

Transition Resources

Transition-Related Legislation and Case Law: This document provides an overview of recent and pending federal and Massachusetts legislation and case law regarding post-secondary transition. It is intended to serve as an annotated reference that can provide a starting point for parents, teachers, school administrators, and others who want to understand the legal requirements governing transition. While this section lists legislation and cases related to post-secondary transition, it is not exhaustive and does not interpret that information for the reader.

Federal Legislation

Individuals with Disabilities Education Improvement Act of 2004 (IDEA)

Public Law 108-446, Dec. 3, 2004

<http://idea.ed.gov/>

When the federal Individuals with Disabilities Education Act (IDEA) was reauthorized in 2004, it revised provisions regarding “secondary transition” for children with disabilities. In particular, the preamble specifies that a free appropriate public education (FAPE) should prepare children with disabilities “for further education, employment and independent living.” The revised provisions also change the definition of transition services and indicate that IEPs for transition-age youth must include:

- “Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills;
- The transition services (including courses of study) needed to assist the child in reaching those goals.”

Federal law and regulations require these items to be included in IEPs “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.” As noted below, Massachusetts law requires transition planning to begin earlier, at age fourteen.

The 2004 reauthorization also changed the definition of transition services so that it now means “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 a 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;
- is based on the child’s needs, taking into account the child’s strengths, preferences, and interests; and
- includes instruction, related services, community experiences, the development of employment and other post-school objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.”

Local Educational Agencies (LEAs) must invite the child to the IEP Team meetings if the purpose is to consider post-secondary goals. They also must provide “a summary of academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child’s post-secondary goals” to any children whose eligibility for services are terminated due to receiving a secondary diploma or exceeding age eligibility for FAPE. The requirements for these “Summary of Performance” or SOP reports, are contained in federal regulations at 34 CFR §300.305(e)(3).

Students who have a 504 plan but do not have an IEP are not eligible for transition services.

Higher Education Opportunity Act

Public Law 110-315, August 14, 2008

<http://www2.ed.gov/policy/highered/leg/hea08/index.html>

The 2008 reauthorization of the Higher Education Opportunity Act added provisions that enable eligible students with intellectual disabilities who are enrolled in approved comprehensive transition and postsecondary education programs to receive Federal Pell Grants, Supplemental Education Opportunity Grants, and Federal Work Study funds.

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Massachusetts Legislation

Current Massachusetts Legislation

Massachusetts General Law, Chapter 71B

<http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71b>

State law pertaining to special education is codified in Massachusetts General Laws Chapter 71B: *Children with Special Needs*. People sometimes still refer to this law, which was the first of its kind in the nation when it was originally enacted in 1972, by its original number, Chapter 766.

Students on IEPs are entitled to transition services until they graduate from high school or turn 22 years old. However, MGL ch.71B, §12C requires schools to determine if these students will continue to need services as adults at least two years before graduation or by age 20 - a process often referred to as a Chapter 688 referral or the “Turning 22” law. If a Massachusetts student is determined to be eligible for services through Chapter 688, these services are provided by adult service agencies following graduation. Provision of service is not an entitlement, but is subject to the availability of sufficient funding.

The Massachusetts Department of Elementary and Secondary Education (DESE) has developed a mandatory transition form to be used by school districts which may be found at <http://www.doe.mass.edu/sped/28MR/28m9.doc>

Massachusetts special education regulations also require that a school district make available to older special education students the following: continuing education; developing skills to access community services; developing independent living skills; developing skills for management of medical needs; and developing skills necessary for seeking, obtaining, and maintaining jobs. [603 CMR 28.06(4)]

S. 286, An Act to Maintain Transition Age Requirements for Students with Disabilities
August, 2008

<http://www.mass.gov/legis/bills/senate/185/st00/st00286.htm>

The law states that “Beginning at age fourteen (or younger if determined appropriate by the IEP Team), school age children with disabilities are entitled to transition services and measurable post-secondary goals, as provided under the federal Individual Disabilities with Education Act.”

HB 3720, An Act to Promote the Successful Transition of Students with Disabilities to Post-Secondary Education, Employment, and Independent Living
March 9, 2012

<http://www.malegislature.gov/Bills/187/House/H03720>

Requires the Board of Elementary and Secondary Education to “provide a specialist teacher endorsement in transition services which shall include both coursework and field experience for previously licensed special education teachers and rehabilitation counselors to serve as transition coordinators to facilitate provision of a coordinated set of activities to adequately prepare students with disabilities to achieve successful transition to post-school activities, including further education, competitive employment and independent living.”¹¹ The Board must promulgate rules and regulations relating to the new requirements by September 1, 2012.

Pending Massachusetts Legislation

The following bills’ progress can be tracked through the legislature using the Bills Search Feature on the Massachusetts Legislature’s website at: <http://malegislature.gov/Bills/Search>.

*HB 983 - An Act for Passage to Independence**

<http://www.malegislature.gov/Bills/187/House/H00983>

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Proposes appropriations for several state agencies that provide services to students with disabilities in transition (i.e. who are no longer eligible for special education services because they have graduated from high school or turned 22). The funds would be used for a variety of purposes including encouraging competitive employment and addressing emergency needs for residential services.

