



Guidance on Free Appropriate Public Education in the Least Restrictive Environment for Early Childhood Special Education



I. Overview

School Administrative Units (SAUs) responsible for Early Childhood Special Education (ECSE) must provide Free Appropriate Public Education (FAPE) to all eligible children ages 3–5 under IDEA Part B, Section 619. This responsibility includes ensuring access to the general education instructional environment, providing services in the least restrictive environment (LRE), and implementing an individualized education program (IEP) that meets federal and state standards.

SAUs must ensure that all components of FAPE are upheld as they design and implement ECSE programs within public Pre-K classrooms, mixed-delivery early care and education partner programs, or other appropriate early learning environments.

This guidance clarifies:

- FAPE offers for SAUs with and without universal public Pre-K
- Minimum hours of general education preschool programming
- LRE Placement and SAU funding responsibilities within a mixed delivery system
- Conditions under which a parental placement occurs
- How the mixed-delivery early care and education program partnerships and the Quality Rating and Improvement System (QRIS), Rising Stars for ME standards relate to ECSE

Definitions:

Early Care and Education Programs (ECEP)—early learning programs serving children aged birth through eight years old.

Early Childhood Special Education (ECSE)—services and supports for three- to five-year-old children with disabilities.

FAPE (IDEA § 300.17)—Under IDEA, “free appropriate public education” (FAPE) means special education and related services that:

1. Are provided at public expense, under public supervision and direction, and at no cost to the parent.
2. Meet the standards of the State Educational Agency, including the requirements of IDEA;
3. Include an appropriate early childhood education, elementary education, or secondary education in the state;
4. Are provided in conformity with an IEP that meets IDEA requirements; and

5. Include the award of credit and diploma for completion of academic requirements to the same extent as credit is awarded to students without disabilities.

General Education Program—an early learning educational program that meets the standards of the SEA, in which the majority of children in the classroom do not have a disability.

Mixed Delivery System (MDS)—refers to offerings in Early Care and Education where publicly and privately funded programs, such as Pre-K, Head Start, and other childcare options, are offered through a variety of settings and providers. These settings can include licensed center-based childcare programs, licensed family childcare in homes, public schools, and community-based organizations.

Quality Rating and Improvement System (QRIS)—refers to the system that utilizes standards to evaluate and document the quality of licensed early care and education programs.

Universal Pre-K—an SAU is considered to offer public Pre-K universally when it is able to provide general education preschool programming for:

- All four-year-old children (a child must be 4 years old on or before 10/15 of the school year, Rule Chapter 124), and
- All three-year-old children who are eligible for special education (Maine Department of Education (DOE) guidance)

II. FAPE Offer Requirements for Preschool-Aged Children with Disabilities

SAUs Without Universal Pre-K Programming: Participating in a Mixed Delivery System

Some SAUs operate a limited number of public Pre-K seats and are unable to serve all preschool-aged children within SAU classrooms (and do not operate a universal public Pre-K program). Enrollment may be determined by lottery, first-come, first-served, or other procedures when capacity limits apply.

In these cases, the SAU may collaborate with partners in the mixed-delivery system (Head Start, licensed early care and education private providers, and other contracted partners) to ensure access to general education preschool programming. *Note that licensed early care and education private programs may have public Pre-K seats/slots.*

If the SAU cannot guarantee a public Pre-K classroom seat, it must provide general education preschool access through either a partnership with another SAU or [a licensed community-based provider in the mixed delivery system](#), including Head Start, licensed early

care and education programs (ECEP), or other contracted partners that meet Quality Rating and Improvement System (QRIS) standards.

For children in mixed-delivery settings:

- The SAU must ensure the minimum hours of general education are met:
 - Four-year-olds: Minimum 10 hours per week (Rule Chapter 124)
 - Three-year-olds with IEPs: Minimum 6 hours per week (Maine DOE guidance)
- The classroom composition of at least 50 percent nondisabled peers.
- The SAU may provide special education and related services in the SAU program or at another designated location that meets the QRIS standards.

