

Kansas Administrative Regulations

State Department of Education

Article 40.—Special Education

91-40-2. FAPE.

(a) (1) Each agency shall provide FAPE in accordance with K.S.A. 72-966 and amendments thereto, and with this article.

(2) Each agency's obligation to provide FAPE shall extend to exceptional children residing on Indian reservations, unless these children are provided FAPE by the secretary of the interior under federal law.

(b)(1) Each agency shall make FAPE available to each child with a disability residing in its jurisdiction beginning not later than the child's third birthday.

(2) An IEP or IFSP shall be in effect by the child's third birthday, but, if that birthday occurs during the summer when school is not in session, the child's IEP team shall determine the date when services will begin.

(3) If a child is transitioning from early intervention services provided under part C of the federal law, the agency responsible for providing FAPE to the child shall participate in transition planning conferences for the child.

(c) An agency shall not be required to provide FAPE to any child with a disability who is eligible for preschool services under the federal law but whose parent has elected to have the child receive early intervention services under the law.

(d)(1) Each agency shall make FAPE available to any child with a disability even though the child has not failed or been retained in a course or grade and is advancing from grade to grade.

(2) The determination of whether a child who is advancing from grade to grade is a child with a disability shall be made on an individual basis in accordance with child find activities and evaluation procedures required by this article.

(e) Each agency shall provide special education and related services based upon the child's unique needs and not upon the child's area of exceptionality.

(f) An agency shall not be required to provide FAPE to a student aged 18 through 21 who meets the following criteria:

(1) Is incarcerated in an adult correctional facility; and

(2) in the student's last educational placement before incarceration, was not identified as a child with a disability and did not have an IEP.

(g) (1) An agency shall not be required to provide FAPE to any exceptional child who has graduated from high school with a regular high school diploma.

(2) Each exceptional child shall be eligible for graduation from high school upon successful completion of state and local board requirements and shall receive the same graduation recognition and diploma that a nonexceptional child receives.

(3) The IEP of an exceptional child may designate goals other than high school graduation.

(4) When an exceptional child enters high school, progress toward graduation shall be monitored annually and recorded on an official transcript of credits.

(5) As used in this subsection, the term "regular high school diploma" shall mean the same diploma as that awarded to nonexceptional students and shall not include any certificate of completion or any other certificate, or a general educational development credential (GED).

(Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-966; effective May 19, 2000; amended May 4, 2001; amended March 21, 2008.)

***** Authenticated Kansas Administrative Regulation *****