

# Transition

## A Fact Sheet from the Minnesota Disability Law Center

*Notice: Minnesota Disability Law Center Fact Sheets, including this one, are intended as brief informational introductions to Minnesota and federal legal requirements on the topic. This fact sheet does not constitute legal advice and does not create an attorney-client relationship. Each situation is different and the law is subject to change and interpretation.*

The recent reauthorization of the Individuals with Disabilities Education Improvement Act, or "IDEIA," (note the new name) included some changes in the transition to post-school life area. And, since the school year is winding down, it is a good time to review the relevant federal and state laws regarding transition and where districts have found legal difficulty in complying with this area.

### Goals and Definitions

Some of the main goals of these transition services are to assist students with disabilities in academics and functional skills as well as to provide them with needed skills and training once they leave the secondary school system.<sup>1</sup> The basis for transition services exists in the definition of IDEIA's purpose, which in part ensures that students with disabilities are prepared "for employment and independent living."<sup>2</sup> The types of transition services are also defined to include: instruction, related services, community experiences, development of employment and other post-school adult living objectives, and if appropriate, daily living skills and functional vocational evaluation.<sup>3</sup> These services may be special education services if required by the student to benefit from special education. The goal of these services is to promote the move to post-school activities (post secondary education, vocational training, integrated employment, continuing and adult education, adult services, independent living, or community participation.

A Minnesota complaint decision clarified the difference between transition services and "methodologies."<sup>4</sup> In a situation where the complainant alleged the district provided transition services without parental consent, the Minnesota Department of Education examined the services in question and the relevant federal definitions of transition. Finding the allegation unfounded, the MDE explained that services that the district provided were "methodologies to teach functional skills and to assist the Student in generalizing skills learned in the classroom" as opposed to services specifically designed to assist the student in transition from secondary education to post-secondary school, employment, or life outside of secondary public schooling in general.

### **Exceptions**

Students who have been convicted as an adult and are in adult provision are not entitled to transition plans if their eligibility for special education services will end while they are still in prison.<sup>5</sup>

### **New Changes**

Under the new federal law, effective July 1, 2005, for the first IEP when a student is 16 and annually thereafter, districts must ensure the IEP includes “appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills and the transition services (including courses of study needed to assist the child in reaching those goals.” The new federal law also included some changes in the definition to ensure the transition services were “results-oriented,” designed to facilitate the move from school to post-secondary activities, and to include a focus on the student’s strengths.<sup>6</sup>

### **Effect of Changes Delayed Until Minnesota Law Changes**

However, importantly, until and if Minnesota changes its transition laws, Minn. Stat. 125A.08 and Minn. Rule 3525.2810, subpt 1 (A) 7, districts will still need to comply with current Minnesota law that retains the provisions of the previous IDEA.

Specifically, Minn. Stat. 125A.08 requires the IEP to include, by grade 9 or age 14, the plan must include transition needs from secondary to postsecondary education and training, employment, community participation, recreation, and leisure and home living. The specific services needed, including interagency responsibilities or linkages. Districts must also apprise parents of the full range of transition goals and services under consideration.

Also, Minn. Rule 3525.2900, subpt 4 A and B goes further to discuss when the planning for transition must occur and what it must include. Again, by grade 9 or age 14, districts must conduct an evaluation to identify appropriate transition needs and plan for those needs. The evaluation and planning activities “must be relevant” to the student’s needs and may include work, recreation and leisure, home living, community participation, and postsecondary training and learning opportunities. This rule also notes that additional IEP team members, possibly from vocational education and other community agencies may be necessary. Further, the results of this evaluation must be included into an evaluation report and documented on the IEP.

Again, since Minnesota law can provide additional protections above what IDEIA requires, Minnesota districts will still have to comply with current Minnesota law in beginning transition activities by grade 9 or age 14, even though federal law requires the activities begin at age 16.<sup>7</sup>

### **Team Membership and Notice**

Federal law requires the student to be expressly invited to an IEP team meeting if transition service needs are being considered.<sup>8</sup> In contrast, when transition is not being discussed, students are to be invited “if appropriate.”<sup>9</sup> Further, if the student does not or

cannot attend, the district must ensure the student's preferences and interests are addressed. Parent input must also be considered.<sup>10</sup> Additionally, the district must also invite representatives of other agencies that may provide or pay for transition services, and if those representatives do not attend, the district must "take other steps" to obtain their participation.<sup>11</sup>

Relatedly, the district must provide a specific notice to the parents that a meeting will address transition, that the student will be invited, and that other agencies will be asked to participate in the meeting.<sup>12</sup>

### **Same Standards**

Transition goals and services are a part of an IEP and must be implemented as written<sup>13</sup> and must be provided in the LRE.<sup>14</sup> Failure to do so will result in violations and corrective action.<sup>15</sup> Further, the transition evaluation is held to the same standards as initial evaluations, reevaluations, and other evaluations in terms of sufficiency, comprehensiveness, and fairness.<sup>16</sup> The transition evaluation results also must appear in an evaluation report provided to parents just as the results of regular evaluations must appear.<sup>17</sup> Transition goals must also be based on student and parent input,<sup>18</sup> sufficiently specific and measure-able<sup>19</sup> and documented in the IEP.<sup>20</sup> Further, if transition needs change or new ones appear, or must be provided in a different setting (such as homebound), the IEP must be reviewed and revised.<sup>21</sup>

