



# Free Appropriate Public Education

## What does a Free Appropriate Public Education (FAPE) mean?

FAPE means special education and related services that:

- are provided at public expense, under public supervision and direction, and without charge to the parent;
- meet the educational standards of the State Education Agency pertaining to the education of students with disabilities;
- includes preschool, elementary school, and secondary school education; and,
- are provided in conformity with the individualized education program (IEP).

## Who is entitled to FAPE?

It is the policy of the State of Missouri that all children with disabilities between the ages of three (3) and twenty-one (21) years, inclusive, as prescribed by Missouri statutes and residing in the state, have a right to a free appropriate public education (FAPE), including children with disabilities who have been suspended or expelled from school.

<https://dese.mo.gov/sites/default/files/PartBRegIVFAPE-IEP-LREfinal2014.pdf>

## FAPE for Children Beginning at Age 3:

The State of Missouri ensures that FAPE is available to each eligible child residing in the state no later than the child's third birthday. An IEP must be in effect by the child's third birth date. If the child's third birth date occurs during the summer, the child's IEP Team shall determine the date when the services under the IEP will begin. This State Plan and the Part C State Plan outlines procedures that the Part C system must complete to assure a smooth transition for children eligible for Part B services at age three (3).

## FAPE for Children Suspended or Expelled from School

A public agency is not required to provide services to a child with a disability who has been removed from his or her current placement for ten (10) school days or less in that school year if services are not provided to a child without disabilities who has been similarly removed.

In the case of a child with a disability who has been removed for more than ten (10) school days in a school year the public agency, for the remainder of the removals must:

- provide services to the extent necessary to enable the child to continue to progress in the general curriculum, although in another setting, and to progress toward achieving the goals in the child's IEP if the removal is:
  - under the school personnel's authority to remove for not more than ten (10) consecutive school days as long as that removal does not constitute a change of placement, or
  - for behavior that is not a manifestation of the child's disability and results in a disciplinary change of placement.

## Children Advancing from Grade to Grade:

The State of Missouri ensures that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade and is advancing from grade to grade. The determination that such a child is eligible for services must be made on an

individual basis by the group of individuals within the child's local education agency that is responsible for making those determinations.



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## **Exceptions to FAPE:**

Public agencies in Missouri are not required to provide FAPE to the following children and youth:

- A. youth with disabilities who reach the age of twenty-one (21).
- B. students who have graduated from high school with a regular high school diploma. The term, regular high school diploma does not include an alternative degree that is not fully aligned with the State's academic standards, such as a certificate or a general educational development credential (GED). Graduation from high school with a regular high school diploma constitutes a change in placement, requiring prior written notice in accordance with 34 CFR 300.503.
- C. children whose parent has refused to consent to the receipt of special education and related services or has failed to respond to a request to provide such consent.
- D. parentally placed private school children with disabilities.
- E. children with disabilities who receive early intervention services under Part C of the Act.

## **Continuing Requirement for FAPE:**

Students who have participated in a graduation ceremony or who have obtained a General Education Diploma (GED), but have not been awarded a regular high school diploma, continue to be eligible to receive FAPE if they are under twenty-one (21) years of age.

## **Agency Responsible for Providing FAPE:**

The local school district or special school district in which a child with a disability resides is responsible for implementation of FAPE. Students with disabilities or severe disabilities who are admitted to programs and facilities of the Department of Mental Health or whose domicile is in one district, but actually reside in another district as a result of a placement arranged by or approved by the Department of Mental Health, or a court of competent jurisdiction shall be provided special education and related services in the district where the student actually resides. The Department of Mental Health, the Department of Social Services, or a court of competent jurisdiction may provide or procure special education and related services for such students. The Department of Mental Health shall provide special education and related services for students with disabilities, ages three (3) through twenty (20), whose domicile is in one school district, but actually reside in another school district if said student has been determined by the Department of Mental Health to be dangerous to himself/herself or others or is determined to be medically fragile.

The Department of Mental Health, the Department of Social Services, or a court of competent jurisdiction may provide or procure special education and related services for such students.

The Department of Corrections shall provide special education and related services to those youth who are determined eligible for special education services at the time of their admittance to the correctional system.

The following requirements do not apply to those students with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

- the requirement to participate in State and district assessments, and
- the requirement relating to transition planning and transition services if their eligibility for Part B services will end because of their age before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

The IEP Team of a student with a disability, who is convicted as an adult under State law and incarcerated in an adult prison, may modify the student's IEP or placement if the Department of Corrections has demonstrated a bona fide



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security or compelling penological interest that cannot otherwise be accommodated. The requirements relating to LRE do not apply. More information can be found here: <https://dese.mo.gov/faqs/incarcerated%20youth>

The Department of Social Services, Division of Youth Services (DYS), shall provide special education and related services or arrange for such services with other agencies.

*Adapted from Missouri State Plan, <https://dese.mo.gov/sites/default/files/PartBRegIVFAPE-IEP-LREfinal2014.pdf>*