

Priority Area 3: Free Appropriate Public Education (FAPE)



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Priority Area 3: Free Appropriate Public Education (FAPE)

Under the Individuals with Disabilities Education Act (IDEA), each student eligible for special education is entitled to a Free Appropriate Public Education (FAPE). This means that each student must receive individualized special education and related services designed to meet their unique needs and enable them to make educational and functional progress. Under the IDEA, every child should have the opportunity to master challenging objectives. Each student's IEP, therefore, must be reasonably calculated to enable a child to make progress appropriate in light of their circumstances. Regardless of the student's disability category, location, or service delivery method, each LEA is obligated to enable the provision of FAPE to every student experiencing a disability.

FAPE encompasses two major critical elements:

1. **Procedural:** Adhering to the required processes and procedures, including the development, review, and revision of IEPs, while ensuring parental participation and legal safeguards.
2. **Substantive:** Ensuring the content and quality of special education services are tailored to meet the student's unique needs and promote meaningful progress.

Within the substantive element of FAPE, reviewers can further consider:

- a. **Implementation:** Effectively delivering the services and supports outlined in the IEP, ensuring consistency and fidelity.
- b. **Capacity to Implement:** Ensuring the LEA has the necessary resources, training, and infrastructure to deliver the services effectively.

There are some procedural aspects of FAPE, such as the provision of procedural safeguards, assessed within this priority area, but this priority area primarily focuses on the substantive aspects of FAPE. Procedural elements are primarily assessed in other priority areas, including the IEP Development and Secondary Transition priority areas. Part of the standards addressed in this priority area enable the completion of an educational benefit review, which can help the reviewer determine if an IEP is reasonably calculated to provide educational benefit by comparing the current IEP with the previous two IEPs.

Free

Appropriate

Public

Education

By using this protocol, the LEA will respond to a series of questions to explore whether it is meeting critical components related to free and appropriate public education. If noncompliance is found in this area, it is recommended that the LEA correct these findings as soon as possible. In all cases, noncompliance must be corrected no more than one year from the ODE's written notification. Additionally, when noncompliance could cause a student to be denied 10 or more instructional days, the LEA must correct according to the shortened timeline outlined in OAR 581-015-2015.

Free Appropriate Public Education (FAPE)

RECORD REVIEW ITEM: FAPE-1 - 34 CFR § 300.504 & 300.503(c)

| Record Review Item | Potential Documentation |
|--|---|
| <p>Procedural Safeguards Provided:</p> <p>Procedural Safeguards were provided to the parent and/or adult student at least once per school year and were provided in understandable language.</p> | <ul style="list-style-type: none">• IEP document• Meeting notes• Prior Written Notice• Other places where noted/documented |
| Evidence of Compliance | |
| <p><input type="checkbox"/> YES</p> <p>Mark YES if there is evidence the procedural safeguards were provided at least once per school year and were provided in understandable language.</p> | <p><input type="checkbox"/> NO</p> <p>Mark NO if there is no evidence that the parent and/or adult student were provided a copy of the procedural safeguards at least once per school year and/or it were not provided in understandable language.</p> |

RECORD REVIEW ITEM: FAPE-2 - 34 CFR § 300.301 & 300.303

| Record Review Item | Potential Documentation | | |
|---|---|--|--|
| <p>Evaluation Timeline Met:</p> <p>The initial or most recent evaluation was conducted within the required timeline.</p> | <ul style="list-style-type: none"> • Consent for evaluation • Prior Written Notice About Evaluation • Current eligibility form • Previous eligibility form • IEP cover page • Other relevant sources of information | | |
| Evidence of Compliance | | | |
| <p><input type="checkbox"/> YES</p> <p>Mark YES if there is evidence that one of the following are true:</p> <p>A. the initial evaluation was completed:</p> <ul style="list-style-type: none"> • within 60 school days from the date of written parent consent; or • in more than 60 school days from the date of written parent consent, but with an appropriate exception documented in the student's educational record; or <p>B. the most recent reevaluation was completed:</p> <ul style="list-style-type: none"> • within the past three years, within 60 school days from the date of written parent consent, and within the expiration date of the previous eligibility; or • within the past three years, in more than 60 school days from the date of written parent consent or not within the expiration date of the previous eligibility, but with an appropriate exception documented in the student's educational record; or • within the past three years, within the expiration date of the previous eligibility, and with documentation | <p><input type="checkbox"/> NO</p> <p>Mark NO if there is evidence that the initial or most recent evaluation was completed outside of the appropriate timeline by the current LEA, and no appropriate exceptions applied and/or were documented.</p> | <p><input type="checkbox"/> NOT APPLICABLE</p> <p>Mark N/A if the evaluation was the responsibility of another LEA to complete the evaluation within the required timeline, and the evaluation was completed prior to the student enrolling in the receiving district.</p> | |

