

## Procedure for Transfer of Rights to Students Who Reach the Age of Majority

Under Family Education Rights and Privacy Act (FERPA) regulations (99) and P.L. 108-446, educational rights transfer to eligible students who are 18 years of age or are attending a postsecondary educational institution. This means that all procedural safeguards and rights held by the parents, including right to consent or withhold consent for evaluation and placement for special education, are guaranteed to the student. Unless parents obtain legal guardianship for their child who is 18 years of age, the student is the person to whom all prior notices/listings of rights are sent and who will be asked for consent for those situations requiring consent.

Transfer of rights must be addressed with parents and students at IEP meetings as part of the transition process **no later than one year before the student will turn 18**. The date this discussion took place will be recorded on the IEP. Having this information at age 17 allows the team, especially the student and parents to discuss guardianship and initiate the process in a timely manner. Court schedules and associated costs to the family are important issues that may need to be considered over a period of time.

When the student approaches his/her eighteenth birthday, the transfer of rights is accomplished using the following procedures:

1. The case manager [**designate person**] for the student is responsible for identifying the date of the student's eighteenth birthday.
2. A modified version of the Prior Written Notice form, as presented in the NDDPI publication, *Procedural Safeguards: Prior Written Notice, and Parental Consent Procedures* can be used to notify the student and the parent of the proposed action to transfer rights. The notice will be addressed to the student and the parent. The following information may be used as a guide when completing the PWN form: The proposed action could be "(9) Other to transfer rights; The effective date will be on or before the student's eighteenth birthday; The action is proposed to meet legal requirements for transfer of rights to students at age eighteen; Actions considered prior to the proposal will typically be "not applicable" unless action by parents to obtain legal guardianship may have been discussed and was rejected; If prior actions were rejected, the reasons must be documented. The basis for the action could include FERPA 99, PL 108-446, and special education unit policy and procedure; Other relevant factors will also be recorded on the form.
3. The case manager [**designate person**] is responsible for arranging and holding a meeting with the student [**designate when, such as no later than the birthdate**]. If the student's eighteenth birthday falls during a school vacation, the case manager should arrange for and conduct the meeting with the student prior to the school vacation, explaining that the effective date of transfer is the birth date. During this meeting with the student, the case manager will provide to the student, the document *Parental Rights for Students Receiving Special Education Services: Notice of Procedural Safeguards*, explain the rights, and have the student sign the accompanying Transfer of Rights Form.

## Transfer of Rights to Student

Student Name	Date of Birth	Grade	Current Date
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I have received the document *Parental Rights for Students Receiving Special Education Services: Notice of Procedural Safeguards*. The information in the document has been fully explained to me and I understand these rights. I know that if I have further questions about this information I can ask teachers or the principal.

It is important to understand what will happen when a student becomes 18 years of age and becomes his/her educational guardian:

- I will receive formal written notice of my IEP meetings and will need to attend all meetings regarding my education;
- I have the right to include (or not include) my parents in the IEP meeting(s);
- I, rather than my parents, will receive my progress reports;
- I have the right to review my educational records;
- I have the right to request mediation, file a complaint, or ask for a due process hearing if I disagree with decisions regarding my education.

I understand that my consent must be given voluntarily for any individual evaluation or placement for special education services that is suggested by the school. I can withdraw my consent at any time.

I choose to have the school:

- continue to invite my parents to the IEP and other meetings even though I will make decisions about my education from now on.
- not** invite my parents to IEP and other meetings that involve my education.

**SIGN THIS FORM ONLY IF YOU UNDERSTAND AND AGREE WITH ALL STATEMENTS MADE ABOVE.**

Signature

Date

Signature of person who explained rights

Date

Date completed: