

## **Special Education - Free Appropriate Public Education (FAPE)**

1. FAPE and Age Ranges
  - a. The district provides special education and related services to all resident school-age students with disabilities, except as provided below.
  - b. “School-age children” are children who have reached 5 years of age but have not yet reached 21 years of age on or before September 1 of the current school year.
  - c. The district will admit an otherwise eligible student who has not yet reached 21 years of age on or before September 1 of the current school year.
  - d. An otherwise eligible person whose 21st birthday occurs during the school year will continue to be eligible for FAPE for the remainder of the school year.
  - e. The district provides FAPE to students with disabilities who have been suspended or expelled from school in accordance with the special education discipline rules.
  
2. Nonacademic Services
  - a. The district provides equal opportunity for students with disabilities for participation in nonacademic and extracurricular services and activities.
  - b. Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs, referrals to agencies and employment of students, including both employment by the district and assistance in making outside employment available.
  
3. Interagency Agreements
  - a. The district will enter into a written agreement with any ESD, other district, School for the Deaf, School for the Blind or approved private school that serves as an attending program for resident students with disabilities.
  - b. The district will enter into a written agreement with any ESD, other district or private alternative school that serves resident students, whether or not the students are identified as students with disabilities.
  - c. These written agreements provide that:
    - (1) The resident district retains all responsibility for ensuring provision of FAPE and that the parents and student are afforded all special education rights and procedural safeguards under federal and state law, including:
      - (a) Child find and initial evaluation if the resident district suspects that the child has a disability and needs special education;

- (b) Initiation of individualized education program (IEP) meetings, unless the written agreement specifies that the attending district will initiate IEP meetings;
- (c) Provision of district representative at IEP meetings;
- (d) Provision of IEP and placement that comply with all state and federal requirements;
- (e) Provision of prior written notice and notice of procedural safeguards when required;
- (f) Compliance with any stay put requirements that allow the student to remain in the present educational placement in the attending program unless the resident district and the parents agree otherwise; and
- (g) Acting as the school district of record for any special education due process hearing arising out of the student's placement or program.

(2) The attending program agrees to:

- (a) Allow the student to remain in the present educational placement in the attending program during the pendency of any special education due process hearing unless the parents and resident district agree otherwise;
- (b) Immediately notify the resident district superintendent or special education director if the attending program suspects that the student may have a disability and need special education services;
- (c) Immediately notify the resident district superintendent or special education director if the student, whether disabled or not, has engaged in conduct that may lead to suspension or expulsion; and
- (d) Immediately notify the resident district superintendent or special education director of any complaint made by the parents regarding the student's regular or special education program at the attending program.

4. Graduation

- a. A student who receives a regular high school diploma is no longer entitled to FAPE.
- b. If the district chooses to provide special education to a student with a regular high school diploma, that student remains eligible for FAPE.
- c. The district provides prior written notice a reasonable time before a student with a disability graduates with a regular high school diploma.
- d. The district may, but is not required to, conduct a reevaluation before terminating eligibility due to graduation with a regular high school diploma.
- e. The district may award an alternative document as described in Board policy to a student with a disability. (See Board policy IKFB - Graduation Exercises.) Graduation with an alternative document does not terminate eligibility, require an evaluation and written prior notice.

5. Incarcerated Youth

- a. Until January 1, 2006, the district will make FAPE available to all individuals with disabilities 18 through 21 years old whether or not the student was previously identified for special education purposes.

- b. After January 1, 2006, the district will make FAPE available to those individuals with disabilities 18 through 21 years old who have been convicted as adults and are incarcerated in an adult correctional facility who have not graduated with a regular diploma, and in their last educational placement before their incarceration in the adult correctional facility:
  - (1) Were identified as being a student with a disability as defined in OAR 581-015-0005 (3);  
or
  - (2) Had an individualized education program.
- c. “Identified as being a student with a disability” means has been determined eligible or was involved in the process of determining the individual’s disability and eligibility for special education and related services under OAR 581-015-0051.
- d. “Last educational placement” includes juvenile correctional facilities.
- e. [The district has a plan, approved by the Board, for providing or causing to be provided appropriate education for students placed in any local or regional correctional facility located in the district.] [A plan for providing appropriate education for students placed in correctional facilities is not required, as there are no correctional facilities located in the district.]