Status: As of February 29, 2012, the bill reported favorably out of the Committee on Children, Families and Persons with Disabilities and has been referred to the House Committee on Ways and Means.

HB 985 & S.32 - Bridges to Success: An Act to Support the Transition to Adult Services for Persons with Disabilities
http://www.malegislature.gov/Bills/187/House/H00985*

Expands transition (Turning 22) services and supports to student with disabilities “without adult service agency ties” (688 process). It also updates and expands the types of services that must be provided under the 688 process and requires the Executive Office of Health and Human Services to collect data on the extent to which needed 688 services are not being provided because of shortfalls in appropriations.

Status: As of February 29, 2012, the bill reported favorably out of the Committee on Children, Families and Persons with Disabilities and has been referred to the House Committee on Ways and Means.

HB 1950 - An Act to Promote Inclusive Transition Programs for Students with Severe Disabilities
<http://www.malegislature.gov/Bills/187/House/H01950>

“Provides an inclusive concurrent enrollment discretionary grant program to meet the transition needs of students with severe disabilities by developing the capacity of school districts, working in partnership with institutes of higher education, to support college success, participation in the student life of the college community, competitive employment, and provision of a free appropriate public education in the least restrictive environment.”

Status: As of June 4, 2012, the bill reported favorably out of the Committee on Education and has been referred to the House Committee on Ways and Means.

Massachusetts Case Law

Recent Administrative Hearings/Court Cases on Transition-Related Issues:

There are a growing number of administrative hearing decisions and court cases that interpret federal and state requirements for post-secondary transition. This section briefly summarizes a few recent Massachusetts cases where the Bureau of Special Education Appeals (BSEA) and/or the U.S. District Court have adjudicated disputes involving transition issues. A comprehensive listing of transition-related cases can be found through the Disability Law Center’s Online Manual Planning for Life After Special Education in Massachusetts.

Dracut Public Schools

BSEA # 08-5330, February 2, 2009

<http://www.doe.mass.edu/bsea/decisions/08-5330.pdf>

and

Dracut School Committee v. Bureau of Special Education Appeals

CIVIL ACTION NO. 09-10966-PBS, September 3, 2010

<http://www.dlc-ma.org/Dracut/Memorandum%20and%20Order.pdf>

Addressed whether the Dracut Public Schools had denied FAPE to a student with Asperger’s Syndrome and a variety of other disorders because it failed to provide adequate transition services while he was in high school. The case was the subject of several hearings before the Bureau of Special Education Appeals which ruled that Dracut did not conduct appropriate transition assessments, provide transition services, or address the student’s deficits in pragmatic language, organizational, and social skills in a manner that would facilitate his transition to postsecondary education, employment, and independent living. The school district appealed the decisions. The U.S. District Court disagreed with the BSEA

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Hearing Officer's proposed remedy, but ruled that Dracut had denied the student FAPE and upheld the BSEA findings regarding transition assessments, goals, and services.

Marlborough Public Schools and Dearborn Academy
BSEA No. 09-2610, February 27, 2009
<http://www.doe.mass.edu/bsea/decisions/09-2610.pdf>

Focused on whether a student in the Marlborough Public Schools system met all requirements for high school graduation, thereby terminating his eligibility for special education. Among the issues in the case were whether the student was provided with adequate transition services, had met his IEP goals, and was prepared to live independently. Because the parent had fully accepted the IEPs for the student's junior and senior years, the hearing officer ruled that the parent was "precluded from claiming that the transition services incorporated into those IEPs were inadequate." However, the hearing officer determined that the student's unmet deficits and need for a significant amount of specialized instruction and support meant that "he should not have graduated and therefore was entitled to continued eligibility for special education services to address his areas of weakness." The case was appealed to the U.S District Court which ruled that Marlborough had properly graduated the student because he had "validly passed the MCAS exam and his senior year IEP was reasonably calculated to provide him with educational benefit."

King Philip Regional School District
BSEA # 12-0783, January 9, 2012
www.doe.mass.edu/bsea/decisions/12-0783.pdf

Ruled that King Philip Regional School district must provide a residential placement for a student because the hearing officer determined that for this particular student "effective instruction regarding independent living skills and other functional skills necessary for Student to begin to gain a measure of self-sufficiency and independence can only occur within a residential school."

Quabbin Regional School District
BSEA # 05-3115, BSEA # 05-4356, July 27, 2005
www.doe.mass.edu/bsea/decisions/05-3115_05-4356.doc

An older BSEA case involving the Quabbin Regional School District and a student who attended a private school for students with language-based disabilities focused on some of the same issues raised in the Dracut and Marlborough cases including whether the student received adequate transition planning and services and her eligibility for special education services since she passed MCAS and received a high school diploma.

Websites Related to Transition

The following annotated list of websites includes extensive transition-related resources for students, parents, teachers and administrators.

