

Student Rights and Procedural Safeguards

Under Michigan law you reach adulthood on your eighteenth (18th) birthday. **When you turn age 18, all of the educational decision-making rights that your parents have, will transfer to you.**

The school district must discuss the impact, of the transfer of rights with you and your parent(s) or guardian(s) *at least one year before your eighteenth (18th) birthday.*

For some students, a court may appoint a legal guardian who will continue to have authority to make decisions about your educational program. In this case, educational decision-making will not be transferred to you.

At least once every school year, you will meet with your school team to develop your IEP (Individualized Education Program). Your parent(s)/guardian(s) have been doing this with you for several years, and now you have this role as a young adult. It will be your job to speak up for yourself and make your own decisions about your IEP.

1. Student Transfer of Rights Notice

This Student Rights Handbook serves as notice, to both you and your parents, regarding your transfer of rights.

- When you turn age 17, you and your parents must both receive notice that rights will transfer to you when you turn age 18; and
- When you turn age 18, you and your parents must receive *another notice* that your rights have been transferred.

Notice of this transfer of rights will also be given to you in your IEP paperwork.

2. Michigan Procedural Safeguards Notice

You and your parents/guardians should both receive a copy of the ***Special Education Parent Handbook with Procedural Safeguards*** at least once per year. This booklet contains all of the safeguards (rights) and meets precise legal requirements.

3. Prior Written Notice

Your school district must tell you in writing any time it:

- Proposes or asks for your permission to change things; or
- Refuses to take action on something you have requested.

These proposed changes or requests can involve:

- Your eligibility (or type of disability);
- Your evaluation (qualifying for special education); and
- Your school program, services and/or accommodations.

The written notice must:

- Contain the school district's description of and explanation why the changes are proposed or why your requests are refused;
- Be written so you understand it; and
- Include resources for you to contact, in order to help understand special education laws.

This notice may be included in your IEP or in another document.

4. Giving Consent

You must give your consent or permission before you:

- Have any kind of evaluation;
- Make a change in your special education programs or services;
- Allow a representative from a community agency to attend your IEP meeting, and;
- Have your records sent to others outside of the school you attend.

Also, you must:

- Be given an explanation of the evaluation or changes in programs or services in a way that you will understand;
- Be given a reasonable opportunity to agree, in writing, to the evaluation, or any change in programs and services, and;
- Be told that you have a choice about allowing the evaluation or change in programs or services and that you can change your mind at any time.

5. Evaluation Procedures

You may be asked to give your permission (consent) to have a special education evaluation to see if you continue to be eligible for special education programs or services. Your rights include having:

- The opportunity to tell evaluators about your disability and your learning strengths and needs;
- Tests given in the language that you best understand;
- Tests given that does not discriminate against you on the basis of your race, language or cultural background;
- Tests given to you by trained people who understand your disability and give the tests according to instructions;
- Two or more tests or test procedures given to you to make sure that there is enough information to make any decisions regarding your needs.
- An interpreter or translator if you are deaf; hearing impaired; visually impaired, or if you speak a language other than English; and

You are a member of the IEP Team. When the evaluation is completed, all of the information must be shared with you so you can fully participate in decisions about your education.

6. Continuum of Services

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

7. Access to Records

You have a right to see any records that your school keeps about you. You may also request information or request to remove items from your file that you believe are not accurate, or that violate your rights. There is a process to access your records; ask your principal to explain this process to you.

You must give written permission for your records to be shared with people outside of your school district.

Even though your rights transfer to you at age 18, *your parents/guardians will continue to receive all the required IEP and evaluation information notices/paperwork from your school.*

8. Disagreements

If you disagree with decisions made by your IEP Team, you have options for action. You may file a special education complaint or request a due process hearing. These are rules and processes for disagreeing; ask your special education teacher to help you or contact your local special education director or coordinator. You can also request a complete copy of the ***Special Education Parent Handbook with Procedural Safeguards*** from your school for more information.

9. Information from the IDEA, Federal Special Education Law

§300.320(c) Transfer of rights at age of majority. *Beginning not later than one year before the child reaches the age of majority under State law, the IEP must include a statement that the child has been informed of the child's rights under part B of the Act, if any, that will transfer to the child on reaching the age of majority under §300.520.*

This means that around your 17th birthday you should be notified (in a meeting or through IEP paperwork) that your rights will transfer to you at age 18. It also means that your teachers and your family should check to make sure you know what this means – that you should get ready to assume your rights as an adult.

§300.520(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 that 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 the student;

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

(3) Whenever a State provides for the transfer of rights under this part pursuant to paragraph (a)(1) or (a)(2) of this section, the agency must notify the child and the parents of the transfer of rights.

The law also provides that you will receive another notification when your rights have actually transferred to you, on your 18th birthday.

10. Frequently Asked Questions

Question: Do all parental rights transfer to me when I turn 18 years old?

Answer: Yes. All educational rights of parents under the IDEA (federal special education law) transfer to you when you reach age 18.

Question: After I turn 18, is my school district required to give my parents notice of IEP meetings if my parents have not obtained guardianship for me?

Answer: Yes. The school district is still required to give notice of IEP meetings and notices about special education programs and services. All other IDEA rights, however, (signing your IEP for example) transfer to you at age 18 in Michigan.

Question: Do the parents of a student over the age of 18 have the right to participate in IEP meetings?

Answer: At age 18 you have the right to arrange your own IEP meeting and agree to the programs and services offered by the school district. Your parents have the right to be notified of your IEP Team meeting, but cannot participate unless they are invited by you or the school.

Question: Does the parent of a student over the age of 18 have the right to request a due process hearing?

Answer: No, but with one exception. The exception involves a student who has NOT been determined to be incompetent by a court, yet is unable to give informed consent or permission. In this case, a parent or other appropriate person must be appointed to represent the educational interests of the student.

If you have more questions, ask your parents, your teacher or counselor, or you special education director or coordinator to provide answers. We all want to help you assume your full rights and safeguards as you reach adulthood.