

A FREE APPROPRIATE PUBLIC EDUCATION (FAPE) FOR STUDENTS WITH DISABILITIES



WHAT IS A FREE APPROPRIATE PUBLIC EDUCATION (FAPE)?

- A free appropriate public education (FAPE) provides eligible students with disabilities the special education and related services they need to benefit from their special education program
- FAPE is determined on an individual basis
- FAPE requires that educational and related services:
 - are provided at public expense, under public supervision and direction, without charge to the student or family
 - meet the standards of the state educational agency
 - include an appropriate preschool, elementary, or secondary school education
 - are provided in accordance with the Individualized Educational Program (IEP)
- Students with disabilities must be educated in the least restrictive environment (LRE)
- Schools may be required to provide supplementary aids and services so the student has access to the general education classroom with typical peers
- For more information on LRE and supplementary aids and services see the “Least Restrictive Environment” FAQ

WHAT LAWS PROTECT A STUDENT’S RIGHT TO FAPE?

- The federal Individuals with Disabilities Education Act (IDEA) is the primary law, however Section 504 of the Rehabilitation Act also requires FAPE, but defines it slightly differently as:
 - guaranteeing a student with disabilities *equal access* to educational services
 - providing regular or special education and related services to meet the individual educational needs of children with disabilities *as adequately as* the needs of children without disabilities are met
 - Note that Section 504 only applies when a school receives federal funding

WHAT IF I BELIEVE MY CHILD IS NOT GETTING A FAPE?

- There are complaint procedures available through the Colorado Department of Education (CDE), including mediation, a written complaint, or a due process hearing – learn more at www.cde.state.co.us
- The Department of Education Office for Civil Rights at (303) 844-5695 can also provide assistance

WHAT TYPE OF PROGRAM IS THE SCHOOL DISTRICT REQUIRED TO PROVIDE?

- School districts must comply with the procedural requirements of the IDEA by providing
 - a Procedural Safeguards Notice to parents at least once per year – it must also be provided when a parent requests it, when a complaint is filed, or when the student is being referred for an initial evaluation to determine eligibility for special education services
 - prior written notice to parents when the school district takes or refuses to take certain actions
 - for additional information on procedural requirements of the IDEA, see the Colorado Department of Education website
- The IEP must address the child's *unique* needs as identified by evaluations, observation, and the child's educational team
- The student's services must be coordinated to ensure the child is able to make adequate progress in the educational setting
- Note that FAPE requires that the quality of educational services provided to students with disabilities be equal to those provided to non-disabled students
- Students with disabilities must have access to nonacademic and extracurricular activities equal to those provided to their peers without disabilities – including reasonable accommodations if needed

***** DISCLAIMER: This is not intended as legal advice, but rather for informational purposes only. Always consult a lawyer if you have questions about your legal rights. *****

References:

The Everyday Guide to Special Education Law: A Handbook for Parents, Teachers, and Other Professionals, by Randy Chapman, Esq.

Randy Chapman's Ability Law Blog, <http://randychapman.wordpress.com/>

Disability Law Colorado – www.disabilitylawco.org

Colorado Department of Education – www.cde.state.co.us