

Transition to Greatness:

Do's and Don'ts of Post-Secondary Planning

Kendra Yoch, Thompson & Horton

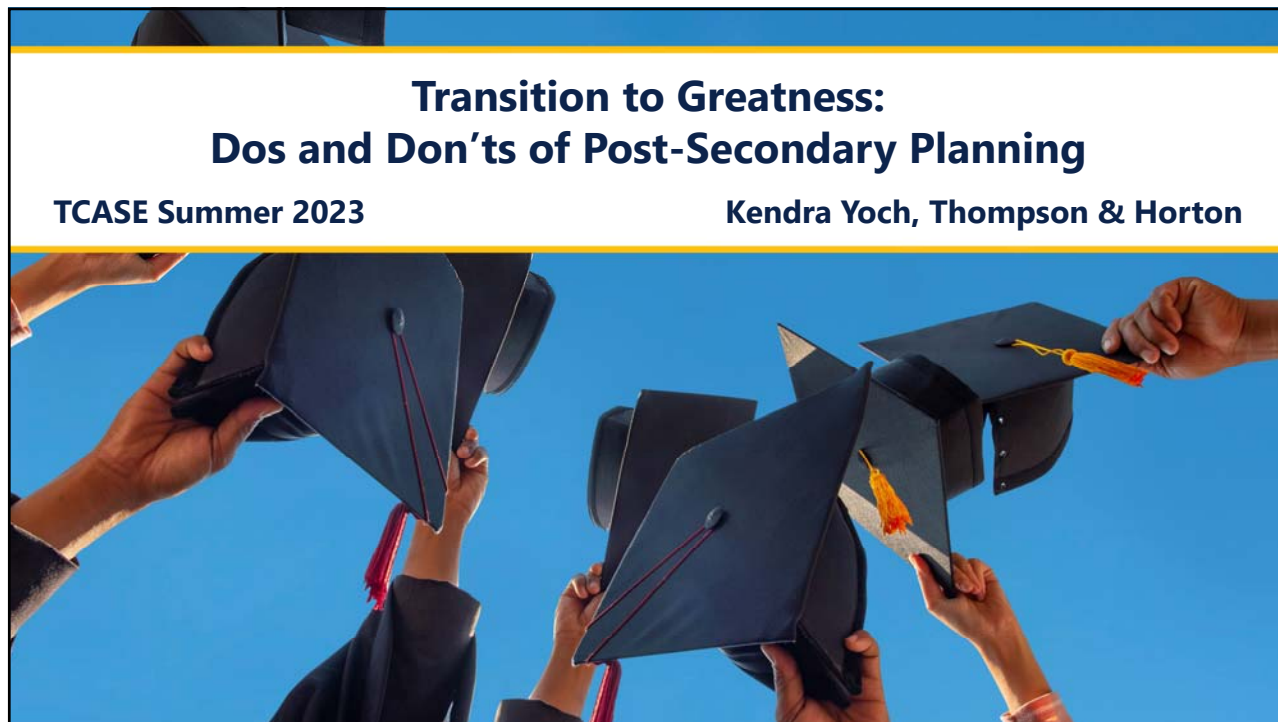


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TCASE Summer 2023

Kendra Yoch, Thompson & Horton

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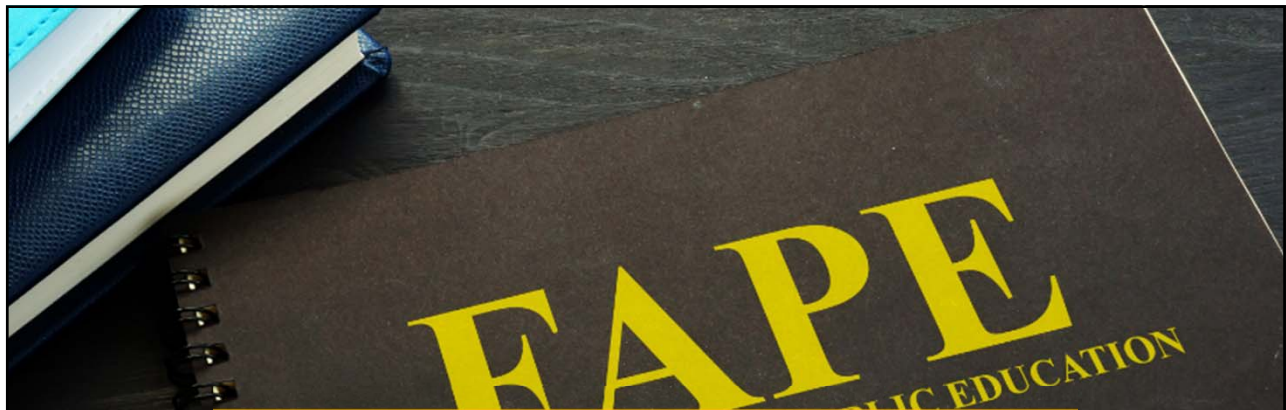
<h1>AGENDA</h1>	<ul style="list-style-type: none">✓ Legal Requirements<ul style="list-style-type: none">▶ IDEA▶ Texas ✓ Dos and Don'ts<ul style="list-style-type: none">▶ Transition Assessments▶ ARD Meetings▶ Goals▶ Services and Placement▶ Implementation and Review
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Legal Requirements

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IDEA Requirements

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IDEA Purpose

- ▶ To ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and **prepare them for further education, employment, and independent living**

20 USC 1400(d)(1)



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Transition Plan

- ▶ Beginning not later than the first IEP to be in effect when the student turns 16, and updated annually thereafter, the IEP must include:
 - ▶ Appropriate measurable postsecondary goals
 - ▶ Transition services

34 CFR 300.320(b)



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Postsecondary Goals

- ▶ Postsecondary goals related to
 - ▶ Training
 - ▶ Education
 - ▶ Employment
 - ▶ Independent living skills (where appropriate)



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Transition Assessments

- ▶ Postsecondary goals must be based on age-appropriate transition assessments



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Transition Services

