



# Montana Special Education Guidance

## **Chapter 1. Graduation, Diplomas, Transcripts, Grades, Class Ranking and Honor Roll**

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## IDEA and the Age Requirement for Free Appropriate Public Education (FAPE)

The IDEA is a federal funding statute that assists states in funding special education and related services for students with disabilities. *See N.D. v. Reykdal*, 102 F.4th 982, 987 (9th Cir. 2024). By accepting those funds, states agree to the IDEA's conditions, including the requirement that the State must make a FAPE available to "all children with disabilities residing in the State between the ages of 3 and 21, inclusive." *Id.* (quoting 20 U.S.C. § 1412(a)(1)(A)). Montana LEAs are required to make a FAPE available to students with disabilities until they turn 22 years old. *See [August 13, 2025 Order](#)* from the United States District Court for the District of Montana and *OPI's Updated Graduation Guidance Regarding FAPE*.

## Graduation Requirements

Students eligible under IDEA have been found to have a disability that adversely affects educational performance such that a student needs special education. Special education is specially designed instruction which means adapting, as appropriate to the needs of the student, the content, methodology, or delivery of instruction to address the unique needs of the child that result from their disability and to ensure access of the student to the general curriculum "so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children." 34 CFR 300.39(a)(3).

The IDEA does not mandate specific requirements for high school graduation or requirements that must be met for a student to earn a "regular high school diploma." In 2017, the IDEA was amended to include the definition of a regular high school diploma as used in the Every Student Succeeds Act (ESSA)<sup>1</sup>. The IDEA provides:

[T]he term **regular high school diploma** means the **standard** high school diploma awarded to the **preponderance** of students in the State that is fully aligned with State standards, or a higher diploma, except that a regular high school diploma shall not be aligned to the alternate academic achievement standards described in section 1111(b)(1)(e) of the ESSA. A regular high school diploma does not include a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential.

34 CFR 300.102(a)(3)(iv) (emphasis added).

Minimum graduation requirements are established at the state level. In Montana, those requirements are set by the Montana Board of Public Education (BPE). The BPE sets the standards for accreditation, or the body of administrative rules governing standards, that are

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<sup>1</sup> The ESSA of 2015 reauthorized the Elementary and Secondary Education Act (ESEA) of 1965, a civil rights law for equal educational opportunity.

required to be implemented by all public LEAs. See MCA 20-7-101 and 20-2-121(6). Accreditation standards include content standards. A “content standard” means what all students should know, understand, and be able to do in a specific content area. ARM 10.55.602(9). Content Standards are found in ARM Chapter 10.53. It is the local school district board of trustees' responsibility to ensure the district's curricula align with the state content standards and content-specific grade-level or grade-band learning progressions. ARM 10.55.1001(1). The BPE adopts a schedule, process, and criteria for standards revision to assure Montana citizens that their public schools are providing all the children of Montana with a well-rounded education founded on challenging academic expectations.

To meet accreditation standards for graduation, a LEA must, at a minimum, include the following requirements for high school graduation set out in ARM 10.55.905:

- (1) As a minimum, a LEA's requirements for graduation shall include a total of 20 units of study that enable all students to meet the content standards and content-specific grade-level or grade-band learning progressions. Students may demonstrate achievement through a flexible system of pupil-centered learning.
- (2) In order for students to graduate, they must meet the content and performance standards. The following 13 units shall be part of the 20 units. The required units may be satisfied by an equivalent course that meets the district's curriculum and assessment requirements, which are aligned with each of the content standards:
  - (a) 4 units of English language arts;
  - (b) 2 units of mathematics;
  - (c) 2 units of social studies (including a 1/2 unit of Civics or Government);
  - (d) 2 units of science;
  - (e) 1 unit of health and physical education;
  - (f) 1 unit of arts;
  - (g) 1 unit of career and technical education; and
  - (h) 1/2 unit of economics or financial literacy within the 2 units of social studies, the 2 units of mathematics, or the 1 unit of career and technical education.

