

Resources

- West Virginia Department of Education
Office of Special Programs
1-800-642-8541
- West Virginia Parent Educator
Resource Center
(PERCs are located in most districts)
1-800-642-8541
- West Virginia Parent Training and
Information Center (WVPTI)
1-800-281-1436
- Mountain State Parents CAN
1-800-2445-5385
- Region II Family Network
1-888-711-4334
- West Virginia Advocates
1-800-950-5250

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Education Communications Office

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The West Virginia Department of Education, Office of Special Programs, Extended and Early Learning, is dedicated to positively effecting the lives of students by providing leadership and establishing partnerships with parents and school district personnel. The Office of Special Programs believes this brochure will be useful to you in understanding the Rights of Transfer and in resolving your concerns.



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Dr. Steven L. Paine
State Superintendent of Schools
West Virginia Department of Education



AGE OF MAJORITY

Transfer of Rights for Exceptional Students

Office of Special Programs, Extended
and Early Learning
West Virginia Department of Education

What is the transfer of rights?

If you are a school-age student and receiving special education services, you are protected under the Individuals with Disabilities Education Improvement Act 2004 (IDEA 2004). It is extremely important that you understand your due process rights to special education services so you will be able to advocate for yourself. In West Virginia, at age 18, individuals are presumed to be capable of decision-making in all areas of life, including education. IDEA 2004 states that you must be informed about decisions and choices regarding becoming your own educational guardian no later than one year before you reach the “age of majority” or legal age for your state. In West Virginia the legal age is 18 (unless you have been determined to be a protected person under state law). This means you become responsible for making your own decisions about school unless you have a court-appointed legal guardian or court-appointed surrogate parent.

An Individualized Education Program (IEP) team that includes you, your parents, teachers and others makes yearly plans about your education if you receive special education services. Your parent has made the decisions that affect your education, including looking at school records and being involved in planning your education. At age 18, these rights transfer to you; and you become the decision-maker about your special education services.

It is important that you understand the choices that will become your responsibility at age 18. During the year in which you will become 17 years of age, the school is required to inform you and your parents of this transfer of rights in writing. This usually occurs at the IEP meeting for that year. This will allow you time to talk with your parents and others, to be ready to take this responsibility and be prepared to make the best decisions about the supports you will need from special education.

What are the rights that transfer at age 18?

The decisions about your special education that transfer to you at the “age of majority” include decisions about:

- Your eligibility
- Your IEP
- Your placement

You will also have the right to give consent or refuse consent for your evaluation or re-evaluation. You have the right to give consent or refuse consent for placement if this is your first placement in a special education program or services. You will have the right to review your educational records, request mediation or a due process hearing, and/or to file a complaint regarding a Free Appropriate Public Education (FAPE).

It is in your best interest to learn about special education laws so that you can make informed decisions about your educational program. It is our hope that you already have been a part of the special education process and played an active role in developing your transition goals since the age of 16. Ask your teacher, your parent or other adults to help you learn more about special education laws.

Will my parent still participate in my special education meetings?

Your parent will continue to receive notice of meetings and written information related to special education if you or your school district invites them. Their part in the special education process is up to you. You may ask your parent or other adult to continue to make decisions about special education; however, you are not giving up your rights unless your parent goes through the guardianship process. This person is called a “surrogate parent” and may be your parent or another adult who knows about special education rights and can represent your needs, preferences and interests.

Who is responsible for notifying me about this transfer of rights?

The school will provide both you and your parents written notice of the transfer of rights at age 18. For more information, contact a special educator in your school or the special education director for your district. This person also should be able to answer other questions that you may have regarding any information or words in this pamphlet.

What happens after these rights transfer to me at age 18?

- You will receive written notice for all meetings and will be invited to attend those meetings. You may invite your parents or others to attend the meetings.
- You have the right to participate in all meetings where decisions are made about your special education eligibility, evaluations, IEP or placement before those decisions are put in place. You also have the right to prior written notice if the district refuses your request to take these actions.
- You have the right to review your educational records.
- You have the right to request meetings to review or change your IEP, identification, evaluation or placement in special education.
- You have the right to provide consent when it is required, including consent to evaluate or re-evaluate, release records, request mediation or a due process hearing and/or file a complaint regarding FAPE.
- You have the right to ask questions and to ask and receive help in solving problems. This includes the right to file a complaint, request a due process hearing and participate in mediation regarding special education services you receive.