



STATE OF CONNECTICUT  
DEPARTMENT OF EDUCATION



**TO:** Superintendents of Schools  
Directors of Special Education and Pupil Services

**FROM:** Jessa Mirtle, Legal Director  
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**DATE:** September 4, 2020

**SUBJECT:** Update Regarding IDEA Eligibility Extended Until Age 22

This communication is a follow-up to the Connecticut State Department of Education's (CSDE) July 24, 2020, memo titled [Updated Guidance Regarding IDEA Eligibility Extended Until Age 22](#), regarding [A.R. v. Connecticut State Board of Education](#). As a result of this court decision, *all* students who have not yet turned 22 years old and who have not received a regular high school diploma, which includes students who were exited on or before June 30, 2020, due to reaching the maximum age of eligibility in accordance with then effective state law<sup>1</sup>, remain eligible for special education services under the Individuals with Disabilities Education Act (IDEA) up until their 22<sup>nd</sup> birthday or until they graduate from high school with a regular high school diploma, whichever occurs first. Please refer to that communication for additional background information.

### **School District Responsibilities**

School districts must contact adult students and parents who are impacted by this court decision and advise the adult student or parent that they remain eligible for special education services under the IDEA until their 22<sup>nd</sup> birthday. The school district will need to ask the adult student or parent if the student wishes to receive the special education and related services outlined in their individualized education program (IEP) until they turn 22 years of age or they graduate with a regular high school diploma, whichever occurs first.

Below are examples to illustrate school districts' next steps.

#### ***Scenario 1***

If the adult student or parent communicates to the school district that they do not want the student to receive their IEP services until their 22<sup>nd</sup> birthday, the school district shall send Prior Written Notice (PWN) to document that services were offered through the student's 22<sup>nd</sup> birthday, but were refused. On the PWN, the date of exit from special education shall remain the same as the previous PWN. These students should remain reported as exited in the Public School Information System (PSIS); exit date does not change.

#### ***Scenario 2***

If the adult student or parent communicates to the school district that they want the student to receive their IEP services until their 22<sup>nd</sup> birthday, the school district shall convene a planning and placement team (PPT). To the extent appropriate, and with the consent of the parent or adult student, school districts are encouraged to invite to the PPT meeting a representative from any participating adult agency (e.g., Bureau of Rehabilitation Services (BRS), Bureau of Education and Services for the Blind (BESB),

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<sup>1</sup> CGS Section 10-76d(b) and RCSA Section 10-76d-1(a)(4)

Department of Developmental Services (DDS)). The CSDE encourages PPTs to consider the student's current adult service agency programs and supports, and review IEP goals and objectives, in an effort to maintain consistency in programming, as appropriate. These students should not be reported as exited in PSIS. If these students have been reported as exited in the PSIS, the exit date and exit reason should be removed. The school district must provide services up to the student's 22<sup>nd</sup> birthday or until the student graduates with a regular high school diploma, whichever occurs first.

The CSDE reminds school districts that any student who exited high school during the 2019-2020 school year as a result of either *completing school with other credentials* (student did not graduate with a regular high school diploma), *discontinuing schooling*, *transferring to a GED program*, or *moving/not known to be continuing*, still has an entitlement to FAPE. These students may be re-admitted to public school and maintain eligibility for receipt of special education and related services up until their 22<sup>nd</sup> birthday or until they graduate with a regular high school diploma, whichever occurs first. These students are not considered class members of the A.R. decision. Previous exit information for these students should not change. Note, however, that these students may reenroll in public school up and until their 22<sup>nd</sup> birthday.

**Exited Due to Graduating with a Regular High School Diploma and Class Members Exited Due to Reaching the Maximum Age of Eligibility Prior to Publication of Decision on June 10, 2020**

Students whose eligibility terminated when they graduated with a regular high school diploma are not subject to an extension of eligibility until they turn 22, nor entitled to compensatory education. However, students who were already exited from eligibility under IDEA on account of turning 21 during the 2019-20 school year, in accordance with then effective state law, and who did not receive a regular high school diploma, should be consulted consistent with this document, or are members of the certified class entitled to compensatory education services if they have since reached the age of 22 years old. On August 27, 2020, the Attorney General's request for a stay of the A.R. decision was denied by the Second Circuit Court of Appeals. Therefore, the CSDE and Plaintiffs will be moving forward with notification and implementation of compensatory services when appropriate under the District court decision.

Further information will be provided as it becomes available. Please consult with your local board counsel if you have specific questions about the effect of this decision on your provision of special education to students.

cc: Charlene Russell Tucker, Deputy Commissioner of Education  
Desi Nesmith, Deputy Commissioner of Education