



Disability Rights Montana

Following federal class-action lawsuit, Disability Rights Montana Doubles the Time Students with Disabilities Have to Complete High School, Up to Age 22.

Frequently Asked Questions

What is this case about?

For decades Montana was the last state in the country to deny special education services to students with disabilities beyond age 18 in most cases. For years, Disability Rights Montana tried to solve this problem through advocacy at the Montana Legislature. That did not work. In February, 2025 we filed a federal class action lawsuit against the state to end this unlawful practice under the Individuals with Disabilities Education Act (IDEA). On August 13, 2025, we obtained an agreed upon [judgment](#) from the United States District Court for Montana declaring this practice and related Montana law and regulation unlawful and ordering the state to begin providing services up to age 22. This FAQ summarizes key points and what students need to do to take advantage of this important change in Montana's education system for students with disabilities.

What is IDEA?

- The Individuals with Disabilities Education Act (IDEA) is a federal law that requires public schools to develop and carry out an individual plan for each student with a disability who needs customization of what and how they are taught to make appropriate progress in their education and prepare them for further education, employment, and independent living as school should do for all students.
- IDEA eligible students have Individualized Education Programs, or IEPs, developed with the student, their parent or guardian, and the school team and updated at least every year.
- Passed in 1975, IDEA helped end the discriminatory practice of excluding students with disabilities from public education and provides partial funding to states to deliver special education and related services. Before IDEA, millions of children with disabilities were entirely excluded from public education.
- At its core, IDEA entitles students with disabilities to a “Free Appropriate Public Education (FAPE)” in the “Least Restrictive Environment (LRE).”

Who is eligible for an IEP under IDEA?

IDEA applies to kindergarten through 12th grade students whose disabilities impact their ability to learn in a way that requires a change to how or what they are taught. IDEA only



provides limited services to students in private or home schools. Students with disabilities can request an evaluation to determine if they are eligible for special education services by emailing their school principal. There is a [form](#) on our [website](#) to request an evaluation, but you do not need to use that form. Keep copies of these emails, this may be important if you need to enforce your rights. IDEA does not apply to students in higher education, including colleges and trade schools.

What did this case change?

- Until this Court order, Montana for years kicked most IDEA eligible students with disabilities out of school at age 18, even when the student had not earned a regular high school diploma. Montana was the last state in the Country that was still kicking most students with disabilities out at age 18. The Court determined Montana’s practice violated IDEA.
- Now, Montana students eligible for IEPs have a legal right to continue in school with special education services until either (a) the student graduates with a “regular high school diploma” or (b) the student reaches age 22. Whichever one happens first will end the student’s eligibility.

What is a “regular high school diploma”?

A “regular high school diploma” means a diploma that is fully aligned with the state requirements for high school graduation and is the diploma most students earn upon graduation.

If a student completes their IEP goals but did not earn a “regular high school diploma” are they still eligible for services under the Court’s order?

Yes. A certificate or diploma awarded because the student completed their IEP goals but did not complete state graduation requirements is not a “regular high school diploma” and does not end the student’s eligibility for public education up to age 22. Sometimes this is called graduating a student “on IEP goals.” The Court determined Montana’s practice of removing students under age 22 from school by awarding them a diploma “on IEP goals” violated IDEA.

Who is covered under the Court’s order?

- The Court’s order only applies to students with disabilities eligible for IEPs. It does not apply to students with disabilities who only have accommodations or services under a “504 plan.” This is because the law is different for those students with disabilities and those students should be able to complete high school in the regular four years (otherwise, they probably should have an IEP).
- Montana students eligible for IEPs now have a legal right to continue in school with special education services until one of two things happens. Either (a) the student

graduates with a “regular high school diploma” or (b) the student reaches age 22. Whichever one happens first will end the student’s eligibility.

Does this apply to students with only certain types of disabilities?

