

To: Pennsylvania School Leaders
From: Pennsylvania Department of Education

On May 16, 2024, the Commonwealth Court held that the Pennsylvania Department of Education's (Department) guidance regarding the age through which students with disabilities are entitled to access Free Appropriate Public Education (FAPE) was invalid.

In its opinion, the Commonwealth Court addressed a challenge raised by the Pennsylvania School Boards Association (PSBA), the School District of Pittsburgh, the Central Bucks School District, and the Upper Darby School District to guidance the Department issued to interpret the Individuals with Disabilities in Education Act (IDEA).

Specifically, the guidance underscored the IDEA requirement that students with disabilities may remain enrolled in public school until they turn 22 years of age, rather than the end of the school term in which they turn 21 years of age. Importantly, PSBA and the three Districts did not challenge the Department's guidance as inconsistent with IDEA, but argued that the guidance did not conform to State law related to the publishing of regulations. In fact, the Commonwealth Court expressly took no position with respect to the Department's interpretation of the IDEA itself – that is, whether the IDEA requires that students with disabilities be provided the opportunity to remain enrolled until reaching 22 years of age.

Today, the Department appealed the Commonwealth Court's decision to the Supreme Court of Pennsylvania. As a result, the Commonwealth Court's decision is stayed pending resolution of the appeal or further order of court. The Department is committed to ensuring that every Pennsylvania student receives a high-quality education – and the Department's position as it relates to the IDEA and guidance has not changed. Specifically, the Department believes that the guidance, which helps to ensure students with disabilities receive services to which they are entitled, is consistent with IDEA.