

Youth Transition Demonstration **YTD**

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Transition Requirements & the Individuals with Disabilities Education Improvement Act of 2004

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Historical Context

“The law has mandated that students with disabilities are entitled to a free and appropriate education (FAPE) in the least restrictive environment.”

Educational services for students with disabilities were authorized through the Education for All Handicapped Children Act passed by Congress in 1975. During the past three decades, we have witnessed a series of amendments to the law in response to changing societal values towards individuals with disabilities and improved educational, medical, and rehabilitative interventions. The most recent amendments occurring in December of 2004 when President George W. Bush signed the Individuals with Disabilities Education Improvement Act [IDEIA] (P.L.108-446) into law. With each reauthorization, changes were made to the original law but the basic tenants remain intact.

Since its inception, the law has mandated that students with disabilities are entitled to a Free and Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE) (see Figure 1 on page 2), meaning that students with disabilities are to be educated in same classes as their non-disabled peers, to the maximum extent appropriate. The 1997 amendments further reinforced this concept by mandating access to the general education curriculum for students with disabilities, including participation in state and district assessments.

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Free and Appropriate Public Education (FAPE)

One of the primary purposes of federal special education law is that all children are entitled to receive a free and appropriate education. For students found eligible for special education services, the provision of a free education means that appropriate educational and related services will be provided without cost to the student with a disability or his/her parents or guardians, except for fees equally imposed on nondisabled persons or their parents or guardians.

Least Restrictive Environment (LRE)

“To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.”

The law also specified that for each student found eligible for special education services an Individualized Education Program (IEP) would be developed based on the child’s current level of academic performance and strengths and limitations. Each student’s IEP should contain annual goals and objectives that specify areas targeted for instruction during the school year. In theory, the IEP has functioned as a reference for development and implementation of teaching and learning experiences that address a student’s unique needs and abilities. Over the past three decades, FAPE and IEPs have consistently served as the cornerstone of special education service delivery. Required elements of a student’s IEP, prior to the 2004 amendments, are shown below in Table 1.

Table 1 -- Required IEP Components Prior to IDEA 2004

Student’s present level of educational performance
Statement of statement of transition service needs (age 14)
Statement of needed transition services (age 16)
Measurable annual goals specific to the student’s needs and interest
Corresponding short-term objectives or benchmarks for each annual goal designed to insure that the student was demonstrating progress toward accomplishing their annual goals
Statement of interagency responsibilities
Statement of student’s participation in state and district-wide tests
List of special education and related services
Method and frequency for reporting student progress to parents or guardians

Emergence of Transition Services within the Law

References to the significance of school to adult life transition for students with disabilities begin to appear with the reauthorizations of 1983 and 1986, including the designation of federal funds to educational institutions and community services organizations to develop, implement and evaluate transition programs (Rusch & Millar, 1998). Despite references to the importance of preparing students with disabilities for life after high school, a mandate for transition services did not appear until the 1990 amendments to the law. At that time, transition services were defined as “a coordinated set of activities for a student with a disability that:

- a. are designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
- b. are based upon the individual student’s needs, taking into account the student’s preferences and interests; and
- c. include 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. (Part A, Section 602, 1997)

Since 1990, each student’s IEP had to contain a statement reflecting the student’s vision of his or her future. Then, the student and his or her IEP team would develop and implement transition goals that help the student pursue the areas identified in his or her vision statement. For most students, their transition plans contained goals related to careers and the type of employment they wished to obtain after leaving school. Other students’ IEPs may have identified goals reflecting an interest in furthering their education or goals related to living on their own, such as money management, maintaining a budget, or obtaining a drivers’ license. The teaching and learning activities identified for that student would focus on addressing the gap between the student’s performance at the time the transition goals were developed and the necessary skills, knowledge, and abilities the student would need to accomplish his or her goals. The student’s educational program would be comprised of academic and functional experiences that would provide the student opportunities to demonstrate progress toward fulfilling his or her goals.

