

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 meals, recess periods, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, 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 through placement by the District.
 - b. The District will enter into a written agreement with any ESD, other district or private alternative school that serves resident students through placement by the District, 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 parent/guardian 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 parent/guardian 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 parent/guardian 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 parent/guardian 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, or require an evaluation or written prior notice.

5. Incarcerated Youth

- a. The District makes 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.

b. The District's provisions of FAPE does not include:

- 1) The requirements relating to participation of children with disabilities in statewide and District assessments.
- 2) Requirements relating to transition planning and transition services, with respect to the students whose eligibility will end, because of their age, before they will be eligible to be released from adult correctional facilities based on consideration of their sentence and eligibility for early release.
- 3) The IEP team may modify the student's IEP or placement if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated. Least-restrictive environment requirements do not apply with respect to these modifications.
- 4) The public agency responsible for the special education of students in an adult correctional facility is not required to provide notice of meetings to the parent/guardian after rights transfer to the student.

b. "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.

c. "Last educational placement" includes juvenile correctional facilities.

6. Residential Placement

- a. 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 non-medical care and room and board, is provided at no cost to the parent/guardian 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 parent/guardian 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 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.
- f. For students whose parent/guardian have chosen a charter school and who have been accepted to a charter school, through a lottery or 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. 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/guardian 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 parent/guardian 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/guardian private insurance proceeds, the District will:
 - 1) Obtain parent/guardian consent (as defined in OAR 581-015-0039); and
 - 2) Inform the parent/guardian 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/guardian.
 - 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/guardian would incur a cost for the District's use of private insurance, the District may use its Part B funds to pay the cost the parent/guardian otherwise would have to pay to use the private insurance (e.g. the deductible or co-pay amounts).