

ABSTRACT

When you turn 18, according to Michigan laws, you reach the age of majority. You are then considered an adult. Another federal law, the Individuals with Disabilities Education Act (IDEA), requires this: if you are a student who receives services to assist you in school, all rights and responsibilities covered by this law are transferred to you at age 18. If the court has given you a guardian, this individual will assist you with the rights and responsibilities of the IDEA law.

Every year, you will meet with your school team to develop a plan of services called your Individualized Education Plan (IEP). Your parents have been doing this with you for several years, but now you will have a new role as a young adult. It is now your job to speak for yourself and to make the decisions about your school services.

Reaching the Age of Majority means two things;

You have a whole new set of

- (1) Rights and**
- (2) Responsibilities.**

YOUR RIGHTS

By law, your Rights include:

Giving Consent:

*You must give **YOUR** consent before you.....*

- Have any type of evaluation
- Have your records sent to someone else, except to another school district you are attending.

The following things must happen:

- The evaluation or change must be explained in a way that you will understand.
- You must agree in writing, usually by signing a form or letter.
- You must be told that you have a choice about having or not having an evaluation and that you can change your mind at any time.

Prior Notice:

Your school must tell you, in writing, any time it wants to change your special education services. If you have trouble reading, the school must have someone tell you so that you will understand.

Evaluation Procedures:

At least every three years you will work with school staff to review the need for an evaluation, called the "multidisciplinary evaluation", or MET, to see if you continue to be eligible for special education services. If an evaluation is completed, your rights include:

- An interpreter or translator if you are deaf, hearing impaired, visually impaired or if you speak another language. Tests must be given in a way so that you can give accurate answers.
- Tests cannot discriminate on the basis of race, language or cultural background.

- The correct tests have to be given according to the instructions by someone who is well trained.
People who are trained and understand your disability must do your evaluation.
- Even though it might take a little longer, there need to be at least two tests or measures to make sure that there is enough information to make any decisions that are needed.
- You must be given the opportunity to tell people what you know about your disability as well as your strengths and abilities. Your parents can also give information to evaluators if you want.
- When the evaluation is done, all of the information must be shared with you so that you can help make any decisions that need to be made by the multidisciplinary team... that's because you are a member of the team. Other team members may include a teacher who is knowledgeable about your learning difficulties.
- You can expect a re-evaluation every 3 years; unless you agree it is not necessary. You can request a reevaluation at any time, but generally not more than once a year.

Continuum of Services:

The law is very clear that you and your school IEP team must consider more than one option when planning your school program. You need to work with school staff to find the best choice.

Access to Records:

You have a right to see any record that your school keeps about you. You may also request that information that you believe is not accurate or violates your rights be removed from your file. You must give permission for records to be shared with other people outside of the school district. Your parents still have access to records when you are still living with the parent or counted as a dependent on their federal tax forms?

Discipline

- If you violate your school's code of conduct you can be suspended from school for not more than 10 school days; just like any other student.
- After the 10th day, your school can still suspend you, but will also arrange for services away from school so that you can continue to participate in your school program and work on your IEP goals.
- Your school should also offer to address your problem behaviors/situations so they do not occur again. This can be done with a Behavior Intervention Plan.
- Your school can not use normal disciplinary procedures if the members of your IEP team believe that your behavior/situation was directly caused by your disability or the school's failure to implement the IEP.
- Your school district can automatically change your educational placement if you: 1) carry or possess a weapon, 2) knowingly possess, use or sell drugs, or 3) inflict serious injury on another person.
- You must be notified by your school district on the date they decide to take disciplinary action against you.

Disagreements:

If you disagree with decisions that are made by your school team, there are lots of things that you should do. The first thing is to *tell someone* on your team, or ask someone else, like your parents or a friend, to help.

The law also gives you rights, which include:

- **Independent Evaluation:**

This is an evaluation that is done by someone who is not employed by your school district. Independent evaluations are most often done when you disagree with the results of your MET evaluation, and will be paid for by the school, unless they are able to show a hearing officer that the evaluation they completed is appropriate. Results of any evaluation you request must be considered when you and your IEP members make decisions.

- **Mediation:**

This is an opportunity to sit down with a trained mediator who will help everyone solve the problems that have created the disagreement. Everyone must agree to do this and keep the information private. If you disagree with your IEP, and want to go to a hearing, the first step will be to attend a resolution session with your school district.

- **Hearings and Appeals:**

There are several ways you can disagree that involve hearing officers, lawyers, even appeals to the Michigan Department of Education.

- **Complaints:**

Complaints about the service you receive can be made to the Kalamazoo Regional Educational Service Agency (K/RESA) if you haven't been able to solve problems by talking to your teachers or other school staff. The basic message here is that you don't have to sign anything before you understand, and you do not have to agree to sign forms if you disagree with your plan of services (IEP). You have rights and protections under the law.

Your Responsibilities

With rights come responsibilities. In order for all of this to work properly there are some things that you need to do:

- **Follow timelines-** If you need to respond to the school, you will be told in writing. Don't miss deadlines because they are usually very important.
 - Generally you have 15 days after receiving a copy of your IEP or other notice to notify the district of any objections or disagreements.
 - Make sure to attend your IEP meetings. If you cannot attend on the scheduled day and time, ask to reschedule.
- **Have goals and ideas-** You will build a quality school program and be an active participant in your educational process.
- **Get the support that you need-** If you need help reading the letters that are sent to you or help in understanding information...ASK SOMEONE that you trust. Self advocacy is extremely important skill that you need to develop.
- **Tell people about yourself and your ideas-** You are an adult member of the team. It is important to understand self disclosure and voice your thoughts on who you are, what you can do, and what you will need support with throughout your school years into your adult life.
- **Take time to listen** to what people tell you about your strengths, abilities, and limitations. Working together and understanding information allows for you to make good decisions.
- **Learn about your disability-** Know what works best for you and what kind of support you need. In the future, people will only provide them if you ask.
- **Disagreement is OK-** Work with your team to solve the problems. The solutions are there.
- **Be your own advocate-** Get to know yourself and teach others.