- ▶ Services needed to assist the student in reaching their postsecondary goal
- ▶ Including courses of study



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Transition Services

- ▶ A coordinated set of activities for a student with a disability that is designed to be a results-oriented process, focused on improving academic and functional achievement to facilitate the student'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
 - ▶ Community participation

34 C.F.R. 300.43



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Transition Services

- ▶ A coordinated set of activities for a student with a disability that is based on the individual student's needs, taking into account the student's strengths, preferences, and interests, and includes
 - ▶ Instruction
 - ▶ Related services
 - ▶ Community experiences
 - ▶ Development of employment and other post-school adult living objectives
 - ▶ If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation

34 CFR 300.43



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IEP Team

- ▶ The district must invite the student to attend the meeting if a purpose of the meeting will be consideration of postsecondary goals and transition services
- ▶ If the student does not attend the IEP meeting, the district must take other steps to ensure the student's preferences and interests are considered

34 CFR 300.321(b)



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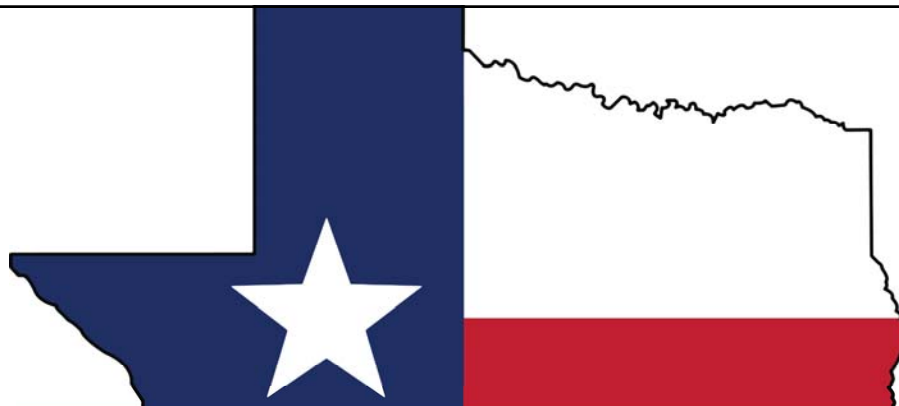
IEP Team

- ▶ To the extent appropriate, with the consent of the parents (or adult student), the district must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services

