

PDE Policy Update – Webinar Content and Notes – August 31, 2023 @ 3:00 PM

Presented by Dr. Carrie Rowe, Deputy Secretary & Dr. Carole Clancy, Director, BSE

Introduction

- The Pennsylvania Department of Education (PDE) is implementing a policy change to better serve students who receive special education services.
- This change:
 - Impacts all students under the Individuals with Disabilities Education Act (IDEA)
 - Ensures students can access Free Appropriate Public Education (FAPE) as they are entitled under federal law; and
 - Builds on the Commonwealth's commitment to ensure that all learners have access to high-quality education.

Policy Change

- No later than September 5, 2023, all students entitled to FAPE and all the rights and procedural safeguards under the Individuals with Disabilities Education Act (IDEA) and Chapter 14 of Title 22 of the Pennsylvania Code may remain enrolled in public school until they turn 22 years of age.
- This includes students who turned 21 and exited during or after the 2022-2023 school year.
(Approximately - 1355 students who exited / eligible across the Commonwealth)

Policy Change to Model LEA Policies and Procedures

www.education.pa.gov/Documents/IDEAB.pdf

- 300.101 – Free appropriate public education (FAPE). The Commonwealth of Pennsylvania ensures that all children with disabilities ages 3 years through 21 years residing in Pennsylvania have the right to a FAPE, including children with disabilities who have been suspended or expelled from school. The Commonwealth shall make FAPE available to a child with a disability eligible under IDEA until the student turns 22. Notwithstanding any other provision of law to the contrary, a child eligible under IDEA who attains the age of twenty-one (21) years may remain enrolled in their resident district free of charge until their 22nd birthday.

Background

- IDEA requires states to make FAPE available to all children with disabilities residing in the state between the ages of 3 and 21, inclusive.
- In Pennsylvania, every child between the ages of six and 21 years is entitled to attend the public schools in their school district of residence until graduation from high school or the end of the school term in which a student reaches the age of 21 years, whichever occurs first. *(Note: This is Previous Policy)*
- Based on these legal provisions, the Commonwealth's policy made FAPE available to students with disabilities to students with disabilities until the end of the school term in which they reached their 21st birthday. *(Note: This is Previous Policy)*
- In Pennsylvania, adult education programs are available to individuals between the ages of 21 and 22.

- Adult education programs receive public funding and are free to students, are under public direction and supervision, and provide secondary education.
- Therefore, PDE has concluded that Pennsylvania's adult education programs constitute public education for the purposes of IDEA, and FAPE should be available to students with disabilities until their 22nd birthday.

Notes: Factors in decision include case law from other states over the past decade (e.g. states challenged have not prevailed in litigation), the summer filing was the first time the fact put forth in PA, adult education programs, state does not want to be in a predicament of not providing FAPE, time/costs of litigation)

Impact of Act 66 and Act 55 Extensions

Act 66 of 2021 and Act 55 of 2022 allowed students with disabilities who turned 21 to remain in school for the 2021-22 and the 2022-23 school years, respectively.

Under the new policy students may remain enrolled only until their 22nd birthday.

Students will exit the school when they turn 22, not at the end of the school year.

Notes: Data indicated 50% of eligible students returned under Act 66 and ¼ students returned under Act 55; note there was a month difference in notification to parents. Last day of program would be the last day the student is 21, last day before birthday

References made to Act 55 and Act 66 guidance

- <https://www.education.pa.gov/Schools/safeschools/emergencyplanning/COVID-19/SchoolReopeningGuidance/ReopeningPreKto12/Act55/Pages/default.aspx>
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Who is Eligible to Re-Enroll for SY 2023-2024?

The following students may re-enroll for the 2023-2024 school year:

1. A student with a disability who turned 21 and exited during or after the 2022-2023 school term.
2. A student with a disability who turned 21 and a parent/guardian/student signed a Notice of Recommended Education Placement/Prior Written Notice (NOREP/PWN) related to graduation but now wants to re-enroll.

Note: If a student exited when 21 and is now 22, they are not eligible to return.

LEA Implementation Considerations

- Caseload limitations do not apply for the students who turned 21 before the school year begins.
- However, a student with a disability who is 21 may not be placed in a class in which the chronological age from the youngest to the oldest student exceeds these limits unless an exception is determined to be appropriate by the IEP team of that student and is justified in the IEP (22 PA Code 14.146).
- Each special education class also still must be composed of at least 28 square feet per student. (22 Pa Code 14.144(3)(v))

- Students also are entitled to Extended School Year services (ESY) until age 22.

Implementation (PDE/BSE)

- PDE sent a letter and the PENN LINK to all students that turned 21 during the 2023-2024 School Year.
- PDE posted the revised policy and guidance on the PDE IDEA-B webpage.
- Advisors from the Bureau of Special Education (BSE) are available to respond to local-level questions or concerns.
- BSE directors are willing to prioritize all LEA September Job Alike Meetings if invited to attend.

Reporting Requirements

- LEAs will report students with disabilities who turn 21 prior to the start of the school year in the following collections:
 - October 1 Child Count
 - December 1 Child Count
 - July Submission PIMS Collection
 - Act 16 reporting
 - PA Post School Outcome Survey (PaPOS)

Funding Implications

- LEAs will receive Basic Education Funding (BEF) and Special Education Funding (SEF) for students with a disability who are 21 and reported in the October 1 Enrollment and Act 16 PIMS submissions.
- LEAs will receive IDEA funding for students with disabilities who are 21 and are reported in the December 1 Child Count PIMS Collection.

LEAs – Next Steps

- LEAs should contact students with disabilities who turned 21 and exited during or after the 2022-2023 school term and provide them the option to re-enroll and access FAPE until their 22nd birthday.
- LEAs should post a link to PDE's webpage that contains the Amended Age of Eligibility Policy, the Student/Parent Notice Letter, and the PENNLINK Communication.
- Upon enrollment, LEAs should provide FAPE in accordance with IDEA.
- For additional assistance, contact the Bureau of Special Education at RA-pdespecial@pa.gov

Important Links:

- [PDE IDEA B FAQ:](#)
- [IDEA-B Policies and Procedure \(Revised August 31, 2023\) \(PDF\)](#)
- [PENN*LINK Message, August 30, 2023 \(PDF\)](#)
- [Letter to Families, English and Spanish \(PDF\)](#)