Transition Services Defined within IDEIA 2004

In reference to transition services within the new law, changes are consistent with the prevailing emphasis on accountability and improved educational achievement for students with disabilities. Changes in the terminology used in prior definitions of transition services in IDEA of 1997 to the current definition are bolded. Transition as defined in IDEIA 2004 refers to “a coordinated set of activities for a **child** with a disability that:

- a. are 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. are 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 (Section 602 (34), H.R. 1350).

The change in language from **outcome-oriented** to **results-oriented** demonstrates the increased importance placed on delivering educational services that improve the academic and functional achievement of students receiving special education services. The 1997 amendments mandated that students with disabilities participate in state and district assessments and required a statement of individual modifications in the IEP regarding the administration of assessments. Yet, for many educators, the need to design and deliver transition-focused educational services based on the unique abilities of a student with a disability proved more challenging in an increasingly demanding classroom environment governed by a standards-based curriculum, which the vast majority of students are expected to achieve. The emphasis on "*academic and functional achievement*" highlights the importance of embedding functional skills instruction within the general education curriculum, when appropriate. Incorporating teaching and learning experiences that produce real-world applications of standards-based academic content should become increasingly more commonplace in k-12 classrooms.

Similarly, the *results-oriented* process means that school districts are responsible for providing, and being held accountable, for implementing educational services that produce evidence of student progress toward accomplishing one's transition goals including academic and functional achievement. The law is consistent with the emphasis on high academic standards referenced in NCLB as well as the four national policy goals for individuals with disabilities identified in IDEIA 2004: equal opportunity, full participation, independent living, and economic self-sufficiency (Turnbull, Huerta, & Stowe, 2004).

Transition Requirements of IDEIA 2004

WHEN SHOULD TRANSITION SERVICES BEGIN FOR STUDENTS WITH DISABILITIES?

In an effort to clarify somewhat confusing terminology appearing in the 1997 amendments of the law, Congress elected to include language in the law that specifies that transition services must be addressed and included in the IEP no later than the student's 16th birthday and then updated annually. This replaces the requirement in the 1997 amendment specifying the inclusion of a statement of transition service needs for students at the age of 14 within the IEP. However, under the proposed regulations, IEP teams could initiate transition planning and services for students prior to 16, when such services were deemed appropriate

for a student (§300.320(b)). Indeed, many school districts begin transition planning and related activities for students who receive special education services much sooner than when a student turns 16.

What does the law say regarding the age at which transition services should begin?

Beginning not later than the first IEP to be in effect when the child turns 16 and then updated annually thereafter, the IEP must include:

- ▶ Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and independent living skills, where appropriate;
- ▶ Transition services needed to assist the child in reaching those goals, including courses of study; and
- ▶ Beginning not later than one 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). [614(d)(1)(A)VIII]

Certainly, all students could benefit from transition planning prior to entering high school. Students with disabilities who desire to go on to a 2- or 4-year college will need to make sure that their course work satisfies all of the necessary entrance requirements for the college or university they are interested in attending. When IEP team members wait until the student is in 10th or 11th grade to consider this, it may be too late for students that have not satisfactorily completed all of the necessary course work. In contrast, pre-planning for students' futures or exposing them to a variety of experiences and careers during the elementary and middle school years can only be of benefit to students in making informed choices about their future. Furthermore, participating in educational experiences that parallel a student-designed transition plan may help to prevent students who struggle in academically challenging classes from dropping out of school at 16. The law now mandates that academic and functional educational experiences related to the student's transition goals must be in place once the student turns 16 and updated annually (Section 614 (d) (1) (A) (VIII), H.R. 1350).