One other major area where districts have run into difficulties with transition is the failure to conduct a transition evaluation at all or by age 14.<sup>22</sup> The failure to invite outside agencies can be another stumbling block.<sup>23</sup>

Districts have avoided violations by properly documenting its transition activities in the IEP and in other documentation as well as ensuring parent and student input and participation.<sup>24</sup> Also, where the district offered transition services and made attempts to contact the student and the parent after the student failed to avail himself of the services, the district was found in compliance.<sup>25</sup>

### **Provisions on Other Agencies**

Both Minnesota and federal law require districts to hold a meeting in the event that another agency fails to provide the agreed upon transition services. In other words, if another agency drops the ball, the district must take steps to develop a strategy to replace those services.<sup>26</sup> The district is still responsible to provide FAPE and the services even if another agency fails to complete its responsibilities.<sup>27</sup>

Minnesota also has developed an infrastructure to support transition activities for students with disabilities. First, there is a requirement for a state "interagency office on transition services" with responsibilities on data gathering and coordination, consultation and technical assistance, assisting in developing interagency agreements, and providing help to regions and local areas in planning and training.<sup>28</sup> .

Further, state law requires districts or groups of districts to develop a community transition interagency committee for students beginning at grade 9.<sup>29</sup> The committee must include members from special education, vocational and regular education, community education, postsecondary education and training institutions, mental health, adults with disabilities who have received transition services if such persons are available, parents of youth with disabilities, local business or industry, rehabilitation services, county social services, health agencies, and additional public or private adult service providers as appropriate.” Its duties include identifying services and funding, developing multiagency team, creating a community plan, recommending changes, exchanging information, and preparing activity reports. Additionally, Minnesota has created a distinct funding stream for transition activities.<sup>30</sup>

### **Resources**

The MDE has developed a list of information and contacts for the county interagency committees and is available at

[http://education.state.mn.us/html/intro\\_speced\\_sec\\_trans.htm](http://education.state.mn.us/html/intro_speced_sec_trans.htm)

Additional resources on meeting the transition needs of students is available at:

<http://interact.uoregon.edu/wrrc/trnfiles/trncontents.htm>

Recently, the National Center on Secondary Education and Transition (NCSET) released a Research to Practice brief on how to use “community mapping” to identify and access available transition services. It is available at:

<http://www.ncset.org/publications/viewdesc.asp?id=2128>

The University of Minnesota Institute for Community Integration also has a number of resources available. They are listed at:

<http://ici.umn.edu/services/stenhjem.html>

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**Minnesota Disability Law Center**  
**430 First Avenue North, Suite 300**  
**Minneapolis, MN 55401-1780**  
**Toll-Free: 1.800.292.4150**  
**Local: 612.334.5970**

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<sup>1</sup> 34 CFR 300.43

<sup>2</sup> 34 CFR 300.1 (a)

<sup>3</sup> 34 CFR 300.43

<sup>4</sup> Minnesota Department of Education Complaint Decision C1525

<sup>5</sup> 34 CFR 300.324 (d)(1)(ii)

<sup>6</sup> 20 USC 1401 (34)

<sup>7</sup> Minn. R. 3525.2900, subpt. 4

<sup>8</sup> 34 CFR 300.321 (b), Minnesota Department of Education Complaint Decision 1803

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- <sup>9</sup> 34 CFR 300.321 (a) (7)
- <sup>10</sup> Minnesota Department of Education Hearing Decision 491
- <sup>11</sup> 34 CFR 300.321 (b)
- <sup>12</sup> 34 CFR 300.322 (b)
- <sup>13</sup> 34 CFR 300.323 (c)(2), Minnesota Department of Education Complaint Decisions 2026, 1977
- <sup>14</sup> Minnesota Department of Education Hearing 533
- <sup>15</sup> 1977, 2026,
- <sup>16</sup> Minnesota Department of Education Complaint Decisions 2040, 1803, 2081, 34 CFR 300.304
- <sup>17</sup> Minnesota Department of Education Complaint Decision 1935
- <sup>18</sup> Minnesota Department of Education Hearing Decision 491
- <sup>19</sup> Minnesota Department of Education Complaint Decisions 1883, 1937, 1806, 2040, 2056, Minnesota Department of Education Hearing Decision H446\_2, H491
- <sup>20</sup> Minnesota Department of Education Complaint Decisions 1518, 2040, Minnesota Department of Education Hearing Decision H383\_2
- <sup>21</sup> Minnesota Department of Education Complaint Decision 1518, Minnesota Department of Education Hearing Decision H383\_2
- <sup>22</sup> Minnesota Department of Education Complaint Decisions 1507, 1518, 1786, 1935, 1977, 2058, Minnesota Department of Education Hearing Decisions H383\_2, 446\_2
- <sup>23</sup> Minnesota Department of Education Complaint Decision 1803
- <sup>24</sup> Minnesota Department of Education Complaint Decisions 2081, 2058, Minnesota Department of Education Hearing Decisions H354\_2, 533
- <sup>25</sup> Minnesota Department of Education Complaint Decision 1893
- <sup>26</sup> Minn. Rule 3525.2810, subpt 4
- <sup>27</sup> See 34 CFR 300.154(b)(2) and 300.103(c)
- <sup>28</sup> Minn. Stat. 125A.54
- <sup>29</sup> Minn. Stat. 125A.22
- <sup>30</sup> Minn. Stat. 124D.454