



"Every Student, Every Day"

Memorandum

Date: November 19, 2018

To: Board of Directors of the Pendleton School District 16R

From: Director of Special Programs Julie Smith

Subject: Policy IGBAJ Special Education-Free Appropriate Public Education (FAPE). First Reading.

Background: The U.S. Supreme Court ruling on *Endrews v. Douglas County School District* changed legal interpretations of the IDEA requirement for "Educational Benefit" and Free and Appropriate Public Education (FAPE) for students with disabilities. Oregon Legislators revised Senate Bill 20 to ensure students who receive a modified diploma have the right to return and receive general and special education services through the age of 21.

Proposal: The Revised Policy aligns language around advancing from grade to grade, removes modified diploma as ending FAPE requirements for school districts and adds "high school" reference to diploma.

Recommendation: Policy first reading. No recommendations at this time.

Motion: Policy first reading. No motion at this time.

Special Education - Free Appropriate Public Education (FAPE)

1. The district 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 are advancing from grade to grade;
 - b. Who have not graduated with a regular **high school** 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 district determines residency in accordance with Oregon law.
3. The district 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 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 district 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 district 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 district 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 - 2065

OAR 581-015-2050

OAR 581-015-2075

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, 300.300 (2017).