No, every Montana student with a disability who is eligible for an IEP now has the right to education up to age 22. The Court’s order is not limited to certain disabilities. While many students on IEPs will be able to earn a regular high school diploma in the standard four years, some students may need additional time, such as students with learning disabilities like dyslexia, developmental and intellectual disabilities, and those who need additional time to learn the life skills necessary for post-high school education, employment and independent living.

Do school districts know about these changes?

Yes, the Court ordered the Superintendent of Public Instruction, a defendant in the case responsible for the overall supervision of Montana’s public schools, to notify schools about these changes. The Office of Public Instruction has already published a binding guidance document notifying schools of the Court’s order and must send it to all covered school districts. You can find the Guidance Document by clicking on this link: <https://opi.mt.gov/Portals/182/Page%20Files/Special%20Education/Guides/FAPE%20Judgment%20Guidance%20Document.pdf?ver=2025-08-15-110954-757>

Can students who were improperly “exited” (i.e. removed) from school last year but did not earn a regular high school diploma and who are not yet 22 years old go back to school now?

Yes. The Court’s order goes back for one school year and covers any IEP eligible student who was removed from school during the 2024-25 school year if they did not receive a “regular high school diploma” are not yet age 22. But these students must act quickly. Read the next question about what these students need to do now to re-enroll.

What should students who were improperly exited from school last year do?

- Students who were improperly exited from high school in the 2024-25 school year (because they did not meet either of the requirements above) can re-enroll and continue to receive special education and related services from their school. **These students need to act quickly. They only have about 30 days from receipt of the Notice to complete and return the Request for Enrollment form, which is [on the last page of the OPI Guidance document.](#)**

Does the Court order cover current students?

Yes. The Court's order covers student who are still in school. Again, those students can continue in school and receive special education services until they either earn a "regular high school diploma" or reach age 22, which ever happens first.

What should current students who may need additional time do?

- The Court's order also applies to current students who have not yet graduated or been exited from services.
- Those current students should already be enrolled and not need to re-enroll.
- However, the student's IEP needs to be updated to make a plan for this additional time if the student needs it.
- **The student or their parent or guardian should request an IEP meeting to make appropriate changes to the student's IEP.**
- **This is especially urgent if the student is now a senior. Seniors should request an IEP meeting right away.**
- The student or their parent or guardian can request an IEP by sending an email to their IEP case manager and district special education director and/or superintendent. The case manager is listed in the top right corner of the first page of the student's IEP. Most districts have a website listing contact info for the superintendent and either the district special education director or the director of special or student services, which typically includes the special education administrator responsibilities.
- There is a [form](#) on our website to request an IEP meeting, but an email is also sufficient.
- **The student, parent, or guardian should keep a copy of all correspondence with the school about this, in case any action needs to be taken to enforce the student's rights.**

Is the Office of Public Instruction (OPI) required to provide training and information on these requirements and monitor and enforce compliance with the Court's order?

Yes. Going forward, the OPI must also offer ongoing information, training and technical assistance to parents and schools regarding the requirements under the Court's order; ensure students and families eligible for the additional services receive them; and monitor compliance with Court's order on an ongoing basis.

What should students do if they need help or their school will not comply with the Court's order?

- If the student needs help understanding these requirements or the student's school gives them any trouble about services to age 22 or re-enrollment, the student,

parent, or guardian should immediately contact OPI's Early Assistance Program at (406) 444-2046. **Keep a copy of all correspondence with OPI.**

- **Because we have limited resources,** Disability Rights Montanan asks that students, parents, and guardians **call OPI's Early Assistance Program first,** before contacting our office.
- If, after contacting OPI, the school continues to refuse services, the student, parent, or guardian should contact Disability Rights Montana at 406-449-2344.

Disability Rights Montana is a non-profit organization that aims to protect and advocate for the civil, legal, and human rights of all disabled Montanans. People with disabilities have a right to be treated with dignity and respect, and should never have to experience any mistreatment, exploitation, abuse, or neglect.

This document does not create an attorney client relationship with Disability Rights Montana, is not legal advice, and is not a promise to provide any legal or advocacy services.