



IDEA 1997: TRANSITION RELATED AMENDMENTS AND FINAL REGULATIONS

The language provided here represents only those portions of the statute (left column) and final regulations (right column) that pertain to the planning and delivery of transition requirements. The full statute and regulations may be downloaded from the world wide web at the following address: <http://www.idea practices.org/lawandregs.htm>. The text in this section contains only direct quotes from the statute and final regulations. No interpretation is included in this section. This section was developed by the National Transition Network.

Individuals with Disabilities Education Act 1997 Amendments (P.L. 105-17)

Section 601 (d). Purposes.

(d) PURPOSES- The purposes of this title are—

(1) (A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living;

(B) to ensure that the rights of children with disabilities and parents of such children are protected; and

(C) to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities;

(2) to assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

(3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting systemic-change activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and

(4) to assess, and ensure the effectiveness of, efforts to educate children with disabilities.

Section 602(30). Definitions.

(30) TRANSITION SERVICES.-- The term 'transition services' means a coordinated set of activities for a student with a disability that—

(A) is designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(B) is based upon the individual student's needs, taking into account the student's preferences and interests; and

(C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

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Section 300.1 Purposes.

The purposes of this part are—

(a) To ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living;

(b) To ensure that the rights of children with disabilities and their parents are protected;

(c) To assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities; and

(d) To assess and ensure the effectiveness of efforts to educate children with disabilities.

Authority: 20 U.S.C. 1400 note

(Independent Living. Appendix A, III, page 12474: Section 701 of the Rehabilitation Act of 1973 describes the philosophy of independent living as including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society. Because many students receiving services under IDEA will also receive services under the Rehabilitation Act, it is important, in planning for their future, to consider the impact of both statutes.)

Section 300.29 Transition services.

(a) As used in this part, *transition services* means a coordinated set of activities for a student with a disability that—

(1) Is designed within an outcome-oriented process, that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(2) Is based on the individual student's needs, taking into account the student's preferences and interests; and

(3) Includes—

(i) Instruction;

(ii) Related services;

(iii) Community experiences;

(iv) The development of employment and other post-school adult living objectives; and

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Section 612 (a)(1)(B). Free Appropriate Public Education.

(B) **LIMITATION**—The obligation to make a free appropriate public education available to all children with disabilities does not apply with respect to children:

- (i) aged 3 through 5 and 18 through 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children in those age ranges; and
- (ii) aged 18 through 21 to the extent that State law does not require that special education and related services under this part be provided to children with disabilities who, in the educational placement prior to their incarceration in an adult correctional facility:

- (I) were not actually identified as being a child with a disability under section 602 (3) of this Act; or
- (II) did not have an individualized education program under this part.

(v) If appropriate, acquisition of daily living skills and functional vocational evaluation.

(b) Transition services for students with disabilities may be special education, if provided as specially designed instruction, or related services, if required to assist a student with a disability to benefit from special education.

Authority: 20 U.S. C 1401(30)

Section 300.122 Exception to FAPE for certain ages.

(a) *General.* The obligation to make FAPE available to all children with disabilities does not apply with respect to the following:

(1) Children aged 3, 4, 5, 18, 19, 20, or 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children in one or more of those age groups.

(2) (i) Students aged 18 through 21 to the extent that State law does not require that special education and related services under Part B of the Act be provided to students with disabilities who, in the last educational placement prior to their incarceration in an adult correctional facility—

(A) Were not actually identified as being a child with a disability under Section 300.7; and

(B) Did not have an IEP under Part B of the Act.

(ii) The exception in paragraph (a)(2)(i) of this section does not apply to students with disabilities, aged 18 through 21, who—

(A) Had been identified as a child with a disability and had received services in accordance with an IEP, but who left school prior to their incarceration; or

(B) Did not have an IEP in their last educational setting, but who had actually been identified as a "child with a disability" under Section 300.7.

(3) (i) Students with disabilities who have graduated from high school with a regular high school diploma.

