

Special Education - Free Appropriate Public Education (FAPE)¹

1. The ESD admits all resident school age children with disabilities and makes special education and related services available at no cost to those:
 - a. Who have reached five years of age but have not yet reached 21 years of age on or before September 1 of the current school year, even if they have not failed or have not been retained in a course or grade or are advancing from grade to grade;
 - b. Who have not graduated with a regular diploma;
 - c. Who have been suspended or expelled in accordance with special education discipline provisions; or
 - d. Who reach age 21 before the end of the school year. These students remain eligible until the end of the school year in which they reach 21.
2. The ESD determines residency in accordance with Oregon law.
3. The ESD takes steps to ensure that its children with disabilities have available to them the variety of educational programs and services available to nondisabled children in the area served by the component district and provides a continuum of services to meet the individual special education needs of all resident children with disabilities, and children with disabilities who are enrolled in public charter schools located in the district.
4. The ESD may, but is not required to, provide special education and related services to a student who has graduated with a regular diploma.
5. State law prohibits the ESD from recommending to parents, or requiring a child to obtain, a prescription for medication to affect or alter thought processes, mood or behavior as a condition of attending school, receiving an evaluation to determine eligibility for early childhood special education or special education, or receiving special education services.
6. If the individualized education program (IEP) team determines that placement in a public or private residential program is necessary to provide FAPE, the program, including nonmedical care and room and board, must be at no cost to the parents of the child.
7. If a parent revokes consent for a student receiving special education and related services, the ESD will not be considered to be in violation of the requirement to make FAPE available to the student because of the failure to provide the student with further special education and related services.

¹For programs and services provided to students for which the ESD is not considered the local educational agency (LEA), the ESD shall operate in accordance with local ESD policy.

8. If a parent revokes consent for a student receiving special education and related services, the ESD will not be considered to be in violation of the requirement to make FAPE available to the student because of the failure to provide the student with further special education and related services.

END OF POLICY

Legal Reference(s):

[ORS 338.165](#)
[ORS 339.115](#)
[ORS 343.085](#)
[ORS 343.224](#)

[OAR 581-015-2020](#)
[OAR 581-015-2035](#)
[OAR 581-015-2040 to-2065](#)
[OAR 581-015-2050](#)

[OAR 581-015-2530](#)
[OAR 581-015-2600](#)
[OAR 581-015-2605](#)
[OAR 581-021-0029](#)

Assistance to States for the Education of Children with Disabilities, 34 C.F.R. §§ 300.17, 300.101-110, 300.113 (2006).
Assistance to States for the Education of Children with Disabilities, 34 C.F.R. §§ 300.300 (2008).