WHAT TRANSITION-RELATED REQUIREMENTS MUST BE ADDRESSED PRIOR TO, OR DURING THE IEP PLANNING AND DEVELOPMENT PROCESS?_____

Often times, students' transition goals reflected an opportunity for students to voice their goals with limited intervention or guidance from other team members. For some students, transition goals were not derived from information gleaned from educational or community experiences that identified a student's strengths and preferences nor representative of the breadth of transition outcome areas acknowledged within the law. Instead, student goals were limited to curriculum areas where existing programs or services were accessible and goals were indiscriminately developed. The proposed amendments to the IDEA place a much greater emphasis on the use of evidence from appropriate transition

assessments to assist students and IEP teams in developing and implementing realistic and student-centered postsecondary goals.

Increasingly, educators, related services personnel, and rehabilitation providers will implement a variety of academic and functional assessments to identify the strengths and preferences of students receiving special education services. IEP team participants should also work to insure that the student's choices and preferences are consistent or parallel to their strengths. Evidence gathered from a variety of formal and informal assessment instruments and procedures that directly correspond to transition-outcome areas should help facilitate the development of postsecondary goals that represent the student's preferences, taking into account one's strengths and level of support need. Appropriate academic and functional experiences can then be implemented that will assist the student in achieving his or her goals.



Council for Exceptional Children Division of Career Development and Transition (DCDT) Transition Assessment

Represents the “on-going process of collecting data on the individual’s needs, preferences, and interests, as they relate to the demands of current and future working, living, and personal social environments. Assessment data serve as the common thread in the transition process and form the basis for defining goals and services, to be included in the individualized education program” (Sitlington, Neubert, & Le Conte, 1997. pp.70-7).

Similar to the 1997 amendments, a statement notifying the student of the age of majority and transfer of rights must also be documented within the IEP. Specifically, the IEP must contain a statement that the student has been informed of the student's rights under IDEA, if any, that will transfer to the student when he or she reaches the age of majority (usually 18). (Section 1414 (d)(1)(A)(i)(VIII)). The legislation allows for states to enact procedures that would transfer special education rights from parents to students when the student reaches the age of majority. The transfer of special education rights to the student is consistent with the themes emerging from other significant disability-related legislation and initiatives passed within the past decade that promote increased consumer choice, participation, and control in the direction of services provided (e.g., Rehabilitation Act Amendments of 1992). It should also help to reinforce to educators and human service professionals the importance of teaching students with disabilities self-determination skills. In states where the special education rights have transferred to the child, it may mean that the decisions and desires of the student regarding their education and life goals must be honored and can not be superseded by parental desires. The exceptions would be in cases where the parents have obtained legal guardianship or the student has been ruled incompetent by a court of law. In these instances, the parents retain the ability to have final input into choices expressed by their son or daughter.

Changes to the Components of the Individual Education Program

Changes to the requirements of the IEP document as well as changes regarding participation in the IEP meeting by stakeholders may have implications for the manner in which educational agencies develop IEPs and convene IEP meetings. For instance, short-term objectives will no longer be mandated for many students receiving special education services. Physical presence at IEP meetings is no longer mandated for outside agency representatives. Many of the changes in the law also have implications for the manner in which IEP participants share information and communicate their ideas pertaining to IEP relevant content. These changes impact all students who receive special education services, not just transition-age youth. Yet, they may be of increased importance to individuals involved in providing transition services and parents of transition-age youth due in part to the involvement of representatives from community services agencies that often times have no contractual relationship with the local education agency, which sometimes contributes to challenges in encouraging their timely participation in the process or willingness to commit to providing transition-related services. The following section will highlight changes to the IEP document and the IEP meeting process within IDEIA.

ELEMENTS OF AN IEP REQUIRED IN IDEIA 2004

With the reauthorization of IDEIA 2004, changes were made to the required elements of an IEP. In reference to the previously identified components (see e.g., Table One) the following changes can be noted:

- ▶ The child's present level of performance must include reference to academic achievement and functional performance, including how their disability affects the child's involvement and progress in the general education curriculum;
- ▶ A statement of measurable annual goals, including academic and functional goals;
- ▶ Benchmarks or short-term objectives are only required for students with disabilities who will take the alternate assessments whereas in the past, they were required for all students;
- ▶ A description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals will be provided;
- ▶ Any special education and related services and supplementary aids and services identified within the IEP and provided to the student must now be based on peer-reviewed research to the extent practicable;
- ▶ A statement of individual appropriate accommodations to measure the academic achievement and functional performance on state and district assessments must be documented;
- ▶ Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education,

employment and independent living skills, where appropriate by the age of 16; and

- ▶ Transition services needed to assist the child in reaching those goals, including courses of study.