## 6. Residential Placement

If the district places a student in a public or private residential program to provide special education and related services to a student with a disability, the district ensures that the program, including nonmedical care and room and board, is provided at no cost to the parents of the student.

## 7. Physical Education

- a. The district provides physical education services, specially designed if necessary, to each eligible student.
- b. The district provides the opportunity to participate in the regular physical education program available to nondisabled students unless the student is enrolled full-time in a separate facility or the student needs specially designed physical education.
- c. If specially designed physical education is prescribed in a student’s IEP, the district will provide the services directly or make arrangements for them to be provided by other agencies or programs.
- d. The district ensures that physical education is provided for eligible students enrolled in separate facilities, if the district is responsible for the education of such students.

## 8. Public Charter Schools

- a. The district ensures that all procedural safeguards are afforded to resident students with disabilities who attend public charter schools and their parents whether or not the charter school is chartered by the district.
- b. The district ensures that all resident students who attend charter schools receive FAPE whether or not the charter school is chartered by the district.
- c. The school district is responsible for providing any required special education and related services to resident public charter school students identified as students with disabilities under the IDEA whether or not the charter school is chartered by the district.

- d. The district treats charter schools the same as other schools in the district regarding provision of on-site services. The specific arrangements for providing special education and related services to charter schools within the district will be described in the charter between the district and the charter school.
- e. The district ensures that IEP and placement decisions for students with disabilities are made by the student's IEP/placement team.

For students whose parents have chosen a charter school and who have been accepted to a charter school, through a lottery or other related process, the charter school will be considered the student's "home school" or the school the student would attend if not disabled for the purposes of determining appropriate placement and least restrictive environment.

#### 9. Recovery of Funds for Misclassified Students

- a. The district ensures that students identified on the special education child count under Part B of the Individuals with Disabilities Education Act (IDEA) are limited to students who:
  - (1) Meet eligibility requirements under OAR 581-015-0051;
  - (2) Have a current IEP that is being implemented;
  - (3) Are receiving a free appropriate public education.

#### 10. Students with Disabilities Covered by Public Insurance

With regard to services required to provide FAPE to a student with disabilities, the district:

- a. Will not require a parent to sign up for or enroll in public insurance programs in order for their student with disabilities to receive FAPE under Part B of the IDEA;
- b. Will not require parents to incur an out-of-pocket expense in order for their student with disabilities to receive FAPE under Part B of the IDEA; and
- c. Will not use the student's benefits under a public insurance if that use would:
  - (1) Decrease available lifetime coverage or any other insured benefit;
  - (2) Result in the family paying for services that would otherwise be covered by the public insurance program and that are required for the student outside the time the student is in school;
  - (3) Increase premiums or lead to the discontinuation of insurance; or
  - (4) Risk the loss of eligibility for home- and community-based waivers, based on aggregate health-related expenditures.

#### 11. Students with Disabilities Covered by Private Insurance

- a. Each time the district proposes to access a parent's private insurance proceeds, the district will:
  - (1) Obtain parent consent (as defined in OAR 581-015-0039); and
  - (2) Inform the parents that their refusal to permit the district to access the private insurance does not relieve the district of its responsibility to ensure that all required services are provided at no cost to the parent(s).

- b. The district may use its IDEA Part B funds for a specified service required to ensure FAPE if the district is unable to obtain consent to use a child's private insurance.
- c. If the parent would incur a cost for the school district's use of private insurance, the district may use its Part B funds to pay the cost the parents otherwise would have to pay to use the private insurance (e.g. the deductible or co-pay amounts).