

# **What a School Lawyer Wants You to Know: Transition Edition**



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# Disclaimers

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  - Neither this presentation nor these slides shall be construed to create an attorney-client relationship between you and KSB School Law or between you and us.
  - You should have no expectation of confidentiality or that anything that we discuss today is privileged.
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# Agenda

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- Conceptualizing Transition
  - Transition Basics
  - Breaking Down Indicator 13
    - Sticking Point #1: Age
    - Sticking Point #2: Goals
    - Sticking Point #3: Transition Assessments
    - Sticking Point #4: Meeting Participants
  - A Note on Participation and Behavior
  - A Note on PPWN
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# Conceptualizing Transition

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"This is just some concept art we threw together, but I think it nicely illustrates the potential benefits."

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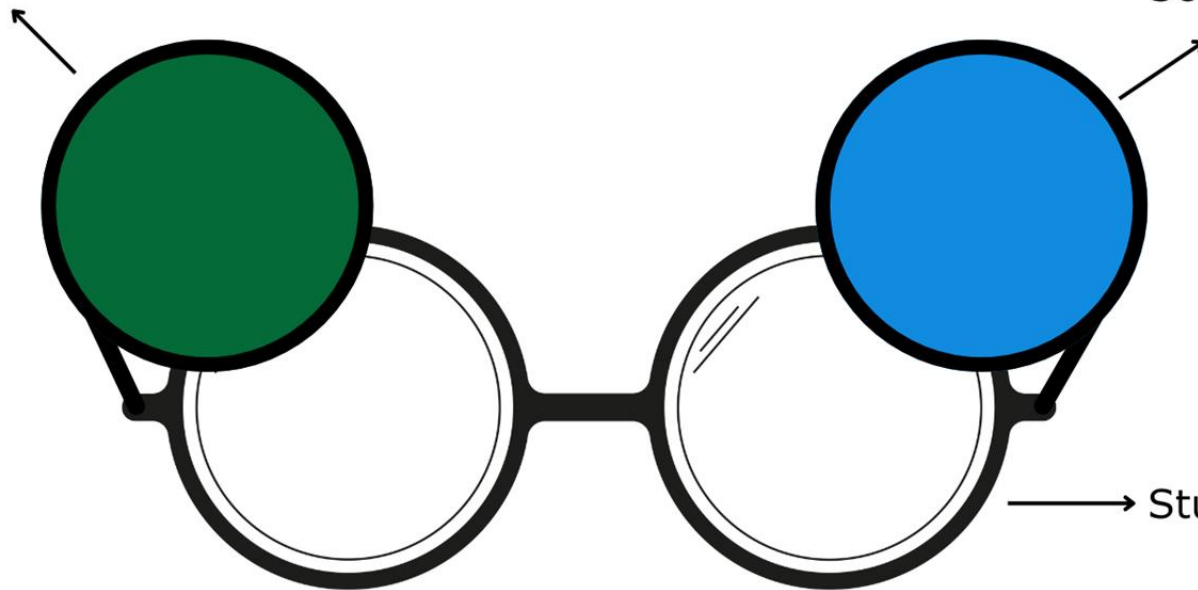
# Transition Lenses

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Parent Lens

School Staff Lens



Student's Glasses

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# Student Perspective

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I love space and  
want to be an  
astrophysicist

# Parent Perspective

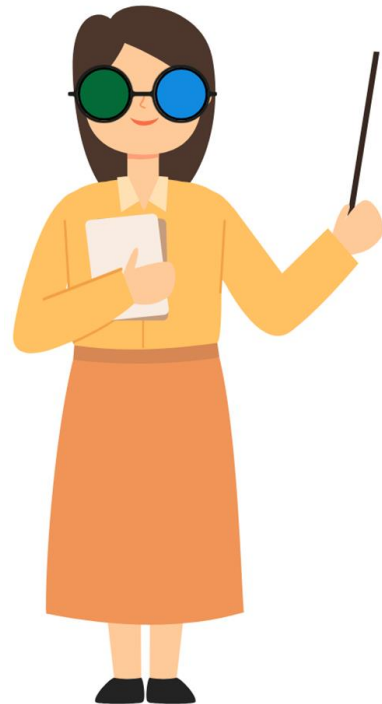
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My child needs a  
practical job, he  
should become a  
lawyer!

# School Staff Perspective

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He is reading with a  
5th grade  
comprehension, how  
are we supposed to  
focus on the future?



# Practically, what does this mean?

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- Differing perspectives often means inevitable tensions
  - The transition requirements of the IDEA forces teams to have difficult conversations
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**24:05:25:16.01. Participation of student in IEP team meeting.** If a purpose of the IEP team meeting is the consideration of postsecondary goals and transition services for a student, and if the meeting is for a child with a disability beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP team, the notice also must:

- (1) Indicate that a purpose of the meeting is the consideration of the postsecondary goals and transition services for the student;
- (2) Indicate that the district will invite the student; and
- (3) To the extent appropriate, with the consent of the parents or a student who has reached the age of majority, identify any other agency that is likely to be responsible for providing or paying for transition services and that will be invited to send a representative.

Parental consent, or the consent of an eligible student who has reached the age of majority under state law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

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# **Del Rosario v. Nashoba Reg'l Sch. Dist.**

2023 U.S. Dist. LEXIS 54800 (D. Mass. Mar. 30, 2023)

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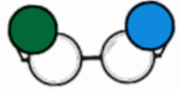
Let's Meet Gwendolyn:

- She has autism spectrum disorder, pervasive developmental disorder, and ADHD
  - Gwendolyn has difficulties with expressive and social language skills, behaviors, and interactions with adults and peers
  - She received a certificate of completion and and receives special education services in Nashoba's Transitions Program
-

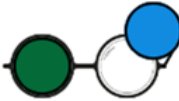
# Del Rosario v. Nashoba Reg'l Sch. Dist.

2023 U.S. Dist. LEXIS 54800 (D. Mass. Mar. 30, 2023)

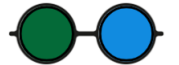
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- Gwendolyn wants to be employed as a chef in a commercial bakery or restaurant



- Parents want her enrolled in the Minuteman Vocational Technical School or to have Student working in a bakery setting during the school day

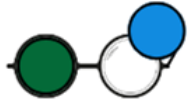


- She has “soft skill” deficits that manifests at job sites to address like making negative comments to peers or failing to follow supervisors directions, student needs training in skills not a particular trade
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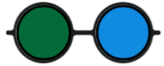


- Parents argue that Gwendolyn was not provided with “the progressive education to which she was entitled and failed to give sufficient consideration to sending her to a collaborative program. In making this argument, **Gwendolyn's parents focus primarily (if not solely) on the fact that Transitions was not equipped to train Gwendolyn in a commercial baking setting.**”
-

# Del Rosario v. Nashoba Reg'l Sch. Dist.

2023 U.S. Dist. LEXIS 54800 (D. Mass. Mar. 30, 2023)

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- Record shows that Gwendolyn:
    - Developed a business to sell baked goods to school employees
    - Learned how to buy ingredients, budget, take orders and payments
    - Learned how to revisit a recipe
    - Program helped Gwendolyn learn how to work with others, complete tasks, accept feedback, and learn positive peer interactions
-

# Del Rosario v. Nashoba Reg'l Sch. Dist.

2023 U.S. Dist. LEXIS 54800 (D. Mass. Mar. 30, 2023)

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“Additionally, the Court finds it of consequence that the IEPs put in place by Nashoba provided Gwendolyn with the skills in ‘interpersonal relations,’ workplace behavior, self-regulation, and independences that would help her succeed in any employment situation. That is, **not only did the program expose her to food preparation and baking, it provided her with exposure to other transferable skills** which could be utilized in her chosen field as well as other work settings, and gave her exposure to other vocational opportunities should she lose interest in cooking and baking, or if for some reason (such as a global pandemic) opportunities for employment in her chosen field became limited or unavailable.”