ARM 10.55.905(1)-(2).

The BPE requires a minimum of 20 units of credit to graduate. “A unit of credit is defined as the equivalent of at least 8100 minutes for one year, equivalent proficiency without regard to time, or demonstration of an equivalent course that meets the district's curriculum and assessment requirements, which are aligned with each of the content standards.” ARM 10.55.906(1)(a). Only the school district's board of trustees or designee of each district can make the decision to waive specific course requirements for graduation. ARM 10.55.906(3). These requirements do not change for students with disabilities. The OPI specifies in its Annual Performance Report

(APR), which is submitted on an annual basis to the U.S. Department of Education Office of Special Education Programs (OSEP), that the conditions for youth with IEPs to graduate with a regular high school diploma are no different from those stated in ARM 10.55.905<sup>2</sup>.

The IEP team sets out in the IEP how a student will be assisted in meeting the graduation requirements for the school district. The student's "Course of Study" section of the transition IEP is guided by the student's measurable postsecondary goals and sets out what the student's courses look like throughout the IEP year, as well as showing credits earned towards graduation and an anticipated graduation date.

The IEP sets out the special education services a student needs to receive a FAPE. An IEP must include measurable annual goals (MAGs), including academic and functional goals designed to meet the student's needs resulting from a disability, to enable the student to be involved in and make progress in the general education curriculum and to meet each of the student's other educational needs that result from the child's disability. 34 CFR 300.320(a)(2).

## Equality of Educational Opportunity

The Office for Special Education and Rehabilitative Services (OSERS) within the U.S. Department of Education has emphasized that "[s]ince 2001, the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB), has required each State to apply the same challenging academic content and achievement standards to all schools and all children in the State, which includes children with disabilities." *OSERS Dear Colleague Letter* (November 16, 2015) (designated as a "significant guidance document" by US DOE); ESEA section 1111(b)(1)(B).

Additionally, Section 504 and Title II provide nondiscrimination protections for students with disabilities and include:

- (1) the prohibition against denying a qualified individual with a disability, on the basis of the disability, the opportunity to participate in or benefit from an aid, benefit, or service; and
- (2) the prohibition against treating individuals with disabilities differently by providing different or separate aid, benefits, or services to individuals with disabilities or any class of individuals with disabilities unless such action is necessary to provide qualified individuals with disabilities with aid, benefits, or services that are as effective as those provided to others.

34 CFR104.4(b)(1)(i) and (iv); 28 CFR 35.130(b)(1)(i) and (iv); *OSEP Letter to White*, (July 2, 2014).

At the state level, "[i]t is the purpose of the accreditation standards to guarantee the equality of educational opportunity and respect the dignity of every person in accordance with Article II,

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<sup>2</sup> FFY 2023 APR for OPI Special Education, submitted February 2025. See [Indicator 1, Graduation Rate](#).

Section IV of the Montana Constitution and federal law, without prejudice of any kind. This includes but is not limited to, programs, facilities, educational materials, curriculum, counseling, library services, and extracurricular activities.” ARM 10.55.802(1). Additionally, accredited schools in Montana must provide educational programs and services to students eligible to receive special education services, must comply with all federal and state laws and regulations addressing special education, must provide structured support to regular education teachers in identifying and meeting the needs of students with disabilities, and must allow students eligible to receive special education services and who have successfully completed the goals identified on an IEP for high school completion to be awarded a diploma. ARM 10.55.805(4).

All students with disabilities have the opportunity to earn a regular high school diploma and graduate from high school. A student who has successfully completed the goals on their IEP shall have completed a prescribed course of study and shall be *eligible* for graduation from high school.

ARM 10.16.3345(5) (emphasis added).

