**Section 226.50 Requirements for a Free Appropriate Public Education (FAPE)**

A "free appropriate public education ("FAPE")" as defined at 34 CFR 300.17, must be made available by school districts to children with disabilities in accordance with 34 CFR 300.101 through 300.103, unless otherwise specified in this Section.

a) Transfer Students

Provision of FAPE to students who transfer into a local school district shall be made in accordance with the requirements of 20 U.S.C. 1414(d)(2)(C). The additional requirements of this subsection (a) shall also apply.

1) In the case of an eligible student transferring into a district from another district within Illinois, when the new district obtains a copy of the student's IEP before or at the time the child is presented for enrollment:

A) The district may adopt the IEP of the former local school district without an IEP meeting if:

i) the parents indicate, either orally or in writing, satisfaction with the current IEP; and

ii) the new district determines that the current IEP is appropriate and can be implemented as written.

B) If the district does not adopt the former IEP and seeks to develop a new IEP for the child, within ten days after the date of the child's enrollment the district must provide written notice to the parent, including the proposed date of the IEP meeting, in conformance with Section 226.530. While the new IEP is under development, the district shall implement services comparable to those described in the IEP from the former district.

2) If the new school district does not receive a copy of the child's current IEP or a verbal or written confirmation of the requirements of that IEP from the previous school district when the child is presented for enrollment, the child shall be enrolled and served in the setting that the receiving district believes will meet the child's needs until a copy of the current IEP is obtained or a new IEP is developed by the school district.

A) In no case shall a child be allowed to remain without services during this interim.

B) The new district shall request the student's records from the sending district or school by the end of the next business day after the date of enrollment.

C) No later than ten days after expiration of the time allotted under Section 2-3.13a of the School Code [105 ILCS 5/2-3.13a] for the sending district or school to forward the child's records, the new district shall provide written notice to the parent of an IEP meeting for the purpose of developing a new IEP, unless the sending district's or school's IEP arrives before this time elapses, the student has transferred from a district within Illinois, and the new district adopts the previously held IEP.

b) Jurisdictional Disputes

Each school district is responsible for ensuring that no eligible child for whom services are sought is denied FAPE due to jurisdictional disputes among Illinois agencies. Provision of FAPE to such a student shall not preclude a district from seeking repayment for costs incurred from any other school district or entity that is determined responsible for such costs.

c) Eligibility; Graduation or Completion of Program

1) An eligible student who requires continued public school educational experience to facilitate that student's integration into society shall be eligible for such services through age 21. If the eligible student reaches the age of 22 during the school year, the student is eligible for such services through the end of the school year.

2) The provision of FAPE is not required with respect to a student with a disability who has graduated with a regular high school diploma.

3) A student with a disability who has fulfilled the minimum State graduation requirements set forth in Section 27-22 of the School Code [105 ILCS 5/27-22] shall be eligible for a regular high school diploma.

A) If the student's individualized education program prescribes special education, transition planning, transition services, or related services beyond that point, issuance of that diploma shall be deferred so that the student will continue to be eligible for those services.

B) If the student is to receive a regular high school diploma, at least one year prior to the anticipated date of its issuance, both the parent and the student shall receive written notification in conformance with the requirements of 34 CFR 300.503 that eligibility for public school special education services ends following the granting of a diploma and that the parent (or the student, if Section 226.690 applies) may request an IEP meeting to review the recommendation that the student receive a regular diploma.

4) Students who have participated in a graduation ceremony but have not been awarded regular high school diplomas continue to be eligible to receive FAPE through age 21. If the student reaches the age of 22 during the school year, the student is eligible for such services through the end of the school year.

d) Exception for Certain Students Incarcerated as Adults

The right to receive FAPE does not extend to students from 18 through 21 or, if applicable, 22 years of age who are incarcerated and who were not identified as eligible and did not have IEPs in their educational placements immediately prior to incarceration.

(Source: Amended at 46 Ill. Reg. 6453, effective April 11, 2022)