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# Transition Basics

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"We're getting back to basics."

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# Definition of Transition Services

34 C.F.R. 300.43(a)(1)

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- Transition services means a coordinated set of activities for a child with a disability that –
    - Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated (supported) employment, continuing and adult education, adult services, independent living, or community participation; and
-

# Definition of Transition Services

34 C.F.R. 300.43(a)(2)

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- Transition services means a coordinated set of activities for a child with a disability that –
    - Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes – instruction; related services; community experiences; the development of employment and other post-school adult living objectives; and, if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation
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# What Should This Look Like?

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Conduct age-appropriate transition assessments ➡

Write measurable postsecondary goals ➡

Identify transition services ➡

Write the transition course of study ➡

Write the annual IEP goals (TIE TO POSTSECONDARY GOALS) ➡

Coordinate services with appropriate agencies

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# Jefferson Cty. Bd. of Ed.

581 F. App'x 760 (11th Cir. 2014)

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- Teenager with SLD was reading at a first-grade level when he entered 9th grade
  - District failed to utilize transition assessment – but “checked the box” on a form IEP indicating assessments were completed
  - IEP included form goals
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# Jefferson Cty. Bd. of Ed.

581 F. App'x 760 (11th Cir. 2014)

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- 11th Circuit
    - The postsecondary goals and transition services in the IEP were obviously not created in compliance with IDEA or individualized when District failed to assess
    - “We further agree with the district court that this lack of individualized planning and programming for M.S.’ education deprived him of a FAPE. For example, the vague language used to describe M.S.’ postsecondary goal – “student will be prepared to participate in post-secondary education” – did not match M.S.’ **diploma track**.”
-

# In re Student with a Disability

117 LRP 20565 (SEA Ill. 2017)

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- Student graduated, parents filed for due process alleging he was improperly graduated
    - PLEP
      - Identified independent living skills “as needed”
      - Did not address student’s vocational interview or ability to meet interest in attending community college and own a business
    - Transition goals:
      - Only 2: tour a community college; set other goals
      - Did not include present levels
      - Were not individualized
-

# In re Student with a Disability

117 LRP 20565 (SEA Ill. 2017)

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- “The Student is a 20-year old male who graduated from high school May 25, 2014. The Student currently lives with his mother and grandmother. He is not prepared to go to college, does not leave his home much, does not socialize with friends, does not drive and does not know how to take public transportation.”
-

# In re Student with a Disability

117 LRP 20565 (SEA Ill. 2017)

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- “The Student expressed a desire to attend community college. However, there were no goals or transition services designed to provide increased support in the areas needed for him to pursue enrollment in a community college business program. Further, it was noted that the Student had no competitive vocational experience and he had identified independent living skill deficits. However, the District did not provide the Student with any vocational services nor did it provide any independent living skill assessment, goals, or services. The District failed to provide a transition plan, based upon age-appropriate transition assessments, to facilitate the Student's movement from school to post-secondary education, employment, and independent living and thus denied him FAPE.”
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# In re Student with a Disability

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# In re Student with a Disability

117 LRP 20565 (SEA Ill. 2017)

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- Remedy:
    - Did not rescind diploma
    - Ordered compensatory education
    - Placed student at a private therapeutic day school for post-secondary students for two years at district's expense
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# Pro Tip – Audit Transition IEPs

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- Measurable postsecondary goals for 1) education/training, 2) employment, 3) if appropriate, independent living
  - Are goals based on transition assessments?
  - Are there transition services that support/tie to postsecondary goals?
  - Does course of study tie to postsecondary goals?
  - Are there annual IEP goals related to each postsecondary goal?
  - Is there evidence student was invited to IEP team meeting?
  - Is there evidence of rep of participating agency being invited with prior parent or student consent?
-

# IDEA and “Graduation”

34 C.F.R. 300.102(a)

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- “The obligation to make FAPE available to all children with disabilities does not apply with respect to . . . children with disabilities who have graduated from high school with a regular high school diploma.”
    - Does not apply if student graduates but is not awarded a regular high school diploma
    - Regular high school diploma does not include a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential
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# Who Decides

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- The IEP team decides whether a student will graduate, both in terms of academic tracks and goal-achievement
    - Must be made after an individualized assessment
  - Graduation constitutes a change of placement!
    - Sent PPWN and procedural safeguards
  - Can determine student should receive educational services up to age 21
  - Must award diploma if student meets requirements
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# Reminder About SD Graduation Requirements

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Students whose progress toward meeting content standards is measured by alternate achievement standards/descriptors would not be considered to have met the same standards requirements to obtain a regular high school diploma. Measuring students' understanding based on alternate achievement standards/descriptors would essentially equate to a modification of general content, because it reduces the scope and complexity of the knowledge and skills expected of the student. At any time, an IEP team can determine that a student can enroll in the courses required to achieve a regular diploma and not modify the coursework, in order for the student to meet the required courses necessary to achieve a regular high school diploma.