(ii) The exception in paragraph (a)(3)(i) of this section does not apply to students who have graduated but have not been awarded a regular high school diploma.

(iii) Graduation from high school with a regular diploma constitutes a change in placement, requiring written prior notice in accordance with Section 300.503.

(b) *Documents relating to exceptions.* The State must have on file with the Secretary—

(1)(i) Information that describes in detail the extent to which the exception in paragraph (a)(1) of this section applies to the State; and

(ii) A copy of each State law, court order, and other documents that provide a basis for the exception; and

(2) With respect to paragraph (a) (2) of this section, a copy of the State law that excludes from services under Part B of the Act certain students who are incarcerated in an adult correctional facility.

Authority: 20 U.S.C. 1412(a)(1)(B)

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Section 614(d)(6). Individualized Education Programs

(6) CHILDREN WITH DISABILITIES IN ADULT PRISONS—

(A) IN GENERAL- The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

(i) The requirements contained in section 612 (a)(17) and paragraph (1)(A)(v) of this subsection (relating to participation of children with disabilities in general assessments).

(ii) The requirements of sub-clauses (I) and (II) of paragraph (1)(A)(vii) of this subsection (relating to transition planning and transition services), do not apply with respect to such children whose eligibility under this part will end, because of their age, before they will be released from prison.

(B) ADDITIONAL REQUIREMENT- If a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, the child's IEP Team may modify the child's IEP or placement notwithstanding the requirements of sections 612 (a)(5)(A) and 614 (d)(1)(A) if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

Section 614(d)(1)(B). Individualized Education Program Team – The term 'individualized education program team' or 'IEP Team' means a group of individuals composed of --

(i) the parents of a child with a disability;

(ii) at least one regular education teacher of such child (if the child is, or may be, participating in the regular education environment);

(iii) at least one special education teacher, or where appropriate, at least one special education provider of such child;

(iv) a representative of the local educational agency who --

(I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

(II) is knowledgeable about the general curriculum; and

(III) is knowledgeable about the availability of resources of the local educational agency;

(v) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (ii) through (vi);

(vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

(vii) whenever appropriate, the child with a disability.

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Section 300.311(b) and (c) FAPE requirements for students with disabilities in adult prisons.

(b) *Requirements that do not apply.* The following requirements do not apply to students with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

(1) The requirements contained in Section 300.138 and Section 300.347(a)(5)(i) (relating to participation of children with disabilities in general assessments).

(2) The requirements in Section 300.347(b) (relating to transition planning and transition services), with respect to the students whose eligibility under Part B of the Act will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

(c) *Modifications of IEP or placement.*

(1) Subject to paragraph (c)(2) of this section, the IEP team of a student with a disability, who is convicted as an adult under State law and incarcerated in an adult prison, may modify the student's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

(2) The requirements of Sections 300.340(a) and 300.347(a) relating to IEPs, and 300.550(b) relating to LRE, do not apply with respect to the modifications described in paragraph (c)(1) of this section.

Authority: 20 U.S.C. 1412(a)(1), 1414(d)(6)

Section 300.344 (b) IEP Team.

(b) *Transition services participants.*

(1) Under paragraph (a)(7) of this section, the public agency shall invite a student with a disability of any age to attend his or her IEP meeting if a purpose of the meeting will be the consideration of—

(i) The student's transition services needs under Section 300.347(b)(1);

(ii) The needed transition services for the student under Section 300.347(b)(2); or

(iii) Both.

(2) If the student does not attend the IEP meeting, the public agency shall take other steps to ensure that the student's preferences and interests are considered.

(3)(i) In implementing the requirements of Section 300.347(b)(2), the public agency also shall invite a representative of any other agency that is likely to be responsible for providing or paying for transition services.

(ii) If an agency invited to send a representative to a meeting does not do so, the public agency shall take other steps to obtain participation of the other agency in the planning of any transition services.

Authority: 20 U.S.C. 1401(30), 1414(d)(1)(A)(7), (B)

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See IDEA 1997 Amendments Section 614(d)(1)(B)

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Section 300.345 Parent participation.

