

**WAC 392-172A-02000 Students' rights to a free appropriate public education (FAPE).**

(1) Each school district and residential or day schools operated under chapters 28A.190 and 72.40 RCW shall provide every student who is eligible for special education services between the age of three and twenty-one years, a free appropriate public education program (FAPE). The right to a FAPE includes special education services for students who have been suspended or expelled from school. A FAPE is also available to any student determined eligible for special education services even though the student has not failed or been retained in a course or grade and is advancing from grade to grade. The right to special education services for eligible students starts on their third birthday with an IEP in effect by that date. If an eligible student's third birthday occurs during the summer, the student's IEP team shall determine the date when services under the individualized education program will begin.

(2) A student who is determined eligible for special education services shall remain eligible until one of the following occurs:

(a) A group of qualified professionals and the parent of the student, based on a reevaluation, determines the student is no longer eligible for special education services; or

(b) The student has met high school graduation requirements established by the school district pursuant to rules of the state board of education, and the student has graduated from high school with a regular high school diploma. A regular high school diploma does not include a certificate of high school completion, or a general educational development credential. Graduation from high school with a regular high school diploma constitutes a change in placement, requiring written prior notice in accordance with WAC 392-172A-05010; or

(c) The student enrolled in the public school system or is receiving services pursuant to chapter 28A.190 or 72.40 RCW has reached age twenty-one. The student whose twenty-first birthday occurs on or before August 31 would no longer be eligible for special education services. The student whose twenty-first birthday occurs after August 31, shall continue to be eligible for special education and any necessary related services for the remainder of the school year; or

(d) The student stops receiving special education services based upon a parent's written revocation to a school district pursuant to WAC 392-172A-03000 (2)(e).

[Statutory Authority: RCW 28A.155.090. WSR 21-19-065, § 392-172A-02000, filed 9/14/21, effective 10/15/21. Statutory Authority: RCW 28A.155.090 and 34 C.F.R. Part 300. WSR 13-20-034, § 392-172A-02000, filed 9/24/13, effective 10/25/13; WSR 09-20-053, § 392-172A-02000, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. WSR 07-14-078, § 392-172A-02000, filed 6/29/07, effective 7/30/07.]