34 CFR 300.321(b)



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Texas Requirements

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Transition Planning

- ▶ Not later than when the student turns 14, the ARD committee must consider, and if appropriate address:
 - ▶ Student involvement in transition to life outside the public school system
 - ▶ If under 18, involvement in the student's transition by the student's parents and other persons (invited by parents or district)
 - ▶ If at least 18, involvement in the student's transition and future by the student's parents and other persons (if invited by the student or district)
 - ▶ Postsecondary education options (including preparation for postsecondary level coursework)
 - ▶ Functional vocational evaluation
 - ▶ Employment goals and objectives

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Transition Planning

- ▶ Not later than when the student turns 14, the ARD committee must consider, and if appropriate address:
 - ▶ If at least 18, the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student's transition goals and objectives
 - ▶ Independent living goals and objectives
 - ▶ Circumstances for facilitating a referral of a student or parents to a governmental agency for services or public benefits, including to place the student on a wait list for public benefits available to the student
 - ▶ The use and availability of supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills and supports and services to foster the student's independence and self-determination, including a supported decision-making agreement

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Designee on Transition and Employment Services

- ▶ Each district must have an employee to serve as the district's designee on transition and employment services
- ▶ Designee must provide information and resources about effective transition planning and services and interagency coordination
- ▶ Ensure collaboration with
 - ▶ Special education students and parents
 - ▶ HHSC, TWC, DSHS, and DFPS



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Dos and Don'ts

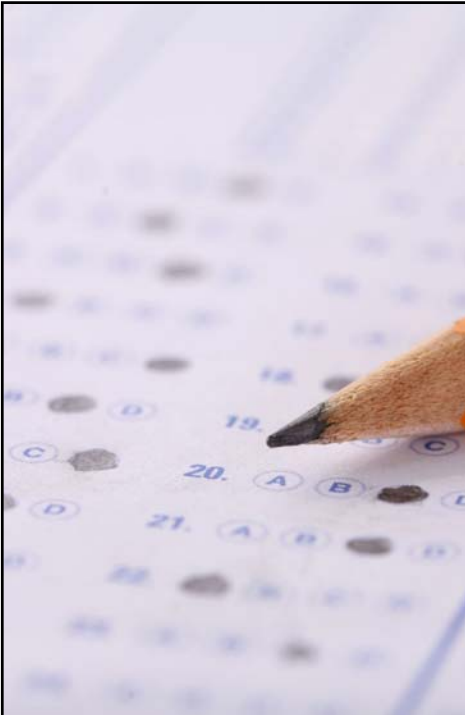
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Do Make a Connection



- Transition assessments
- ↓
- Strengths, interests, and needs
- ↓
- Postsecondary goals
- ↓
- Transition services
- ↓
- IEP goals
- ↓
- Implement, monitor, and update

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Transition Assessments

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Do: Consider Formal and Informal

Informal	Formal
<ul style="list-style-type: none"> • Interviews • Questionnaires • Observations • Anecdotal records • Curriculum-based assessments • Interest inventories • Preference assessments 	<ul style="list-style-type: none"> • Adaptive behavior and independent living assessments • Aptitude tests • Intelligence tests • Achievement tests • Personality tests • Career development measures • Job or training evaluations • Measures of self-determination

<http://www.nsttac.org/content/age-appropriate-transition-assessment-toolkit-3rd-edition/>



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Do Update Assessments



Shaw v. District of Columbia (D.D.C. 2019)

- ▶ High school student with intellectual impairment
- ▶ District conducted the Brigance Transition Skills Inventory Academic Assessment and Casey Life Skills Assessment
- ▶ The transition goals and services were based on the needs and interests identified by the assessments
- ▶ The assessments were repeated the following year and the goals and services were updated accordingly
- ▶ → FAPE

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Don't Delay Transition Assessments



Gibson v. Forest Hills Sch. Dist. Bd. of Educ. (6th Cir. 2016)

- ▶ District did not conduct any transition assessments until the student was 18
- ▶ Evaluation commented on student's ability to perform various work-related tasks
- ▶ The following year, the district conducted more targeted assessments, but 3 years late
- ▶ Without assessments team had insufficient information to devise measurable postsecondary goals or determine the services needed to help the student accomplish those goals