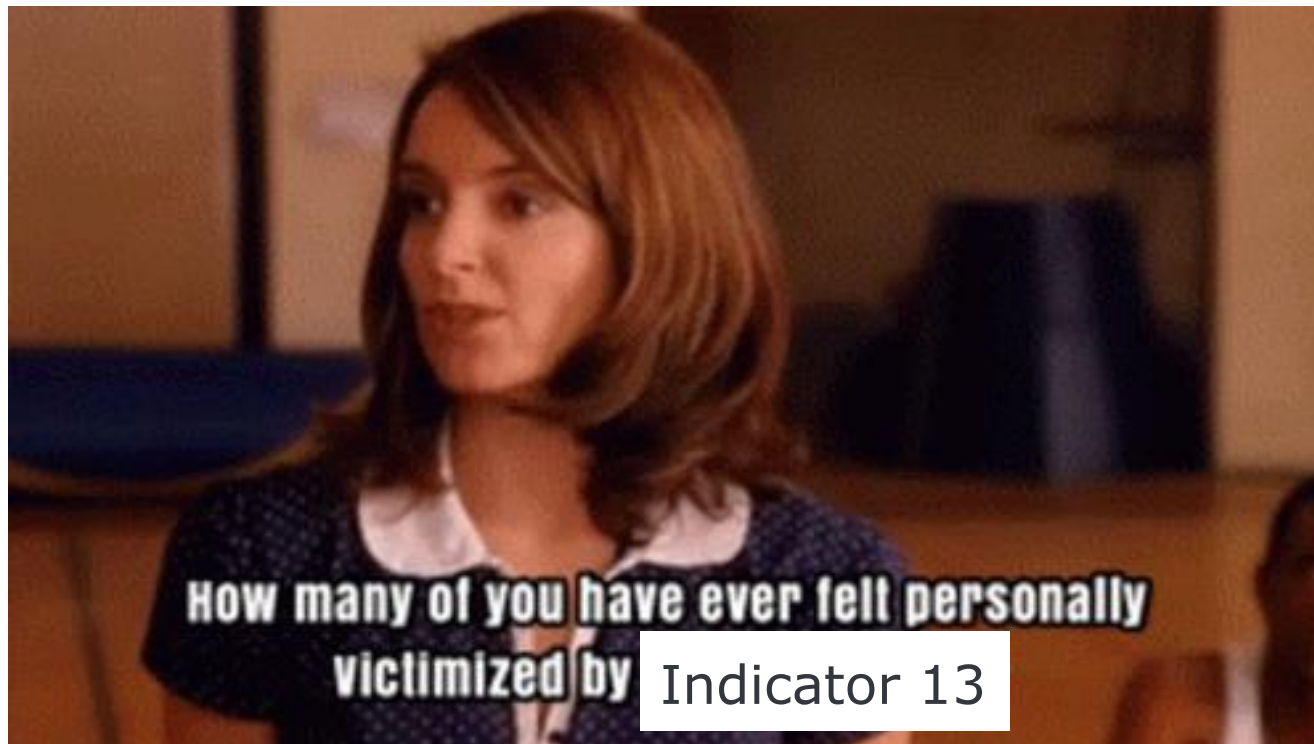
\*Be cognizant of modifications v. accommodations

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# Breaking Down Indicator 13

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# What are indicators?

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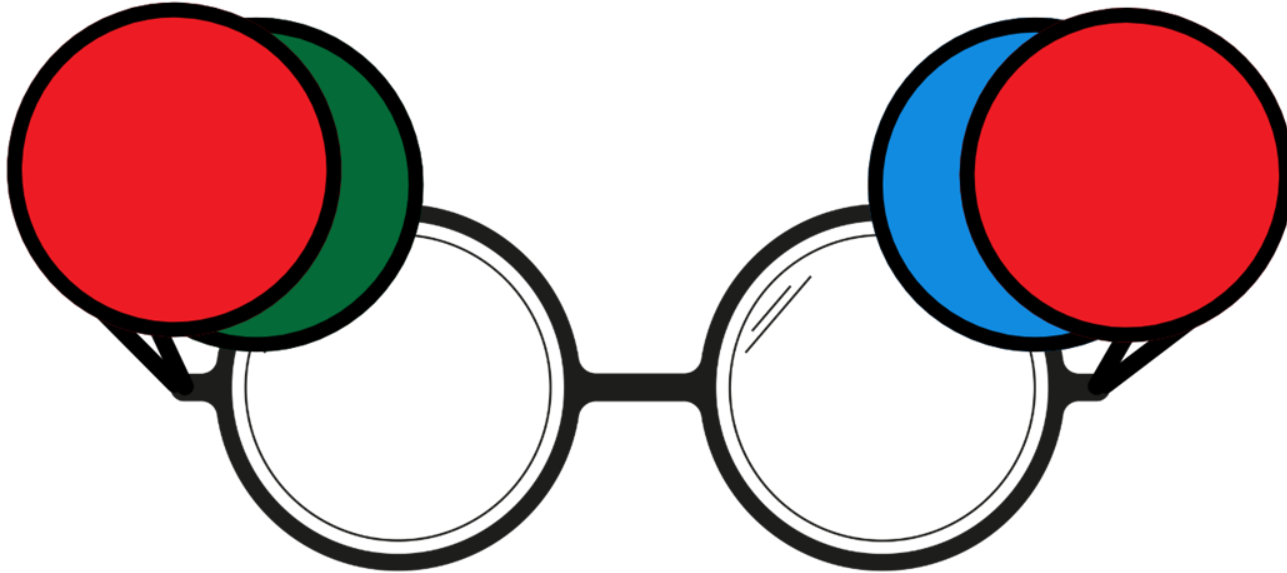
- OSEP establishes indicators as a way to monitor state performance
  - Indicators are either performance or compliance based
    - Performance = measuring progress toward certain goals
    - Compliance = measures ability to follow IDEA procedural requirements
      - Targets for compliance indicators is always **100%**
  - **Indicator 13 = Compliance Indicator**
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# How does this impact the lenses?

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SD DOE has strict “compliance” lenses



# Breaking Down Indicator 13

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Percent of youth with IEPs aged 16 and above with an IEP that includes appropriate measurable postsecondary goals that are annually updated and based upon an age appropriate assessment, transition services, including courses of study, that will enable the student to meet those postsecondary goals, and annual IEP goals related to the student's transition services needs. There also must be evidence that the student was invited to the IEP Team meeting where transition services are to be discussed and evidence that, if appropriate, a representative of any participating agency that is likely to be responsible for providing or paying for transition services, including, if appropriate, pre-employment transition services, was invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority.

**Sticking Point #1**  
Age

# Breaking Down Indicator 13

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Percent of youth with IEPs aged 16 and above with an IEP that includes appropriate measurable postsecondary goals that are annually updated and based upon an age appropriate transition assessment, transition services, including those that are reasonably enable the student to meet those postsecondary goals. Annual IEP goals related to the student's transition must be evidence that the student was invited to transition services are to be discussed and evidence that, if appropriate, a representative of any participating agency that is likely to be responsible for providing or paying for transition services, including, if appropriate, pre-employment transition services, was invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority.

## **Sticking Point #2**

Crafting  
"appropriate" and  
"measurable" goals

# Breaking Down Indicator 13

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Percent of youth with IEPs aged 16 and above with an IEP that includes appropriate measurable postsecondary goals that are annually updated and based upon an age appropriate transition assessment, transition services, including courses of study, that will reasonably enable the student to meet those postsecondary goals, and to the student's transition services needs. The IEP Team must ensure that the student was invited to the IEP Team meeting and evidence that, if appropriate, a representative of any participating agency that is likely to be responsible for providing or paying for transition services, including, if appropriate, pre-employment transition services, was invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority.