### **A Diploma Based on Meeting IEP Goals Does Not End FAPE Obligation**

The OSEP opined that allowing IEP teams to set requirements for high school graduation “...treats students with disabilities differently because it permits them to be promoted, graduate, and receive a diploma when they have failed to pass State assessments and meet benchmarks that other students are required to meet. Giving IEP Teams authority to apply different standards for promotion or graduation to students with disabilities will result in those students being taught to different and, potentially lower, standards than students without disabilities, thus depriving them of the same opportunities to learn that are available to their non-disabled peers.” *OSEP Letter to White*, (July 2, 2014).

The U.S. Department of Education issued significant guidance on the ESSA and the High School Graduation Rate and why issuing a diploma based upon meeting a student’s IEP goals is considered a lesser credential:

Under 34 C.F.R. 300.320(a)(2), each child’s IEP must include a statement of measurable annual goals, including academic and functional goals, designed to: (1) meet the child’s needs that result from the child’s disability, to enable the child to be involved in and make progress in the general education curriculum, and (2) meet each of the child’s other educational needs that result from the child’s disability. Although the use of standards-based IEPs has greatly expanded, IEP goals cannot serve as a proxy for determining whether a student has met a State’s grade-level academic content standards. Therefore, a diploma based on meeting IEP goals will not provide a sufficient basis for determining that the student has met a State’s grade-level academic content standards; rather, it will

only demonstrate that the student has attained his or her IEP goals during the annual period covered by the IEP. Therefore, a diploma based on attainment of IEP goals, regardless of whether the IEP goals are fully aligned with a State's grade-level content standards, should not be treated as a regular high school diploma.

U.S. Department of Education, *Every Student Succeeds Act High School Graduation Rate Non-Regulatory Guidance*, Question A-15 (January 2017).

Administrative Rule of Montana 10.55.805(4) provides that a student "eligible to receive special education services as identified under IDEA and who has successfully completed the goals identified on an individualized education program [IEP] for high school completion shall be awarded a diploma." This section has been interpreted to mean that a student with disabilities can be awarded a diploma if they complete their IEP goals. However, that interpretation is in violation of the IDEA. If a student with disabilities is awarded a diploma for IEP goal completion, that is **not** considered a "regular high school diploma" under the IDEA and does not limit the obligation to make FAPE available to the student.

### **Graduation With a Regular High School Diploma Ends FAPE Obligation**

As explained above, the IDEA requires Montana to make a FAPE available to eligible students until they turn 22. *E.R.K.*, 728 F.3d at 986. However, if a student with disabilities graduates from high school with a regular high school diploma, that terminates the student's IDEA eligibility and the school's obligation to provide a FAPE. 34 CFR 300.102(a)(3).

When a student graduates high school with a regular high school diploma, which constitutes a change in placement, the LEA is required to provide prior written notice. 34 CFR 300.102(a)(3). The purpose of the graduation box on the IEP is to determine when a district's FAPE obligation will end due to graduation with a regular high school diploma or aging out. If a student graduates with any less than a regular high school diploma, then the student is still entitled to receive FAPE until they reach the age at which eligibility ceases.

71 Fed. Reg. 46580 (August 14, 2006).

## Frequently Asked Questions

### Graduation

#### **1. Is an evaluation required prior to graduation from high school or when a student is aging out of special education?**

No. When a student's IDEA eligibility is terminating due to graduating from high school with a regular high school diploma or due to the student aging out, an evaluation is not required.

34 C.F.R. 300.102(a)(3)(iv). Limitation – exception to FAPE for certain ages.

34 CFR 300.305(e)(2). Additional requirements for evaluations and reevaluations.

#### **2. What documentation must the district complete prior to the student leaving high school?**

The IDEA requires the district provide prior written notice to the parent/adult student regarding a change in placement due to graduation. The purpose of the high school graduation section on the IEP form is to assist IEP teams in the process of determining when a district's FAPE obligation may end due to graduation with a regular high school diploma or aging out special education services which necessitates prior written notice be given to the parent/adult student.

