Students with Disabilities Can Attend Public Schools in New York Until the Day Before They Turn 22

Free Appropriate Public Education (FAPE): School districts are required to provide students with a free appropriate public education.

Special Education: Specially designed instruction, provided at no cost to the parents, that is intended to meet the unique needs of a child with a disability.

Termination of Special Education Services: New York school districts must provide a FAPE to students with disabilities until: (1) the student earns a high school diploma; or (2) until the age of 22, whichever occurs first.

A.R. v. Connecticut Board of Education

In 2021, the Second Circuit Court of Appeals decided the case of A.R. v. Connecticut Board of Education, requiring that Connecticut Public Schools provide special education and related services to resident students until age 22. Because New York falls under the jurisdiction of the Second Circuit, this ruling extends to New York school districts as well.

July 6, 2023 NYSED's Formal Opinion of Counsel

In considering the Second Circuit decision, the New York State Education Department (NYSED) concluded that public schools in New York must also provide special education and related services to its students with disabilities until age 22 or the day before the student's 22nd birthday.

NYSED also recommended that New York State school districts, "consider providing such services through the end of the school year in which the student turns 22, or upon receipt of a high school diploma, whichever occurs first."

Katonah-Lewisboro Union Free School District v. NYSED

The NYSED's Opinion of Counsel was challenged in New York courts, making its way to the Appellate Division, Third Department, in the case of Katonah-Lewisboro Union Free School District v. NYSED. The Appellate Division upheld the NYSED's determination in the A.R. case expanding the age of eligibility for students with disabilities in New York to age 22.

Katonah-Lewisboro Union Free School District v. NYSED (cont.)

The court explicitly held that "[NYS Education Department's] determination that [New York] school district[s] should provide education services to students with disabilities

until age 22 has a sound basis in reason. . . ."

October 10, 2025 NYS Education Department's Memorandum

On October 10, 2025, New York State Education Department, through their counsel, wrote a detailed Memorandum reminding public school districts of their obligation to continue to provide a FAPE in accordance with the Second Circuit and Third Department decisions.

The Memorandum states that the Office of Special Education recommends that school districts consider providing education through the end of the school year in which the student turns 22, although that is not required by the A.R. decision.

What does this mean for my child?

- If your child has not earned their high school diploma, they have the right to stay in school until age 22.
- Although not required by the A.R. decision, New York State Education Department recommends that school districts consider providing education services through the end of the school year in which the student turns 22, rather than the day before their 22nd birthday.
- If your child's school district is refusing to provide education services up until their 22nd birthday and they do not have a high school diploma, New York State Education Department would consider that a violation of Education Law § 306.
- Although education until age 22 is the current state of the law in New York, there may be continuing litigation on this question.

www.legalservicesli.org
www.instagram.com/legalsvcsli
www.x.com/LegalServicesLI
www.facebook.com/legalsvcsli

The information contained in this material is not legal advice. Legal advice depends upon the specific facts of each situation. Also, the law may vary from state to state, so some information from our website may not be correct for your jurisdiction. Finally, this information is not guaranteed to be up to date. The material contained on this site cannot replace the advice of competent legal counsel licensed in your state.