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| of reasonable efforts to obtain parent consent. | | |
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RECORD REVIEW ITEM: FAPE-3 - 34 CFR § 300.304(b)(1) & 300.304(2)

| Record Review Item | Potential Documentation |
|---|--|
| <p>Variety of Tools and Strategies Used for Evaluation:</p> <p>As part of the initial or most recent evaluation, the IEP team used a variety of assessment tools and strategies, including existing information and information provided by the parent, to gather relevant functional, developmental, and academic information about the student, to determine if the student is eligible, or continues to be eligible, for special education services.</p> | <ul style="list-style-type: none"> • Statement of eligibility form • Evaluation reports • Prior Written Notice • Eligibility meeting notes • Parental input • Teacher input |
| Evidence of Compliance | |
| <p><input type="checkbox"/> YES</p> <p>Mark YES if there is evidence that all the following are true:</p> <ul style="list-style-type: none"> • a variety of assessment tools and strategies, including existing information and information provided by the parent, was used to gather data and other relevant information about the student; and • no single measure or assessment was used as the sole criterion for determining if the student is eligible, or continues to be eligible, for special education services. | <p><input type="checkbox"/> NO</p> <p>Mark NO if there is evidence that any of the following are true:</p> <ul style="list-style-type: none"> • limited assessment tools and strategies were used to gather data and other relevant information about the student; • a single measure or assessment was used as the sole criterion for determining if the student is eligible, or continued to be eligible, for special education services. |

RECORD REVIEW ITEM: FAPE-4 - 34 CFR § 300.323

| Record Review Item | Potential Documentation |
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| <p>All Services in IEP were Provided:</p> <p>There is evidence the student received all services as described within the most recent IEP including but not limited to specially designed instruction, related services, supplementary aids and services, and/or supports for school personnel.</p> | <ul style="list-style-type: none">• Service trackers/logs• Related Services personnel service logs• Progress reports• IEP – Present levels of academic achievement and functional performance• Meeting notes• Report/input from teacher• Training sign-in sheet• Student schedule• Teacher/service provider schedule |
| Evidence of Compliance | |
| <p><input type="checkbox"/> YES</p> <p>Mark YES if there is evidence that all services in the IEP were provided.</p> | <p><input type="checkbox"/> NO</p> <p>Mark NO if there is evidence that any services in the most recent IEP were not provided.</p> |

RECORD REVIEW ITEM: FAPE-5 - 34 CFR § 300.320(a)(3)(i)(ii)

| Record Review Item | Potential Documentation |
|--|---|
| <p>Progress was Measured and Provided as Described:</p> <p>The student's progress towards meeting annual IEP goals was measured and reported to the parents or adult student in accordance with the method and schedule provided in the IEP.</p> | <ul style="list-style-type: none">• IEP – Annual goals; progress towards goal• Progress reports |
| Evidence of Compliance | |
| <p><input type="checkbox"/> YES</p> <p>Mark YES if there is evidence that all the following are true:</p> <ul style="list-style-type: none">• the IEP indicates an appropriate method and schedule for monitoring progress toward annual goals given the student's unique needs;• progress is measured consistent with the method outlined in the IEP; and• progress reports were provided as often as indicated on the IEP. | <p><input type="checkbox"/> NO</p> <p>Mark NO if there is evidence that any of the following are true:</p> <ul style="list-style-type: none">• the IEP does not indicate an appropriate method and schedule for monitoring progress toward annual goals given the student's unique needs;• progress is not measured or is not measured consistent with the method outlined in the IEP;• progress reports were not provided as often as indicated in the IEP. |