National Websites Related to Transition

1. National Secondary Transition Technical Assistance Center

<http://www.nsttac.org/>

NSTTAC is a national technical assistance and dissemination center funded by the U.S. Department of Education's Office of Special Education Programs. NSTTAC provides technical assistance (TA) and disseminates information to State Education Agencies, Local Education Authorities, schools, and other stakeholders to (a) implement and scale up evidence-based practices leading to improved academic and functional achievement for students with disabilities, preparing them for college or other postsecondary education and training and the workforce; (b) implement policies, procedures, and practices to facilitate and increase participation of students with disabilities in programs and initiatives designed to ensure college- and career-readiness; and (c) achieve 100% compliance with IDEA, Part B Indicator 13 (I-13).

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This comprehensive website includes Transition Toolkits, Instructional Resources, Descriptions of Evidence-Based Practices in Secondary Transition, and Indicator-13 resources. Webinars include Effective Individual Learning Plans, Summary of Performance, Transition Assessments, Professional Development, and more. State Performance Report Summaries from 2006-2009 are included in the Indicator-13 section as well as sample planning tools.

2. *National Dissemination Center for Children with Disabilities*

<http://nichcy.org/schoolage/transitionadult/goals#postsec>

- Presents a whole section on writing transition goals in the IEP. Adapts information from NSTTAC on the differences between post-secondary goals and IEP goals and how to write both to be appropriate and measurable.
- Gives specific, concrete examples of well-written post-secondary goals in the areas of education and training, employment, and independent living. Gives examples of corresponding IEP goals that will reasonably enable the child to meet the post-secondary goals.
- Includes examples of inappropriate goals (either non-measurable or not specific enough) for each of these areas.
- Describes how to match Transition Services in all three areas (education and training, employment, and independent living) to the Post-secondary Goals and the IEP Goals.
- Includes a list of resources for general audiences, parents, professionals, and students, which include publications on varied topics related to transition.

3. *National Center on Secondary Education and Transition (NCSET)*

<http://www.ncset.org/>

Institute on Community Integration in the University of Minnesota's College of Education and Human Development

- Coordinates national resources, offers technical assistance, and disseminates information related to secondary education and transition for youth with disabilities. Website includes a rich set of topics on Teaching and Learning, Post-secondary Education and Employment, Transition Planning and Community Resources, and Youth Development and Family Participation.
- NCSET promotes the use of research-based practices and strategies through its publications specifically designed for national, state, and local educational administrators; teachers; parents; and youth with disabilities.

Massachusetts Websites Related to Transition

1. *Disability Law Center: Planning for Life After Special Education in Massachusetts - Online Manual *NEW*

<http://www.dlc-ma.org/manual/>

This publication, geared toward students and parents, is a comprehensive manual on post-secondary transition planning. It includes tips to help students get the transition services they need and helps parents work with the school to get the most appropriate services for their student. Periodic updates are made to manual on website. Last Revised: November 18, 2011

2. *The Federation for Children With Special Needs*

<http://www.fcsn.org/pti/topics/transition/index.html>

This local, comprehensive website includes transition planning tips, information on age-appropriate transition assessments, a new section on community-based transition planning strategies, a chapter-688 planning resource, an "It's my life" employment guide, benefits planning, self-determination for individuals with cognitive disabilities, tips for planning an IEP with a vision towards college, workplace accommodations, youth development and leadership, and more. The Federation offers conferences on different topics in special education, including *Planning a Life: Making the Most out of High School*, a two-day conference offered twice each school year that is packed with transition planning information and resources for and about students in special education ages 14-22. Topics include the vision development and self advocacy issues; Transition Planning Form and how to develop individualized transition goals; housing, postsecondary & employment options and more. Transition planning needs to be on schedule to insure a systematic and purposeful educational experience.

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3. *Massachusetts Department of Elementary & Secondary Education*

<http://www.doe.mass.edu/sped/links/transition.html>

Transition from School to Adult Life web page provides helpful guidance on transition for students and their families.

4. *Institute for Community Inclusion*

http://www.communityinclusion.org/topic.php?topic_id=7

Education & Transition: This part of the website lists projects and publications that cover the important steps that need to happen as teenagers with disabilities move towards adulthood. Several initiatives work with teachers to reach all students in school. ICI is especially known for its work in person-centered planning. The site also includes links to transition resources and research projects on best practices in job coaching and job mentoring. There is also a training component for school systems interested in improving their transition programs. Contact Debra Hart.

5. *Youth on the Move*

<http://www.youth-move.org/>

This new website is designed to provide information, strategies, and resources to transition navigators—teachers, counselors, family members, and community providers—to guide youth on the move.

6. *The Arc of Massachusetts*

<http://www.arcmass.org/>

Publications from the Arc of MA:

Transition from School to Adulthood: Planning for a Future

http://www.arcmass.org/Portals/0/PDF_Documents/Best_Practice/Transition%20to%20Adult.pdf

Transition from School to Adult Life - Time Lines

This downloadable brochure was prepared by Arc of Massachusetts and The Arc of Greater Haverhill / Newburyport. It gives time lines and guidelines for parents to facilitate preparation for a child's transition.

<http://www.arcmass.org/LinkClick.aspx?fileticket=jvatOpVvj1E%3d&tabid=112>