RCW 28A.155.020 Administration of program in the office of the superintendent of public instruction—Services between the age of three and school year in which student turns 22 guaranteed—Adoption of definitions by rule—Local school district powers not limited. There is established in the office of the superintendent of public instruction an administrative section or unit for the education of children with disabilities who require special education.

Students with disabilities are those children whether enrolled in school or not who through an evaluation process are determined eligible for special education due to a disability.

In accordance with part B of the federal individuals with disabilities education improvement act and any other federal or state laws relating to the provision of special education services, the superintendent of public instruction shall require each school district in the state to insure [ensure] an appropriate educational opportunity for all students with disabilities beginning at three years of age and concluding at the end of the school year in which the student turns 22 years of age. The superintendent of public instruction, by rule, shall establish for the purpose of excess cost funding, as provided in RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.160, functional definitions of special education, the various types of disabling conditions, and eligibility criteria for special education programs for children with disabilities, including referral procedures, use of positive behavior interventions, the education curriculum and statewide or district-wide assessments, parent and district requests for special education due process hearings, and procedural safeguards. For the purposes of RCW 28A.155.010 through 28A.155.160, an appropriate education is defined as an education directed to the unique needs, abilities, and limitations of the children with disabilities who are enrolled either full time or part time in a school district. School districts are strongly encouraged to provide parental training in the care and education of the children and to involve parents in the classroom.

Nothing in this section shall prohibit the establishment or continuation of existing cooperative programs between school districts or contracts with other agencies approved by the superintendent of public instruction, which can meet the obligations of school districts to provide education for children with disabilities, or prohibit the continuation of needed related services to school districts by the department of social and health services.

The provision of special education services until the end of the school year in which a student with disabilities turns 22 years of age is not intended to reduce or supplant any other service that a student may be eligible for.

This section shall not be construed as in any way limiting the powers of local school districts set forth in RCW 28A.155.070. [2025 c 256 s 3; 2015 c 206 s 2; 2007 c 115 s 2; 1995 c 77 s 8; 1990 c 33 s 121; 1985 c 341 s 4; 1984 c 160 s 1; 1971 ex.s. c 66 s 2; 1969 ex.s. c 2 s 2; 1969 ex.s. c 223 s 28A.13.010. Prior: 1951 c 92 s 1; prior: (i) 1943 c 120 s 1; Rem. Supp. 1943 s 4679-25. (ii) 1943 c 120 s 2, part; Rem. Supp. 1943 s 4679-26, part. Formerly RCW 28A.13.010, 28.13.010.]

Findings—Intent—2025 c 256: "(1)(a) The legislature finds that, with some exceptions, a state receiving federal funding under the federal individuals with disabilities education act is obligated to provide a free appropriate public education to children with

disabilities "between the ages of 3 and 21, inclusive." However, the state is not obligated to serve youth with disabilities aged 18-21 if it would be inconsistent with state law or practice, or the order of any court, regarding the provision of public education to youth in that age range.

(b) The legislature observes that, under Washington law in effect in 2024, children with disabilities must be provided a free appropriate public education "between the ages of 3 and 21." When the 21st birthday of an individual with disabilities occurs during the school year, state administrative rule requires that special education services continue until the end of the school year.

(2)(a) The legislature acknowledges that, on November 22, 2024, the United States district court for the western district of Washington issued an order in the case of *N.D. v. Reykdal*. This class action lawsuit alleged that Washington's law violates the federal individuals with disabilities education act.

(b) The plaintiff students successfully argued that, because Washington offers adult education programs to 21 year olds and waives the $25 tuition fee for those who cannot pay, the state provides "free public education" to nondisabled students through age 21, which makes the federal individuals with disabilities education act's exception inapplicable.

(c) The court issued a declaratory judgment that Washington's policy of aging students out of special education at the end of the school year in which they turn 21 years old presently violates the federal individuals with disabilities education act and will continue to violate the federal individuals with disabilities education act absent a substantial change in the state's policies for charging and waiving tuition for its adult secondary education programs.

(3) The legislature finds that providing services through the school year in which the student turns 22 years old is vital to maximize educational gains, provide transitional supports, and for planning purposes.

(4) For these reasons, when the 22nd birthday of an individual with disabilities occurs during the school year, the legislature intends to continue the provision of special education services until the end of the school year." [2025 c 256 s 1.]

Finding—2015 c 206: "The legislature finds that there is no educational or therapeutic benefit to children from physically restraining or isolating them as part of their public school programs when not necessary for immediate safety. The use of seclusion or restraints in nonemergency situations poses significant physical and psychological danger to students and school staff. The legislature declares that it is the policy of the state of Washington to prohibit the planned use of aversive interventions, to promote positive interventions when a student with disabilities is determined to need specially designed instruction to address behavior, and to prohibit schools from physically restraining or isolating any student except when the student's behavior poses an imminent likelihood of serious harm to that student or another person." [2015 c 206 s 1.]

Effective date—1985 c 341 ss 4 and 13: "Sections 4 and 13 of this act shall take effect August 1, 1985." [1985 c 341 s 18.]

Severability—1984 c 160: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 160 s 6.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.155.010.