

I. FREE APPROPRIATE PUBLIC EDUCATION

It is the policy of the State of Iowa to provide a free appropriate public education (FAPE) for all resident children with disabilities in this state, in programs supervised by, and meeting standards established and approved by the State Education Agency (SEA). This declared policy is consistent with the State's mandate for special education law enacted July 1, 1974, and as subsequently amended.

A free appropriate public education is defined to include regular and special education and related services which:

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

Existing state law establishes the policy of requiring that local education agencies (LEAs) and State operated educational programs make provisions for a free and appropriate public education sufficient to meet the needs of all children requiring special education. The law defines children requiring special education as persons under twenty-one years of age, including children under five years of age, who have a disability in obtaining an education because of a head injury, autism, behavioral disorder, or physical, mental, communication, or learning disability, as defined by the rules of the department of education. If a child requiring special education reaches the age of twenty-one during an academic year, the child may elect to receive special education services until the end of the academic year.

All references in this policy or any other policy to special education continuing "to age twenty-one" shall be construed to include children who elect to finish the school year in which they turn twenty-one and to include children for whom additional special education is ordered pursuant to the terms of Iowa Code § 256B.8.

Current State law mandates the availability of a free appropriate public education for all children with disabilities from birth to 21 years of age, including children requiring special education who have been suspended or expelled from school.

Individuals who have been convicted as adults and are incarcerated in adult prisons are not entitled to FAPE if prior to their incarceration they were not identified as eligible individuals and or did not have IEPs. This exception does not apply to incarcerated youth, ages 18 to 21, who had an IEP in their most recent educational placement but had left school or who identified as eligible individuals but did not have an IEP in the most recent educational setting. There are special factors related to services for incarcerated youth outlined in Iowa Rules of Special Education.

Services are provided to any individual with exceptional needs even if he or she is passing from grade to grade if the instruction or service is needed to benefit from instructional programs. The determination that such a child is eligible for services must be made on an individual basis by a group of individuals from the child's LEA and area education agency (AEA).

Public agencies in Iowa are not required to provide FAPE to the following children and youth.

1. Youth with disabilities who reach the age of 21.
2. Students who have graduated from high school with a regular high school diploma. Graduation from high school with a regular high school diploma constitutes a change in placement, requiring written prior notice. However, students who have not graduated with a regular diploma continue to be eligible in Iowa to receive FAPE if they are under the age of entitlement.

The delivery of required special education and related services to children with disabilities involves the SEA, AEAs and LEAs, and other public agencies in this State with responsibilities for the delivery of educational services to children with disabilities. The educational programs provided children with disabilities by all agencies are under the general supervision and conform to educational standards established by the Department of Education.

The State of Iowa has established rules and regulations governing the delivery of special education and related services to children with disabilities in the school systems of the State. These rules establish basic requirements for the establishment and maintenance of appropriate instructional and support service programs. They also address FAPE for children suspended or expelled from school. Additionally, standards relating to the licensure of all instructional and support service personnel have been established and approved by the Iowa Board of Educational Examiners. The SEA has the primary responsibility for auditing compliance by all agencies with the provisions of the aforementioned rules and standards.

Privately operated schools and privately operated residential schools providing educational services for children with disabilities are subject to program approval by the SEA and must comply with all applicable rules and standards relating to the delivery of educational services.

The amendments to the IDEA regulations that became effective on December 31, 2008, are the policy of the State of Iowa.

It is the policy of the State of Iowa that, should federal statute or regulation be amended to add a mandatory provision not contained in these policies or add a new prohibition of an activity required or permitted by these policies, these policies shall be construed to be consistent with the new federal statute or regulation, pending amendment of these policies.