

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

### 1. FAPE and Age Ranges

The district provides special education and related services to all resident school-age students with disabilities as provided below:

- a. "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;
- b. 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;
- c. 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;
- d. 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 that provide assistance to individuals with disabilities, and employment of students, including both employment by the district and assistance in making outside employment available.
- c. The district ensures that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of each individual child.

### 3. Graduation

- a. A student graduating with a regular high school or modified diploma is no longer entitled to FAPE.
- b. The district provides prior written notice a reasonable time before a student with a disability graduates with a regular high school or modified diploma.
- c. The district is not required to conduct a reevaluation before terminating eligibility due to graduation with a regular high school or modified diploma.
- d. Graduation with an alternative document:
  - (1) The district may award an alternative document meeting the criteria of the State Board of Education alternative document to a student with a disability.

- (2) Graduation with an alternative document does not terminate eligibility, require an evaluation or require prior written notice.
- e. The district may, but is not required to, provide special education and related services to a student who has graduated with a regular or modified diploma.

#### 4. Residential Placement

If the IEP team determines that placement in a public or private residential program is necessary to provide FAPE 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.

#### 5. Physical Education

- a. The district makes physical education services, specially designed if necessary, available to every child with a disability receiving FAPE, unless the school enrolls children without disabilities and does not provide physical education to children without disabilities in the same grade.
- b. The district provides the opportunity to each child with a disability to participate in the regular physical education program available to nondisabled children unless the child needs specially designed physical education as prescribed in the child's IEP.
- c. If specially designed physical education is included in the child's IEP, the district must provide the services directly or make arrangements for those services to be provided through other public or private programs.
- d. If the child with a disability is enrolled full time in a separate facility, the district must ensure that the child receives appropriate physical education services.

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

The district ensures that students identified on the special education child count under Part B of the IDEA are limited to students who:

- a. Meet eligibility requirements under OAR 581-015-2130 to -2180;
- b. Have a current IEP that is being implemented;
- c. Are receiving a FAPE;
- d. Are enrolled in the district.

#### 7. Students with Disabilities under IDEA Enrolled in Public Benefits or Insurance

A district may use the State's Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for special education and related services required under IDEA, and permitted under the public benefits or insurance programs as specified below.

With regard to services required to provide FAPE to a child with disabilities under IDEA, a district:

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

Prior to accessing a student's or parent's public benefits or insurance for the first time, and annually thereafter, the district must provide prior written notification to the student's parents and must obtain written consent<sup>1</sup> that:

- a. States the personally identifiable information that may be disclosed (e.g., records or information about the services that may be provided to the student);
- b. States the purpose of the disclosure (e.g., billing for services under IDEA);
- c. Names the agency to which the disclosure may be made (e.g., Medicaid);
- d. Specifies that the parent understands and agrees that the public agency may access the parent's or student's public benefits or insurance to pay for services under IDEA;
- e. Acknowledges the district may not require parents to incur an out-of-pocket expense (i.e., payment of a deductible or co-payment incurred in filing a claim for special education or related services), but may pay the cost that the parent otherwise would be required to pay; and
- f. Acknowledges the district may not use the student's benefits under a public insurance program, if that use would:
  - (1) Decrease available lifetime coverage of any other insured benefit;
  - (2) Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the student outside of the time the student is in school;
  - (3) Increase premiums or lead to the discontinuation of insurance; or
  - (4) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

---

<sup>1</sup>"Consent" means that the parent or adult student a) has been fully informed, in his/her native language or other mode of communication, of all information relevant to the activity for which consent is sought and b) understands and agrees in writing to the carrying out of the activity for which his/her consent is sought. Consent is voluntary of the part of the parent and meeting the requirements of consent provision for OAR 581-015-2090, IDEA and Family Education Rights and Privacy Act (FERPA).

8. Accessible Materials
  - a. Districts must ensure the timely provision of print instructional materials, including textbooks that comply with the National Instructional Materials Accessibility Standards (NIMAS) for students who are blind or print disabled.
  - b. Districts must ensure the timely provision of instructional materials in accessible formats to children who need instructional materials in accessible formats, including those children who are not blind or print disabled.
9. Extended School Year (ESY) services as per administrative regulations, Special Education - Individualized Education Program (IEP) - IGBAF-AR.
10. Assistive technology devices or services as per administrative regulations, Special Education - Individualized Education Program (IEP) - IGBAF-AR.