A Summary of Performance is also required for students with disabilities who are graduating with a regular high school diploma or who are aging out of special education services to summarize the student's academic achievement, functional performance, and recommendations for postsecondary goals, which can be helpful for the student's transition from high school to adult life.

34 CFR 300.102(a)(3)(iii). Limitation- exception to FAPE for certain ages.

34 CFR 300.305(e)(3). Additional Requirements for evaluations and reevaluations.

34 CFR 300.503. Prior Written Notice.

#### **3. May a student who has earned a regular high school diploma continue to receive special education services under IDEA?**

No. Graduation with a regular high school diploma, which meets or exceeds the Board of Public Education graduation requirements, ends the district's obligation to provide special education and related services.

CFR 300.102(a)(3)(i). Limitation – exception to FAPE for certain ages.

#### **4. Does the receipt of a credential which does not meet or exceed the Board of Public Education's graduation requirements, such as a certificate of completion, end the student's IDEA special education eligibility?**

No. Only graduation from high school with a **regular** high school diploma constitutes a change in placement and ends the district's obligation to make FAPE available to the student. Pursuant to 34 CFR 300.102(a)(3)(iv) a regular high school diploma means:



[T]he standard high school diploma awarded to the preponderance of students in the State that is fully aligned with State standards, or a higher diploma, except that a regular high school diploma shall not be aligned to the alternate academic achievement standards described in section 1111(b)(1)(E) of the ESEA. A regular high school diploma does not include a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential.

Therefore, if a student received a credential that is not a regular high school diploma, that does not meet or exceed the Board of Public Education graduation requirements, the LEA is still obligated to make a FAPE available to the student until they meet the requirements for a regular high school diploma or age out at 22 years of age.

34 CFR 300.102(a)(3)(i)-(iv). Limitation – exception to FAPE for certain ages.

## **Diplomas**

### **1. Are students who receive special education services eligible to receive a regular high school diploma?**

Yes. Students with disabilities have the same opportunity to meet the requirements for graduation with a regular high school diploma as their peers without disabilities.

All accredited school districts in Montana must provide educational programs and services to students eligible to receive special education services, comply with all federal and state laws and regulations addressing special education, provide structured support to regular education teachers in identifying and meeting the needs of students with disabilities, and allow students eligible to receive special education services who have successfully completed the goals identified on an IEP for high school completion to be awarded a diploma.

Students with disabilities can and should graduate with a regular high school diploma when they meet the graduation requirements set out by their school district.

ARM 10.55.805. Special Education.

ARM 10.55.905. Graduation Requirements.

### **2. May an IEP team waive course requirements for a specific student?**

No. Only the school district (Board of Trustees or designee) is permitted to waive specific course requirements based on individual student needs and performance levels. The IEP team must follow local district policy when considering waivers for students with disabilities.

ARM 10.55.906(3). High School Credit.

### **3. May a district award more than one type of diploma?**

Yes. The diploma awarded to each student must be similar in all significant respects. However, if a school district offers different types of diplomas based upon a specific course of study, then all diploma options must be available to all students, regardless of whether the student has a disability.

*Office of Civil Rights, Letter to Runkel (September 30, 1996).*

### **4. May a student graduate with a regular high school diploma because they met their IEP goals, but they did not meet the other requirements for earning a regular high school diploma and graduation requirements were not waived by the school district's board of trustees?**

No. A diploma based upon IEP goal completion is **not** considered a "regular high school diploma" under the IDEA and does not limit the obligation to make FAPE available to the student.

The BPE sets out the minimum requirements for graduation. ARM 10.55.906(1). Only the school district's board of trustees or designee of each district can make the decision to waive specific course requirements for graduation. ARM 10.55.906(3). Students with disabilities have a right to FAPE pursuant to the IDEA, and they are entitled to a FAPE until at which time they graduate with a regular high school diploma, or their eligibility ceases due to aging out. A student who has successfully completed the goals on their IEP shall have completed a prescribed course of study and shall be *eligible* for graduation from high school. ARM 10.16.3345(5) (emphasis added). If a student graduates with anything less than a regular high school diploma, then the student is still entitled to receive FAPE until they reach the age at which eligibility ceases under the age requirements of the State.