(a) Public agency responsibility — general. Each public agency shall take steps to ensure that one or both of the parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate, including—

- (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
- (2) Scheduling the meeting at a mutually agreed on time and place.

(b) Information provided to parents.

(1) The notice required under paragraph (a)(1) of this section must—

- (i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and
- (ii) Inform the parents of the provisions in Section 300.344(a)(6) and (c) (relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child).

(2) For a student with a disability beginning at age 14, or younger, if appropriate, the notice must also—

- (i) Indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the student required in Section 300.347(b)(1); and
- (ii) Indicate that the agency will invite the student.

(3) For a student with a disability beginning at age 16, or younger, if appropriate, the notice must—

- (i) Indicate that a purpose of the meeting is the consideration of needed transition services for the student required in Section 300.347(b)(2);
- (ii) Indicate that the agency will invite the student; and
- (iii) Identify any other agency that will be invited to send a representative.

(c) Other methods to ensure parent participation. If neither parent can attend, the public agency shall use other methods to ensure parent participation, including individual or conference telephone calls.

(d) Conducting an IEP meeting without a parent in attendance. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case the public agency must have a record of its

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- (vii) (I) beginning at age 14, and updated annually, a statement of the transition service needs of the child under the applicable components of the child's IEP that focuses on the child's courses of study (such as participation in advanced placement courses or a vocational education program);
- (II) beginning at age 16 (or younger, if determined appropriate by the IEP Team), a statement of needed transition services for the child, including, when appropriate, a statement of the interagency responsibilities or any needed linkages; and
- (III) beginning at least one year before the child reaches the age of majority under State law, a statement that the child has been informed of his or her rights under this title, if any, that will transfer to the child on reaching the age of majority under section 615 (m)...

- attempts to arrange a mutually agreed on time and place, such as—
 - (1) Detailed records of telephone calls made or attempted and the results of those calls;
 - (2) Copies of correspondence sent to the parents and any responses received; and
 - (3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.
- (e) Use of interpreters or other action, as appropriate. The public agency shall take whatever action is necessary to ensure that the parent understands the proceedings at the IEP meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.
- (f) Parent copy of child's IEP. The public agency shall give the parent a copy of the child's IEP at no cost to the parent.

Authority: 20 U.S.C. 1414(d)(1)(B)(i)

Section 300.347 (b),(c) and (d) Content of IEP.

- (b) *Transition services.* The IEP must include—
 - (1) For each student with a disability beginning at age 14 (or younger, if determined appropriate by the IEP team), and updated annually, a statement of the transition service needs of the student under the applicable components of the student's IEP that focuses on the student's courses of study (such as participation in advanced-placement courses or a vocational education program); and
 - (2) For each student beginning at age 16 (or younger, if determined appropriate by the IEP team), a statement of needed transition services for the student, including, if appropriate, a statement of the interagency responsibilities or any needed linkages.
- (c) *Transfer of rights.* In a State that transfers rights at the age of majority, beginning at least one year before a student reaches the age of majority under State law, the student's IEP must include a statement that the student has been informed of his or her rights under Part B of the Act, if any, that will transfer to the student on reaching the age of majority, consistent with Section 300.517.
- (d) *Students with disabilities convicted as adults and incarcerated in adult prisons.* Special rules concerning the content of IEPs for students with disabilities convicted as adults and

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incarcerated in adult prisons are contained in Section. 300.311 (b) and (c).

Authority: 20 U.S.C. 1414(d)(1)(A) and (d)(6)(A)(ii)

(Appendix A. Introduction, page 12470): The IEP requirements under Part B of the IDEA emphasize the importance of three core concepts: (1) the involvement and progress of each child with a disability in the general curriculum including addressing the unique needs that arise out of the child's disability; (2) the involvement of parents and students, together with regular and special education personnel, in making individual decisions to support each student's (child's) educational success, and (3) the preparation of students with disabilities for employment and other post-school activities.)

