



FAQ Update 2-1-2021 IDEA Eligibility Extended to 22

The Maine Department of Education has concluded that terminating eligibility to a free, appropriate public education at the end of the school year in which a student turns 20 pursuant to 20-A M.R.S. § 5201(1) years is inconsistent with the IDEA as interpreted by the First Circuit in *K.L. v. Rhode Island Board of Education*, 907 F.3d 639 (2018).

Frequently Asked Questions – IDEA Eligibility Extension:

What is the role of adult education during this change?

The Maine Department of Education (Maine DOE) is scheduling stakeholder meetings to begin after the February break to include adult education. Currently, SAUs elect whether they unenroll students to participate in adult education to earn an alternate diploma.

There are instances where SAUs send students to adult education who are still enrolled so they can take make up credits and try to graduate with their class. To earn an adult education diploma or take the HiSet a student must be exited from the SAU.

If a student receives a Certificate of Completion, they could come back?

Yes. Unless you are earning a high school diploma, you are basing school completion around meeting transition goals and the goals of the IEP.

When is this effective?

This went into effect as of 1/21/2021, the information was distributed among all education stakeholders.

Will this be in effect this year only or is this forever?

This change extends into the future and would not change unless IDEA or the Supreme Court offer a different interpretation of the provision of FAPE.

Will the emergency rule to do away with the age span restrictions only apply to high school?

Yes. The Maine DOE will be introducing emergency legislation to eliminate the 5-year grade age span in high school self-contained programs. The Department will provide frequent updates.

Will this apply to general education students who have not earned a diploma?

No. Currently the 22nd birthday age out only applies to special education students.

Where can we get a copy of the Administrative letter informing the field of the age out change?

The link to the letter can be found: xxxxxx

Does this mean a child can attend until June 30 of the school year or their actual 22nd birthday?

The student will age out on or before their 22nd birthday. They will not be eligible for education to the end of the school year if they turn 22 before that time.

If students are working towards a diploma and have earned all of the credits to earn a diploma, these students should graduate?

Yes. A student's eligibility is satisfied when they graduate with a regular high school diploma and therefore, they are not subject to an extension of eligibility until they turn 22, nor entitled to compensatory education.

Can you please clarify that this does not mean SAUs would be obligated to pay for adult services?

No. Adult services are offered after a student completes high school and are not a part of a free appropriate public education (FAPE). Adult services are different from adult education.

Will the 282 (Teacher of Students with Disabilities) or 286 (Teacher of Severely Impaired Students) certification be appropriate to provide services for adult students age 20-22?

Yes. A 282 or 286 certification will be appropriate to provide services up to age 22.

What about the student that has the credits for a diploma, but has not met functional goals?

Graduation credits are set by individual SAUs. If a student has met graduation criteria, then they are no longer eligible for FAPE. However, if the curriculum provided is different than for typical students, a district may be challenged by the award of a similar diploma, especially if the child has not made progress on functional goals or the goals of the transition plan.

What about students that could be in the HS setting for potential 8 years. This presents significant budget/space/programming/staffing impact?

The Maine DOE will have work groups from multiple stakeholders, including agencies that currently support adults with disabilities to understand how we can support students beyond 20.

How far do we have to go back to inform families? Is there a sample letter to send to families?

The administrative letter pertains to students who will age out during this school year (2020-2021).

What about the special education caseload?

When a special education teacher is responsible for case management, the case management caseload permitted shall be no greater than 35 students for each full-time equivalent special education teacher. The caseload limits apply to the number of children for whom a special education teacher carries the responsibility for case management (MUSER X.2.A.1). The Maine DOE Office of Special Services will consider this in a future revision of MUSER (Maine Unified Special Education Regulations).



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Should we plan a student's education until age 22 in the IEP rather than planning until a typical 4 years or possibly a 5th year?

The IEP should continue to be based on progress on functional and academic performance. These indicators should be your guide throughout high school. MUSER suggests that IEP teams consider transition planning starting in 9th grade or at 14 years of age. SAUs should continue to utilize the IEP team to determine when a child completes their education.

Could a student be in adult education program working toward a diploma and receive special education services on an IEP?

This will be discussed in the work group planned for after February break.

Will adult education have to provide special education teachers and write IEPs (Individual Education Plans)?

SAUs will maintain responsibility for IEP development and the provision of FAPE, regardless of who delivers the service to the individual.

The Maine Care reimbursement for students identified for BHDT (Behavior Health Day Treatment) and RCS (Rehabilitative Community Services) goes to age 20. Will SAUs need to pick up the day treatment cost for the age 21 school year?

Mainecare and OMS will be involved in the discussions and work groups for individual beyond age 20.

Is the proposed changed because students have fallen behind meeting their goals/Transition due to COVID?

Many of our most vulnerable students have been impacted by the transition from in person to remote learning opportunities. However, the Department did not extend eligibility of FAPE to 22 for this reason alone. The change in interpretation brings Maine in alignment with the First Circuit decision in Rhode Island and is in supports the national trend. The decision to continue education to 22 is individualized and should be considered on a case by case basis.