

Transforming Transitions:

Improving and Focusing 18+ Programming

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 TCASE

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2023

you are our people

Transforming Transitions
Improving and Focusing 18+ Programming

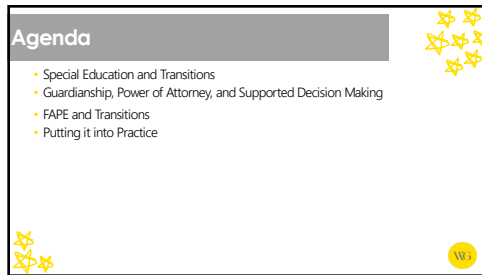
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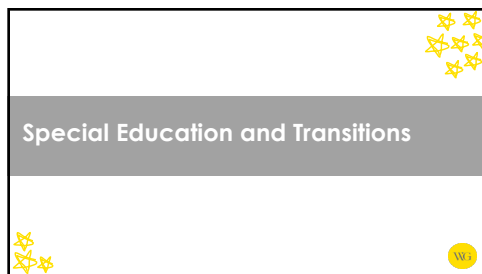
Agenda

- Special Education and Transitions
- Guardianship, Power of Attorney, and Supported Decision Making
- FAPE and Transitions
- Putting it into Practice



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Special Education and Transitions



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Purpose of Special Education




- Special education" is "specially designed instruction ... to meet the unique needs of a child with a disability"; "related services" are the support services "required to assist a child ... to benefit from" that instruction.
- Andrew F. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist. RE-1, 580 U.S. 386, 390 (2017)

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Transition Services




- The term "transition services" means a coordinated set of activities for a child with a disability that--
 - (A) is designed to be within a **results-oriented process**, that is focused on improving the academic and functional achievement of the child with a **disability to facilitate the child's movement from school to post-school activities**, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
 - (B) is based on the individual child's needs, taking into account the **child's strengths, preferences, and interests**; and
 - (C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.
- 20 U.S.C.A. § 1401

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The Law on 18+ Programming




- Completion of Graduation Requirements under 89.1070:
- A student may be awarded a regular high school diploma if:
 - The student has demonstrated mastery of the required state standards... and satisfactorily completed credit requirements for graduation under the **Foundation High School Program**... through courses, one or more of which contain **modified curriculum** that is aligned to the standards applicable to students in general education, **as well as satisfactory performance... on the required end-of-course assessment** instruments, unless the student's ARD committee has determined that satisfactory performance on the required end-of-course assessment instruments is not necessary for graduation.
 - The student must also successfully complete the student's individualized education program (IEP) and meet one of the following conditions.

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The Law on 18+ Programming

- Completion of Graduation Requirements under 89.1070:
 - The conditions:
 - Consistent with the IEP **the student has obtained full-time employment**, based on the student's abilities and local employment opportunities, in addition to **mastering sufficient self-help skills to enable the student to maintain the employment** without direct and ongoing educational support of the local school district.
 - Consistent with the IEP the student has demonstrated **mastery of specific employability skills and self-help skills** that do not require direct ongoing educational support of the local school district.
 - The student has **access to services that are not within the legal responsibility of public education or employment or educational options** for which the student has been prepared by the academic program.

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Guardianship, POA, and SDMAs

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Who's in Charge?




- When a child with a disability reaches age 18, except for a child who has been determined to be incompetent under state law all rights under IDEA transfer from the parent to the adult student.
 - 34 CFR § 300.520
- As a general rule, once the student is 18, the student controls their education unless there is an appropriate document indicating otherwise
 - Guardianship, and POA, and SDMA... Oh my!

