

**New Responsibilities for
Transition Evaluation
Planning and Services
Under IDEA 2004
A New Paradigm for
Decision Making**

by

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Transition – A Whole New Approach to Special Education

- Goal of IDEA is to promote maximum independence in adulthood
- Goal of transition plan is to promote maximum transition plan in adulthood
- Transition plan must address child's interests, aptitudes, plans regarding education, career, housing and community involvement

The 2004 Congressional Finding:

- “Almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by-
- (A) having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom, to the maximum extent possible, in order to –
- (i) meet developmental goals and, to the extent possible, the challenging expectations that have been established for all children; and
- (ii) be prepared to lead productive and independent lives to the maximum extent possible (20 U.S.C. Sec. 1401 (c)(5))

What is a transition plan?

- A part of the IEP designed to address and promote the child's successful movement from high school to desired post-high school activities
- Can include post-secondary education, vocational training, integrated employment, continuing and adult education, adult services, independent living and/or community participation.
- Based on student's needs, aptitude, interests and preferences.
- Must be outcome oriented.
- Transition Plan should drive entire IEP process.

IEP Must be Results Oriented

According to the Education Department, the term “results-oriented process” should be interpreted given its “plain meaning”.
Analysis of Comments and Changes to 2006 IDEA Part B Regulations, 71 Fed. Reg. 46579 (2006).

Expanded Clarity for Transition

- Expands requirements for transition plans to include “appropriate measurable postsecondary goals based upon age appropriate transition assessments including training, education, employment and, where appropriate, independent living skills”
- Transition services (**including courses of study**) needed to assist the child to reach those goals.
- (1414(d)(1)(A)(i)(VIII))

Timing of transition planning:

- Per IDEA 2004, must start transition planning and services when child is 16.
- Under Illinois law, transition planning begins at 14 ½ .

New Rule on Parent Participation

- Student has a right to complete a Delegation of Authority to parents upon turning 18.
- Ill. Statute provides a form for this purpose
- Student may revoke the delegation at any time.
- School must advise the parents and student of the delegation procedure.

DELEGATION OF RIGHTS TO MAKE EDUCATIONAL DECISION

I, _____ am 18 years of age or older and a student who has the right to make educational decisions for myself under State and federal law.

I have not been adjudged incompetent and, as of the date of the execution of this document, I hereby delegate my right to give consent and make decisions concerning my education to _____ who will be considered my "parent" for purposes of the Individuals with Disabilities Education Improvement Act of 2004 and Article 14 of the School Code and will exercise all of the rights and responsibilities concerning my education that are conferred on a parent under those laws.

I understand and give my consent for _____ to make all decisions relating to my education on my behalf. I understand that I have the right to be present at meetings held to develop my individualized education program and that I have the right to raise any issues or concerns I may have and that the school district must consider them.

This delegation will be in effect for one year from the date of execution below and may be renewed by my written or other formal authorization. I also understand that I have the right to terminate this Delegation of Rights at any time and assume the right to make my own decisions regarding my education. I understand that I must notify the school district immediately if I revoke this Delegation of Rights prior to its expiration.

Student

DATE: _____

Accepted by: _____
Designated Representative

Who participates:

- The IEP team.
- The child must be invited to participate,
 - a) But parent decides whether they participate.
 - b) If they don't participate, school must still get child's input.
- College counselor should be invited if college being considered
- Representatives of other agencies identified to provide service, e.g., Office of Rehabilitation Services should be invited.
- If child is 18, child decides, unless parent obtains guardianship.

Must address all areas of transition related to child's goals, including:

1. Post-secondary education

- Should assess whether and type of post-secondary education is realistic and appropriate
- Should assess and address skills necessary to be successful in post-secondary education
- Should provide assistance in identifying programs and implementing steps to secure admission

2. Employment Assessment and Training Must address all areas of transition related to child's goals, including:

- Career specific skills
- Employability/vocational skills
 - i) Finding available jobs
 - ii) Completing a job application
 - iii) Handling a job interview
 - iv) On the job behavior

3. Community skills/independent living skills

- Getting around/mobility
- Meal planning and purchasing
- Use of money
- Personal hygiene
- Social skills

4. If student is eligible for support from other agencies, plan must address:

- steps for applying and determining eligibility
- assistance with securing enrollment
- plan for effective use

5. Remediation

- Does the student have the academic skills necessary to accomplish their transition goals?
- Can the child write well enough to do a job application?
- Can the child read the entrance exam?
- If academic skills need further development, transition plan should address this

REMEMBER -

- IDEA 2004 requires measurable post-secondary goals
- Goals should be developed in each area of need
- Goals should have a monitoring and evaluation procedure comparable to that used for goals and objectives

Recent Amendment to School Code Requires Integration of Transition Plan with IEP

- III. School Code- 105 ILCS Sec. 14-8.02 has been amended to make clear that the transition planning process must follow IDEA procedures and the transition plan must be fully integrated within the IEP and reviewed when the IEP is reviewed.
- Also requires integration with community colleges where appropriate.