RECORD REVIEW ITEM: FAPE-6 - 34 CFR § 300.324(b)

| Record Review Item | | Potential Documentation |
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| Goals Changed Over Last 3 IEPs: The student's goals have changed across the last three IEPs (current IEP and the previous two IEPs), or in the rare event that a goal is retained, the IEP includes a rationale that describes the student's circumstances that led to the retention of the goal. | | <ul style="list-style-type: none">• IEP – Annual academic and functional goals of current and previous (2 years)• IEP – Present levels of academic achievement and functional performance• Progress reports• Meeting notes• Prior Written Notice |
| Evidence of Compliance | | |
| <input type="checkbox"/> YES Mark YES if there is evidence that each goal was reviewed each year, the team considered adjustments to each goal based on the student's individual circumstance, and only retained a goal in rare circumstances that includes a rationale for retaining the goal. | <input type="checkbox"/> NO Mark NO if there is evidence that a goal or multiple goals are repeated across years and the team did not consider adjustments to goals based on the student's individual circumstances. | <input type="checkbox"/> NOT APPLICABLE Mark N/A if there is evidence this is the student's initial IEP developed within the past 364 days or if this is the first IEP conducted by the LEA due to move-in. |

RECORD REVIEW ITEM: FAPE-7 - 34 CFR § 300.324(b)

| Record Review Item | Potential Documentation | | |
|---|---|---|--|
| <p>Student Made Progress on Goals:</p> <p>Across the last three IEPs (i.e., the IEP currently in effect and the two prior), there is evidence that:</p> <ul style="list-style-type: none"> the student’s measurable annual goals were being achieved; or the IEP team reviewed and, if determined appropriate, revised the IEP to address any lack of expected progress toward the annual goals and in the general education curriculum. | <ul style="list-style-type: none"> IEP – Annual goals IEP – Present levels of academic achievement and functional performance IEP – amendment(s) Progress reports Progress monitoring data, e.g. reports, charts, graphs, etc. Meeting notes Prior Written Notice Parent communication logs | | |
| Evidence of Compliance | | | |
| <p><input type="checkbox"/> YES</p> <p>Mark YES if there is evidence of either of the following:</p> <ul style="list-style-type: none"> student has made progress on the current IEP’s annual goals and the previous two IEP’s annual goals; or the student did not make progress on one or more of the three most recent IEP’s annual goals; and the team addressed the lack of progress. <p>Note: If a student has had fewer than three annual IEPs, the reviewer is expected to review all evidence related to progress since the student was determined eligible, as well as any revisions for lack of progress.</p> | <p><input type="checkbox"/> NO</p> <p>Mark NO if there is evidence the student did not make progress on one or more of the three most recent IEP’s annual goals and the team did not address the lack of progress.</p> | <p><input type="checkbox"/> NOT APPLICABLE</p> <p>Mark N/A if there is evidence that this is the student’s initial IEP and a progress reporting opportunity has not occurred.</p> | |

RECORD REVIEW ITEM: FAPE-8 - 34 CFR § 300.323(d)

| Record Review Item | Potential Documentation |
|---|---|
| <p>IEP is Accessible to Staff:</p> <p>The student's IEP is accessible to all staff who are responsible for its implementation, and they have been informed of their specific responsibilities related to implementing the student's IEP as well as the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP.</p> | <ul style="list-style-type: none">• Meeting agendas• Staff training materials• Emails to staff and providers• IEP meeting notes• Records of consultation between educators and providers• IEP system logs to show educator/provider access• Other relevant documentation |
| Evidence of Compliance | |
| <p><input type="checkbox"/> YES</p> <p>Mark YES if there is evidence that all the following are true:</p> <ul style="list-style-type: none">• all staff who are responsible for implementing the student's IEP has access to the IEP;• all staff who are responsible for implementing the student's IEP has been informed of their specific responsibilities related to implementing the student's IEP; and• all staff who are responsible for implementing the student's IEP has been informed of the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP. | <p><input type="checkbox"/> NO</p> <p>Mark NO if there is evidence that any of the following are true:</p> <ul style="list-style-type: none">• all staff who are responsible for implementing the student's IEP did not have access to the IEP;• all staff who are responsible for implementing the student's IEP were not informed of their specific responsibilities related to implementing the student's IEP;• all staff who are responsible for implementing the student's IEP were not informed of the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP. |