**Sticking Point #3**  
**Lack of Assessment**

# Breaking Down Indicator 13

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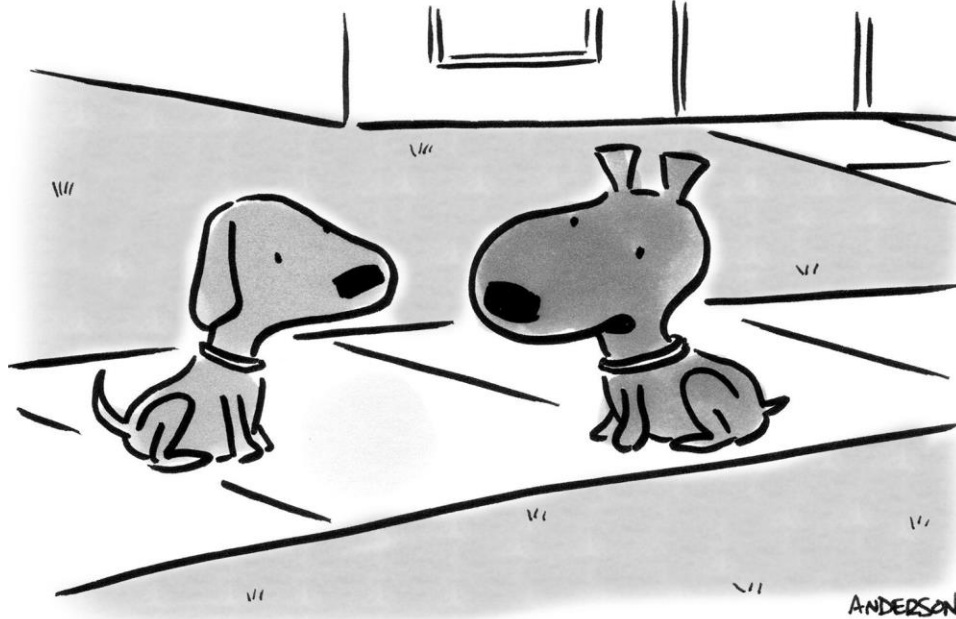


Percent of youth with IEPs aged 16 and above with an IEP that includes appropriate measurable postsecondary goals that are annually updated and based upon an age appropriate transition assessment, transition services, including courses of study, that will reasonably enable the student to meet those postsecondary goals, and annual IEP goals related to the student's transition services needs. There also must be evidence that the student was invited to the IEP Team meeting where transition services are to be discussed and evidence that, if appropriate, a representative of any participating agency that is responsible for providing or paying for transition services, including employment transition services, was invited to the IEP meeting for consent of the parent or student who has reached the age of majority.

## **Sticking Point #4** **Meeting Participants**

# Sticking Point #1: Age

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"I'm at the age where not only can I not learn new tricks, I can't even remember my old ones."

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# Age in SD

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- SD follows the IDEA
    - “If a purpose of the IEP team meeting is the consideration of postsecondary goals and transition services for a student, and if the meeting is for a child with a disability beginning not later than the first IEP to be in effect when the **child turns 16**, or younger if determined appropriate by the IEP team” ARSD 24:05:25:16.01
-

# What does this practically mean?

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**WHEN:** Transition assessment should be completed *prior to* the first IEP to be in effect when the student is 16, or earlier if necessary, and at re-evaluation times thereafter. Parental consent must be obtained to conduct this evaluation. Transition assessment is an ongoing process, and continued interest and/or aptitude assessments may help students who are unsure of their future to develop or refine their plans.

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# Length of the Obligation

ARSD 24:05:22:04.01

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Services to children age three to twenty-one, inclusive. A child's eligibility for special education or special education and related services continues from age 3 through completion of an approved public or nonpublic school secondary program or **through age 21**, as designated in that child's individual education program as set out in SDCL 13-37-1.

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# Length of the Obligation

ARSD 24:05:22:05

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Services to children age twenty-one. A student who is enrolled in school and becomes 21 years of age during the fiscal year shall have free school privileges during the school year.

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# Kass v. W. Dubuque Cmty. Sch. Dist.

101 F.4th 562 (8th Cir. 2024)

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- Student with an IEP obtained enough credits to graduate in his senior year (2019-20 SY)
  - The IEP team determined that the student had unmet transitional needs and should remain in school (2020-21 SY)
    - An IEP was developed for the following year that provided for a half-day of focus on reading and math skills, specially designed instruction at the school, and work with a job coach, no general education class time was included
  - Family objected to the IEP
    - April 2021 ALJ ruled in favor of district
-

# Kass v. W. Dubuque Cmty. Sch. Dist.

101 F.4th 562 (8th Cir. 2024)

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- Student turned 21 in November, but litigation was ongoing, stay put rights were invoked
  - 8th Circuit decided 3 issues:
    - Mootness
      - Student is 22 years old so past the qualifying age for FAPE at the time of this decision
      - Issue of whether compensatory education is available beyond a student's 21st birthday
        - "We now join our sister circuits and hold that compensatory education may be available beyond a student's twenty-first birthday."
-

# Kass v. W. Dubuque Cmty. Sch. Dist.

101 F.4th 562 (8th Cir. 2024)

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- 8th Circuit continues:
    - IDEA Claim- Parent Participation
      - Parents claim the IEP violated the IDEA because there were not able to participate in meetings
      - Court says no, parents were involved in meetings, and active participations in drafting the IEP
    - IDEA Claim- General Education Classes
      - Parents requested that the student receive instruction in core academics
      - The request was rejected "by the school team because the team believed focusing on functional skills for Brody in the community setting was more appropriate"- no obligation to follow preferences
-

# Sticking Point #2: Goals

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"OK, now let's have a look at my vision board."

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# IDEA Language

34 C.F.R. § 300.320(b)(1)

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“Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills”

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# IDEA Language

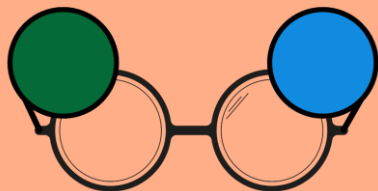
34 C.F.R. § 300.320(b)(1)

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"Appropriate measurable postsecondary goals based upon age

What does appropriate mean? assessments related to training,  
t, and, where appropriate, independent



# IDEA Language

34 C.F.R. § 300.320(b)(1)

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"Appropriate measurable postsecondary goals based upon age

From the SD DOE Guidance:

"MPSGs should be written in measurable language ("I will..." "Student will...") and throughout the years should become more specific based on the student's strengths, preferences, interests, and needs."

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# Wait, so what does “measurable” actually mean?