Post Secondary Goals

- A new way of thinking about goals
- A new way of thinking about the IEP process
- Turning back the planning clock to address what is needed

Post Secondary Planning vs. Business as Usual

- **Business as usual:**
- IEP was reviewed annually
- Progress expected for coming year was based on progress prior year
- Progress was typically incremental
- Progress was often not outcome driven, but simply geared to assure progress was measurable
- **Goals based on post-secondary planning:**
- Requires developmental of post-secondary (long-term) goals before developing annual (short-term) goals
- Post-secondary goals must be appropriate and achievable

A Whole New Approach

- Given appropriate and achievable post-secondary goals, **ANNUAL GOALS AND SERVICES MUST BE DRIVEN BY POST-SECONDARY GOALS**
- **May require schools to expand scope of needs, broaden goal areas, add programs and services and continue services beyond normal graduation even if student has met credit requirements**

But s/he has met graduation requirements?!?!?

- Passing grades and accumulation of credits are not by themselves evidence that a student has received a Free Appropriate Public Education
- Meeting IEP goals is also not by itself evidence of FAPE having been delivered
- Obligation to provide FAPE is based on student's needs, including in relation to transition goals, not just progress as measured from base line in prior years

The Lurking Question?

- Assuming the student met all goals and objectives and accumulated sufficient credit to graduate, did the school:
 - Adequately identify all the student's needs?
 - Develop IEPs that appropriately addressed these needs?
 - Implement the IEPs as they were written?
 - Provide an IEP and services to meet the student's needs, including transition needs?

Who pays for services?

- Other agencies may be responsible for services.
- But if other agencies fail to provide service, school must reconvene to provide other ways to provide service.

Responsibility for Provision of Transition Services – LEA Leadership vs. Parent

- The district is expected to take a leadership position in contacting agencies expected to provide services to the student once he or she exits the school system and act as a liaison between the parents and the other agencies while the student is enrolled in school. See *Letter to Bereuter*, 20 IDELR 536 (OSEP 1993).

When do services stop?

- Graduation with regular diploma.
- Day before the 22nd birthday

KEY INDICATORS OF INAPPROPRIATE GRADUATION AND/OR TRANSITION PLAN:

- Inadequate evaluation of transition needs.
- Graduation without meeting goals and objectives.
- Graduation without progress on transition goals.

Other Indicators of Deficient Transition Plan:

- Basic skills used for transition not addressed, e.g., remedial academics, mobility orientation, job skills.
- Linkage to other agencies not implemented.
- Transition Plan and IEP not linked
- **CHILD LACKS NECESSARY SKILLS**

District Obligations Where Responsible Agencies Default in Transition Obligations

- If a participating agency fails to provide agreed-upon services, the IDEA requires that the IEP team meet to identify other ways to satisfy the student's transition objectives and, if necessary, revise the student's IEP. 34 CFR 300.324(c); *Letter to Anonymous*, 21 IDELR 673 (OSEP 1994). The district is the party ultimately responsible to the student for ensuring that transition services called for in the student's IEP are implemented.

The 2004 Summary of Performance Requirement

- When a child is graduating or aging out of high school, the school “shall provide a summary of the child’s academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child’s postsecondary goals.
- 20 U.S.C. Sec. 1414(c)(5)(B)(ii)

Examples of Failure to Provide Transition Plan

- *J.L. and M.L. v. Mercer Island School District*, 46 IDELR 273 (W.D. Wa. 2006)
failure of IEP to focus on progressing student toward self sufficiency, independent living and post secondary goals denied benefit contemplated by IDEA; meaningful educational benefit requires preparation for self-sufficiency.

Examples, cont'd

- *Yankton School District v. Schramm*, 93 F.3d 1369 (8th Cir. 1996) Transition plan should include specific goals and objectives to enable student to transition to post school, adult life.

Examples, cont'd.

- *East Penn School District v. Scott B.*, 29 IDELR 1058 (E.D. Pa. 1999) aff'd 213 F.3d 128 (3rd Cir. 2000) IEP inadequate where not based on transition evaluation, contained inadequate transition services, lacked goals. “Without goals, a transition plan becomes a transition to nowhere.”

HIGHER EDUCATION and VOCATIONAL ACCOMMODATIONS

Eligibility for accommodations on ACT/SAT, Graduate and Licensing Exams

- Requires documentation, e.g., evaluation and special education or 504 status
- No longer flagged on reports
- Evaluation agencies toughening criteria
- Must now link disability to history of adverse impact in relation to general population

Burden on student/applicant to document disability

- In testing and education context, student must affirmatively request and document need for accommodation
- Same in employment context, but applicant must balance risks of disclosure in employment context with benefits

Criteria for Eligibility for Accommodations

- Must have up-to-date evaluation, particularly for AD/HD
- Special education/Section 504 eligibility helps – not legally essential, but functionally essential
- Standard: Toyota vs. Bartlett, (reversed by ADAA of 2008)
- Evaluation must be by qualified professional
- Must show impairment in comparison to average population
- Must link need for accommodation to impairment

Additional factors in determining eligibility for accommodation:

- Must be otherwise qualified
- Provides right to accommodations, but not remedial services
- Accommodations cannot be unduly burdensome or fundamentally alter nature of program

The buck stops with the school

- If the Transition Plan involves other agencies and they fail to deliver, the school must reconvene the IEP to “identify alternative strategies to meet the transition objectives....1414 (d)(6)