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Guardianship




- Texas **courts** have the authority to appoint a guardian with full or limited authority over an incapacitated person
 - Full guardianships deprive persons with disabilities of the right to make decisions about their lives and assigns such right to someone else.
- If the Parents (or other person) has guardianship over an adult student, the ARD committee will treat the parent as if no rights have transferred.
- Guardianship = Parents/Guardian have FULL educational decision-making authority

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Power of Attorney (POA)




- Adult students can grant another person the authority to make decisions and handle matters on their behalf through a legal document called a POA.
 - This can include educational decisions.
- The golden rules of POAs:
 - Keep both the adult student and the parents involved in decision making
 - Parents do have the rights to make educational decisions
 - Parents arguably have limited authority to challenge those decisions in court... Call your attorney

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Supported Decision Making Agreement (SDMA)

- Look to the language of the SDMA!
- The supporter can help an individual with a disability:
 - Understand the options, responsibilities, and consequences of their decisions
 - Obtain and understand information relevant to their decisions
 - Communicate their decisions to the appropriate people
- The adult student maintains their own educational decision making rights.

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FAPE and Transitions

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FAPE

- FAPE is provided when a student receives "an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."
 - Is the student's IEP individualized based on the **student's assessment and performance**?
 - Was the IEP administered in the **least restrictive environment**?
 - Were the services provided in a coordinated and collaborative manner by the **key stakeholders**?
 - Has the student demonstrated **academic and non-academic benefits**?
 - In *Cypress-Fairbanks ISD v. Michael F.*, 118 F.3d 245 (9th Cir. 1997), *Endrew F. v. Douglas City Sch. Dist.*, 852 F.3d 1154 (10th Cir. 2017).

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FAPE and 18+ Programs

<p>FAPE Elements (Michael F.)</p> <ol style="list-style-type: none"> 1. Individualized based on assessment and performance 2. Provided in the LRE 3. Coordinated in a collaborative manner with key stakeholders 4. Meaningful academic and non-academic progress 	<p>FAPE in 18+ Services</p> <p><small>Individualized based on the student's individual circumstances and unique needs related to the level post secondary outcomes with admission, transition, and other relevant assessment and student performance</small></p> <p><small>Provided in the most appropriate setting to address needs at school, home, and work within the community</small></p> <p><small>Coordinated in a collaborative manner with the adult student, parent, and other relevant stakeholders (community agencies)</small></p> <p><small>Meaningful progress toward goal achievement and preparation for post-secondary plans.</small></p>
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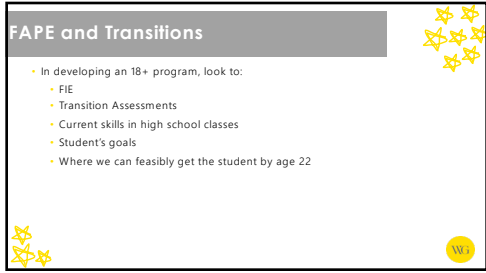
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FAPE and Transitions

- In developing an 18+ program, look to:
 - FIE
 - Transition Assessments
 - Current skills in high school classes
 - Student's goals
 - Where we can feasibly get the student by age 22



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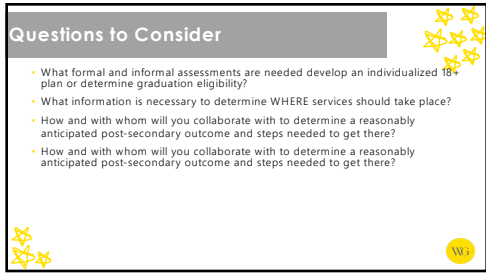
Let's Put it into Practice



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Questions to Consider

- What formal and informal assessments are needed develop an individualized 18+ plan or determine graduation eligibility?
- What information is necessary to determine WHERE services should take place?
- How and with whom will you collaborate with to determine a reasonably anticipated post-secondary outcome and steps needed to get there?
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Kevin

- Kevin just completed a summer program with the District following his senior year focused on work-based learning. In high school, he has received a combination of instruction in life skills and resources classes. His teachers report that he is able to do basic daily living skills like wash hands, grooming, personal care, and clean floors. Kevin has been engaged in work-based learning and can sort items and follow routine tasks independently with training, practice, and visual supports. When asked, his Parents don't know what the student's plan after high school is because they are not sure he has the capability to work or live independently or even with support.