ARM 10.16.3345. Local Educational Agency Responsibility for Promotion of Students with Disabilities.  
ARM 10.55.906. High School Credit.

### **5. May a student with significant cognitive disabilities attempt to complete the requirements of a regular high school diploma even if they take the alternate assessment?**

Yes. All students with disabilities must be included in state-wide and district-wide assessment programs. Students with the most significant cognitive disabilities who take an alternate assessment must not be precluded from attempting to complete the requirements for a regular high school diploma. See 34 CFR 200.6(d)(4) and 300.160(d)(2). IEP teams must determine if a student with a disability should participate in the general assessment with accommodations or an alternate assessment. IEP teams must be provided a clear explanation of the differences between assessments based on grade-level academic achievement standards and those based on alternate academic achievement standards, including any effects on a student's education resulting from taking an alternate assessment aligned with alternate academic achievement standards, such as how participation in such assessments may delay or otherwise affect the student from completing the requirements for a regular high school diploma.

34 CFR 300.160(d)(1).

Under the ESSA, states may adopt alternate academic achievement standards for students with the most significant cognitive disabilities who participate in the state's alternate assessment and then award a state-defined alternate diploma based upon those standards. Although Montana does have a state alternate assessment, Montana has not yet adopted alternate academic achievement standards or a state-defined alternate diploma.

34 CFR 200.1(d) State Responsibilities for Developing Challenging Academic Standards.

34 CFR 200.6. Inclusion of All Students.

34 CFR 300.160. Participation in Assessments.

## **Transcripts**

### **1. May classes be identified as special education classes on the high school student's transcript?**

No. Phrases such as "Special Education English," "Inclusion Math," or "Resource Math" should not appear on the transcript. Phrases such as "English Essentials," or "Practical Math Applications" or other descriptive phrases that do not identify the class or student as special education must be used.

*Office of Civil Rights, Questions and Answers: Report Cards and Transcripts for Students with Disabilities* (October 17, 2008)

*Office of Civil Rights, Letter to Runkel* (September 30, 1996).

### **2. May a high school student's transcript reflect that the student had a modified curriculum in a general education class?**

It depends. While not specifically prohibited by law, there are significant risks to doing so. The school district must be careful in providing any information on the transcript that may later have a discriminatory impact on the student's admission to postsecondary educational institutions or future employment. School district policy must address that **all** students who participate in a class with a modified curriculum will receive a modified grade by notation of an asterisk or another symbol on their transcript.

*Office of Civil Rights, Questions and Answers: Report Cards and Transcripts for Students with Disabilities* (October 17, 2008).

*Office of Civil Rights, Letter to Runkel* (September 30, 1996). Grades, Class Ranking and Honor Roll

### **1. Must modified grades earned in special education or general education classes be included in districtwide Grade Point Average (GPA) standings for purposes of ranking of students by GPA for honor roll?**

An honor roll policy may not use participation in special education as a basis for exclusion from the honor roll. In determining GPA or class ranking, a school district may not exclude students receiving modified grades, special education services or assign these students a lower ranking.

Any policy and practice related to a student's honor roll status must be based on objective criteria, implemented districtwide for all students. A school district must use uniform standards for measuring academic achievement even though some students with disabilities may not be able to perform at higher levels. A school district policy may not use participation in special education as a reason to bar students from competition for valedictorian, salutatorian or class ranking.

*Office of Civil Rights, Letter to Runkel (September 30, 1996).*

**2. May a school district implement a weighted grading system that arbitrarily assigns lower grade weights to all special education courses?**

No. For purposes of determining grades, weighting of courses based solely on the status of the class as a special education class or the classification of the student as having a disability would be discriminatory.

*Office of Civil Rights, Letter to Runkel (September 30, 1996).*