



## Q&A Regarding the August 13, 2025 Court Order on FAPE

### 1. What is the deadline for sending notices to students who were exited during the 2024-2025 school year?

September 3, 2025.

### 2. Who do I need to send the Notice of FAPE availability to?

The August 13, 2025 Court Order, provides: "With the Guidance Document, the Superintendent will provide a Notice to Student to be sent by the LEA to each eligible individual who was exited during the 2024-2025 school year due to aging out before age 22 or being issued a diploma upon modified requirements, meaning they did not meet the minimum graduation requirements established by the Montana Board of Education, notifying them of the LEA's obligation to ensure a FAPE is made available until age 22. These individuals will be identified based on the 'exit code' assigned by the LEA."

The corresponding codes on the exiting manual are:

- 32: "Graduated with a diploma – modified requirements. These are students who received a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential, including receipt of a diploma by meeting their IEP goals for high school completion. These students did not meet the minimum graduation requirements in ARM 10.55.905."
- 15: "Reached maximum age. These are students who have exited special education because they have reached the maximum age for receipt of special education services and include students with disabilities who reached maximum age and did not receive a diploma."

### 3. Is there funding available for students who re-enroll in a FAPE pursuant to the Court Order?

Yes, the Governor's budget office has funding available for this purpose. OPI is currently working on a mechanism for funds to be distributed once it receives information from the school districts that an offer to re-enroll has been accepted.

### 4. Can OPI send me a list of students I need to send the letter to?

OPA's estimate of 50 students statewide was based on exit codes it received from the districts. We encourage schools to look at their own data as the primary source and thus the most accurate.

## **5. Who do I contact with questions about the August 2025 Court Order?**

For questions about funding, please contact [OPIFAPE@mt.gov](mailto:OPIFAPE@mt.gov). For technical assistance, please contact Angie Griner at [Angie.Griner@mt.gov](mailto:Angie.Griner@mt.gov). For questions specifically about the Order, please contact Chief Legal Counsel Aislinn Brown at [Aislinn.brown2@mt.gov](mailto:Aislinn.brown2@mt.gov).

## **6. What if the LEA determines that a student was assigned an exit code in error?**

If an incorrect exit code was assigned but an LEA determines that a student meets the requirements under the August 13, 2025 Order for being exited due to aging out before age 22 or being issued a diploma upon modified requirements, meaning they did not meet the minimum graduation requirements established by the Montana Board of Education, the LEA should provide the student with the Notice of Continued Offer of FAPE, Request for Enrollment, and Updated Graduation Guidance.

## **7. What happens if an IDEA eligible student aged 19 through 21, who was attending school in a different state, moves to Montana?**

The [August 13, 2025 Order](#) requires that “... FAPE is made available to every eligible student until their 22nd birthday or until exited from special education via appropriate procedures, such as receipt of a regular high school diploma.” The subsequent [binding guidance](#) issued by OPI requires that “...all LEAs must make a FAPE available to students with disabilities until their 22nd birthday.” Therefore, if an IDEA eligible student aged 19 through 21 (who had an IEP in effect in a previous public agency in another state) moves to Montana within the same school year, the student’s resident LEA must enroll the student, continue providing FAPE and follow the procedures in 34 CFR 300.323(f).