

The Minnesota Department of Education Division of Compliance and Assistance has developed this document to address questions raised by parents and school districts regarding high school diplomas for students with disabilities. The purpose of this document is to provide helpful, general information to the public. It does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information below should not be relied upon as a comprehensive or definitive response to your specific legal question.

**Question 1: Under what conditions may a student with a disability be exited from special education services?**

**Answer:** A student with a disability may only be exited from special education under the following three conditions:

- If, after the completion of a special education evaluation, it is determined that the student is no longer a student with a disability;
- Upon a student's graduation from high school with a regular high school diploma; or
- Upon the student exceeding the maximum age for receiving special education services.

**Authority:** 34 C.F.R. § 300.306(a)(1); 34 C.F.R. § 300.102(a)(3)(i); 34 C.F.R. § 300.101(a); and Minn. Stat. § 125A.03

**Question 2: Must a school district conduct an evaluation of a student with a disability when that student is ready to graduate from secondary school with a high school diploma?**

**Answer:** No. A school district is not required to conduct an evaluation of a student with a disability when that student is ready to graduate from secondary school with a high school diploma. Rather, graduation with a high school diploma automatically makes the student ineligible for services under Part B of the Individuals with Disabilities Education Act (IDEA) and Minnesota law.

**Authority:** 34 C.F.R. § 300.305(e)(2); Minn. Stat. § 125A.03(b)

**Question 3: How does a school district inform parents that their student with a disability is eligible to graduate from high school?**

**Answer:** If a school district believes that a student with a disability is on track to graduate, based upon meeting state and local graduation requirements, including passing graduation

assessments, the school district must send the student's parent prior written notice proposing exiting the student through graduation with a high school diploma.

**Authority:** 34 C.F.R. § 300.503(a)(1)

**Question 4: Does a parent of a student with a disability have the ability to object to the district's proposed graduation of the student with a high school diploma?**

**Answer:** The parent of a student with a disability may object to the proposed change of placement if the parent does not believe the student has or will meet the necessary state and local requirements for high school graduation by the end of the school year, and/or if the parent does not believe that the student has met his or her IEP goals and objectives, which include transition goals.

For students who struggled academically, the courts and hearing officers have determined that the school district must meet a two-part test in order to exit a student based upon high school graduation. First, the student must have met the state and local requirements for high school graduation. Second, the student's IEP must be reasonably calculated to provide the student with some educational benefit in each of the transition areas, if appropriate.

**Authority:** Minn. Stat. § 120B.024(a); Minn. Stat. § 120B.30, Subd. 1(c). See 2002 WL 433061 (N.D. Ill.) (Cited *Chuhran v. Walled Lake Consol. Sch.* 830 F. Supp. 465, 474 (E.D. Mich. 1993), *affd.* 51 F. 3rd 271 (6th Cir. 1995)). See *also* *Quabbin Regional Sch. Dist.*, 44 IDELR 56 (SEA Mass. 2005); 54 IDELR 283, (U.S. Dist. Ct. Mass. 2010); *Black River Falls Sch. Dist.*, 40 IDELR 163 (SEA WI 2004)

**Question 5: What must a district provide to a student with a disability whose eligibility under Part B of the IDEA terminates upon graduation?**

**Answer:** When a student with a disability graduates from secondary school, the school district must provide that student with a summary of his or her academic achievement and functional performance. This summary must include recommendations on how to assist the student in meeting his or her postsecondary goals.

**Authority:** 34 C.F.R. § 300.305(e)(2),(3); 34 C.F.R. § 300.102(a)(3)(iv); Minn. Stat. § 125A.03(b)

**Question 6: Does a student's eligibility for special education end with receipt of an alternative degree such as a certificate or a general educational development credential (GED)?**

**Answer:** No. As used in 34 C.F.R. § 300.305(e)(2), the term “regular high school diploma” does not include an alternative degree that is not fully aligned with the state’s academic standards, such as a certificate or a general educational development credential (GED).

**Authority:** 34 C.F.R. § 300.102(a)(3)(iv)

**Question 7: What is an “IEP-driven diploma?”**

**Answer:** An “IEP-driven diploma” is the colloquial reference used to describe the diploma earned by a student with a disability when the objectives in that student’s individualized education program (IEP) are the factors used to determine whether he or she receives a diploma.

The requirement that school districts grant a high school diploma to a student with a disability when these objectives are met is codified in Minnesota law. “Upon completion of secondary school or the equivalent, a pupil with a disability who satisfactorily attains the objectives in the pupil’s IEP must be granted a high school diploma that is identical to the diploma granted to a pupil without a disability.”