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Do Consider if Consent Is Required



Letter to Olex (OSEP 2019)

- ▶ OSEP opines that parental consent is not required for age-appropriate transition assessments
- ▶ Distinct from an evaluation to determine eligibility and the need for special education and related services
- ▶ Additionally, assessments and screeners administered to all students do not require parental consent
- ▶ See also *C.M.E. v. Shoreline Sch. Dist.* (9th Cir. 2023) (parent requested initial evaluation but refused consent for proposed transition assessments and interview; court allowed assessments)

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ARD Meetings

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Don't Forget the LEA Rep



Tamalpais Unified Sch. Dist. (SEA CA 2015)

- ▶ 19-year-old student with autism returning to public school from residential placement
- ▶ At a June IEP meeting, parents requested weekend social skills classes from Autistry
- ▶ The district agreed, did not put the service on the IEP because the provider was not a certified nonpublic agency, entered a side-agreement for the services

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Don't Forget the LEA Rep



Tamalpais Unified Sch. Dist. (SEA CA2015)

- ▶ At the February IEP meeting, parents asked for the Autistry services to continue, district team members said they did not have the authority to approve it
- ▶ An administrator later denied the request
- ▶ IHO found the district failed to have a district representative with authority to commit resources
- ▶ Procedural violation was prejudicial to parents' right to participate

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Do Collect Student Input



Gibson v. Forest Hills Sch. Dist. Bd. of Educ. (6th Cir. 2016)

- ▶ High school student with multiple severe disabilities was not invited to IEP meetings dealing with transition plan
- ▶ Harmless error; confrontational meeting would have exposed student to yelling, slamming doors, and general animosity; she would not have been able to articulate her wishes
- ▶ But denial of FAPE because the district did not take other steps to consider her preferences and interests

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Do Collect Student Input



Gibson v. Forest Hills Sch. Dist. Bd. of Educ. (6th Cir. 2016)

- ▶ District took some steps to collect information about the student's preferences and interests
 - ▶ Interviewed parents about activities she liked
 - ▶ Observed student at home and school
 - ▶ Informal assessment of interests (showing pictures of activities)
 - ▶ Asking the student about what she liked
- ▶ But student only had limited exposure to work-related activities in school, information not collected until she was 17 and then over 2.5 years
- ▶ Without considering her preferences and interests, the transition plan was deficient

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Goals

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Do Individualize Goals



Jefferson County Bd. of Educ. v. Lolita S.
(11th Cir. 2014)

- ▶ High school student eligible as SLD, reading at 2nd grade level
- ▶ Post secondary goal to “be prepared to participate in post-secondary education” did not match that the student was unlikely to go to college, was on an alternate diploma track (designed for students with disabilities for employment following high school)
- ▶ Post secondary goal to “be prepared to participate in community activities and live independently”

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Do Individualize Goals



Jefferson County Bd. of Educ. v. Lolita S.
(11th Cir. 2014)

- ▶ Goals were not individualized and repeated over two years
- ▶ A box was checked indicating transition assessments completed, but no evidence to support
- ▶ Student took a class directed to improving note-taking, organizational skills, and career planning; offered to all freshmen and not tailored to student’s unique transition needs

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Do Connect IEP Goals



Renee J. v. Houston ISD (5th Cir. 2019)

- ▶ 9th grade student with autism, ED, ADHD
- ▶ Postsecondary goal was to become a law enforcement officer, such as a police officer, SWAT team member, or FBI agent
- ▶ Parents claimed the goal was unrealistic but did not dispute that it was his primary area of interest

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Do Connect IEP Goals



Renee J. v. Houston ISD (5th Cir. 2019)

Although it is certainly reasonable to believe that C.J.'s disabilities render his prospects of becoming a police officer improbable, autism is a spectrum and so is the set of skills needed for his daily living as well as various jobs. This court is mindful of its obligation not to stray into the field of education policymaking and is reluctant to say, as a matter of law, that HISD was required to communicate a nuanced transition plan in a different way. The evidence reflected that HISD attempted to collaborate with C.J.'s parents in preparing the transition plan. Significantly, C.J.'s later transition plans attempted to engage his principal future employment interest while developing basic life skills necessary for post-secondary life. Thus, we affirm the district court's decision that C.J.'s transition plan did not deny him a FAPE.