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- Postsecondary goals measure an outcome that occurs AFTER a student exits/graduates from high school.
  - Use the word “will” when describing the postsecondary goal. Terms like “wants,” “wishes,” “hopes to,” and similar expressions are not measurable and do not meet compliance requirements.
  - The postsecondary goal must be a concrete outcome, not an activity or process. Terms like “seeks,” “pursues,” “continues,” “learns,” and “applies” describe processes rather than outcomes. For instance, “applying” to college or “seeking” employment are activities, not measurable postsecondary outcomes, and will not meet compliance requirements.
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# Starting Place for Goal Writing

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- From National Technical Assistance Center on Transition

## Formula for writing a postsecondary goal:

\_\_\_\_\_, \_\_\_\_\_ will \_\_\_\_\_ where and how  
(After High School) (Student) (behavior)  
(After graduation)  
(Upon completion of high school)

## Formula for writing an annual goal that supports the postsecondary goal:

Given \_\_\_\_\_, \_\_\_\_\_ will \_\_\_\_\_  
(condition) (student) (behavior) (criteria) (time frame)  
(teaching strategies) e.g., 3 out 4 times (by June 20\_\_)  
e.g., direct instruction 80%  
modeling  
peer tutoring

# Pro Tip - Example

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- After graduation, [STUDENT NAME], will \_\_\_\_\_ (the behavior, do what, where)
  - Following exit from [STUDENT'S] transition services, [STUDENT NAME] will work part time at a job in her/his community in an agricultural setting.
  - Remember – MPSGs must be drafted regardless of the severity of the disability
-

# IDEA Language

34 C.F.R. § 300.320(b)(1)

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“Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent

↓  
If the IEP Team determines that separate postsecondary goals in the areas of training and education would not result in the need for distinct skills for the student after leaving high school, the IEP Team can combine the training and education goals of the student into one or more postsecondary goals addressing those areas.

- Questions and Answers on Secondary Transition, 57 IDELR 231 (OSERS 2011)
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# Pro Tip – Example MPG Education

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- After graduation, Tyler will attend Mitchell Technical College and major in diesel mechanics.
  - After graduation, Tyler will learn how to stock shelves at County Fair Food Store with assistance from his job coach at Voc Rehab.
  - After graduation, Tyler will attend training from Sanford Health to become an emergency medical technician.
-



# IDEA Language

34 C.F.R. § 300.320(b)(1)

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“Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent

“While including employment goals in the IEPs of some students with severe medical conditions and developmental needs **may be upsetting to their parents, the IDEA does not provide an exception for this requirement based on the nature of the child's disability**; and OSEP does not have the authority to waive this statutory requirement. Therefore, the determination of what postsecondary goals to include on a child's IEP must be individualized and may not be based on whether the child has a severe medical condition and developmental needs.”

- Letter to Heath, 110 LRP 17415 (OSEP 2009)
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# Pro Tip – MPG Employment

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- After graduation, Tyler will work part-time at Walmart while working on his associate's degree in diesel mechanics.
  - After graduation, Tyler will work in dietary at a nursing home.
-

# IDEA Language

34 C.F.R. § 300.320(b)(1)

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“Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills”

“Therefore, the only area in which postsecondary goals are not required in the IEP is in the area of independent living skills. ... It is up to the child's IEP Team to determine whether IEP goals related to the development of independent living skills are appropriate and necessary for the child to receive FAPE.”

- Questions and Answers on Secondary Transition, 57 IDELR 231 (OSERS 2011) (citation omitted)

# Pro Tip – Independent Living

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- After graduation, Tyler will maintain proper hygiene by following a daily checklist.
  - After graduation, Tyler will live semi-independently with a roommate in an assisted living apartment with supports provided by \_\_\_\_\_.
  - After graduation, Tyler will live independently in an apartment.
-

# Don't Forget to Update Annually

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"It is reasonable to expect that a **transition-aged youth may**, based on coursework completed, community experiences (such as a summer or after-school job), and other college- and career-preparation opportunities, **develop new interests or changed preferences regarding his or her postsecondary goal(s)**. For these and other reasons, **it is important that the IEP Team review and update the child's postsecondary goals and transition services annually to reflect any new or different activities that are required to provide FAPE to the child**. While it is possible that the IEP Team could conclude no changes to the goals and transition services are necessary, it must carefully consider whether the existing IEP's postsecondary goals and transition services remain appropriate to support the child in working toward what he or she hopes to achieve after leaving high school."

- Letter to Anonymous, 117 LRP 9089 (OSEP 2017)
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# Pro Tip - Data

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- Use updated transition assessment data when determining if MPSGs are appropriate
  - Consider other available data – classroom data, attendance, medical data, behavior reports, observations
  - Make sure to draft in PPWN that team considered revising the MPSGs but kept the MPSGs the same based on assessment data, classroom data, etc.
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# Acton-Boxborough Reg'l Sch. Dist.

125 LRP 15543 (SEA MA 2025)

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- 21 year old student attends the Milestones Day School and Transition Program
    - "Student's autism affects her ability to interpret nonverbal cues, take perspective, think flexibly, and follow social norms. Motor deficits interfere with academic and functional tasks. Her emotional disorder and poor impulse control contribute to dysregulation and impact focus, learning, safety, and functional performance."
  - Transition assessment showed student needed direct instruction and real world experience
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# Acton-Boxborough Reg'l Sch. Dist.

125 LRP 15543 (SEA MA 2025)

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- September 2022 IEP meeting parents expressed dissatisfaction with program believing student needed “meaningful homework”
    - “They felt Milestones was not providing a sufficiently structured approach with adequate repetitions, which they believed Student required.”
  - Student often could not participate in off-campus trips at Milestone due to unsafe behaviors
  - Student missed program time at Milestone due to enrollment by parents in community college courses
-



# Acton-Boxborough Reg'l Sch. Dist.

125 LRP 15543 (SEA MA 2025)

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- 2023 proposed IEP led to a mediation agreement
    - Parents accepted following:
      - Goals in "Daily Living Skills, Executive Functioning, Employability, Pragmatic Language/Social Skills, Behavior, Coping and Regulation Skills. Services were proposed as follows: Grid A BCBA Consultation (1 x 15 minutes/week representing an increase from the prior IEP) and Direct Services in Community Transition (5 x 347 minutes/week, an increase from the prior IEP), push-in Individual Psychological Therapy, Group Occupational Therapy, Speech and Language Therapy, and Social Skills/Pragmatics."
      - District agreed to reimburse for 3 college courses so long as enrollment did not interfere with attendance at program
-

# Acton-Boxborough Reg'l Sch. Dist.

125 LRP 15543 (SEA MA 2025)

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- Parents became increasingly dissatisfied with Milestone for not allowing student on certain trips due to behaviors
    - Parents declined other transition program options proposed
    - Parents wanted to remove student one day a week from Milestone for community based activities, district rejected
  - Team reconvened in 2024 to discuss reevaluation results and revised the IEP accordingly
    - "The Team agreed that Student should continue building transition-related skills, including community safety, task initiation, attention to non-preferred tasks, time management, and using sensory strategies to manage anxiety."
-

# Acton-Boxborough Reg'l Sch. Dist.

125 LRP 15543 (SEA MA 2025)

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- Tensions and dissatisfactions continued to rise
  - IHO:
    - Parents argue that transitions services implemented at Milestones and not in a community based setting violates LRE
      - IHO says no, staff focus on building transition skills in an environment student could succeed in was appropriate
    - Parents argue program was not sufficiently ambitious, as evidenced not being assigned homework
      - “The IDEA does not require that homework be included as a component of a FAPE, nor is homework inherently necessary to ensure educational benefit.”
-