TRANSFER OF RIGHTS: PROCEDURES

Transfer of Rights Checklist:

This checklist (Appendix A) was designed by Kalamazoo RESA to help you through the process.

Notices to Students/Families

These serve as the notice to both you and your parents regarding your transfer of rights. You and your parents must both receive a letter (Appendix B) at age 17 of impending transfer of rights, then receive another notice (Appendix C) when the rights have been transferred. A copy of each notice should be placed in your special education file by your school.

Student Rights Handbook

(You're reading it now!)

This document is a student friendly version of the Procedural Safeguards for Parents. You should review this document with your teachers to understand its contents. You should receive both the student and parent versions of the procedural safeguards as the parents' version meets the precise legal requirements.

TRANSFER OF RIGHTS: THE LAW

The regulations to implement IDEA require that school districts transfer Parental Rights and Procedural Safeguards to a student upon reaching the age of majority. The regulations also require that the district provide notice of this transfer to both the student and the parent at least one year prior to the student reaching the age of majority.

§300.320(c) Content of IEP.

Transfer of Rights. In a State that transfers rights at the age of majority, beginning at least one year before a student reaches the age of majority under State law, the student's IEP must include a statement that the student has been informed of his or her rights under Part B of the Act, if any, that will transfer to the student on reaching the age of majority, consistent with §300.520.

§300.520 Transfer of parental rights at age of majority.

(a) *General.* A State may provide that, when a student with a disability reaches the age of majority under State law that applies to all students (except for a student with a disability who has been determined to be incompetent under State law)-

(1) (i) The public agency shall provide any notice required by this part to both the individual and the parents; and

(ii) All other rights accorded to parents under part B of the Act transfer to student and

(2) All rights accorded to parents under part B of the Act transfer to students who are incarcerated in an adult or juvenile, State or local correctional institution.

(3) Whenever a State transfers rights under this part pursuant to paragraph (a)(1) or (a)(2) of this section, the agency shall notify the individual and the parents of the transfer of rights.

(b) *Special Rule.* If, under State law, a State has a mechanism to determine that a student with a disability, who has reached the age of majority under State law that applies to all children and has not been determined incompetent under State law, does not have the ability to provide informed consent with respect to his or her educational program, the State shall establish procedures for appointing the parent, or, if the parent is not available another appropriate individual, to represent the educational

interest of the student throughout the student's eligibility under Part B of the Act.

In transferring these rights to the student it is important that first the notice be given but also that second, the district help the student to understand their rights. Third, it is important to document these activities.

At the end of this section, the following model letters and forms which may be used to accomplish the transfer of rights are provided.

- A. Transfer of Rights checklist- (Appendix A) This checklist is designed to help staff step by step through the process.
- B. Notice letter to parent and student- (Appendix B) This letter serves as the notice to both parent and student regarding the transfer of rights. Both the parent and student individually must receive this notice. A copy should be placed in your special education file.
- C. Student Procedural Safeguards- (this handbook) This document is a student friendly version of the procedural safeguards for parents. Staff should review this document with the student to help them understand its contents. It is recommended that the student receive both the student and parent versions of the Procedural Safeguards as the parent version meets the precise legal requirements.
- D. Procedural Safeguards for Parents- This is the same document used for all parents of students with disabilities.
- E. Transfer of Rights documentation form- (Appendix C) The staff person responsible for providing the Transfer of Rights Notice and Student Procedural Safeguards should have the student sign this form following the provision and review of the Student Procedural Safeguards. This form serves as documentation that the district has met the requirements of the regulations. A copy of this document should be placed in the student's special education file.

The following are Frequently Asked Questions that may provide further guidance regarding the transfer of rights at the age of majority.

Frequently Asked Questions

Q *Do all of my IDEA rights transfer to me when I turn 18 in Michigan?*

A Yes. Under IDEA, a state may provide that all rights afforded parents under IDEA transfer to you when you reach the age of majority, unless you continue to need some protection, and have been determined to be **incompetent** (a legal term that describes needing legal protections) under state law. Michigan has provided that the rights accorded under IDEA do transfer when the student reaches 18 years of age.

When a state provides for your transfer of rights upon turning 18, your school district must notify your parents and you of that transfer of rights. Your parents may still get notices, but would no longer have the *right* to participate in future IEP meetings (although parents could be invited by the student or the district!) or to request a due process hearing. There is an exception to this rule. If you still need some legal protection and cannot give informed consent, a parent or other appropriate person can be appointed to represent your educational interests.

Q *After I turn 18, is my school district required to give my parents **notice** of IEP meetings or **notice** of placement decisions if my parents have not obtained guardianship for me?*

A Yes. Although a district is still required to give notice, all other IDEA rights (i.e., requesting due process hearings and signing your IEP) transfer to you at age 18 in Michigan.

Q *In Michigan, does the parent of a student over the age of 18 have the **right** to request a due process hearing?*

A No. With the reauthorization of the IDEA, Congress made provisions for a state to provide for the transfer of IDEA rights at the age of majority. Michigan has done so. Thus, parents would no longer have the right to request a due process hearing. There is also an exception to this rule. If the student has not been determined to be incompetent, but has been determined not to be able to give informed consent, a parent or other appropriate person must be appointed to represent the educational interests of the student.

Q *In Michigan, do the parents of a student over the age of 18 have the right to participate in IEP meetings?*

A No, although they may participate if invited by you or your school.