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Do Connect IEP Goals

Renee J. v. Houston ISD (5th Cir. 2019)

Employment

- Research the field of law enforcement and report three careers of interest in that field
- Identify and demonstrate examples of 3 work habits necessary to be successful in the field of law enforcement
- Research 3 colleges that have degree programs in law enforcement/criminal justice and identify three steps needed to apply
- Attend career events offered by the school, district, and online research

Life skills

- When given invitations to participate with peers' performances, field trips, career events, and CBI, C.J. will participate in campus events
- C.J. will employ strategies to help self regulate his frustration
- Independently preparing for work each day, including dressing, making his bed, making his lunch, and accessing transportation
- Participating in recreational activities at the local YMCA,
- Making simple meals
- Counting money and making purchases
- Reading bus schedules, and sorting his clothes and doing laundry

Other postsecondary goals

- Working part time while attending school
- Attending a community college or trade school

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Don't Forget Annual Goals



In re: Student with a Disability (IL SEA 2015)

- ▶ 17-year-old student with TBI, SLD, ADHD
- ▶ Postsecondary employment outcome: join the army and become a ranger, investigate interests in becoming a fireman or welder
- ▶ Postsecondary education outcome: through the military, trade school, or two-year college setting
- ▶ Postsecondary training outcome: investigate trade school or apprenticeship programs in areas of interest
- ▶ No annual IEP goals were related to transition; no transition services were specified
- ▶ No "blueprint" showing how the student will complete high school requirements and pursue postsecondary goals

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Do Focus on Student Needs



Rosinsky v. Green Bay Area Sch. Dist.

(E.D. Wis. 2009)

- ▶ Student with Fragile X Syndrome; OHI, cognitive disability, SLI
- ▶ IEP goals:
 - ▶ Asking for assistance with tasks at job sites with no prompts
 - ▶ Increasing employability skills to a more independent level by working consistently for 30-minute blocks followed by short breaks and repeating the cycle at job sites with fewer prompts
 - ▶ Increasing independence in the community by following directions with 85% accuracy and decreased prompts
- ▶ Goals addressed needs identified in assessments; transition services provided opportunities to work on goals

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Don't Be Ridiculous



B.V. v. Wimberly ISD. (W.D. Tex. 2021)

- ▶ 17-year-old student with SLD and OHI (ADHD)
- ▶ Parents argued that the transition goal was inappropriate: become homeless and live in the woods surviving by eating what he killed with a rifle and waiting for his parents to die to obtain a make-believe inheritance
- ▶ That was actually the student's input; the goal was to live independently in the woods and fish for food
- ▶ Case Life Skills Assessment and student input identified
 - ▶ Strengths in welding, hunting, fishing, and working on cars
 - ▶ Tutoring helps him
 - ▶ Needs for postsecondary success: motivation and participation, relationships, goals, study skills, and technology

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Don't Be Ridiculous



B.V. v. Wimberly ISD. (W.D. Tex. 2021)

- ▶ Student's postsecondary employment goal was to enlist in the army or become an underwater welder
- ▶ Parents contend that B.V.'s goal of joining the army was "wholly inappropriate as B.V. was on psychotropic medication and due to his diagnoses and would likely be disqualified from military services."
- ▶ Parents argue that B.V.'s goal of being an underwater welder "was also inappropriate and unachievable ... because B.V. wants to remain in Central Texas where there is no significant body of water for which to weld underwater."
- ▶ Evidence was insufficient to demonstrate that he would be disqualified from military service due to his medical background and contention re: welding was a questionable statement about Texas's geography
- ▶ Student was enrolled in a welding class and studied for the ASVAB in his study skills class

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Services and Placement

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Do Be Detailed



Kass v. Western Dubuque Comm. Sch. Dist. (N.D. Iowa 2022)

