

## **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](http://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](http://www.disabilitylawco.org)

Colorado Department of Education – [www.cde.state.co.us](http://www.cde.state.co.us)