# Acton-Boxborough Reg'l Sch. Dist.

125 LRP 15543 (SEA MA 2025)

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- IHO:
    - Parents argued student needed goals for employment and college
      - “While such outcomes are laudable, the IDEA does not guarantee any specific postsecondary result. Rather, it mandates the provision of a FAPE through specially designed instruction that addresses a student’s disability-related needs. The exclusion of goals specifically related to future employment or college attendance does not render an IEP legally deficient if the program otherwise addresses the underlying skill deficits necessary for future college attendance or employment and offers appropriate educational benefits.”
-

# Acton-Boxborough Reg'l Sch. Dist.

125 LRP 15543 (SEA MA 2025)

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- IHO:
    - Looking at whether the 2024-2025 IEP was appropriate
      - “Parents may have preferred off site employment, on campus college participation, and more intense transition services, but there is no evidence that Student could not make progress with the level of frequency and duration of the transition services offered in her 2024-2025 IEP which were being implemented at Milestones.”
    - District provided FAPE
-

# T.F. v. District of Columbia

125 LRP 9183 (D.D.C. Mar. 28, 2025)

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- 21 year old student, T.F., has ASD
    - Psychiatric evaluation shows T.F. functions at a 1<sup>st</sup> grade level
  - 2022 IEP provided the following:
    - 20 hours/week of specialized instruction
    - 30 minutes/month in speech pathology services
  - 2022 postsecondary assessment indicated:
    - T.F. could not read street or grocery signs, do laundry, count money, or tell time independently
    - T.F. had difficulty navigating online computer interfaces
-

# T.F. v. District of Columbia

125 LRP 9183 (D.D.C. Mar. 28, 2025)

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- 2022 Postsecondary transition plan:
    - "T.F. would live in an assisted living community and 'attend a training program to become a Maintenance Helper.'"
    - "By the end of the IEP year, T.F. was to 'explore requirements for two (2) vocational training programs that will assist him in becoming a Maintenance Helper'; 'research two (2) daily tasks of a Maintenance Helper'; and 'continue to research assisted living communities in his area.'"
  - 2023 IEP and Postsecondary transition plan remained largely the same
-

# T.F. v. District of Columbia

125 LRP 9183 (D.D.C. Mar. 28, 2025)

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- Hearing officer found the transition plans to be adequate
  - District Court:
    - “But even if T.F. were provided adequate ‘age appropriate transition assessments’ under the IDEA, it does not follow that the ‘postsecondary goals’ and ‘transition services’ that grew out of those assessments were appropriate... the record indeed reflects that T.F. is unable to read or to use a computer on his own. See, e.g., AR 115, 218. It is thus unclear how T.F. could ‘explore,’ using a ‘computer,’ the requirements of certain vocational training programs, or how he could ever ‘research’--even with the benefit of unspecified ‘career counseling’ and other supports--the daily tasks of a custodian or the offerings of local assisted living facilities.”
-



# T.F. v. District of Columbia

125 LRP 9183 (D.D.C. Mar. 28, 2025)

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- District Court: denied FAPE
    - “Surely a goal or service cannot be ‘appropriate’ when a student wholly lacks the skills necessary to even begin using that service or making progress toward that goal. Indeed, when the Court inquired at oral argument whether the District’s counsel found it ‘unlikely’ that someone with the intellectual capacity of a six-year-old could engage with the transition services offered in the 2022 and 2023 IEPs, counsel had essentially no response.”
      - Court says transition plans should have focused on foundational skills
-

# Joe V. v. Wimberley Indep. Sch. Dist.

121 LRP 28107 (W.D. Tex. June 15, 2021)

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- 17 year old student is eligible for services due to SLD, OHI, and ADHD
  - Student expressed an interest in joining the army or being an underwater welding after graduation
    - As part of transition services district enrolled student in a welding course and provided opportunity to practice Armed Service Vocational Aptitude Battery tests
  - Parents challenged arguing transition plan and goals were not appropriate
-

# Joe V. v. Wimberley Indep. Sch. Dist.

121 LRP 28107 (W.D. Tex. June 15, 2021)

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- District Court:
    - “Besides Dr. Bloom's unsubstantiated testimony, Parents have not proffered any evidence that B.V.'s medication and background would unequivocally disqualify him from joining the army. Furthermore, Dr. Bloom's contention about a lack of water in Central Texas is not only a questionable statement about Texas's geography, but it is also insufficient to show that B.V.'s goal of being an underwater welder is ‘unacceptable.’ Both B.V.'s initial and later transition plans ‘attempted to engage his principal future employment interest while developing basic life skills necessary for post-secondary life.’”
-

# What soft skills does a student need to succeed in a workplace?

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- Attitude
    - Accepting criticism and feedback
  - Communication
    - Participating appropriately in conversation, reading emotion, controlling voice
  - Hygiene
  - Independence
  - Safety
  - Stamina
-

# Does a district's limited resources matter?

Letter to Bereuter, 20 IDELR 536 (OSERS 1993)

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"What if" community experiences, the development of employment, and other post-school adult living objectives are impossible to deliver on due to demographics, location, or lack of facilities, i.e. potential employers (their liability position) or to do so intrudes on the source available to another school (neighboring larger town and school)?

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# Does a district's limited resources matter?

Letter to Bereuter, 20 IDELR 536 (OSERS 1993)

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"It does not appear that the factors described in your constituent's inquiry would be sufficient to relieve a public agency of its obligation to ensure that needed transition services are provided in these areas. 34 CFR § 300.346(b)(1)."

- Takeaway: OSERS indicates resource limitation not a basis for relieving obligations regarding transition services
  - Not great news for our rural state/rural communities
-

# Notes on Annual Goals

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- Each MPSG should link to an annual goal
  - Example: To support [STUDENT's] post-secondary employment and independent living post-secondary goals, by [STUDENT's] next annual IEP meeting, when experiencing a task that is unclear in the community setting, STUDENT will use appropriate self-advocacy strategies (e.g., asking for clarification, identifying needs) in 4 out of 5 observed opportunities, as measured by a teacher/job coach observation.
-

# Notes on Annual Goals

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- Example: To support STUDENT'S post-secondary employment and education post-secondary goals, by STUDENT'S next annual IEP meeting, STUDENT will initiate or respond to conversations with community providers using appropriate social communication (e.g., greetings, asking questions, following directions) in 3 out of 4 observed opportunities, as measured by teacher/job coach documentation and social skills rubrics.
-



# Sticking Point #3: Transition Assessment

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"I'm not saying it's not interesting, maybe even beautiful, I just don't know what it means."

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# What does this mean from the lens perspective?