- ▶ High school student with severely impaired vision, moderate intellectual disability, epilepsy, autism, ADHD, and a brain injury
- ▶ Postsecondary employment goal: Student will get a hands-on type job in the community with job coach support as well as support from vocational rehabilitation
- ▶ Transition assessments: student interview, interest inventory, report from VR-IA Dept of the Blind detailing his skills and needs in the work setting

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Do Be Detailed

Kass v. Western Dubuque Comm. Sch. Dist. - Goals

During community and work experiences, Brody will increase his endurance to be able to participate and complete expected tasks for 60 minutes with adult assistance and no more than one 10 minute break in at least 80% of opportunities without a behavior incident that results in needing to leave early or quit working

- Daily work log completed by his job coach that would measure the amount of time Brody was able to stay engaged and complete tasks. The IEP graph would document the amount of time he worked in a 60-minute work experience.

During classroom activities and community experiences, Brody will use his math and reading skills with assistance to make purchasing decisions, complete transactions and navigate community settings while demonstrating appropriate social interaction skills with the adults.

- Completion of an adaptive behavior skills chart that tracks his level of independence with the following skills: appropriate interaction with adults; reading packaging for preferred items, simplified menus and order boards; determining the needed amount of supplies and/or money; completing necessary money transactions; responding to initiations and advocating for himself. Each opportunity would be rated on a scale of 0 to 3 with 3 being the highest score (using a visual cue and/or no more than 1-2 verbal prompts from an adult). His total score would be determined every week and divided by the possible number of points to obtain a percentage.

After co-developing the schedule for a week and visual routines for common activities, Brody will utilize his schedule and routines to complete his arrival routine (at school or work) with up to 2 minutes of think time with no more than 1-2 verbal prompts.

- Tallying the number of prompts needed after giving Brody his needed think time of 2 minutes during each arrival routine. The median number of prompts would be graphed every 2 weeks.

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Do Be Detailed

Kass v. Western Dubuque Comm. Sch. Dist. – Transition Services

Brody will receive individualized instruction on functional math, reading and writing skills that will help him complete activities in his classroom, community, and work settings. These will include: reading packaging, simplified menus and order boards, recipes and directions, determine amounts needed (supplies and/or money), complete needed transactions (including counting \$1 and \$5 bills to match the amount needed), using a calculator to complete mathematical operations and navigating community settings by reading the signs.

Brody will work on his social interaction skills, independent living skills, and advocacy skills during classroom activities, community outings and at work. This will include responding to initiations from adults and asking for help or clarification as needed.

Brody will practice a variety of work tasks in the classroom setting that could be possible future jobs or activities in the community/work setting. He will be taught to follow visual routines for multiple-step tasks and these will be transferred into the community/work setting to support his efforts.

Brody's endurance for task completion will be worked on by systematically increasing the expectations for work and reinforce these efforts with access to preferred activities.

Brody will have regular opportunities to participate in community outings. These will include trips to stores, restaurants, gas stations, the library, and other community locations as available. Brody will practice his social interaction skills, math skills and literacy skills in the classroom and during these visits while supported by an adult to reduce his frustration and refusal behaviors. His community outings will be dependent on Brody's regulation.

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Don't Be Vague



E.G. v. Anchorage Indep. Bd. of Educ. (W.D. Ky. 2021)

- ▶ 16-year-old student with autism
- ▶ Postsecondary goals: work in a supported employment position in his area of interest (music/dance, parts assembly); live in a supported living arrangement (with family) and perform daily living skills activities to the highest degree of independence possible
- ▶ Transition services: parent permission needed for release of information to OVR, coursework leading to alternative diploma, community-based instruction, daily living skills instruction, provide info to parents about guardianship and SSI
- ▶ Course of study: core classes, daily living skills, and vocational skills instruction

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Don't Be Vague



E.G. v. Anchorage Indep. Bd. of Educ.

(W.D. Ky. 2021)

- ▶ In this case, the IEP does not provide a coordinated set of activities related to E.G.'s transitional services; at most, it provides that he will receive community based instruction and daily living skills instruction (and eventually, vocational skills instruction), but with no discussion of what this actually means in practice. Simply put, the transition services provided in the IEP appear to be, at best, generic descriptions, not narrowly tailored to E.G.'s specific and unique needs.

