

Fund Court Mandate for Free and Appropriate Public Education for Students with Disabilities to Age 22

In July 2021, the U.S. Second Circuit Court of Appeals ruled that the federal Individuals with Disabilities Education Act (IDEA) requires Connecticut to provide a free appropriate public education (FAPE) to all children with disabilities who had not received high school diplomas until their 22nd birthdays.

The Second Circuit also has jurisdiction over New York State. Accordingly, our State Education Department has advised that school districts in our state must also provide instruction for these students through at least the day before their 22nd birthday.¹ Public schools in New York State have begun to comply with this interpretation.

Current New York law provides state funding on behalf of students only through the school year in which they turn 21. The Council strongly supports the State Education Department's proposals to amend state aid formulas for Foundation Aid, Public Excess Cost Aid, and private Excess Cost Aid to ensure that local taxpayers will not bear the entire cost of this extended service. SED estimates the total additional cost will be \$70.5 million.

In our November 2023 survey, 91% of superintendents identified rising special education costs as one of the factors causing concern in thinking about the financial outlook for their schools—up from 78% in 2022 and more than any other factor in both years.

The Council strongly supports ensuring that school districts receive state funding to assist in meeting the obligation to educate students with disabilities to age 22.

¹ [Formal Opinion of Counsel Number 242](#). New York State Education Department. July 6, 2023.