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Parent Lens

School Staff Lens

Assessment provides you with a starting place to uncover the Parent's lens and identify the pair of glasses of the Student

Student's Glasses



# Ashburnham-Westminster Regional Sch. Dist.

124 LRP 24499 (SEA MA 2024)

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- 20 year old student has a diagnosis of Down Syndrome
  - Since October 2021, parents have not accepted any proposed IEP
  - 2022 evaluation results demonstrated the student no longer required OT or PT services
  - Transition IEP called for placement in ACE Program, parents rejected and in letter stated they believed the GROW program was more appropriate
    - Parents offered opportunity to meet but declined
-

# Ashburnham-Westminster Regional Sch. Dist.

124 LRP 24499 (SEA MA 2024)

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- Team convened in 2023 to discuss recent Transition Assessment results and held a series of meetings
  - June 2023, the district forwarded the resulting IEP to parents, no response until mid-May of 2024
  - District requested the Hearing in this matter in January 2024
-

# Ashburnham-Westminster Regional Sch. Dist.

124 LRP 24499 (SEA MA 2024)

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- Mother emailed hearing officer stating:
    - “I signed the IEP, but was told we still have to meet since I rejected it. I believe she needs OT and PT services since she is getting very little of anything else with this program. I can't meet this week because of an illness that came up with a family member recently that I need to deal with ... we meet at the beginning of June for next year.”
    - Parents did not participate in the hearing
-

# Ashburnham-Westminster Regional Sch. Dist.

124 LRP 24499 (SEA MA 2024)

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- ALJ:

- "Through the ACE Program's community and work exposure, it has become evident that Student enjoys being with adults but does not like working with children or seniors. She also dislikes outdoor jobs that expose her to noise and heat. Student has expressed an interest in hairdressing, but Student's ability to successfully pass required tests and acquire the skills required pose unsurmountable difficulties...Student has also expressed an interest in food preparation; however, Parents do not wish her to do cleaning, which is an integral part of cooking in a kitchen. Therefore, experiences in this area have been thwarted."
-

# Ashburnham-Westminster Regional Sch. Dist.

124 LRP 24499 (SEA MA 2024)

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- ALJ: IEP developed is appropriate
    - "... IEPs and transition plans... take into account Student's needs, strengths and weaknesses as well as her preferences, while continuing to explore post-secondary employment areas that may align well with her interests. **This is particularly important as the transition assessments conducted in 2022 noted that Student's interests were not aligned with her aptitudes, and thus, job exploration via exposure to and elimination of work opportunities continues, along with administration of career inventories to find a job with which Student is happy** (Brennan). This is an integral part of what occurs on a day-to-day basis at the ACE Program."
-

# Pro Tip

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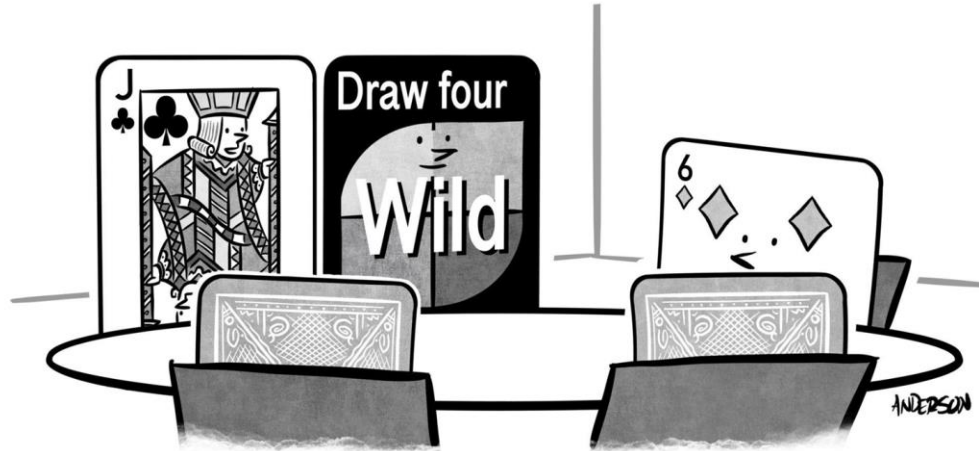


- Conduct assessments BEFORE meeting
    - Check caseload and calendar out assessments at least one month prior to IEP meeting to ensure data is ready
  - Don't recycle assessments or use the same assessment for every student who is a sophomore with OHI
    - MAKE IT INDIVIDUALIZED
-



# Sticking Point #4: Meeting Participants

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"While he comes from a non-traditional background,  
I think our new team member is going to add an  
exciting new perspective."

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# Procedural Requirements

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- In South Dakota, must include transition in all IEPs beginning the year in which the student will turn 16
  - Must invite
    - The Student
    - Representative of Participating Agency
-

# The Student

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- School obligated to invite student (and retrieve him/her from class)
  - If student does not attend
    - Document attempts
    - District must take other steps to ensure that the student's preferences and interests are considered
      - This is NOT just doing what the parents want
  - OSEP: schools must "use the flexibility afforded under the IDEA and Rehabilitation Act to engage in innovative strategies" to involve students with disabilities and their families in the transition process as early as possible.
    - Letter to Vocational Rehab. and Special Educ. Partners, 77 IDELR 75 (OSEP 2020).
-

# Baltimore County Pub. Sch.

118 LRP 33376 (SEA MD 2018)

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- Student on autism spectrum
    - Notice of meeting included transition
    - Invitees included dad and student
  - School does not automatically go get kid from class to attend IEP meetings
    - School says it defers to parents' preference re whether student be brought out of class to meeting
    - Dad did not ask for student
    - Transition coordinator interviewed student
-

# Baltimore County Pub. Sch.

118 LRP 33376 (SEA MD 2018)

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- State Ed Complaint:
    - Student not at IEP meeting
    - Transition plan not created by person who actually interviewed student
  - SEA:
    - Student invited to meeting as required
    - Student's preferences and interests communicated to team
    - IDEA doesn't require interviewer to be in meeting
-

# C.W. v. New York Sch. Dist.

67 IDELR 186 (S.D.N.Y. 2016)

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- 11th grade student with an intellectual disability and a speech-language impairment
  - School failed to invite him to an IEP meeting that addressed postsecondary transition goals and services
  - Parents sued
  - District Court held that the IEP team's inclusion of the student's preferences and interests in the transition plan made the student's absence a harmless procedural error
-

# Gibson v. Forest Hills

61 IDELR 97 (S.D. Ohio 2013)

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- Multiply disabled student
  - District did not invite student to meeting because they were concerned about student's ability to tolerate a lengthy, contentious IEP meeting
  - District Court: found violation
    - Procedural violation might have been harmless if school had solicited student's input on her preferences and interests
    - District did not
      - Talk to student on her level about jobs
      - Take her to job shadow or assist
      - Conduct assessments
-

# Representative of Participating Agency

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- No bright line rule on when to invite
    - “The district should consider whether the purpose of the meeting is to discuss the student's postsecondary goals and transition services. Districts should also consider whether a particular agency will be responsible for providing or funding transition services and whether the parent has consented to the agency's participation in the IEP meeting.”
      - Letter to Caplan, 50 IDELR 168 (OSEP 2008)
-