Comparison of 1997 & 2004 IDEA Amendments IEP Requirements

The text in bold and italics represents changes from the 1997 law.

INDIVIDUALIZED EDUCATION PROGRAM (IEP) refers to a written statement for each child with a disability that is developed, reviewed, and includes:

- I a statement of the child's present levels of ***academic achievement and functional performance***, including:
 - (aa) how the child's disability affects the child's involvement and progress in the general education curriculum;
 - (bb) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; and
 - (cc) ***for children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives***;
- II a statement of measurable annual goals, ***including academic and functional goals, designed to***:
 - (aa) meet the child's needs that result from the child's disability to enable the child to be involved in and ***make*** progress in the general education curriculum; and
 - (bb) meet each of the child's other educational needs that result from the child's disability;
- III ***a description of how the child's progress toward meeting the annual goals described in subclause (II) will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided***;
- IV a statement of the special education and related services and supplementary aids and services, ***based on peer-reviewed research to the extent practicable***, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child (IDEA, Section 1414(d))

A brief explanation of key changes follows.

Short-Term Objectives may no Longer be Required for Many Students

Under IDEIA 2004, for many students receiving special education services IEP teams are not required to develop and include short-term objectives or benchmarks in a student's IEP. Short-term objectives or benchmarks are only a required component of IEPs designed for students with disabilities who are expected to take alternative assessments (not the standardized state achievement tests). It is possible that some states will maintain regulations that require school district representatives to maintain the short-term objectives or benchmarks within the IEP document as representatives from state educational agencies have indicated as such (see e.g., CEC Ohio, 2005). Similarly, parents can still request that their child's IEP identify short-term objectives as a mechanism for measuring and evaluating student progress toward IEP goals. However, it is not mandated under IDEIA 2004.

Sharing Student Progress with Parents: Frequency, Method of Determining

In reference to reporting information on a child's educational progress, the new law now requires a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals will be provided. The previous law specified that parents had to be notified "at least as often as parents are informed of their non-disabled children's progress" and reporting on "the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year". Many professional and advocacy organizations have suggested that parents request that short-term objectives be included with the IEP as means for addressing how progress toward meeting IEP goals will be documented and provided to the parent (TASH, 2004).

REQUIRED PARTICIPANTS IN AN IEP MEETING

When discussions regarding a student's future serves as the focal point of an IEP meeting, it is reasonable to assume that the student should lead, or at a minimum, be an active participant in the process. Yet, in many instances, students with disabilities are frequently absent from IEP meetings or left out of the conversation about one's future. Many professionals, parents, and advocates suggest that students with disabilities should direct their own IEP meetings and recognize the importance of student involvement in the IEP process.

For transition-age youth, the IEP meetings that begin to discuss a student's future should certainly include the student whose future is to be discussed and planned. In accordance with IDEIA 2004, a child with a disability is required to attend whenever appropriate. The student must be invited to the IEP meeting if the purpose of the meeting is to discuss the postsecondary goals for the student and the services needed to assist the child in reaching these goals (§ 300.320 (b)). If the child chooses not to participate, than the school must make sure that the student's preferences and interests are considered. Additional participants required to attend a student's IEP meeting are shown in Table 2 on the following page.