RECORD REVIEW ITEM: FAPE-9 - 34 CFR § 300.503

| Record Review Item | Potential Documentation |
|---|---|
| <p>Prior Written Notice:</p> <p>The most recent Prior Written Notice given by the LEA to the parent was provided within a reasonable time BEFORE the LEA proposed or refused to INITIATE or CHANGE the identification, evaluation, or educational placement of the student or the provision of FAPE to the student; and included all the required content in understandable language.</p> | <ul style="list-style-type: none">• Prior Witten Notice |
| Evidence of Compliance | |
| <p><input type="checkbox"/> YES</p> <p>Mark YES if there is evidence that all the following are true:</p> <ul style="list-style-type: none">• the LEA gave Prior Written Notice to the parent within a reasonable time after a decision and BEFORE IMPLEMENTATION of the decision;• the Prior Written Notice included all of the required content listed below:<ul style="list-style-type: none">○ a description of the action proposed or refused;○ an explanation of why the school LEA proposes or refuses the action;○ a description of each evaluation, assessment, record, or report the LEA used as the basis for the decision;○ sources for parents to contact for assistance in understanding their rights;○ a description of other options considered and why they were rejected; and | <p><input type="checkbox"/> NO</p> <p>Mark NO if there is evidence that any of the following are true:</p> <ul style="list-style-type: none">• the Prior Written Notice was NOT provided after a decision and BEFORE IMPLEMENTATION of the decision;• the Prior Written Notice did not include all of the required content;• the Prior Written Notice was not provided in understandable language. |

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| <ul style="list-style-type: none">○ a description of any other factors relevant to the decision; and● the Prior Written Notice was provided in understandable language as defined below:<ul style="list-style-type: none">○ understandable by the general public; and○ provided in the native language of the parent or other mode of communication used by the parent. | |
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Individual Student File Review Form

| Student Information | | | | |
|---------------------|---|---|---|-----|
| Student Name: | | | | |
| Student SSID: | | | | |
| Student DOB: | | | | |
| Student Disability: | | | | |
| Grade: | | | | |
| IEP Start Date: | | | | |
| IEP End Date: | | | | |
| FAPE | | | | |
| FAPE 1 | Procedural Safeguards Provided | Y | N | |
| FAPE 2 | Evaluation Timeline Met | Y | N | N/A |
| FAPE 3 | Variety of Tools and Strategies Used for Evaluation | Y | N | |
| FAPE 4 | All Services in IEP were Provided | Y | N | |
| FAPE 5 | Progress was Measured and Provided as Described | Y | N | |
| FAPE 6 | Goals Changed Over Last 3 IEPs | Y | N | N/A |
| FAPE 7 | Student Made Progress on Goals | Y | N | N/A |
| FAPE 8 | IEP is Accessible to Staff | Y | N | |
| FAPE 9 | Prior Written Notice | Y | N | |
| Comments | | | | |
| | | | | |

Free Appropriate Public Education (FAPE) – Summary Sheet

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| INFORMATION | |
| LEA Name: | Required Sample Size: |

Total number of student files reviewed is indicated below.

| Elementary School Students | Middle School Students | High School Students | Out of District Placements | Grand Record Total |
|----------------------------|------------------------|----------------------|----------------------------|--------------------|
| | | | | |

List SSIDs of the targeted sample of student files. Enter “Yes” if evidence was found. Enter “No” if no evidence was found. Enter “N/A” if the item is not applicable to the selected student. No item may be left blank.

| SSID | FAPE-1 | FAPE-2 | FAPE-3 | FAPE-4 | FAPE-5 | FAPE-6 | FAPE-7 | FAPE-8 | FAPE-9 |
|------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
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Plan of Correction – Identify what will be done and when to correct any individual or systemic noncompliance for each item where the LEA found noncompliance during the district review process.

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FAPE Focus Group Questions

| FAPE | School/District Staff | Parents | Students | Community |
|--|-----------------------|---------|----------|-----------|
| • Are IEPs being implemented as written? | X | X | X | X |
| • Who is benefitting from the IEP process, and the special education services and related services determined appropriate by teams? | X | X | X | X |
| • Is there alignment between the needs identified within the present levels, the goals, accommodations and services? | X | X | X | X |
| • How is individual student progress monitored on IEP goals and services? | X | | | |
| • For students failing one or more subjects, are there patterns in IEP implementation that appear to be systemic and discrepant? | X | X | X | X |
| • Where are the challenges with IEP implementation within our district or buildings? | X | | | |
| • If there are FAPE concerns, what is the district's typical process to address? | X | X | X | X |
| • What issues related to IEP progress monitoring and educational benefit have caused contention in your district that may have resulted in dispute resolution? | X | X | | X |