# Representative of Participating Agency

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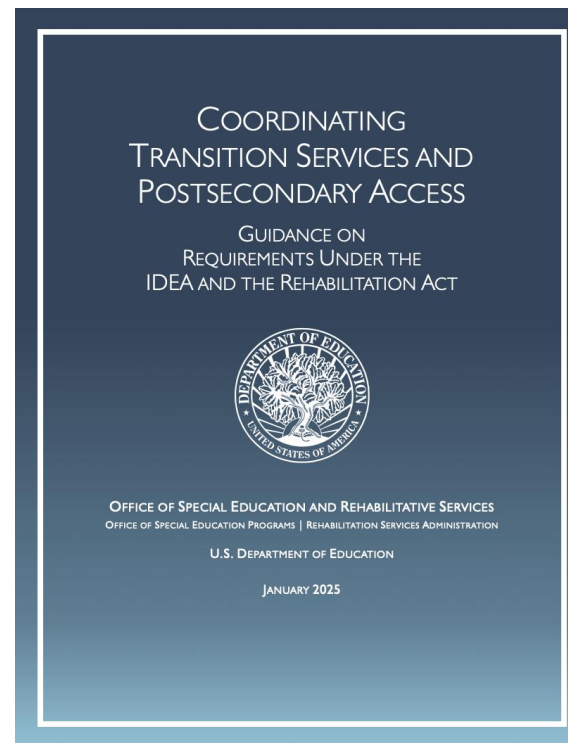
- No obligation on school district to ensure outside agency participation
    - “To the extent appropriate, with the consent of the parents or student who has reached the age of majority, the district must **invite** a representative of any participating agency that is likely to be responsible for providing or funding transition services. 34 CFR 300.321 (b)(3).
-

# New Federal Guidance

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<https://sites.ed.gov/idea/files/Guidance-Coordinating-Transition-Services-and-Postsecondary-Access-01-16-2025.pdf>



# Latest Federal Guidance

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Question B-1: When should other public agencies be included in transition planning, including attending meetings?

**Answer:** The involvement of and collaboration with other public agencies (e.g., State VR, State department of mental health, or State commission for the blind or visually impaired), as appropriate, not only is required\* but also can be helpful in planning for transition and in providing resources that will help students with disabilities when they leave high school. Students with disabilities can benefit when transition services under IDEA are coordinated early in the transition process with the VR program, as well as other supports and programs, such as guidance counseling, assistance with applying to college, and career services that serve all students transitioning from school to post-school adult life.

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# What if a participating agency fails to follow the plan?

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If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with §300.320(b), the public agency must reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.

- 34 C.F.R. 300.324(c)(1)
-

# A Note on Participation and Behavior

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"I'm not thrilled with your behavior, but it's hard to argue with the results."

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# What if a student will not participate?

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- “What if the student refused the accommodation offered in the IEP—can’t make a student take the services?  
Documentation would prove that they were offered and the student didn’t accept them.”
  - “What if the student gives minimal effort in the transition assessment process?”
  - “What if the student’s behavior impacts the provision of transition services everyone knows are appropriate?”
-

# What if a student will not participate?

---



- IEP is not a contract between student and the school
  - Document, document, document
    - Inform parents of refusals, but be careful not to promise informing them every time in the IEP
    - If a student's current placement and services aren't working, the team should consider if a change is appropriate
    - Consider including a plan for student refusal
-

# Rogers v. Hempfield Sch. Dist.

73 IDELR 7 (E.D. Penn. 2018)

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- Student with ASD
    - Throughout high school received transition-related graduation project
    - Very anxious about life after high school; changed mind constantly
  - IEP stated: "student may attend community college post-graduation" but is "unsure of .. How he would like to be employed in the future" and "he changes his mind and is influenced easily..."
-



# Rogers v. Hempfield Sch. Dist.

73 IDELR 7 (E.D. Penn. 2018)

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- Did not graduate after 12th grade; enrolled in school-to-work program
  - At end of 13th year, parents asked that student be enrolled at local college
    - School:
      - He can't enroll without a diploma
      - Didn't offer graduation because hadn't met banking and anxiety management goals
      - Offered dual enrollment
-

# Rogers v. Hempfield Sch. Dist.

73 IDELR 7 (E.D. Penn. 2018)

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- Parents enrolled in college without diploma in program designed for ID students
    - School tried to serve; student refused
    - Student flourished
  - 14th year: student and parent didn't attend IEP meeting
  - Parents filed due process seeking tuition reimbursement
-

# Rogers v. Hempfield Sch. Dist.

73 IDELR 7 (E.D. Penn. 2018)

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- Hearing officer:
    - District appropriately planned and provided transition services
    - The goals were “measurable, with defined goals for employment and education, but also reflect Student’s indecision regarding his post-secondary goals.”
-

# Rogers v. Hempfield Sch. Dist.

73 IDELR 7 (E.D. Penn. 2018)

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- District Court: affirmed hearing officer's determination, specifically that the district "[a]ppropriately and effectively planned for and provided **a coordinated set of activities** for the student, **designed within a results-oriented process** that was **focused on improving academic and functional achievement** of the student to facilitate the student's movement from District-based to post-District activities, all based on the student's individual needs."
-

# Quick Notes on PPWN

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- Critical to be thorough but not a transcript of the meeting
  - Any proposals or refusals must be included
  - Always include parent input
  - If the meeting was a marathon, note that in the PPWN
  - Transition PPWNs should be longer as a transition IEP has more considerations
-

# PPWN Sample Sections

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- **Description of the action the district is proposing or refusing to take:**
    - The school district proposes to modify the student's annual IEP goals to reflect her transition into the District's transition program, which the team determined was necessary for FAPE, after completing her academic requirements and to better align with her most recent transition assessments. Specifically, the IEP team proposed the following goals: [INSERT GOALS]
    - The school district proposes to update the student's post-secondary goals to reflect her most recent transition assessments and input gathered from IEP team members. Specifically, the IEP team proposed the following modifications to her postsecondary goals: [INSERT GOALS]
    - The school district proposes to include updated transition services in the student's IEP to reflect the skills and services she will work on through the transition program.
-

# PPWN Sample Sections

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- **Explanation of why the district proposes or refuses to take the action:**
    - The school district proposes to the student's IEP goals to reflect her transition to the transition program. The revised IEP goals specifically relate to identified areas of need for her postsecondary goals. Additionally, the IEP team considered data provided by the transition services provider in drafting the goals to support the areas of skill deficit the student needs to continue to work on improving.
    - The school district proposes to revise the student's postsecondary goals to reflect new data gathered from transition assessments and also input gathered from student's IEP team regarding student's interests and preferences.
-

# PPWN Sample Sections

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- **The school district considered the following option(s) prior to reaching its decision and the reasons why those options were rejected:** The school district considered keeping the student's annual IEP goals and postsecondary goals the same, but the IEP team determined that new data and team member input justified the modification of the goals.
-



# PPWN Sample Sections

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- **Other factors which are relevant to the school district's proposal or refusal, if any, are:** The IEP team, included parents, had meaningful discussions which lasted 2.5 hours. Despite multiple requests by the District, the student was not in attendance as she refused to participate.
-

# Questions?

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