

***Transition after Graduation
Complying with the “Last-Minute” Mandate***

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I. BUSINESS AS USUAL – SIMPLY NOT ENOUGH

The time is ripe to question “business as usual” regarding transition to adult life planning for students with disabilities. The convergence of several factors have intensified public awareness of the crucial (and costly) responsibility that local school districts shoulder - all but independently - to prepare all students for independent adult life and success in the workforce. Some of these factors include the heightened accountability fueled by the No Child Left Behind initiatives and mandates, the recent promulgation of Pennsylvania’s Academic Standards for Career Education and Work;¹ the less-than-stellar statistics regarding post-secondary success for students with disabilities;² the US-economy-driven- reality that highly developed work skills are essential for employment with decent pay and benefits; the current disincentive for high school students to join the military – which traditionally provided under-skilled individuals with employment and training easily transferable to the larger workforce; the decrease in federal and state-level funding for job training and support for disabled adults; and the all too pervasively held sentiment of the local tax payer as school district taxes increase every year – “why are we paying so much money to educate children when they are not learning what is necessary to transition into the adult world?”

With this current reality, it is not unreasonable to assume that failure to provide students with disabilities with appropriate transition services will soon become a regularly litigated issue for school within Pennsylvania. Judicial and administrative guidance regarding a standard for transition planning, in actuality, is quite limited – especially when one recognizes the dire outcome of having a child with disabilities age-out of education-based services with no employable skills and no mandated-programs for accessing such skills.

¹ A copy of Pennsylvania’s *Academic Standards for Career Education and Work* (PDE 2006) is contained at the end of this handout. Based upon a district’s strategic planning schedule, sometime within the next three years, the district’s curriculum must be aligned to these standards.

² This problem is not of recent vintage - having been recognized and analyzed by educational academics for close to a quarter century. *See e.g.*, McAfee & Mann, 1982; Patton & Dunn, 1998; Wagner, Blackorby, Cameto, Hebbler & Newman, 1993; Zetlin & Turner, 1985.

II. WHAT CONSTITUTES AN APPROPRIATE TRANSITION SERVICE?

The expansive definition of “transition services” contained in the Individuals with Disabilities Education Improvement Act (hereinafter referred to as “IDEA 2004”), 20 U.S.C. § 1402(34), and its implementing regulations at 34 C.F.R. § 300.43, creates an almost limitless range of services a district might be required to provide for a student with disabilities. Review of judicial and administrative decisions from multiple jurisdictions as well as policy guidance from different offices within the US Department of Education suggests that districts are obliged to provide, as appropriate, the following range of services:³

A. Some things Districts may have to do:

- ❑ On-site job training or coaching. *Urban by Urban v. Jefferson County School District*, 89 F.3d 720 (10th Cir. 1996); *Bonita Unified School District*, 27 IDELR 248 (SEA CA 1997); *Arlington Central School District*, 20 IDELR 1130 (SEA NY 1996).
- ❑ Provision of counseling for depression, career information and vocational evaluation. *Lancaster Ind. Sch. Dist.*, 29 IDELR 281 (SEA TX 1998).
- ❑ Assistance in finding competitive employment; *Coldspring-Oakhurst (TX) Consolidated Ind. Sch. Dist.*, 33 IDELR 250 (OCR 2000).
- ❑ Enrollment in sheltered workshops. *Tuscaloosa County Bd. of Educ.*, 29 IDELR 435 (SEA AL 1998).
- ❑ Assistance in pursuing higher education. *Yankton Sch. Dist. v. Schramm*, 93 F.3d 1369 (8th Cir. 1996); *Cinnaminson Twp. Bd. of Educ.*, 26 IDELR 1378 (SEA NJ 1997); *San Francisco Unified. Sch. Dist.*, 29 IDELR 153 (SEA CA 1998); *Houston Ind. Sch. Dist.*, 32 IDELR 79 (SEA TX 1999); *Bret Harte Union High School*, 29 IDELR 1014 (SEA CA 1999).
- ❑ College preparation. *Caribou Sch. Dept.*, 35 IDELR 118 (SEA ME 2001); but see *Fort Bend Ind. Sch. Dist.*, 34 IDELR 111 (SEA TX 2000); *Elmhurst Sch. Distr.* 205, 34 IDELR 112 (SEA IL 2000).
- ❑ Activities of daily living skills. *Tuscaloosa County Bd. of Educ.*, 29 IDELR 435 (SEA AL 1998); *Arlington Central School District*, 20 IDELR 1130 (SEA NY 1996).