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Do Individualize Services



S.G.W., T.B., and M.B.W v. Eugene Sch. Dist.

(D. Or. 2017)

- ▶ High school student, academically gifted, eligible as AUT and ED
- ▶ Transition services included a finance class and career class, a career day, and a visit to a local community college
- ▶ The courses were available to all students, student chose a different elective and did not take the career class, which would have included transition assessments and informed transition goals and services
- ▶ Generally available courses can be part of transition services, but here they were the totality of the transition services, which was inadequate

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Do Connect Services to Goals



District of Columbia Pub. Schs. (SEA DC 2015)

- ▶ Student with OHI
- ▶ Enrolled in inclusion classes, decreasing attendance, increasing behaviors, and falling grades
- ▶ A vocational assessment indicated an interest in becoming a mechanic, business professional, or professional basketball player
- ▶ Transition services included 8 hours/year of career/college counseling and 20 hours of community service

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Do Connect Services to Goals



District of Columbia Pub. Schs. (SEA DC 2015)

- ▶ There is nothing more specific about how the Student might actually become a mechanic or business professional, or how the Student could possibly become come close to being a professional basketball player. It also references a career interest inventory which indicates interest in attending a 2 or 4 year college/university or vocational school, but there are no steps laid forth to make sure that this Student -- who is failing many of his courses -- will even graduate high school. The generic transition goals relate to participating in collaborative discussions, goals that could be used for virtually any Student anywhere. Transition Services are career/college counseling for eight hours a year and twenty hours of community service, but it is not clear how those services would relate to the Student's expressed vocational choices.

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Implementation and Review

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Do Review Annually



Letter to Anonymous (OSEP 2017)

It is reasonable to expect that a transition-aged youth may, based on coursework completed, community experiences (such as a summer or after-school job), and other college- and career-preparation opportunities, develop new interests or changed preferences regarding his or her postsecondary goal(s). For these and other reasons, it is important that the IEP Team review and update the child's postsecondary goals and transition services annually to reflect any new or different activities that are required to provide FAPE to the child. While it is possible that the IEP Team could conclude no changes to the goals and transition services are necessary, it must carefully consider whether the existing IEP's postsecondary goals and transition services remain appropriate to support the child in working toward what he or she hopes to achieve after leaving high school.

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Do Adapt to New Circumstances



Joaquin v. Friendship Pub. Charter Sch. (D.D.C. 2015)

- ▶ High school student with ADHD and other disabilities
- ▶ Transition services included 45 minutes/day of college and career preparation
- ▶ In April, the student was moved to a specialized program co-located at the high school for students with behavior management challenges
- ▶ Student had poor attendance
- ▶ New schedule did not include 45 min/day of transition services

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Don't Be Paralyzed by Indecision



In re: Butte Sch. Dist. No. 1 (D. Mont. 2019)

- ▶ Teenage student with autism and ED
- ▶ Student stated he did not "want to work or have any idea what he might like to do"
- ▶ District conducted the Interest Determination, Exploration, And Assessment System (career interest inventory) and Career Cluster Survey, resulting in a report rating occupations, skills, personality type

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Don't Be Paralyzed by Indecision



In re: Butte Sch. Dist. No. 1 (D. Mont. 2019)

- ▶ Postsecondary goals and related IEP goals were related to his desire to continue working with service providers, find a job, and live independently
- ▶ Transition services were extensive:
 - ▶ Job training in the student store
 - ▶ Instruction in and use of public transportation
 - ▶ Grocery shopping, cooking, laundry, daily life skills instruction
 - ▶ Community service projects (building a holiday display for a school, making blankets for a hospital nursery, folding clothes at a clothing drive)
 - ▶ Swimming at the public pool, fitness at the gym
 - ▶ Collaboration with multiple service providers

