



Beginnings – Transitions for Children with Disabilities

by Caryl Andrea Oberman, Esq.

The first day in a new school is an exciting and scary time for any young child. For kids with disabilities and their families, especially those who have been happy with early intervention services they have been receiving from a very young age or those who have never been in any program at all, the thought of leaving familiar caregivers and familiar surroundings can be especially daunting. The key to a successful and relatively relaxed transition is careful advance planning.

The Individuals with Disabilities Education Act, (the IDEA), the federal law that provides for the education of children with disabilities from birth through young adulthood (usually age 21), includes two separate but related sets of requirements. One set, known as Part C, covers children from birth to about three years old. The second set, known as Part B, covers older children.

Delaware Valley Differences

Although the IDEA is a national law, it allows states to make choices about how to carry out many of its provisions. For that reason, the ages and stages of transition are a bit different in Pennsylvania and New Jersey.

What all three states have in common is that the agencies actually responsible for providing educational and developmental services under the IDEA are different for younger children (infants and toddlers) than for older children. The process of changing from one agency to another, and one part of the IDEA to another, is called “transition.” Kids three and older are primarily served by traditional educational agencies, (school districts and intermediate units in Pennsylvania; school districts and special education districts in New Jersey), while younger kids are served by a variety of different social service and developmental agencies, typically under contract with state or county government departments.

New Jersey children generally make a single transition at age three. Pennsylvania children generally make two transitions, the first at age three, when responsibility for their programs changes from their counties to their intermediate units, and a second at about age five, when responsibility for their programs changes from their intermediate units to their local school districts.

Every state has a “Child Find” responsibility under the IDEA that requires it to look for children who may have disabilities and need early intervention or special education services. The state educational system has primary responsibility for this, and must refer any pre-transition age children it identifies to the appropriate agency.

Another thing that children in all three states have in common is a change in focus, starting at age three, away from the family and the home — natural environments for an infant or toddler — and toward preparing the child for entering the school community in a few years as a kindergartner. This is symbolized by the change in the name of the written plan tailored to each child’s need that the law requires be developed each year. The Individualized Family Service Plan (IFSP) developed for all eligible children in the younger age category gives way to Individualized Education Program (IEP). The requirement that the plan be individualized for each child does not change.

There is a requirement that children spend as much time as appropriate with other children their age who do not have disabilities, and that the agencies responsible for serving them do everything necessary to support the success of that process, which is called “inclusion.” School districts that have no programs for children younger than school age without disabilities may be required to use typical resources in neighboring districts or run by private providers to meet this requirement.

The Age Three Transition

The first transition point is entirely age-based – it occurs on the day that a child turns three. At that moment, responsibility for programming transfers to the new agency. However, there is in Pennsylvania a requirement, and in New Jersey an option, for the program being delivered at that point to continue until the end of the school year in which the child turns three.

In Pennsylvania, in order for the age three transition to be “seamless,” a transition plan must be developed at the IFSP meeting closest to the child’s second birthday, at least 90 days and not more than nine months before he or she turns three. Any change in programs or services during the transition year must be based on programmatic recommendations, and not administrative or funding considerations. Pennsylvania’s policy is intended to allow the child “to start and finish the transition year in the same environment.”

In New Jersey, the school district receiving the child may choose to contract with the original provider agency for the rest of the school year and for the summer following it, or may choose to provide its own services. In no case should there be an interruption of services to the child.

The expectation for very young children is that their programs will run year-round. For school-age children, the expectation is that they will attend school from September through June and have the summers off. School-age children who require services during the summer to maintain skills or to avoid regression are entitled to those services under the IDEA. This is called “extended school year” (ESY).

What about children from three to five? In Pennsylvania, the expectation is that almost all programs from birth through five will be year-round, albeit with occasional breaks. Because there is no real “school year” for this age group, it cannot really be extended. The specifics of programming must be individually made in each case, (e.g., to determine whether a particular child can sustain any break at all). In New Jersey, there is no such expectation of continuous programming, and eligibility for ESY is determined in each child’s IEP, just as it is for school-age children.

The Age Five Transition

The next transition takes place at the conclusion of the school year during which the child turns five, rather than on the child’s actual birthday. In Pennsylvania, parents may choose, entirely at their own option, to defer transition for one year and to have their child remain in his or her previous program for that year. Parents whose children are transitioning to kindergarten need to register their kids with their school districts.

By February 1 of each year, the sending agency must identify all children eligible for transition in September. It must hold meetings with the parents and the child’s school district before the end of February. These meetings are intended to facilitate the registration process and to decide whether the child’s current IEP will continue or whether a new evaluation is necessary to revise it.

If there is a disagreement about what services will be provided to the child, current services must be maintained until all disputes are resolved, unless the parents and the school district agree otherwise.

Practical Suggestions for Transition

- Plan ahead, and think about which programs and services you want to keep and which you want to change before transition sneaks up on you.
- Talk with other families who have been through the process about what to expect and strategies that have been helpful.
- Learn about your child's rights and attend transition meetings.
- Visit different programs to help select those that can meet your child's needs. Talk to the staff. Remember that the children you are seeing have been in the program for some time, have had the benefit of it and are probably older than your child will be at entry.
- Don't hesitate to ask questions, to insist on solid answers and to advocate for your child's educational future.
- Remember that, while other participants in the process may have more college degrees than you do, you are the world's leading expert on your child.

For Further Information

There are terrific Internet resources for more information about transition for young children. Several helpful brochures are available on the Education Law Center website, www.elc-pa.org

Practical guides for dealing with transition can be found on the FACT/LRE Project website, <http://facts.crc.uiuc.edu>.

Good information about New Jersey is available from the Statewide Parent Advocacy Network, Equals in Partnership, www.spannj.org.

**Caryl Andrea Oberman is the principal of a law firm in Willow Grove, PA. For more than 35 years she has concentrated on the legal rights of children with disabilities and their families, especially in the area of education.*