³ While other jurisdictions have guidance to offer regarding the scope of required transition services – and available remedies for failure to provide such services - they may be considered persuasive but they are not binding on Pennsylvania courts.

- ❑ Community-living skills. *Coldspring-Oakhurst (TX) Consolidated Ind. Sch. Dist.*, 33 IDELR 250 (OCR 2000) (voter registration); *Portland Sch. Dist.*, 30 IDELR 250 (OCR 2000) (instruction in city bus system); *Novato Unified School District*, 22 IDELR 1056 (SEA CA 1995) (residential placement in the community with on-site therapy and one-to-one aide).
- ❑ Assistance in accessing services from other governmental agencies prior to aging out of school age services. *Bd. of Educ. of City School District of NY*, 32 IDELR 24 (SEA NY 1999); *Coldspring-Oakhurst (TX) Consolidated Ind. Sch. Dist.*, 33 IDELR 250 (OCR 2000).
- ❑ Transition services can stand alone as a special education program in the IEP. *Yankton School District v. Schramm*, 93 F.3d 1369 (8th Cir. 1996) (an acknowledged orthopedically impaired child who required specially designed instruction solely to develop skills for transition to adult life).

B. Some Things Districts Probably Don't Have to Do

- ❑ Admissions Testing for College or College-Sponsored Programming: The Office of Special Education and Rehabilitative Services states that “there is no specific requirement under the IDEA that high schools must arrange for all students with disabilities to be tested to determine their eligibility to be considered students with disabilities in college.” See *Letter to Moore* (OSERS November 21, 2002) (available <http://www.ed.gov/policy/speced/guid/idea/letters/2002-4/moore112102transition4q2002.pdf>), at 4.
- ❑ Continue services after graduation or aging-out: The LEA’s responsibility for transition services ceases once a student graduates or ages out of programming. *Neshaminy Sch. Dist. v. Karla B.*, 25 IDELR 725, 727 (E.D. Pa. 1997).
- ❑ Post-secondary services: LEAs are not responsible for related services for students in college – even if the services were described in the student’s transition plan. See *Chuhran v. Walled Lake Consolidated Schools*, 839 F. Supp 465 (E.D. Mich. 1993), aff’d 51 F.3d 271 (6th Cir. 1995) (unpublished table decision); not even if the service is compensatory in nature. See *In re: the Educational Assignment of A.B., A Student of the Lower Merion School District*, Spec. Ed. Op. No. 1644 (PDE 2005), at 13; *Letter to Riffel*, 34 IDELR 292 (OSEP 2000) (“Part B does not authorize a school district to provide a student with compensatory education, through the provision of instruction or services, at the post-secondary level. See 34 CFR §300.25.” The type of relief that is to be awarded for compensatory education to cure the denial of FAPE during the period when the student was entitled to FAPE, must be the type of educational and related services that are part of elementary and secondary school education offered by the state.” A district is not required to provide compensatory services to a graduated student once the student enters college or junior college, unless such a level of education is considered "elementary and secondary education" under state law).

III. STANDARD FOR TRANSITION IN PENNSYLVANIA

Before it disappeared forever, the Pennsylvania Appeals Panel weighed in, but with two voices:

In re: the Educational Assignment of A.B., A Student of the Lower Merion School District, Spec. Ed. Op. No. 1644 (PDE 2005), the Panel provided a lengthy discussion of the “murky” standard for transition planning contained in the IDEA and its implementing regulations.⁴ Therein, the Panel described the “relevant regulations” as limited and “rather vague,” *Id.* at 10; and stressed the fact that the required contents are “rather soft stuff” since each comes with qualifiers for the provision of services, such as “if appropriate,” “if required,” or “needed.” *Id.* The Panel in *A.B.* further recognized that the case law interpreting transition mandates “is not particularly pertinent or persuasive, much less precedential.” *Id.* It characterized prior transition –related appeals panel decisions as “without more specific standards.” *Id.* The Panel noted that the only Pennsylvania court transition-related decisions were based upon mandates arising from state regulations that have been replaced and procedural violations that were found to be prejudicial. *Id.* at 10-11. The Panel was, however, able to glean some limited guidance from the relevant regulations and available interpretations thereof; specifically, (1) if a district provides services to a student with a disability that “mirrors” postsecondary education activities that all the other students get, the district is not tailoring its program to the disabled students’ unique needs and (2) providing “other customized services for a college or university’s disabilities office is beyond the IDEA’s transition obligation.” *Id.* at 11-12.

