

Procedural Safeguards - 5.5 Transfer of Parental Rights at Age of Majority

State Performance Plan (SPP):

(See Overview in the Introduction for information on the SPP.)

Intent:

To provide guidance to school districts (LEAs) regarding the transfer of parental rights to children with disabilities at the age of majority (18 years of age) in accordance with the requirements under IDEA.

Timelines:

Not later than one year before the child reaches 18 years of age

Beginning not later than one year before the child reaches 18 years of age, the school district must inform the child that the parental rights under Part B of IDEA will transfer to the child at age 18.

When the child reaches 18 years of age

When a child with a disability (except for a child with a disability who has been determined to be incompetent under Ohio law) **reaches 18 years of age**, the school district of residence must notify both the child and the parents of the transfer of rights.

REQUIREMENT

3301-51-07

(H) Definition of individualized education program

(3) Transfer of rights at age of majority

Beginning not later than one year before the child reaches eighteen years of age, which is the age of majority under Ohio law, the IEP must include a statement that the child has been informed of the child's rights under Part B of the IDEA that will transfer to the child on reaching the age of majority, as specified in rule 3301-51-05 of the Administrative Code.

GUIDANCE

Transfer of parental rights at age of majority

The school district informs the parents and the child on or before the child's 17th birthday of the rights that will transfer to the child at age 18. The district also must provide the child with a copy of *Whose Idea Is This?* This generally occurs during the annual IEP meeting; however, a specific meeting may be scheduled to inform the child of the transfer of rights. A statement that the child has received notice of the procedural safeguards at least one year before his or her 18th birthday is included in the IEP PR-07 form and should be signed and dated by the child. (See [IEP - 7.5 Special Factors and Considerations](#).) District personnel should review *Whose IDEA Is This?* with the child, explaining the rights that will transfer to the child and pointing out that the child will be responsible for making decisions about his or her own special education and related services.

Additionally, district personnel explain that parents will continue receiving notices required under IDEA; these are notice of IEP meetings, prior written notice, the procedural safeguards notice, and notice of any due process complaints against the child.

The notice of meetings parents receive is not an invitation to the meetings; however, the child or the school district may invite the parents to participate in IEP meetings as "individuals with knowledge or special expertise regarding the child" (See [IEP - 7.2 Identification of IEP Team Members and their Roles](#)). (OSEP Policy Letter to Rodney J. Bieker, Esq., July 20, 2000.).

REQUIREMENT

3301-51-05

(D) Transfer of parental rights at age of majority

(1) When a child with a disability reaches the age of majority under Ohio law (eighteen years of age) that applies to all children (except for a child with a disability who has been determined to be incompetent under Ohio law):

- (a) The school district of residence must provide the notice required by this rule to both the child and the parents;
- (b) All rights accorded to parents under Part B of the IDEA and Chapter 3323. of the Revised Code transfer to the child; and
- (c) All rights accorded to parents under Part B of the IDEA and Chapter 3323. of the Revised Code transfer to children who are incarcerated in an adult or juvenile, state or local correctional institution.

(2) When a child with a disability (except for a child with a disability who has been determined to be incompetent under Ohio law) reaches eighteen years of age, the school district of residence must notify the child and the parents of the transfer of rights.

GUIDANCE

If a child who has reached the age of majority (age 18) prefers not to exercise his or her educational rights, the child may request that a surrogate parent be appointed to represent him or her in all matters regarding the identification, evaluation, educational placement and the provision of a free appropriate public education (FAPE). (See [Procedural Safeguards - 5.6 Surrogate Parents](#))

If the school district receives notice that the child has been determined to be incompetent under Ohio law, no rights transfer to the child at age 18.

LEGAL CITATIONS:

Federal Statutes:

20 U.S.C. 1415 (m)

Code of Federal Regulations:

34 CFR §300.320(c), §300.520

Ohio Revised Code: (Policies)

ORC 3323.011(I)

Operating Standards: (Procedures)

3301-51-05(D)

3301-51-07(H) (3)

FORMS (* = required)

- IEP PR-07*
- Prior Written Notice to Parents PR-01*
- Whose IDEA Is This?*