

1.2 FAPE

Defining FAPE

The acronym **FAPE** stands for "free appropriate public education." FAPE has been part of the federal special education law from its inception in 1975. The law requires states to make FAPE available to children whose disabilities qualify them for special education and related services. The definition of FAPE has changed little over 30 years and did not change at all in the most recent reauthorization of the Individuals with Disabilities Education Act (IDEA 2004).

IDEA's definition of FAPE is found in the implementing regulations at **§300.17**.

▪ **§300.17 Free appropriate public education.**

Free appropriate public education or FAPE means special education and related services that —

- (a) Are provided at public expense, under public supervision and direction, and without charge;
- (b) Meet the standards of the SEA [state education agency], including the requirements of this part;
- (c) Include an appropriate preschool, elementary school or secondary school education in the State involved; and
- (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §300.320 through 300.324.

This definition has been adopted by Ohio in rule 301-51-01(B) (23) of the Administrative Code.

Breaking the definition down, there are six components to FAPE:

- Special education and related services;
- Free to families, provided at public expense;
- Supervised and directed by a public agency (via state and local educational agencies, e.g., public schools);
- Based on the standards of the SEA (e.g., the state's general and special education standards and regulations);
- Provided in an appropriate preschool, elementary school, or secondary school in the State; and
- Provided in accordance with an appropriately developed IEP.

There are some exceptions to FAPE. Those that apply to Ohio are addressed in rule 3301-51-02(C) of the Administrative Code.

(C) Limitation: exception to FAPE for certain ages

The obligation of the school district of residence to make FAPE available to all children with disabilities does not apply with respect to the following:

1. Children with disabilities who have graduated from high school with a regular high school diploma;
2. The exception in paragraph (C) (1) of this rule does not apply to children who have graduated from high school but have not been awarded a regular high school diploma;
3. Graduation from high school with a regular high school diploma constitutes a change in placement, requiring written prior notice in accordance with rule 3301-51-05 of the Administrative Code;
4. As used in paragraphs (C) (1) to (C) (3) of this rule, the term regular high school diploma does not include an alternative degree that is not fully aligned with Ohio's academic content standards, such as a certificate or a general educational development credential. A child with a disability who has been awarded a certificate or a general development credential may, at a later date but before the child's 22nd birthday, re-enroll in the school district tuition free and receive FAPE while the child continues to work on a regular high school diploma up to the child's 22nd birthday; and
5. Children with disabilities who are eligible under Subpart H of Part B of the Individuals with Disabilities Education Act, as amended by the Individuals with Disabilities Education Improvement Act of 2004, December 2004 (IDEA), but who receive early intervention services under Part C of the IDEA.

Frame of Reference for FAPE

FAPE is the fundamental core of the IDEA and the IEP. Conceptually, FAPE is both the goal and the path to reaching the goal. FAPE — a free appropriate public education — is an entitlement of a child with a disability, as IDEA defines that term, with the IEP serving as a means by which this entitlement is mapped out.

What is not immediately clear about FAPE, but what is true nonetheless, is that *for each child with a disability, FAPE is different*. While each child's education must be free and while a public agency provides and pays for that education, what is "appropriate" for one child will not necessarily be appropriate for another. Determining what is appropriate for a specific child requires an individualized evaluation in which the child's strengths and weaknesses are identified in detail. It also requires gathering information about the child's participation in the general curriculum and other matters. Information gathered through this type of evaluation then illuminates the dimensions of an "appropriate" education for a given child.

State's Obligation to Make FAPE Available

To receive federal funding under IDEA, each state must assure the U.S. Department of Education that it has in effect policies and procedures to meet all the requirements of the law. One of these requirements is that each state make FAPE available to its children with disabilities that qualify for special education and related services. The IDEA specifies the scope of this obligation at §§300.101 and 300.102 by describing both the age range of children for whom FAPE must be made available and any exceptions to the state's FAPE obligation.

The opening paragraph at §300.101 illustrates the state's obligation to make FAPE available to eligible children with disabilities.

- **§300.101 Free appropriate public education (FAPE).**

- (a) *General.* A free appropriate public education must be available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in §300.530(d).

F for "free." Being free of cost is a vital part of the law's requirement. The education of each child with a disability must be "provided at public expense... and without charge" to the child or the child's parents. See the Residency and Custody chart to determine the school district that is responsible for providing a child with a free appropriate public education.

A for "appropriate." "Appropriate is a highly important term in IDEA. It is used frequently in different contexts, but it generally means the same thing: whatever is suitable, fitting or right for a specific child, given that child's specific needs and strengths, established goals, and the supports and services that will be provided to help the child reach those goals.

The law specifies in detail how the public agency and parents are to plan each child's education so that it is appropriate, meaning it is responsive to the child's needs. (See [Section IEP - 7 General](#).)

P for "public." Public generally refers to public school systems and the use of public funds to pay for education in those schools. Children with disabilities have the right to attend public school just as other children do, regardless of the nature or severity of their disabilities. The public school system must serve children with disabilities, respond to their individual needs and help them plan for their futures.

The use of the word "public" in FAPE also implies that there are differences for children with disabilities who are placed by their parents in private schools. See [Parentally Placed Nonpublic School Children - 9 Guidelines for Providing Services](#).

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E for “education.” IDEA is an *education* act. It guarantees that FAPE is available to eligible children with disabilities. Here, “education” means “special education and related services... provided in conformity with an IEP,” that meets requirements specified within the law and are based on the child’s individual needs.

Summary

FAPE is an important principle of the law. While in practice, FAPE differs for each child, in principle it is the same for each child - a guarantee of access to a free appropriate public education that opens the doors to opportunity and learning.

References

Kupper, L. (2007, July). The Top 10 Basics of Special Education (Module 1). Building the legacy: IDEA 2004 Training curriculum. Washington, DC: National Dissemination Center for Children with Disabilities. Available online at: [http:// www.nichcy.org/ training/ contents.asp](http://www.nichcy.org/training/contents.asp)