On the other hand, Panel in *In re: the Educational Assignment of E.C., A Student in the Philadelphia City School District*, Spec. Educ. Op. No. 1641 (PDE 2005), at 10-12 suggested that numerous jurisdictions have clearly developed some type of nationwide mandate – “to some degree axiomatic”- , through interpretation of the same case law that the *A.B.* panel has characterized as “not particularly pertinent or persuasive, much less precedential.” *A.B.* at 10.⁵

IV. PRACTICAL GUIDANCE

In light of what some consider “murky” and others consider “clearly established nationwide mandate,” what should districts be doing to comply with the transition planning mandate?

⁴ While IDEA 2004 was in effect at the time of the *A.B.* decision, the current implementing regulations were not yet passed. The regulatory requirements of the implementing regulations for IDEA 1997 and IDEA 2004 are substantially similar, however, for purpose of transition service provision.

⁵ It was widely known that when the 3 state appeals panels in Pennsylvania existed, they did not consider themselves barred by one another’s decisions.

A. Engage in a Multi-year Planning Process

Traditionally, IEP teams have conceptualized IEPs as annual documents. Perpetuating this practice might prevent appropriate transition programming because of the multi-year planning process mandated by the IDEA. Review of the Annotated Individualized Education Program (IEP) - School Age (PDE March 2006) suggests the following regarding IEP development for purposes of Student Transition Services:

Transition is a results-oriented process that must begin with the IEP that will be in place when the student turns 16 years of age. However, transition can begin at any age as determined by the IEP team. IEP teams should also document a multi-year planning process. This step-by-step plan that leads the student from high school to their post-school outcomes is called the coordinated set of activities. One way to document the coordinated set of activities might be to keep the grids from year to year. Upon graduation, the IEP team would then have a coordinated set of activities in the student's file. Another way might be to add to the grid each year so that the record of the coordinated set of activities is documented yearly – resulting in the final IEP containing all activities completed during the student's school career. This would also provide the LEA with information to complete the Summary of Performance as the student exits their educational program upon receiving a diploma or aging out.⁶

B. Involve the Right People and Agencies and Monitor Compliance with Plan

1. Transition Coordinator

At a basic level, the district must designate an individual who is both knowledgeable and available to fulfill the wide-ranging responsibility to coordinate transition activities. Optimally, this person should be someone who knows (or who is willing to learn) the district's curriculum, the AVTS requirements, the players from other agencies, and has sufficient clout to get the right people to meetings. This person should be detail-oriented enough to make sure the documentation regarding transition planning is maintained, who was invited to meetings, and whether or not they showed up.

2. 100% District Guarantee

Districts are the guarantors of all necessary transition services – regardless of whether another agency “is supposed to” provide them. *See* Section 612(a)(12) of the Individuals with Disabilities Education Improvement Act (“IDEA 2004”), 20 U.S.C. § 1412(a)(12) and its implementing regulation, 34 C.F.R. § 324(c). If another agency drops

⁶ Annotated Individualized Education Program (IEP) - School Age, at 11.

the ball, the district must convene an IEP meeting to see how to get the ball back in play. Like its immediate predecessor, IDEA 2004 provides that the state must develop a reimbursement mechanism for those instances in which the local educational agency has had to provide a service that another agency – with the responsibility to do so, failed to provide.

In 1999, the Commonwealth of Pennsylvania entered into an agreement with all of the state agencies with some hand in career training and vocational rehabilitation, referred to as Memorandum of Understanding related to Interagency Cooperation (PDE, DPW, DLI, DHS 1999) (hereinafter “MOU”).⁷ Unfortunately, this Memorandum of Understanding (1999) coupled with guidance from the Office of Special Education and Rehabilitative Services, concludes that when an individual is of school age in Pennsylvania, the burden almost completely rests on the district to provide direct transition services without any enforceable reimbursement mechanism. This is notwithstanding the fact that the IDEA implementing regulations provide that “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.” See 34 C.F.R. § 324(c)(2).⁸

The U.S. Department of Education, Office of Special Education and Rehabilitative Services has provided policy guidance which similarly provides for a limited role for a state vocational rehabilitation office in providing services to school age students. Basing its decision on the legislative history for the Rehabilitation Act, OSERS finds that a “state vocational rehabilitation role is ‘primarily one of planning for the student’s years after leaving school.’ The intention of the Congress was that the transition service provisions are not to ‘shift the responsibility from education to rehabilitation during the transition years.’” See Letter to McMurdo (OSERS December 27, 2000), at 4.⁹

⁷ A copy of the *Memorandum of Understanding related to Interagency Cooperation* (PDE, DPW, DLI, DHS 1999) is contained at the end of this handout.

