



EDUCATION		
4420.01 Free Appropriate Public Education (FAPE)	Effective	01/31/2019
	Replaces	4420.01
	Dated	07/30/2008

A Free Appropriate Public Education (FAPE) shall be available to all juveniles within the Arizona Department of Juvenile Corrections including those with disabilities who have been suspended or expelled from school as provided for in [300.530(d)] of the IDEA regulations

AUTHORITY	
Arizona Revised Statutes (A.R.S.)	
41-2804	Duties and Powers of Director
15-761	Definitions
15-763.01	Surrogate parent; notification; appointment
15-764 (A)(5)	Powers and duties of the school district governing board or county school superintendent
15-765	Special Education in rehabilitation, corrective or other state and county supported institutions, facilities or homes
15-766	Evaluation of child for placement in special education program; due process hearing procedures
15-828 (F-G)	Birth certificate; school records; exception
15-1181	Definitions
Code of Federal Regulations	
34 CFR 300	Education
Arizona Administrative Code (AAC)	
R7-2-401	Special Education Standards for Public Agencies Providing Educational Services
R7-2-405	State Board of Education

DEFINITIONS

1. **Free Appropriate Public Education (FAPE)**- 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 state education;
 - c. Include elementary school or secondary school education; and
 - d. Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§ 300.340 and 300.350

2. **Public Expense**- means that ADJC either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the student, consistent with FAPE [§§ 300.502 (a)(3), 300.301]

PROCEDURES

1. **Free Appropriate Public Education (FAPE): [34 CFR §§ 300.17]** The term “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 Arizona Department of Education;
 - c. Include elementary school or secondary school education; and
 - d. Are provided in conformity with an Individualized Education Program (IEP) that meets the requirements of [§§300.320-300.324].

2. **Free Appropriate Public Education (FAPE): [34 CFR §300.101]**
 - a. The **Public Education Agency (PEA)** shall:
 - i. Make FAPE available to each student with disabilities who is in need of special education and related services even though the student has not failed or been retained in a course or grade, and is advancing from grade to grade;
 - (1) Ensure, that FAPE be made available to students with limited English Proficiency that has or may have a disability.
 - ii. The decision that a student is eligible for special education must be made on an individual basis by the ADJC Special Education Director and the IEP Team. [§300.101(c)(2)]
 - b. The **PEA** shall:
 - i. Provide services in accordance with [§300.101(a)] and make services available for a student with a disability who has been removed from his or her current educational placement for disciplinary reasons for more than 10 school days; [34 CFR §300.530(d)] and
 - ii. Refer any student aged 3-5 who are suspected of having a disability to the appropriate Unified or Elementary District for evaluation, and if appropriate, for services [§300.101(c)].

3. **Exception to FAPE for Certain Ages: [34 CFR §300.102]** The obligation to make FAPE available to all students with disabilities does not apply with respect to the following:
 - a. Students ages 3, 4, 5, 18, 19, 20, 21 in a state to the extent that its application to those students would be inconsistent with state law or practice, or the order of any court, respecting the provision of public education to students in one or more of those ages;
 - b. Students aged 18 through 21 to the extent that state law does not require that special education and related services under Part B of the Act be provided to students with disabilities who, in the last educational placement prior to incarceration as an adult in a correctional facility:
 - i. Were not actually identified as being a student with a disability under [34 CFR §300.8]; and
 - ii. Did not have an IEP under Part B of the Act.
 - c. The exception in number (2) of this section does not apply to students with disabilities, aged 18 through 21, who:
 - i. Had been identified as a student with a disability and had received services in accordance with an IEP, but who left school prior to their incarceration; or
 - ii. Did not have an IEP in their last educational setting, but who had actually been identified as a student with a disability under [§300.8].
 - d. Students with disabilities who have graduated from high school with a regular high school diploma:
 - i. The exception in number (4) of this section does not apply to students who have graduated but have not been awarded a regular high school diploma;
 - ii. Graduation from high school with a regular high school diploma constitutes a change in placement, requiring written prior notice in accordance with [300.503]; and

- iii. As used in numbers (4)(a) through (4)(c) of this section, 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 general educational developmental credential (GED) [34 CFR §300.102(3)(iv)].

4. Assistive Technology: [34 CFR §§ 300.105]

- a. The **PEA** shall ensure:
 - i. That assistive technology devices or services, or both, is made available to a student with disability if required as part of:
 - (1) Special Education;
 - (2) Related services; or
 - (3) Supplementary aids and services.
 - ii. On a case-by-case basis, the **PEA** will ensure the use of school-purchased assistive technology devices in a student's home or other setting if the student's IEP Team determines that the student needs access to those devices in order to receive FAPE.

5. Extended School Year Services (ESY): [34 CFR 300.106]

- a. The **PEA** shall ensure:
 - i. That extended school year services are available as necessary to provide FAPE to students with disabilities:
 - (1) ESY services shall be provided only if a student's IEP team determines, in accordance with 300.320-300.324, that the services are necessary for the provision of FAPE; and
 - (2) Services shall not be:
 - (a) Limited to a particular category of disability; or
 - (b) Unilaterally limited to the type, amount, or duration of services.
- b. The ESY services that are provided to a student with a disability shall:
 - i. Be provided beyond the normal school year of the agency;
 - ii. Be provided in accordance with the student's IEP;
 - iii. Be provided at no cost to the parents of the child; and
 - iv. Meet the standards of the State.
- c. ESY services shall be documented through IEP quarterly progress monitoring and service logs.

6. Non-academic Services: [34 CFR §300.107]

- a. The **PEA** shall:
 - i. Afford students with disabilities an equal opportunity for participation and extracurricular services and activities including, as determined appropriate and necessary by the student's IEP Team, the provision of supplementary aids and services; and
 - ii. Ensure non-academic and extracurricular services and activities may include: Counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by PEA referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the agency and assistance in making outside employment available.

7. Physical Education: [34 CFR §300.108]

- a. The **PEA** shall:
 - i. Make regular physical education services available to students with disabilities to the same extent that the PEA provides those services to students without disabilities, unless the student needs specially designed physical education as prescribed in the students' IEP; and
 - ii. Special Education is prescribed in a student's IEP; the PEA will provide those services, either directly or through other public or private programs.

8. Program Options: [34 CFR §110]

- a. The **PEA** shall ensure that students with disabilities have available to them the variety of education programs and services that are available to nondisabled students including art, music, industrial arts, consumer, and vocation education.

9. Routine Checking Of Hearing Aids And External Components Of Surgically Implanted Medical Services: [34 CFR §300.113]

- a. The **PEA** shall:
 - i. Ensure that the hearing aids worn in school by students with hearing impairments are functioning properly; and
 - ii. Ensure the external components of surgically implanted medical devices (e.g. cochlear implants) are functioning properly, except that ADJC will not be responsible for any post-surgical maintenance, programming or replacement of any component, external or internal, of the medical device.

Signature Date

01/29/2019

Approved by

Original Signature on File

Dr. Kim Eger, Education Superintendent

Signature Date

01/30/2019

Approved by

Original Signature on File

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