**Authority:** Minn. Stat. § 125A.04; See Letter to Anonymous, 22 IDELR 456 (OSEP 1994)

**Question 8: When is it appropriate for a student with a disability to receive a diploma based on attainment of IEP objectives, and who should make this decision?**

**Answer:** The student’s IEP team, including the parent(s), is charged, in part, with determining appropriate placement, accommodations, modifications, services, goals, objectives, transition goals, objectives, and services for that student. In making these determinations, the IEP team also considers whether the student is able to take the examinations required or fulfill all of the requirements necessary for graduation in Minnesota, with or without modification. For some students, the IEP team may decide that attainment of individualized objectives is a more appropriate determining factor, with respect to receipt of a high school diploma, than is attainment of required examinations or other requirements. The IEP team, because of its unique knowledge of and work with the student, is best suited to make this determination. The student’s parent must consent to the proposed change of placement prior to exiting the student.

**Authority:** 34 C.F.R. §§ 300.320; 300.321; 300.324; 300.503; Minn. Stat. § 125A.091, Subd. 3a; Minn. Stat, § 125A.08(a)(1); Minn. R. 3525.2810, subp. 2-4

**Question 9: Does a diploma or transcript earned by a student with a disability differ in appearance than that earned by a student without a disability?**

**Answer:** Minnesota law requires that such a diploma be identical to the diploma granted to a student without a disability. The transcript and diploma of a student with a disability may

not contain information disclosing that the student has a disability. A notation that the student's diploma was IEP-driven is considered such a disclosure. Such action is considered different treatment based on disability and is prohibited under federal law.

The transcript of a student with a disability can indicate that the student took classes with a modified or alternate curriculum when the indication, through notation or symbols, does not disclose that the student has a disability and is not used to identify programs for students with disabilities. Such transcript notations must also be consistent with the transcript's purpose of providing information on the student's academic achievements. Note that transcripts must not include notations indicating that a student received accommodations in the general education curriculum.

**Authority:** 34 C.F.R. § 104.4(b)(1)(i)-(iv); 28 C.F.R. § 35.130(b)(1)(i)-(iv); 28 C.F.R. § 35.130(b)(1)(i)-(iv); Minn. Stat. § 125A.04; Minn. R. 3525.2810, subp. 2-4; Dear Colleague Letter: Report Cards and Transcripts for Students with Disabilities, U.S. Department of Education, Office for Civil Rights (October 17, 2008)

**Question 10: If a student is enrolled in a nonresident district, either through placement by their resident district to assure appropriate services or through an enrollment option program, which district awards the diploma once graduation criteria has been met and the IEP team recommends graduation?**

**Answer:** If the student is open enrolled, the enrolling district awards the diploma. If the student is attending an area learning center program in the nonresident district, the student can choose to receive the diploma from either the resident district or the district where the area learning center is located. Statutes do not address the award of a diploma where a student is placed by their resident district, but in those cases, while it would be logical for the resident district to award the diploma, alternately the enrolling district could award the diploma. For MARSS reporting purposes, the student is enrolled in the enrolling district; and the enrolling district will report to MDE that the student has graduated. The enrolling district will also code the student as a graduate.

**Authority:** Minn. Stat. § 124D.03, Subd. 9; Minn. Stat. § 123A.06, Subd. 4

**Question 11: In Minnesota, at what age is a student with a disability no longer eligible for services?**

**Answer:** The IDEA requires that a Free Appropriate Public Education (FAPE) be made available to all students with disabilities between the ages of 3 and 21, inclusive. With respect to the application of that requirement to students aged 3, 4, 5, 18, 19, 20, or 21, the IDEA defers to state law. In Minnesota, FAPE is available to all persons under the age of 21. The closely related right to FAPE for students with disabilities is expanded under state law to include students from birth until July 1 after the student with a disability turns 21. The

expansion does not extend beyond secondary school or its equivalent except as under the state's graduation incentives program.

**Authority:** 34 C.F.R. § 300.101(a); 34 C.F.R. § 300.102(a)(1); Minn. Stat. § 120A.20, Subd. 1; Minn. Stat. § 125A.03(b); Minn. Stat. § 124D.68

**Question 12: Is a student with a disability, who is still enrolled in high school, eligible for services in the upcoming school year if the student turns 21 during the summer?**

**Answer:** Special instruction and services must be provided from birth until July 1 after the student with a disability becomes 21 years old.

**Authority:** 34 C.F.R. §§ 300.101(a); 300.102(a)(1); Minn. Stat. § 120A.20, Subd. 1; Minn. Stat. § 125A.03(b)