⁸ The MOU provides that the only two entitlements that students with disabilities have are special education and medically necessary services covered by Title XIX of the Social Security Act. All the agencies explicitly agreed that “students with disabilities may be eligible for, but are not otherwise entitled under State and Federal law, to other services, including but not limited to mental health and mental retardation services, vocational rehabilitation services, employment and training services, drug and alcohol services and other Department of Health services [listed in the MOU].” Id. at 2-3. The MOU makes no attempt to provide legal authority to explain why these are not entitlements, nor does it indicate why an age limitation is being placed on access to these services.

⁹ Available at <http://www.ed.gov/policy/speced/guid/idea/letters/2000-4/mcmurdo122700coordination.4q2000.doc>.

3. Regularly assess progress toward post-secondary goals

4. Best Practices

- a. Do not create a transition program based upon post-school objectives unsupported by assessment.
- b. Keep the student and parents involved.
- c. Reassess the student as necessary.
- d. Document, Document, Document.
- e. Offer services tailored to meet the student's needs.
- f. Don't rely on parent or student initiated activities to form the basis of a transition program.
- g. Don't treat transition planning as the thing you think about when you get to at the end of the IEP meeting.

V. WHAT DOESN'T CUT IT

1. Checklists are not adequate to meet transition plan requirements. *Novato Unified School District*, 22 IDELR 1056 (SEA CA 1995); *Mason City Sch. Dist.*, 21 IDELR 248 (SEA IA 1994), *Pasadena Ind. Sch. Dist.*, 21 IDELR 482 (SEA TX 1994).
2. IEPs that fail to specify a post school environment are not adequate. *Urban v. Jefferson County*, 89 F.3d 720 (10th Cir. 1996).
3. Too little too late: *Mason City Sch. Dist.*, 21 IDELR 248 (SEA IA 1994) (starting transition planning two years before a severely impaired student is scheduled to graduate found inadequate).
4. Lack of specificity of other agencies' obligations: *Mason City Sch. Dist.*, 21 IDELR 248 (SEA IA 1994).
5. Failure to consider independent education evaluation: *Lancaster Ind. Sch. Dist.*, 29 IDELR 281 (SEA TX 1998).
6. Failure to supply specially designed instruction and related services to achieve transition goals: *Lancaster Ind. Sch. Dist.*, 29 IDELR 281 (SEA TX 1998).
7. Failure to specify a timeline of how progress in transition goals will be achieved prior to graduation: *Puffer v. Ravnolds*, 19 IDELR 408 (SEA MI 1992).

8. Provision of only suggested parent and student initiated and directed experiences: *In re: the Educational Placement of E.C.*, Spec. Educ. Op. No. 1641 (PDE 2005), at 12-13.
9. Failure to consider student's transportation, personal or recreational needs. *East Penn Sch. Dist. v. Scott B.*, 29 IDELR 1058 (E.D. Pa. 1999); *but see Sinan L. v. School District of Philadelphia*, 2007 U.S. Dist. LEXIS 47665(C.V.06-1342 (June 29, 2007) (E.D. Pa. June 29, 2007), at 13 (“[Judge Padova’s] decision was premised on the District’s violation of several specific Commonwealth regulations on transition planning that were later repealed in 2001, see 22 Pa. Code §§ 14.37, 342.37”).
10. Failure to involve student or parents: *Caribou Sch. Dist.*, 35 IDELR 118, (SEA ME 2001).
11. Failure to provide advice or assistance to insure coursework is appropriate for future plans: *Caribou Sch. Dist.*, 35 IDELR 118, (SEA ME 2001).
12. Transition plans with no community component and no opportunities for non-handicapped peers to model appropriate behaviors: *In re the Educational Assignment of R.N.*, Spec. Educ. Op. No. 1785 (PDE) 2006, at 8.
13. Transition plans that have no articulated resulting outcome: *In re the Educational Assignment of R.N.*, Spec. Educ. Op. No. 1785 (PDE 2006, at 8. (“A plan to unspecified living and working environments based upon some general notion of services in which the Student may participate rather than what Student needs to achieve outcome”).
14. Programs that fail to guide a student toward post-education independence and that do not offer educational opportunities which significantly advance them toward the end of self-sufficiency: *J.L. v. Mercer Island S.D.*, 2006 U.S. Dist. LEXIS 89492 (W.D. WA. 2006).