Table 2 -- IDEIA 2004: IEP Meeting Participants

the parents of a child with a disability
not less than 1 regular education teacher of such child (if the child is, or may be, participating in the regular education environment)
not less than 1 special education teacher , or where appropriate, not less than 1 special education provider of such child
a representative of the local educational agency
an individual who can interpret the instructional implications of evaluation results at the discretion of the parent of the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
whenever appropriate, the child with a disability
IDEA 2004, Section 1414(d)(1)(B)

Representatives from agencies that provides transition services, such as the State Dept. of Rehabilitative Services or Center for Independent Living, may also be invited to the IEP meeting when transition will be addressed as part of the IEP meeting. However, parents or a student (where the student has reached the age of majority) has to agree that representatives from outside agencies should be invited (§ 300.321 (b) (3)).

IDEIA 2004 has included language directed at reducing the number of irrelevant or unnecessary participants in an IEP meeting, as well as recognizing the time commitment involved and the difficulty in arranging meeting times conducive to all participants. Notwithstanding, the law recognizes the importance of parental input and agreement as to who may attend or be excused from attending, their son or daughter's IEP meeting. There are two conditions the law identifies as justification for nonattendance at an IEP meeting:

1. Participation by IEP Team Member is Not Necessary Based on the Member's Curriculum or Related Service Area; and
2. When any modifications or input of the participant has been put in writing, submitted to the parent and the representative from the school system for review, and then subsequently agreed upon by both parties in advance of the actual IEP meeting (Turnbull, Huerta & Stowe, 2004).

Representatives from the school system and the parent must agree that an IEP team member's presence in a meeting is not necessary because the participant's area of curriculum or related services is not being modified or discussed. The parents' consent must be in writing.

The extent to which changes in the law impact transition services will depend on the interpretation of the United States Department of Education through the release of policies and regulations to the states and localities for implementation and compliance, expected during the Fall of 2005. With changes to the proposed amendments to IDEA, as well as recent educational reform initiatives, it is clear that all students are expected to benefit from their education. For students who receive special education services, the expected benefits include the right to be educated (with students who do not have disabilities) and become sufficiently prepared to participate fully in the communities and work environments of their choice (Turnbull et al., 2004).

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Resources and Websites

Council for Exceptional Children (CEC). Link to the CEC's web site that contains links to IDEA reauthorization and information related to the proposed regulations

http://www.cec.sped.org/pp/idea_resources_reauthorization.html

Division of Career Development and Transition (DCDT), Council for Exceptional Children. Link to the CEC-DCDT IDEA site and includes links to comments on the proposed regulations regarding IDEA 2004 and other transition related resources.

<http://www.udel.edu/dcdt/#IDEA>

National Center on Secondary Education and Transition : Key Provisions on Transition: IDEA 1997 compared to H.R. 1350 (IDEIA 2004)

<http://www.ncset.org/publications/related/ideatransition.asp>

National Center on Secondary Education and Transition Parent Brief: Age of Majority: Preparing Your Child for Making Good Choices

<http://www.ncset.org/publications/viewdesc.asp?id=318>

National Dissemination Center for Children with Disabilities. Link contains update about the law, the statute passed by Congress, draft regulations, OSEP-reviewed materials on IDEA 2004, additional training materials related to IDEA 2004.

<http://www.nichcy.org/idea.htm>

Silverstein, R. (2005, January). A User's Guide To **The 2004 Idea Reauthorization** (P.L. 108-446 And The Conference Report). Consortium For Citizens With Disabilities

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Wrightslaw. (2005) *IDEA 2004: Overview, Explanation & Comparison*.

www.wrightslaw.com/idea/idea.2004.all.pdf

Wright, P. & Darr, P. (2005). *Wrightslaw: IDEA 2004*. Includes the full text of Parts A and B of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004) with commentary, analysis, cross-references, and resources. Available for purchase at

<http://www.wrightslaw.com/idea/> (**\$14.95 hard copy**)

Link to the United States Department of Education, Office of Special Education and Rehabilitative Services (OSERS) and the Office of Special Education Programs (OSEP) web page regarding IDEA 2004

www.ed.gov/policy/speced/guid/idea/idea2004.html

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