(Transition service needs/Needed transition services. **Appendix A, III.11, page 12474** [provides clarification on the distinction between the two terms]: The purpose of the [requirement in Section 300.347(b)(1)(i)] (statement of transition service needs by age 14) is to focus attention on how the child's educational program can be planned to help the child make a successful transition to his or her goals for life after secondary school. . . For example, for a child whose transition goal is a job, a transition service could be teaching the child how to get to the job site on public transportation...

Thus, beginning at age 14, the IEP team, in determining appropriate measurable annual goals (including benchmarks or short-term objectives) and services for a student, must determine what instruction and educational experiences will assist the student to prepare for transition from secondary education to post-secondary life.

The statement of transition service needs should relate directly to the student's goals beyond secondary education, and show how planned studies are linked to these goals. For example, a student interested in exploring a career in computer science may have a statement of transition services needs connected to technology course work, while another student's statement of transition services needs could describe why public bus transportation training is important for future independence in the community.

Although the focus of the transition planning process may shift as the student approaches graduation, the IEP team must discuss specific areas beginning at least at the age of 14 years and review these areas annually. As noted in the Committee Reports, a disproportionate number of students with disabilities drop out of school before they complete their secondary education: ...

To help reduce the number of students with disabilities that drop out, it is important that the IEP team work with each student with a disability and the student's family to select courses of study that will be meaningful to the student's future and motivate the student to complete his or her education. . .

Thus, while Section 300.347(b)(1) requires that the IEP team

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Section 614 (d)(5). Individualized Education Programs.

(5) FAILURE TO MEET TRANSITION OBJECTIVES —If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(vii), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in that program.

Section 615(m). Procedural Safeguards

(m) TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY—

(1) IN GENERAL—A State that receives amounts from a grant under this part may provide that, when a child with a disability reaches the age of majority under State law (except for a child with a disability who has been determined to be incompetent under State law)—

(A) the public agency shall provide any notice required by this section to both the individual and the parents;

(B) all other rights accorded to parents under this part transfer to the child;

(C) the agency shall notify the individual and the parents of the transfer of rights; and

(D) all rights accorded to parents under this part transfer to children who are incarcerated in an adult or juvenile Federal, State, or local correctional institution.

(2) SPECIAL RULE—If, under State law, a child with a disability who has reached the age of majority under State law, who has not been determined to be incompetent, but who is determined not to have the ability to provide informed consent with respect to the educational program of the child, the State shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this part.

begin by age 14 to address the student's need for instruction that will assist the student to prepare for transition, the IEP must include by age 16 a statement of needed transition services under Section 300.347(b)(2) that includes "a coordinated set of activities..., designed within an outcome-oriented process, that promotes movement from school to post-school activities...

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Section 300.348 Agency responsibilities for transition services

(a) If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with Section 300.347(b)(1), the public agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

(b) Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

Authority: 20 U.S.C. 1414(d)(5); 1414(d)(1)(A)(vii)

Section 300.517 Transfer of parental rights at age of majority.

(a) *General.* A State may provide that, when a student with a disability reaches the age of majority under State law that applies to all students (except for a student with a disability who has been determined to be incompetent under State law)—

(1) (i) The public agency shall provide any notice required by this part to both the individual and the parents; and

(ii) All other rights accorded to parents under Part B of the Act transfer to the student; and

(2) All rights accorded to parents under Part B of the Act transfer to students who are incarcerated in an adult or juvenile, State or local correctional institution.

(3) Whenever a State transfers rights under this part pursuant to paragraph (a)(1) or (a)(2) of this section, the agency shall notify the individual and the parents of the transfer of rights.

(b) *Special rule.* If, under State law, a State has a mechanism to determine that a student with a disability, who has reached the age of majority under State law that applies to all children and has not been determined incompetent under State law, does not have the ability to provide informed consent with respect to his or her educational program, the State shall establish procedures for appointing the parent, or, if the parent is not available another appropriate individual, to represent the educational interests of the student throughout the student's eligibility under Part B of the Act.

Authority: 20 U.S.C. 1415(m)