VI. NO HARM NO FOUL – AN EXTREMELY FACT-BASED ANALYSIS

Although an IEP lacked explicit statement of transition services and did not designate a specific outcome for the student when he reached 21 or a specific set of activities for meeting that outcome, the procedural defect did not deny the student a FAPE where the child was not denied transitional services and benefited from the program with which he was provided and the IEP completely complied with other IDEA requirements. *See e.g., Urban by Urban v. Jefferson County Sch. Dist.* R-1, 89 F.3d 720, 726 (10th Cir. 1996). *See also Chuhuran v. Walled Lake Consolidated Schools*, 839 F. Supp. 465 (E.D. Mich. 1993), *aff'd* 51 F.3d 271 (6th Cir. 1995). Failure to include a transition plan in an IEP is a mere procedural flaw and does not violate any substantive rights. *Bd. of Educ. v. Ross*, 486 F.3d 267, 2007 WL 1374919, at 7-8 (7th Cir. 2007).

Districts do not have an affirmative duty to provide for vocational and practical training in all transition plans, without regard to a student's individual needs and preferences. *Sinan L. et al, v. Sch Dist. of Philadelphia*, 2007 U.S. Dist. LEXIS 47665 (CV 06-1342 June 29, 2007)(E.D. Pa. 2007), at 13 ("The Third Circuit has not offered definitive guidance on whether a transition plan must provide for vocational and practical education"). In this scenario, the court found that the transition plan was developed based upon the parents' insistence on limiting it to college preparation and excluding vocational goals. *Id.*, at 12.

NOTE: Don't count on these arguments working all the time.

TRUE OR FALSE
(Answers provided below)

1. If a purpose for an IEP meeting will be consideration of transition services, the team may not make any final decisions regarding transition unless the student attends the meeting.

Answer: False.

While you must invite the student at age 16 or younger if appropriate, see 34 C.F.R. § 300.322 (b)(2), if the student does not attend the IEP meeting, the District must take other steps to ensure that the student's preferences and interests are considered. See 34 C.F.R. § 300.322 (1)(B).

2. Transition services can be anything short of the care and treatment by a physician if such services are necessary to promote movement from school to post-school activities.

Answer: True.

See 20 U.S.C. § 1402(34) and Cedar Rapids Comm. School District v. Garret F., 526 U.S. 66 (1999).

3. District responsibility related to transition goals is limit to post-secondary education and employment; it is the responsibility of other agencies to plan for independent living and community participation.

Answer: False.

The Memorandum of Understanding related to Interagency Cooperation PDE, DPW, DLI, DHS 1999) jointly promulgated by the Pennsylvania Departments of Education, Public Welfare, Labor and Industry, and

Health, specifically states that while “students with disabilities are entitled to special education and related services which are necessary for the student to receive a free appropriate public education; and medically necessary services covered by the Social Security Act... “the parties agree that students with disabilities may be eligible for, but are not otherwise entitled under State and Federal law, to other services, including but not limited to mental health and mental retardation services, vocational rehabilitation services, employment and training services, drug and alcohol services and other Department of Health service.”

4. Districts only need to worry about transition planning for students who are not receiving instruction in the regular education environment.

Answer: False.

See 20 U.S.C. § 1414(d)(1)(A)(VIII)(aa)-(bb) “for each child with a disability... beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter appropriate measurable postsecondary goals... and transition services needed to assist the child in reaching those goals.”

5. If the transition services that a student with disabilities needs are available to all students in the district – he or she need only take the initiative to access them – these services do not need to be included in the IEP.

Answer: True.

34 C.F.R. § 300.43 (a)(2) defines transition services as including “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.”

6. Districts may need to begin transition planning prior to a student turning sixteen years old.

Answer: True.

See 20 U.S.C. § 1414(d)(1)(A)(VIII) and 34 C.F.R. § 320(b).

