental context for the services. EDN services are to be provided in the “natural environment” for the infant or toddler while Special Education is provided in “the least restrictive environment”.

12 “Child Population by Age Group | KIDS COUNT Data Center.” *KIDS COUNT Data Center: A Project of the Annie E. Casey Foundation*, Annie E. Casey Foundation, datacenter.kidscount.org/data/tables/101-child-population-by-age-group#detailed/2/29/false/871,870,573,869,36,868/62,63,64,6,4693/419,420.

13 “IDEA Part C Annual Performance.” *IDEA Part C Annual Performance*, Nebraska Early Development Network, edn.ne.gov/cms/idea-part-c-annual-performance.

14 FFY 2015 Part C State Performance Plan Annual Report, http://edn.ne.gov/cms/sites/default/files/Part_C_SPP_APR_FFY_2015.pdf pg 31 & 32

15 FFY 2012 Part C State Performance Plan Annual Report Final with OSEP response added 7.10. <http://edn.ne.gov/cms/sites/default/files/FFY%202012%20Part%20C%20APR%20FINAL%20with%20OSEP%20response%20added%207.10.14.pdf> pg 11

16 FFY 2013 Part C State Performance Plan Annual Report. http://edn.ne.gov/cms/sites/default/files/APR-2013C-NE_Revised_Final.pdf pg 8

17 FFY 2014 Part C State Performance Plan Annual Report. <http://edn.ne.gov/cms/sites/default/files/APR-2014C-NE.pdf> p 13

18 FFY 2015 Part C State Performance Plan Annual Report, see above pg 10

19 “Section 1437 State Application and Assurances.” *Individuals with Disabilities Education Act*, US Department of Education (ED), sites.ed.gov/idea/statute-chapter-33/subchapter-III/1437.

20 “Addressing the Needs of Young Children in Child Welfare: Part C- Early Intervention Services.” *Grounds for Involuntary Termination of Parental Rights - Child Welfare Information Gateway*, 2018, www.childwelfare.gov/pubs/partc/.

21 FFY 2015 Part C State Performance Plan (SPP)/Annual Performance Report (APR) see above pg 31 & 32

The former means "...settings that are natural or typical for a same-aged infant or toddler without a disability, may include the home or community settings, and must be consistent with the provisions of § 303.126."²² The latter indicates that, to the maximum extent possible, children with disabilities (ages three and older) are educated with their typical peers (children without disabilities.)²³

Certain school districts have continued to provide in-home services to children with disabilities past the age of three, citing that this is the "natural environment" for a toddler. This practice actually segregates the child and does not conform to state or federal Special Education legislation, Department of Education Rule, and policy guidance.

Historically, children with disabilities age three to five have been served in center-based preschool programs and this remains the standard practice in most school districts. Ideally, this occurs alongside their typically developing peers. Serving three to five year olds with disabilities in the home as the only offered option to families is a significant concern for the state as it could open the state up to legal liability because of these district practices.²⁴

Of further concern, in regards to the Early Head Start program, children in Nebraska are missing out on early services and supports due to lack of state investment. In 2015, of the 17,834 children birth to age three living in poverty in Nebraska, only 288 were served through the Early Head Start program.²⁵

We can do better – we *need* to do better. Research shows that families participating in Head Start programs are less likely to need special education services or engage in unhealthy behaviors throughout their lives. These children also have a greater chance of achieving success throughout their school careers and beyond.²⁶ By investing in children and families at these most critical life stages, the state would be making a worthwhile investment, resulting in positive outcomes for children and families that would have long-lasting, positive effects on Nebraska's economy.

Recommendations

Recommendation: Increase state and regional efforts in outreach and public awareness efforts to insure eligible children and families receive services as early as possible. Early childhood outcomes data have shown that the earlier children and families receive services, the greater the likelihood for positive outcomes. For example:

- Increase identification and evaluation of infants and toddlers by implementing a statewide developmental protocol to screen every child within the first three months of birth and subsequently at the first indication of a developmental concern.

Recommendation: Improve the transition for children and families in birth to age three services (EDN to Special Education services) for children three and over. For example:

- Increase the access of young children with disabilities to preschool educational settings with supports where typical peers are also served.

22 "34 CFR § 303.26 - Natural Environments." *LII / Legal Information Institute*, Legal Information Institute Cornell Law School, www.law.cornell.edu/cfr/text/34/303.26.

23 "20 U.S. Code § 1412 - State Eligibility." *LII / Legal Information Institute*, Legal Information Institute Cornell Law School, www.law.cornell.edu/uscode/text/20/1412.

24 Personal communication with ADAPT network advocates

25 https://www.nhsa.org/files/resources/nebraska_fact_sheet.pdf

26 https://www.nhsa.org/files/resources/nebraska_fact_sheet.pdf

- Insure that parents have adequate information regarding the transition process and options for services for their child, and insure timely transition meetings are held for every child.

Recommendation: Continue steps to increase the knowledge of parents on Early Intervention and Special Education services. For example:

- Provide increased parental access to resources and technical assistance on their educational rights, educational best practices, and services and supports. Provide increased opportunities to families for peer mentorship. Increase efforts to insure the informed family voice is included and supported at the local, regional, and state levels.

Recommendation: Invest in the Early Head Start program to the fullest extent possible, in order to improve outcomes and lower poverty rates for Nebraska children and families.