

**281—41.101 (256B,34CFR300) Free appropriate public education (FAPE).**

**41.101(1) *General.*** A free appropriate public education must be available to all children residing in the state for the time period permitted by Iowa Code chapter 256B, including children with disabilities who have been suspended or expelled from school, as provided for in subrule 41.530(4).

**41.101(2) *FAPE for children beginning at the age of three.*** The state shall ensure that:

*a.* The obligation to make FAPE available to each eligible child residing in the state begins no later than the child's third birthday; and

*b.* An IEP is in effect for the child by that date.

*c.* If a child's third birthday occurs during the summer, the child's IEP team shall determine the date when services under the IEP will begin.

**41.101(3) *Children advancing from grade to grade.*** FAPE shall be available to any individual 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. The determination that a child described in the first sentence of this subrule is eligible under this chapter must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations.