



Pennsylvania  
Department of Education

**COMMONWEALTH OF PENNSYLVANIA**

**DEPARTMENT OF EDUCATION**

**INDIVIDUALS WITH DISABILITIES EDUCATION ACT**

**PART B**

**Model Local Educational Agency (LEA) Policies and  
Procedures**

## **§ 300.101 – Free appropriate public education (FAPE)**

The Commonwealth of Pennsylvania (PA) ensures that all children with disabilities aged 3 years to 21 years of age residing in PA have the right to a free appropriate public education (FAPE), including children with disabilities who have been suspended or expelled from school. There is an age-related exception under the provision of 34 CFR § 300.102(b). CFR §§ 300.101—300.176 The Commonwealth of Pennsylvania ensures that all children with disabilities ages 3 years through 21 years residing in Pennsylvania have the right to a FAPE, including children with disabilities who have been suspended or expelled from school. The commonwealth shall make FAPE available to a child with a disability eligible under IDEA until the student turns 22. Notwithstanding any other provision of law to the contrary, a child eligible under IDEA who attains the age of twenty-one (21) years may remain enrolled in their resident district free of charge until their 22nd birthday.

It is the policy of PDE that a free appropriate public education is available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in § 300.530(d). FAPE is made available to each eligible child residing in the State beginning no later than the child's third birthday. Additionally, an IEP or an IFSP is in effect for the child by that date, in accordance with § 300.323(b). Moreover, if a child's third birthday occurs during the summer, the child's IEP Team shall determine the date when services under the IEP or IFSP will begin. The determination that a child is eligible under IDEA-B, is made on an individual basis by the group responsible within the child's LEA for making eligibility determinations.

It is PDE policy that public agencies must adhere to state and federal regulations regarding disciplinary removals. Notwithstanding the requirements incorporated by Chapter 14 and Chapter 711 which adopt by reference 34 CFR §§ 300.530—300.537 (relating to authority of school personnel; and change of placement because of disciplinary removals), a disciplinary exclusion of a student with a disability for more than 15 cumulative school days in a school year will be considered a pattern so as to be deemed a change in educational placement. A removal from school is a change of placement for a student who is identified with an intellectual disability, except if the student's actions are consistent with 34 CFR §§ 300.530—300.535 (relating to authority of school personnel; determination of setting; appeal; placement during appeals; protections for children not determined eligible for special education and related services; referral to and action by law enforcement; and judicial authorities).

PDE policy ensures FAPE is available to any child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.

### **§ 300.101 Authority and/or Responsibility**

22 Pa. Code § 14.102(a)(1)(x) and  
(xxxii) 22 Pa. Code § 711.3(b)(3)(9) and  
(29)