7. If a student is not significantly impaired, the District does not have to assess him or her for post-school adult living objectives.

Answer: False.

See Response to number 4.

8. It is the obligation of the parent and the student to find out about necessary test accommodations for college admissions testing.

Answer: False.

See Response to number 6.

9. Districts need only evaluate a student's transition needs and preferences once.

Answer: False.

No limitations regarding transition assessments are contained in the statute or regulations. Assessment must occur as frequently as is necessary to provide an appropriate transition program.

10. If a student is in an IU, AVTS, or APS placement, it is no longer the District's responsibility for assessing, developing and implementing a transition plan.

Answer: False.

See In re: the Educational Assignment of Alfred M., Special Educ. Op. No. 999 (PDE 2000) (district ordered multiple years of compensatory education for inappropriate transition planning notwithstanding the fact that the district paid for the student to attend an AVTS and a residential approved private school in which the student participated in a sheltered workshop program).

11. Appropriate transition planning should guarantee the outcome of employment or admission to a post-secondary educational or training institution.

Answer: False.

20 U.S.C. 1402(34) defines transition services as "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...."

12. Districts are ultimately responsible to provide and pay for all transition services.

Answer: True.

See 20 U.S.C. §1414(a)(6) and 34 C.F.R. § 300.324(c).

13. An effective system exists for Districts in Pennsylvania to recoup the cost of transition services it was forced to provide when another agency refused to or failed to provide these services.

Answer: False.

See response to number 3 regarding Memorandum of Understanding notwithstanding 34 C.F.R. § 300.324(c).

14. Districts have no responsibility concerning post-school outcomes for disabled students who are not IDEA eligible.

Answer: False.

In light of promulgation of the Academic Standards for Career Education and Work, districts must make the curriculum tied to these standards accessible to students protected by Section 504.

AT-A-GLANCE TRANSITION MANDATES

A. DEFINITION OF TRANSITION SERVICES

STATUTE

20 U.S.C. § 1402(34)

Transition services

The term “transition services” means a coordinated set of activities for a child with a disability that--

(A) 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 post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(B) is based on the individual child's needs, taking into account the child's strengths, 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.

REGULATION

34 C.F.R. § 300.34(c)(12)

Rehabilitation counseling

Rehabilitation counseling services means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to a student with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 et seq.

34 C.F.R. § 300.39(b)(5)

Vocational Education

Vocational education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.

34 C.F.R. § 300.43

Transition Services

(a) Transition services means a coordinated set of activities for a child with a disability that-

(1) 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 employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(2) Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes--

- (i) Instruction;
- (ii) Related services;
- (iii) Community experiences;
- (iv) The development of employment and other post-school adult living objectives; and
- (v) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

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

B. IEP CONTENT

20 U.S.C. § 1414(d)(1)(A)(VIII)
 Individualized education program.
 Beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter--

- (aa) appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living

34 C.F.R. § 300.320(b)(1)-(2)
 Definition of individualized education program.
 Transition services. 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, and updated annually, hereafter, the IEP must include--

- (1) Appropriate measurable postsecondary goals based upon age

skills;

(bb) the transition services (including courses of study) needed to assist the child in reaching those goals; and

(cc) beginning not later than 1 year before the child reaches the age of majority under State law, a statement that the child has been informed of the child's rights under this title, if any, that will transfer to the child on reaching the age of majority under section 615(m).

appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

(2) The transition services (including courses of study) needed to assist the child in reaching those goals.

C. TRANSITION IEP PARTICIPANTS

34 C.F.R. § 300.321(b)
IEP Team - Transition services participants.

(1) In accordance with paragraph (a)(7) of this section, the public agency must invite a child with a disability to attend the child's IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under Sec. 300.320(b).

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

(3) To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph (b)(1) of this section, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

34 C.F.R. §300.322 (b)(2)

Parent Participation

For a child with a disability beginning not later than the first IEP to be in effect when

	<p>the child turns 16, or younger if determined appropriate by the IEP Team, the notice also must--</p> <p>(i) Indicate--</p> <p>(A) That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with Sec. 300.320(b); and</p> <p>(B) That the agency will invite the student; and</p> <p>(ii) Identify any other agency that will be invited to send a representative.</p>
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D. COORDINATION OF TRANSITION ACTIVITIES	
	<p>22 Pa Code § 14.131(b)</p> <p>IEP</p> <p>In addition to the requirements incorporated by reference in 34 C.F.R. 300.29, 300.344(b) and 300.347</p> <p>(b)(relating to transition services; IEP team; and content of IEP), each school district shall designate persons responsible to coordinate transition activities.</p>