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Stanley

- Stanley just finished his first semester of his senior year and you are planning for graduation. Stanley had modified content in high school and is eligible to continue services if needed to complete his IEP and graduate with a regular diploma. Unfortunately, Stanley does not want to come back to school after the year and is already planning to spend his days at his older brother's house playing video games. Stanley is not interested in working or volunteering and his parents aren't making him. Stanley took digital arts classes throughout high school and earned a certificate for graphic design.

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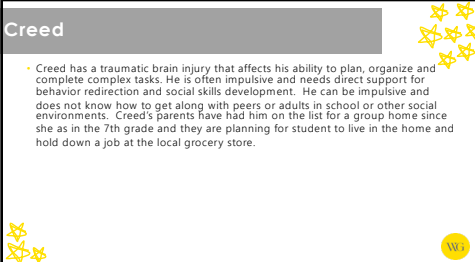
Educational Decision Making

- Who's in charge?
- Can we ask that Stanley come back?

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Creed

- Creed has a traumatic brain injury that affects his ability to plan, organize and complete complex tasks. He is often impulsive and needs direct support for behavior redirection and social skills development. He can be impulsive and does not know how to get along with peers or adults in school or other social environments. Creed's parents have had him on the list for a group home since she as in the 7th grade and they are planning for student to live in the home and hold down a job at the local grocery store.

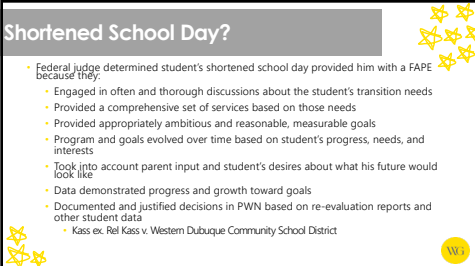


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Shortened School Day?

- Federal judge determined student's shortened school day provided him with a FAPE because they:
 - Engaged in often and thorough discussions about the student's transition needs
 - Provided a comprehensive set of services based on those needs
 - Provided appropriately ambitious and reasonable, measurable goals
 - Program and goals evolved over time based on student's progress, needs, and interests
 - Took into account parent input and student's desires about what his future would look like
 - Data demonstrated progress and growth toward goals
 - Documented and justified decisions in PWN based on re-evaluation reports and other student data
 - Kass ex. Rel Kass v. Western Dubuque Community School District

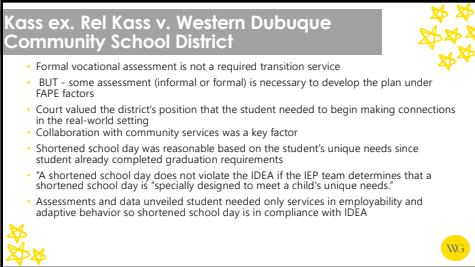


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Kass ex. Rel Kass v. Western Dubuque Community School District

- Formal vocational assessment is not a required transition service
- BIJT - some assessment (informal or formal) is necessary to develop the plan under FAPE factors
- Court valued the district's position that the student needed to begin making connections in the real-world setting
- Collaboration with community services was a key factor
- Shortened school day was reasonable based on the student's unique needs since student already completed graduation requirements
- "A shortened school day does not violate the IDEA if the IEP team determines that a shortened school day is "specially designed to meet a child's unique needs."
- Assessments and data unveiled student needed only services in employability and adaptive behavior so shortened school day is in compliance with IDEA






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Andy




Andy is on track to successfully complete all required credits for graduation with accommodations and inclusion services. While the student will be earning an endorsement in in Arts and Humanities, student, unfortunately, did not pass the Algebra I EOC and after 3 attempts, the ARD Committee accepted scores and determined passing was not required for graduation. Student wants to attend the Art Institute to obtain a degree in fashion design. Her parents, not wanting student to leave for college, know that student can continue to receive special education services after graduation and want her to complete a few more years of full-time services before going to the Art Institute.



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What can we learn?

- Create schedules allowing for individualized programming and selection of classes - think college, not high school
- Incorporate time for consultation, community and work environment support, in-home services, and community partnership development for staff
- Incorporate all four life domains (employment, lifelong learning, social recreation and leisure, and independent living skills) in each day to allow students with varying goals to attend daily as needed (to generate ADA)




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