

# SB 1016 (Portantino)

## Special education: eligibility: fetal alcohol spectrum disorder

### PROBLEM

Fetal Alcohol Spectrum Disorder (FASD) is an umbrella term for a neurodevelopmental disability caused by prenatal alcohol exposure. The result is deficits that occur in thinking, learning, sensory integration, social skills, self-regulation, mental health, adaptive functioning (independent living skills) and physical health that require lifelong support, regardless of IQ. Unlike many developmental disabilities, IQ does not match much lower adaptive functioning in those with FASD, adding to the complexity of this disorder. The result is professionals who do not understand this disability see typical IQ and expect the person with FASD to be able to live independently when the affected person cannot do so due to deficits in life skills needed to live safely in community.

In California, most professionals are not trained in FASD or even aware of the disorder. As a result, the overwhelming number of affected children and adults in the state do not receive a diagnosis and, therefore, do not receive appropriate care. Without proper diagnosis and interventions, individuals with FASD face a life of challenges, including behavioral, cognitive, mental health, substance use, homelessness, and involvement with the criminal justice system, as youth and adults. Even having a typical IQ is not protective. Without early diagnosis and intervention, 80% of adults with FASD and typical range IQ will never live independently as adults.

In the classroom, students with FASD, even with typical intelligence, show a profile of neuropsychological deficits that affect learning and behavior. These problems include deficits in memory, abstract thinking, processing

speed, attention, and language comprehension. Research shows that math is typically the lowest academic skill. Mood and behavioral issues, sensory processing problems and interpersonal social deficits are also part of the disability, and all affect learning as well as behavior in the classroom. 61% of children and youth with FASD will experience repeat suspensions, expulsion, or will drop out of high school. Failure to identify the disability and, equally important, to confer special education eligibility has devastating results for children with FASD.

Fetal Alcohol Spectrum Disorder (FASD) is not a recognized category for special education under the Individuals with Disabilities Education Act (IDEA). It is also not named as a disorder under the Other Health Impaired category by the California Department of Education. Hence, students with the most prevalent developmental disability in the US are being underserved in school districts across the state, with detrimental lifelong consequences.

### BACKGROUND

Fetal Alcohol Spectrum Disorder (FASD) is a silent epidemic in California. It encompasses a range of effects on the brain and body of individuals prenatally exposed to alcohol. FASD is a lifelong disability. Individuals affected by FASD display various challenges in their daily living and are often misdiagnosed and misunderstood. FASD-informed education and interventions are critical for individuals and their families. With early intervention and appropriate special education services, individuals with an FASD will achieve their full potential and lead productive lives. While prenatal alcohol exposure is the leading known cause of developmental disability in North America, 90% of

individuals with an FASD are undiagnosed or misdiagnosed due to lack of training and diagnostic capacity.

According to the CDC, FASD is more common than Autism, affecting 2-5% of every first-grade child in the US. An estimated 1.97 million of the 39.5 million people living in California could be impacted by FASD. For vulnerable populations the problem is more acute. For children and youth in foster care, up to 70% will have been exposed in utero to alcohol. Of the 6 million children in California schools, as many as 300,000 may have an FASD. For adolescents with an FASD, 29% are expelled and 25% will drop out (CDC) - no school district in California has an FASD-informed program.

There is precedence for this bill. Other states including Alaska, Minnesota, and Colorado consider FASD as a qualifying condition for special education.

Advocates strongly believe that by recognizing and appropriately addressing FASD in education the trend towards secondary disabilities can be disrupted and the school-to-prison pipeline for students on the FASD spectrum can be broken. FASD needs to be addressed in education. It is a matter of equity and justice.

## **SUMMARY**

This bill would require that FASD be included under the “other health impairment,” definition for Individual Education Plans. This would expand eligibility for pupils to receive special education and related services.

## **EXISTING LAW**

Existing law requires all students with disabilities residing in the state, regardless of the severity of their disabilities, who are in need of special education and related services, to be identified, located, and assessed. Existing reg-

ulations adopted by the State Board of Education provide that a child who is assessed as having a specified health impairment or other health impairment is entitled to special education and related services. Those regulations define “other health impairment” as having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the environment that is due to a chronic or acute health problem and adversely affects the child’s educational performance.

## **SUPPORT**

FASD Now! (Sponsor)  
FASD Network of Southern California (Sponsor)  
Institute for Fetal Alcohol Spectrum Discovery  
UCSD (Sponsor)  
American Academy of Pediatrics California Chapter 2  
Children’s Advocacy Institute  
Parents Helping Parents  
The Arc of Riverside County  
The Arc and United Cerebral Palsy California Collaboration  
Western Center on Law & Poverty

Individuals:  
Derek Ott, M.D., David Geffen School of Medicine at UCLA

**Version:** 3/11/2022