

Enrolling Older Newcomer Students FAQ

July 29, 2024

The Illinois State Board of Education seeks to clarify the right of newcomer students to enroll in Illinois public schools and to answer questions about grade level placement and the provision of diplomas.

1. Does a newcomer student whose age exceeds the compulsory age of attendance (a student who is 17, 18, 19, or 20 years old) have the right to enroll in an Illinois public school?

Yes. As stated in ISBE's [registration and enrollment guidance](#), "The immigration status of the parent or child has no bearing on the rights of the student to enroll. The laws of Illinois and the United States guarantee all students, including undocumented immigrant students, access to a free public education **through grade twelve until the age of 21**, regardless of immigrant status." (Emphasis added.)

The maximum age of attendance for special education students is the day before their 22nd birthday. Additionally, per [Public Act 102-0172](#) and [105 ILCS/14-1.02](#), a student with a disability eligible for special education who requires continued public school educational experience to facilitate his or her successful transition and integration into adult life is eligible for such services through age 21 inclusive. That means the day before the student's 22nd birthday, unless his or her 22nd birthday occurs during the school year, in which case he or she is eligible for such services through the end of the school year.

The School Code also explicitly permits school boards to establish classes for the instruction of persons 21 years of age or older and to pay the necessary expenses of such classes out of a district's school funds. This can include courses of instruction regularly accepted for graduation from high school and high school equivalency testing review classes. See 105 ILCS 5/10-22.20(a). Pursuant to this Section, a district may permit a student who turns 21 during the school year to continue their education through the end of the school year and beyond, but may not claim Evidence-Based Funding for them after they have turned 21. *Id.* at 10-22.20(j). The benefits of allowing a student in this situation to remain enrolled for the remainder of the school year should be considered, as should the safety implications of allowing an adult student over the age of 20 to be in the same building as much younger children. The district should consult with its own legal counsel on the various considerations of allowing a student to remain enrolled after they turn 21.

2. Does a newcomer student under the age of 21 have the right to enroll if they have evidence of having graduated or received a high school diploma in their country of origin?

Generally, yes. The student's previous coursework has no bearing on their right to enroll up to age 21.

Even if the student's records indicate they have received significant secondary schooling, Illinois' [state graduation requirements](#) include specific requirements that a newcomer student seeking to enroll in high school is highly unlikely to have met, such as one year of a writing-intensive English course, passing a satisfactory examination of American patriotism and the principles of representative government, and filing a Free Application for Federal Student Aid with the U.S. Department of Education – so the argument cannot be made that they have met all local graduation requirements and should be considered already graduated.

Schools are encouraged to use any evidence of a student's prior coursework (in addition to interviews, content and language exams, and other factors) to aid in making appropriate grade and course placements, but they cannot use this documentation to deny a student enrollment. Enrollment of newcomer students is not only their legal right but also affords them the opportunity to earn a high school diploma and thus to pursue postsecondary work and education options in the United States that would not be available to them without a diploma.

In some cases, a student's home country may still offer a virtual option for the student to continue to take high school courses in their home country. Regardless of whether or not this option is available to students, they have the right to enroll in school here in Illinois and continue in their education until they meet Illinois graduation requirements and receive an Illinois diploma or reach age 21. Should the student graduate from their home country high school, they have the choice as to whether to leave high school in Illinois and go to college on their international diploma or to remain in high school until they meet Illinois graduation requirements. District staff should not pressure students or in any way coerce students to leave high school.

3. Can the public school district deny enrollment to a newcomer student if they will not meet graduation requirements by age 21?

No. "A school district shall deny reenrollment in its secondary schools to any child 19 years of age or above who has dropped out of school and who could not, because of age and lack of credits, attend classes during the normal school year and graduate before his or her twenty-first birthday" as specified in 105 ILCS 5/26-2(b). ***Note that under this Section, the student's inability to graduate before age 21 is relevant only in the context of school dropout situations.*** A student who has remained continuously enrolled until age 19 but is credit deficient and unlikely to graduate before his or her 21st birthday because of age and lack of credits cannot be denied enrollment or disenrolled under this provision because they do not qualify as a dropout. Likewise, an immigrant student whose formal education was interrupted in their home country prior to their attempt to enroll in school in Illinois does not qualify as a dropout. The student has the right to enroll and attend up until their 21st birthday. Read more about these requirements in the [School Code](#).

4. Does a newcomer student have the right to receive a diploma from the public school district without enrolling?

No. Illinois does not have a reciprocal program whereby a school diploma can be issued for credits earned in a foreign country. ISBE provides the same guidance regarding older newcomer

students as it provides regarding [home schooled students](#) seeking to enroll in the 12th grade in order to receive a regular high school diploma: “A student must be enrolled full time at a public district and satisfy all graduation requirements to be eligible to participate in graduation ceremonies and receive a diploma.”