SAUs with Universal Pre-K Programming

An SAU is considered to offer universal public Pre-K when it provides general education preschool programming for:

- All eligible four-year-old children (Rule Chapter 124), and
- All three-year-old children who are eligible for special education if the SAU is serving this age group or if you are offering preschool programming to 3-year-olds (Maine DOE guidance)

If, during the 2026-2027 school year of the Transition to FAPE, the SAU serves all four-year-old children with disabilities but not three-year-old children with disabilities, CDS will continue to serve three-year-old children during the transition year.

In these SAUs (those serving threes and fours, and those serving only fours), the FAPE offer must reflect the general education program available to nondisabled peers, including:

- Weekly instructional hours
- School year duration of at least 175 instructional days
- Classroom composition of at least 50 percent nondisabled peers
- Access to the general education curriculum that meets public Pre-K requirements for public Pre-K
- Alignment with Chapter 124 standards for four-year-olds
- Some SAUs collaborate with mixed-delivery system (MDS) partners to support their public Pre-K programming

If the SAU partners with an MDS program to deliver public Pre-K seats, the MDS class functions as part of the SAU's universal public Pre-K system. In this model, children with disabilities must be offered the same general education programming provided to nondisabled peers.

III. Parental Placement in ECSE

Parents play an important role in decisions regarding early childhood programming. The following section clarifies how different parental decisions may intersect with SAU responsibilities in the provision of a FAPE. The special education services and the Least Restrictive Environment identified by the IEP team are factors in the consideration of what SAUs offer. These considerations apply to all SAUs with and without universal Pre-K.

Considerations for Services on the IEP

The IEP team determines the appropriate frequency, intensity, or duration of both Pre-K programming and IEP instruction needed to make progress in the early learning curriculum and ensure meaningful educational benefit. The required 6 or 10 hours may be rebutted, in the case of any individual child, by an IEP Team decision based on consideration of the following:

- An evaluation by an SAU's qualified evaluator who is not the child's provider of specially designed instruction that includes a recommendation of a greater frequency, intensity or duration of special instruction; and
- Documentation, in the child's IEP, of the modifications and supports that have been tried or considered in the specially designed instruction program of the frequency, intensity or duration considered typical for the age of the child and rejected as inappropriate, and why.

This decision must be:

- Individualized
- Data-informed
- Aligned with the IEP
- Documented in a Written Notice
- Not based solely on one IEP team member's preference or request

Considerations for Determining the LRE

Under IDEA §§300.114 - 300.117, SAUs must ensure that children with disabilities are educated in the least restrictive environment (LRE). This means that, to the maximum extent appropriate, children with disabilities learn alongside their nondisabled peers, including those living in public or private institutions or other care settings. Placement in separate classes or schools is allowed only when a child's disability is so significant that education cannot be satisfactorily achieved in a regular classroom, even with supplementary aids and services.

Parental Placement Description

A parental placement occurs when the parent enrolls the child in a program outside the SAU's FAPE offer and the SAU's approved or contracted mixed-delivery structure.

It occurs when all three of the following are met:

- The SAU has offered FAPE in accordance with state and federal guidance
- The parent declines the FAPE offer
- The parent enrolls the child in another early childhood program, including but not limited to:
 - A program below QRIS 3-Star (or 2-Star with waiver)
 - Out-of-catchment area
 - A non-contracted or a program that does not partner with the SAU
 - A private, community-based, or home-based program of the parents' choosing

SAU Responsibilities in Parental Placement

Even when the parent selects a program outside the FAPE offer, the SAU must:

- Conduct Child Find
- Convene IEP team meetings
- Create an Individual Service Plan (ISP)
- Implement an ISP plan with meaningful consultation
- Review the ISP at least annually
- Re-evaluate to determine eligibility at least every three years

The SAU is not required to:

- Pay tuition or childcare costs
- Provide staff to the parent-selected site
- Provide transportation
- Provide specially designed instruction

Citations

- Maine DOE Rule Chapter 124: Public Preschool Program Standards
- Maine DOE Rule Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty-Two
- 20-A M.R.S. §§ 4501, 4502(5)(A)
- 20 U.S.C. § 1412(a)(1), (a)(5)
- 34 C.F.R. §§ 300.101–300.117
- 34 C.F.R. § 300.148
- 34 C.F.R. § 300.39
- OSEP Letters: Neff (2013), Kleczka (1996)
- Maine Quality Rating and Improvement System (QRIS) Standards