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E. AGENCY RESPONSIBILITY	
<p>20 U.S.C. § 1414(a) (6)</p> <p>Failure to Meet Transition Objectives</p> <p>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)(i)(VIII), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.</p> <p>20 U.S.C. § 1412(a) (12)(B)</p> <p>Obligations related to and methods of ensuring services</p>	<p>34 C.F.R. § 324(c)</p> <p>Failure to Meet Transition Objectives</p> <p>(1) Participating agency failure. If a participating agency, other than the public agency district, fails to provide the transition services described in the IEP in accordance with Sec. 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.</p> <p>(2) Construction. Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any</p>

¹⁰ This section of the Pennsylvania Special Education Regulations was promulgated prior to 2004 IDEA reauthorization and the 2006 IDEA regulations.

If any public agency other than an educational agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy pursuant to subparagraph (A), to provide or pay for any services that are also considered special education or related services described in section 602(1), 602(2), 602(26), 602(33), and 602(34) that are necessary for ensuring a free appropriate public education to children with disabilities within the State, such public agency shall fulfill that obligation or responsibility, either directly or through contract or other arrangement....

(ii) Reimbursement for services by public agency.--If a public agency other than an educational agency fails to provide or pay for the special education and related services described in clause (i), the local educational agency (or State agency responsible for developing the child's IEP) shall provide or pay for such services to the child. Such local educational agency or State agency is authorized to claim reimbursement for the services from the public agency that failed to provide or pay for such services and such public agency shall reimburse the local educational agency or State agency pursuant to the terms of the interagency agreement or other mechanism described in subpara. (A)(1).

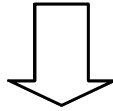
transition service that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of that agency.

¹¹ For purposes of this section of the regulations, “public agency” means LEA.

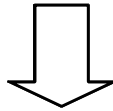
Transition: A Multi-Year Process

**Assessment to Clarify Interests
And Strengths or Aptitudes**

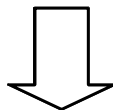
Use vocational and career interest and aptitude surveys and assessments when possible; follow up with counseling.



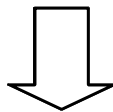
Identification of Post-Secondary Outcome



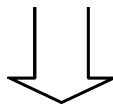
Identification of Education, Training and Experience
Required to Attain Identified Outcome



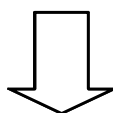
Identification of Academic and Non-Academic Skill Prerequisites
for Required Education, Training, and Experience



**Assessment of Child's Present Academic and Non-
Academic Skill Levels and Rates of Acquisition of New
Skills in Each Prerequisite Skill Area**



**Development of Present Levels and Measurable
Annual Goals for Each Transition-related Academic
and Non-academic Skill Area Identified**



Development of "appropriate measurable postsecondary goals"

Sample Measurable Post-Secondary Goals

Measurable Goal	Outcome
<p>Julia will maintain postural stability and develop fine and gross motor control, digital fluency, hand-grip, and ability to follow independently verbal directions consisting of one-step or clusters of closely related steps</p>	<p>at levels sufficient to participate in a sheltered workshop program.</p>
<p>Geoff will demonstrate the ability to lift sixty pounds and run one mile in less than eight minutes, and will acquire independent reading, written language and math calculations skills</p>	<p>sufficient to meet the admissions requirements for a two-year, community college police academy program</p>
<p>Tom will acquire functional reading skills, sight word vocabulary, written language, and money and time calculation skills</p>	<p>sufficient to meet social service agency's requirements to live in supported housing</p>
<p>Mary Kate will draft a resume that conforms to conventional business standards, will draft a cover letter to at least three different potential employers containing information about herself specific to the position for which she is applying; and will participate in three mock job interviews</p>	<p><u>in which she sufficiently maintains voice level and articulation to be understood by an unfamiliar listener, shares information that is responsive to job-specific questions, and asks questions that demonstrate comprehension of information already shared during the interview.</u></p>
<p>Edward will acquire the independent reading, written language, and math calculation and problem solving skills</p>	<p>necessary to meet the admissions requirements for an adapted four-year public college program of study.</p>

Edited by Lorrie McKinley, Esquire, 5/16/13