5. How should a school district determine grade placement for older newcomer students?

Appropriate placement should entail evaluation by the district of several factors, including transcripts, if available; content and language exams; interviews; and other factors. ISBE’s [Newcomer Resources webpage](#) contains links to several toolkits with information on strategies for placing and supporting newcomer students, including the Institute of Education Sciences’ [Welcoming, Registering, and Supporting Newcomer Students: A Toolkit for Educators of Immigrant and Refugee Students in Secondary Schools](#).

The placement of a new student is a decision within the discretion of the school district, whether that student is already a student of the district or transferring in from another school, private or public. Age, by itself, does not dictate a particular placement, and social promotion is impermissible. A district may not make a placement decision that is unreasonable, arbitrary, capricious, or an abuse of discretion, and therefore should have a defined process for evaluating and determining appropriate grade placement.

While school districts may not place or promote students based on age, the U.S. Department of Education and U.S. Department of Justice have issued [joint guidance](#) in the form of a Dear Colleague [letter](#) stating, “School districts also should place EL [English Learner] students in age-appropriate grade levels so that they can have meaningful access to their grade-appropriate curricula and an equal opportunity to graduate.”

The letter further states, “The Departments recognize that students with interrupted formal education (SIFE students), especially in the higher grades, may be below grade level in some or all subjects when they enter a school district, and that some school districts provide appropriately specialized programs to meet their needs. The Departments would not view such programs as offering inappropriately watered-down instructional content where the program is age-appropriate, the content of the instruction relates to the core curriculum and is credit-bearing toward graduation or promotion requirements, and SIFE students have the opportunity to meet grade-level standards within a reasonable period of time. However, it would be inappropriate for a district to place high school aged SIFE students in middle or elementary school campus programs because this would not permit SIFE students to meet high school grade-level standards and graduation requirements within a reasonable amount of time and the placements would not be age appropriate.”

6. Does a student whose age exceeds the compulsory age of attendance (a student who is 17, 18, 19, or 20 years old) have the right to remain enrolled after they have met state and local graduation requirements?

No. Once a student has met state and local graduation requirements, the school district may issue the student a diploma and exit the student. Per ISBE’s [graduation rate guidance](#), “Grade

assignments and a student's eligibility for promotion and graduation are determined locally. Per 105 ILCS 5/10-20.9a, teachers administer the district's approved marking system and maintain the sole responsibility and right to determine grades and other evaluations of students within those grading policies. School boards must adopt and enforce a policy on promotion as they deem necessary to ensure that students meet local goals and objectives and can perform at the expected grade level prior to promotion. Decisions to promote or retain students in any classes must be based on successful completion of the curriculum, attendance, performance on state-required and other assessments, or any other criteria established by the school board. School districts may not promote students to the next higher grade level based upon age or any other social reasons not related to a student's academic performance."

The School Code also explicitly permits school boards "[t]o establish special classes for the instruction (1) of persons of age 21 years or over and (2) of persons less than age 21 and not otherwise in attendance in public school, for the purpose of providing adults in the community and youths whose schooling has been interrupted with such additional basic education, vocational skill training, and other instruction as may be necessary to increase their qualifications for employment or other means of self-support and their ability to meet their responsibilities as citizens" and to pay the necessary expenses of such classes out of a district's school funds. See 105 ILCS 5/10- 22.20(a).

7. How does an older student factor into a school/district's Adjusted Cohort Graduation Rate?

Per ISBE's [graduation rate guidance](#), "The Adjusted Cohort Graduation Rate is the rate of graduates compared to the total number of students in their 4-year, 5-year, and 6-year cohort ... The cohort is based on the number of students who enter Grade 9 for the first time, adjusted by adding into the cohort any student who transfers in later during Grade 9 or during the next three years and subtracting any student from the cohort who transfers out, emigrates to another country, transfers to a prison or juvenile facility, or dies during that same period."

A student is counted as graduated when the Student Information System (SIS) exit code "Graduated with regular, advanced, International Baccalaureate, or other type of diploma" is used for exiting the student enrollment.

The calculation does not consider a student's age at the time of entering the cohort or at the time of graduating.

8. How would an older student factor into an organizational unit's enrollment counts used for Evidence-Based Funding (EBF) calculations?

For special education funding, the costs associated with a student are eligible for reimbursement through the end of the school year in which a child turns 22 years old. For EBF specifically, the formula considers SIS enrollments twice a year -- on October 1 and March 1. If a student who is under the age of 21 is entered in SIS and enrolled at a district on October 1 or March 1, then they will count toward the EBF enrollment of the district. Once a student is exited from SIS, they are no longer included in the enrollment for EBF.

According to SIS documentation, non-IDEA students must be less than 22 on the day they are exited from SIS, and IDEA students must be less than 23 on the day they are exited from SIS.

For example, if a non-IDEA student turns 22 in December and they are no longer eligible to be included in SIS, the student will only be included in the October 1 count for EBF and be excluded from the March 1 count of EBF. This student will be weighted as half (0.5) of a student enrollment. If the student turned 22 before October 1, they will not be included in EBF enrollment at all.