

RIGHTS OF MASSACHUSETTS YOUTH REGARDING SPECIAL EDUCATION TRANSITION PLANNING

Prepared by the Mental Health Legal Advisors Committee
July 2012

What rights do special education students have regarding transition planning?

The federal Individuals with Disabilities Education Improvement Act (IDEA-2004) requires special education students receive transition planning at age 16 or younger. However, a Massachusetts law requires that transition planning begin at age 14.¹

How is transition planning documented?

Beginning no later than the first Individualized Education Plan (IEP) to be in effect when the youth turns age 14, or younger if warranted, the IEP team must include in the IEP:

- appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
- the transition services (including course of study) needed to assist the child in reaching those goals.²

The IEP team must document these goals and services on a Transition Planning Form (TPF), to be included in the IEP. The form is available at <http://www.fcsn.org/pti/topics/transition/tools/tpf.pdf>.

How often should the IEP team discuss transition planning?

The team should discuss transition planning annually, at transition planning meetings convened by the school district. The district must document discussions of these meetings.³

¹ G.L. c. 71B, § 3 (as amended by Chapter 363 of the Acts of 2008).

² See 34 CFR 300.320(b); 300.321(b); 300.322(b)(2); 300.324(c); M.G.L. c. 71B, §§ 12A-C; 603 CMR 28.05(4)(c); DESE, Administrative Advisory SPED 2006-1: Reauthorization of the Individuals with Disabilities Education Act --Initial Implications for School District Practices (Aug. 1, 2005), http://www.doe.mass.edu/sped/advisories/06_1.html#.

³ DESE, Administrative Advisory SEPD 2006-1: Reauthorization of the Individuals with Disabilities Education Act—Initial Implications for School District Practices, http://www.doe.mass.edu/sped/advisories/06_1.html#; DESE, **Technical Assistance Advisory SPED 2009-1: Transition Planning to Begin at Age 14**, http://www.doe.mass.edu/sped/advisories/09_1ta.html.

When else is transition planning discussed?

There may be other meetings, including IEP meetings, to discuss transition planning. The student must be invited to all IEP meetings and other meetings discussing transition planning.

What topics should be included in the TPF?

A Transition Form serves as official documentation of transition planning, and should cover the following topics:

- A “post-secondary vision” for the student’s life after high school. All the services, goals and actions in the plan should support this vision.
- An explanation of the student’s needs that require IEP goals and services.
- An outline of how the student can develop independent living skills.
- How the school will help the student develop academic and functional skills needed for activities like college, work, budgeting, using public transportation and a lot more.
- The role and actions of school personnel, family members, adult service providers, and other community members.⁴

The information in the Transition Form must be written into the IEP as goals and services. Once the parent or guardian signs the IEP with transition services, the school district is mandated to provide them.⁵

What else can the IEP do regarding transition planning?

A good IEP Team should do much more than simply filling out the official transition planning form. Transition planning should also include assessments, planning and services to help the student transition to adult life and be as independent as possible when he/she graduates from high school or turns 22.⁶

Transition planning should lay out a coordinated set of activities that will help the student successfully move to life after school. It should help the student access opportunities such as college, vocational education, employment, continuing and adult education, adult services, independent living or community participation. The student’s goals and vision for his/her future should shape what the services will be, and should also fit his/her individual strengths, interests and needs.⁷

The transition plan is meant to be inclusive and may go beyond what the school’s special education department provides. The student, parent or guardian, school district, general and special education services, community partners, and other agencies should all play a role in

⁴ Leslie Lockhart and Claire Bolton, Transition Planning (Mar. 23, 2010) (unpublished video script, on file with MHLAC).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

making sure the student has a smooth transition to adult life. However, the school district does need to provide or arrange for services that are written in the IEP. The student and parent or guardian are entitled to play active roles in this process.⁸

Is the IEP transition planning process the same as the Chapter 688 process?

This transition planning process is different from the Chapter 688 transition planning process. For the special education transition planning process, the school retains primary responsibility. The plans are written into the youth's IEP and Transition Planning Form. For a further comparison, see http://www.fcsn.org/pti/topics/transition/tools/handouts/27_sped_vs_688.doc.

Are special education youth entitled to transition services even if they have graduated from secondary school?

In general, special education students have a right to services until age 22 or until their IEP goals are met.⁹ Even if a student has received a diploma, if he or she has not been provided with appropriate transition services, then the student may still be entitled to special education services.¹⁰

A 2008 Board of Special Education Appeals decision in Dracut, Mass. ruled that the school district had failed to provide appropriate transition assessments under IDEA to a student with Asperger's syndrome and ADHD prior to graduating.¹¹ As a result, the court ruled that the student was entitled to two years of compensatory transition planning services under Massachusetts regulations.¹² This ruling indicates that if a school district has failed to provide appropriate transitional planning, then a student may be entitled to transition services even after the student has graduated. Transition planning must include transition assessments related to training, education, employment, and where appropriate, independent living skills, so that the appropriate services are put in place.¹³

Resources:

The Federation for Children with Special Needs has a number of good resources on transition planning, including:

⁸ *Id.*

⁹ See *In Re: Quabbin Regional School District*, BSEA # 05-3115, BSEA #05-4356 (Ruling on Motion to Dismiss, Motion for Summary Decision and Motion to Limit Scope of Hearing).

¹⁰ See *In Re: Dracut Public Schools*, 15 MSER 78 (2009). The decision was substantially affirmed by *Dracut Public Schools v. BSEA, DESE, P.A. & C.A.*, No. 09-10966-PBS (D. Mass. 2010).

¹¹ *In Re: Dracut Public Schools*, 15 MSER 78 (2009). The decision was substantially affirmed by *Dracut Public Schools v. BSEA, DESE, P.A. & C.A.*, No. 09-10966-PBS (D. Mass. 2010).

¹² *Id.*

¹³ 20 USC § 1414 (d)(1)(A)(i)(VIII)(aa); see also 34 CFR § 300.320(b).

- The Federation for Children with Special Needs, Transition Tips, <http://www.fcsn.org/pti/topics/transition/tools/tips.pdf>
- The Federation for Children with Special Needs, Transition, <http://www.fcsn.org/pti/topics/transition/index.html>

Disability Law Center, Planning for Life After Special Education in Massachusetts: A Transition Services Online Manual (Oct. 2011), <http://www.dlc-ma.org/manual/>

DESE, Transition Planning Form, <http://www.doe.mass.edu/sped/28MR/28m9.pdf>

DESE, Transition Planning Form (completed sample), <http://www.doe.mass.edu/sped/links/waltertpf.pdf>