

Counting Students Who Are 20 and 21 Years Old

Special Education: A student who is at least 3 years old, but not yet 21 years old and who has not graduated from high school has a right to a free public education.

A special education student who has not yet graduated and did not turn 21 prior to the start of the school term, shall be allowed to enroll in school during the school term, even if the student is age 21 at the time of enrollment. The student shall be allowed to attend school until the end of the term the student turns 21. If present for instruction on the count dates, the student may be counted for aid or revenue limit purposes.

A special education student who is over the age of 21 before the start of the school term may be admitted to the school district, consistent with s. 118.14(2), Wis. Stats., but may not be counted for aid and revenue limit purposes.

Summary: if a special education student is 20 prior to the first day of classes according to the school calendar, the student can enroll any time during the year, even after turning 21, and the district must provide services and can count the student.

Regular Education: A student between the ages of 4 and 20 has a right to a free public education.

A regular education student who has neither graduated nor turned 21 when the student enrolls and begins to receive instruction shall be provided services in school during the school term. The student may attend school until the end of the term the student turns 21. If the student is in attendance on the count days, the student may be counted for aid and revenue limit purposes.

A district is not required to enroll a regular ed student who has turned 21. If a regular education student turns 21 prior to enrolling, or is age 21 when attempting to enroll, the district is not required to provide services, but may provide services as provided in s. 118.14(2). The district cannot count the student for aid and revenue limit purposes.

Summary: if a regular education student is 20 when he/she enrolls and receives instruction, the district must provide services and can count the student. If a student turns 21 prior to enrolling and receiving instruction, the district is not required to provide services and cannot count the student. If a student enrolls prior to turning 21, but turns 21 before attending classes, the district is not required to provide services and the student cannot be counted.

References:

Article X, Section 3 of the Wisconsin Constitution

District schools; tuition; sectarian instruction; released time. Section 3. [*As amended April 1972*] The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of 4 and 20 years; and no sectarian instruction shall be allowed therein; but the legislature by law may, for the purpose of religious instruction outside the district schools, authorize the release of students during school hours. [*1969 J.R. 37, 1971 J.R. 28, vote April 1972*]

S. 990.001 (14), Wis. Stats.

Statutory reference to numerical series. If a statute refers to a numerical series such as 1 to 10, the reference includes both the first and last number mentioned.

S. 118.14 (2), Wis. Stats.

A resident over 20 years of age may be admitted to school when in the judgment of the school board the resident will not interfere with the pupils of school age.

S. 120.18 (1) (a), Wis. Stats.

The school count, showing the numbers and ages of persons who are at least 4 years old but not yet 14 years old and who reside in a school district operating only elementary grades, showing the number and ages of persons between the ages of 14 and 20 residing in a union high school district and showing the number and ages of persons between the ages of 4 and 20 residing in any other school district. Children cared for at a charitable or penal institution of this state may not be included in the report. The school district clerk may employ a competent person to take the school count. The count may be determined by using any of the following methods.....

S. 115.001 (12), Wis. Stats.

(12) SCHOOL TERM. "School term" means the time commencing with the first school day and ending with the last school day that the schools of a school district are in operation for attendance of pupils in a school year, other than for the operation of summer classes.

S. 115.76(3), Wis. Stats.

"Child" means any person who is at least 3 years old but not yet 21 years old and who has not graduated from high school and, for the duration of a school term, any person who becomes 21 years old during that school term and who has not graduated from high school.