
Definition: Child with a Disability

NHED FACT SHEET



NH Department of Education

**Bureau of
Special Education
Support**

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NH Education Law RSA 186-C:2, I Definition: “Child with a Disability”

During the 2021-2022 legislative session, through SB 394, the New Hampshire Legislature amended RSA 186-C:2, I, which changed the definition of “Child with a Disability” to now provide for children between the ages of 3 through 21, *inclusive*. **This law became effective on June 17, 2022.**

“Child with a Disability”—Defined:

Prior to the amendment, RSA 186-C:2, I, defined the term “Child with a disability” as “[A]ny person 3 years of age or older but less than 21 years of age”, among other qualifying criteria. As such, under the law, prior to the amendment, a child was permitted to be exited from special education and enrollment from the school district on the child’s 21st birthday.

“Child with a Disability”—As Amended:

As amended, RSA 186-C:2, I, expands the definition of the term “Child with a disability” to incorporate individuals who are 21, *inclusive*. Therefore, school districts are now required to provide a free appropriate public education (FAPE) to individuals who are receiving special education through age 21 until their 22nd birthday.

Access the new definition as provided by RSA 186-C:2, I, here:

http://www.gencourt.state.nh.us/bill_status/billinfo.aspx?id=2139&inflect=2

NH Education Law RSA 186-C:2, I Definition: “Child with a Disability” Continued—

Reason for the Change to RSA 186-C:2, I--IDEA:

The Individuals with Disabilities Education Act (IDEA) defines a child with a disability as one “between the ages of 3 and 21, *inclusive* . . .” See 34 CFR 300.101. As such, the New Hampshire definition of “Child with a Disability” was amended to expand the age range in which special education services are to be provided to better align with the federal definition. As described above, the definition of “child with a disability” as provided for in RSA 186-C:2, I, is now “any person between the ages of 3 and 21, inclusive, who has been identified and evaluated by a school district according to rules adopted by the state board of education . . .”

Financial Implications:

The law as passed also provides financial support for school districts during the 2022-2023 school year, which are related to providing services to special education students over the age of 21 until the individual reaches his or her 22nd

birthday. Upon application by a school district, the New Hampshire Department of Education (NHED) shall provide reimbursement for any such costs, which were not otherwise compensated for through other forms of state education aid. To qualify for reimbursement, a school district must have utilized any unexpended, IDEA funds for fiscal year 2022 and any available IDEA American Rescue Plan Act funds.

To apply for such reimbursement the Bureau of Special Education Support will be sending out detailed instructions and procedures. This reimbursement will be disbursed in a similar manner to Special Education Aid.

The Impact on Current Special Education Student Placements:

- Students with disabilities may stay in their current placement, if the IEP team deems this to be appropriate for the student’s individual needs.
- If students who have exited from public school, in accordance with the previous definition, have already been connected to area agencies or Vocational Rehabilitation services, those individuals may continue in said programs, or may return to the district as determined by the IEP team, assuming they remain eligible for an IEP.
- Districts will retain Child Find responsibilities for students up to age 22, even if the child was previously exited from the school district due to ‘aging out’ under the prior definition of RSA 186-C:2, I.
- School districts should revise their respective special education programs, if necessary, so that it is reflective of the new definition of RSA 186-C:2, I. Failure to do so may impact a district’s ability to place a student in an approved program if their program is only approved to age 21.
- Private providers should revise their respective special education programs, if necessary, so that it is reflective of the new definition of RSA 186-C:2, I. Failure to do so may impact a private provider’s ability to place a student in an approved program if their program is only approved to age 21. It could also impact the program’s capacity limit if the provider needs to continue to provide services to students that had been otherwise scheduled to exit at age 21 (under the previous law) and the IEP team has determined that they should continue up to their 22nd birthday.

As stated above, this law became effective on June 17, 2022. As such, any adjustments which are made—whether they be programmatic or financial—to come in compliance with the new law should be reviewed and ensured that they can be long-term solutions since school districts will be responsible for developing and implementing procedures and practices which are in compliance with the new definition for future years.