

Transfer of Parental Rights At Age of Majority in South Dakota

(Transition Technical Assistance Guide – pp-37-38)

South Dakota law provides for the transfer of educational rights at age 18 for students with disabilities who have Individualized Educational Programs (IEP's) and are not determined incompetent by the court.

The law requires the following:

- At least one year before a student turns 18 (typically the IEP when the child is 16 years of age), the student's IEP must include a statement that the student has been informed of the rights that will transfer to him or her upon reaching the age of 18.
- Special education notices will then be provided to the student. They will continue to be provided to the parents as well.
- All other rights given to parents transfer to the student, including students who are in correctional institutions.
- All rights transfer to the student at age 18 EXCEPT if they have been determined incompetent under *state law*. (Please note that a person with a guardian may not have been declared incompetent by the *court*.)
- The school must notify both the student AND the parents of the transfer of rights.
- The student or the school district may continue to invite the parents to attend the IEP meetings as an individual with knowledge regarding the student.

The specific educational rights that transfer to the student at age 18 are the rights to:

- Receive notice of, attend, and participate in IEP meetings
- Give consent to evaluate or change their educational placement
- Review educational records
- Request mediation or due process hearing

Sample Student Bill of Rights

As a student with a disability, you have certain rights based on both federal and state laws. This document will help you understand your rights related to getting an education and other key issues. You should always speak to your teacher, school case manager, and parent first if you need further information or are having a problem with asserting any of the rights listed here. If you need additional help, check with your teacher for agencies to contact.

Students who are eligible for special education have the right to:

- A free appropriate public education through the end of the fiscal school year (June 30th) following their 21st birthday, or high school graduation with a regular high school diploma, whichever comes first.
- Have a statement of needed transition services (including courses of study) included in their IEPs at least by age 16 (or younger, if determined appropriate by the IEP team). Transition services are strategies to prepare students for successful adult life.
- Attend and participate in their IEP meetings at any age if a purpose of the meeting will be the consideration of the student's transition services.
- Be educated with students who are not disabled to the maximum extent appropriate.
- To be informed, at least one year before turning 18 that all parental rights under state law will transfer to the student when he or she turns 18.

If you need more information or have a problem asserting any of these rights, first speak to your teacher, school case manager or parent. If you need additional help, you (or your parent if you are not yet 18) have the right to ask for mediation and, if needed, an impartial due process hearing. Look at a copy of the "parental rights in special education" booklet your school should give you. Details about these procedures and the forms you will need are in this booklet. A request for mediation or for a due process hearing should be mailed to the director of the office of special education programs – Linda Turner, Special Education Programs, 800 Governors Drive, Pierre, South Dakota, 57501. The request must state the problem and the solution you want. It must also show that a copy of the request was sent to the district.

(Adapted from the New Jersey Department of Education, Office of Special Education Programs.)