

Kansas Administrative Regulations

State Department of Education

Article 40.—Special Education

91-40-3. Ancillary FAPE requirements.

(a) Each agency shall ensure that children with disabilities have available to them the same variety of educational programs and services that are available to nondisabled children served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education.

(b) (1) Each agency shall provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities, including the provision of supplementary aids and services as determined to be necessary by the child's IEP team.

(2) Nonacademic and extracurricular services and activities shall include the following:

- (A) Counseling services;
- (B) athletics;
- (C) transportation;
- (D) health services;
- (E) recreational activities;
- (F) special interest groups or clubs sponsored by the agency;
- (G) referrals to agencies that provide assistance to individuals with disabilities; and
- (H) employment of students, including both employment by the agency and assistance in making outside employment available.

(c) (1) Each agency shall make physical education services, specially designed if necessary, available to every child with a disability, unless the agency does not provide physical education to any children who are enrolled in the same grade.

(2) Each child with a disability shall be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless either of the following conditions is met:

(A) The child is enrolled full-time in a separate facility.

(B) The child needs specially designed physical education, as prescribed in the child's IEP.

(d) (1) Each agency shall ensure that assistive technology devices or assistive technology services, or both, are made available to a child with a disability if required as a part of the child's special education or related services, or the child's supplementary aids and services.

(2) Each agency, on a case-by-case basis, shall allow the use of school-purchased assistive technology devices in a child's home or in other settings if the child's IEP team determines that the child needs access to those devices at home or in other settings in order to receive FAPE.

(e) (1) Each agency shall ensure that extended school year services are available as necessary to provide FAPE to a child with a disability.

(2) An agency shall be required to provide extended school year services only if a child's IEP team determines, on an individual basis, that the services are necessary for the provision of FAPE to the child.

(3) An agency shall neither limit extended school year services to particular categories of disabilities nor unilaterally limit the type, amount, or duration of those services.

(f) (1) Each agency shall ensure that hearing aids worn in school by children with hearing impairments or deafness are functioning properly.

(2) Each agency shall ensure that the external components of surgically implanted medical devices of children with disabilities are functioning properly. However, an agency shall not be responsible for the maintenance, programming, or replacement of any surgically implanted medical device or any external component of the device.

(g) Each gifted child shall be permitted to test out of, or work at an individual rate, and receive credit for required or prerequisite courses, or both, at all grade levels, if so specified in that child's individualized education program.

(h) Any gifted child may receive credit for college study at the college or high school level, or both. If a gifted child chooses to receive college credit, however, the student shall be responsible for the college tuition costs.

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

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