

Early Intensive Developmental and Behavioral Intervention (EIDBI) or Applied Behavior Analysis (ABA)

This memorandum provides guidelines for determining whether the placement of a student with a program for Early Intensive Developmental and Behavioral Intervention (EIDBI) or Applied Behavior Analysis (ABA) should be considered a placement for care and treatment under Minnesota Statutes 2025, sections 125A.15, 125A.51, and 125A.515.

The state's compulsory attendance statute (Minn. Stat. 120A.22 [2025]):

- applies to every child between seven and 17 years of age;
- requires that students must receive instruction unless the child has graduated; and
- establishes the authority of school boards to approve absences from school for students in school districts.

The compulsory attendance statute includes legitimate exemptions by which a parent may withdraw their child from school for the whole or any part of the time school is in session during any school year (Minn. Stat. 120A.22, subd. 12 [2025]).

Neither EIDBI nor ABA programs should automatically be considered placements for care and treatment under Minnesota Statutes without supporting information and agreement of the school district and parents as follows.

In general, placement of a student with a program for EIDBI or ABA should be considered a placement for care and treatment if the student's district of residence and the parents agree:

- the placement is necessary for the child's physical or mental health (Minn. Stat. 120A.22, subd. 12(1) [2025]);
- the school district cannot provide equivalent services that would allow the student to attend school rather than being absent from school during the placement; and
- absence from school for 15 or more consecutive or intermittent school days is predicted for the student during the placement (Minn. R. 3525.2325 [2007]).

These are general guidelines, and determinations of placements for care and treatment should be managed by schools on a case-by-case basis. Available information from involved providers of EIDBI and ABA services with appropriate licensure should be considered in each case.

Education for students in care and treatment programs is governed under Minnesota's state statutes for special education, Minnesota Statutes 2025, section 125A. If the school and parents cannot agree that a placement with an EIDBI or ABA program is a placement for care and treatment, either or both the school and parents may contact the Minnesota Department of Education (MDE) [Dispute Resolution Team](#) (MDE.Dispute-Resolution@state.mn.us) or 651-582-8689.

Schools always remain responsible for the provision of FAPE for eligible students with disabilities as defined in the Individuals with Disabilities Education Act (IDEA) and Minnesota Statutes 2025, section 125A.03. For responsibilities in providing FAPE during placements for care and treatment, schools should refer to Minnesota Statutes 2025, sections 125A.15, 125A.51, and 125A.515.

For additional information, contact:

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