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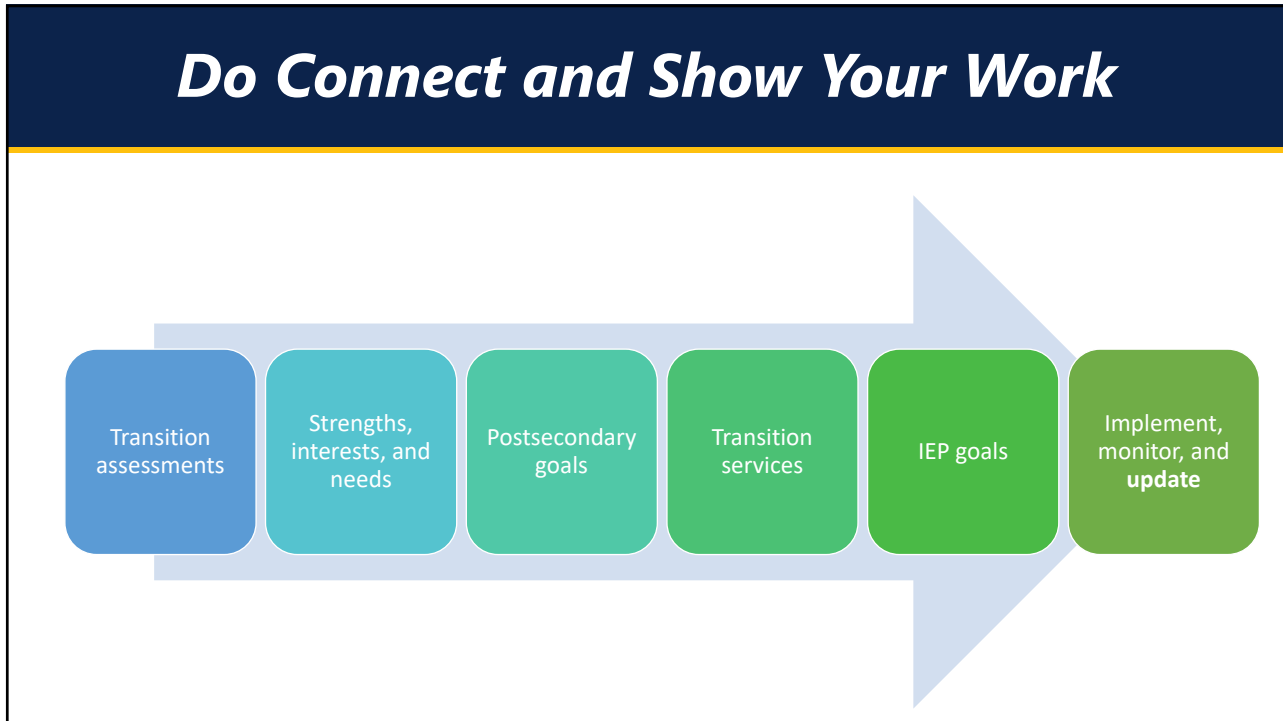
Do Connect and Update



Matthew B. v. Pleasant Valley Sch. Dist.
(M.D. Pa. 2019)

- ▶ High school student with autism, intellectual disability, SLI, and school anxiety
- ▶ Instruction provided in using money, transportation, following multi-step directions, community and household sight words, making a simple meal
- ▶ Court found district failed to show how those services were appropriate for the student
- ▶ IEP goals were repeated even when mastered
- ▶ Transition services also continued year to year without modification

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Thank you

Don't You Forget About Me: OSEP Policy Letter Sheds Light on Rights of Students Who Have Graduated

Taylor Montgomery
APRIL 11, 2023 | IN: OREGON PROCEDURES



Please sit the day after graduation, and your school district is likely off the hook for potential state complaints you have been hearing the legal guardian of a student with disabilities would file against the district for months. As to her: On March 30, 2023, the Office of Special Education Programs (OSEP) part of the U.S. Department of Education released a policy letter relating to the rights of students who have graduated. <https://www.osep.gov>, which is dated March 2, 2023, addresses the following issue:

SpEd Law Spotlight
<https://spedlawspotlight.com/>

Graduation and Termination of Special Education Services

Arlene Schneider
AUGUST 23, 2022 | IN: OREGON PROCEDURES, UNCLASSIFIED



August is here, and at the beginning of the school year it's time to think about graduation. That's right, it's never too early to plan for a student's graduation and transition to postsecondary life. Waiting until spring to prepare for this change can lead to trouble. Here's what you need to know.

When do services end?



Kendra Yoch
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