

Questions and Answers On Secondary Transition

Revised September 2011
(New Section B)

Regulations for Part B of the Individuals with Disabilities Education Act (IDEA) were published in the Federal Register on August 14, 2006, and became effective on October 13, 2006. Additional regulations were published on December 1, 2008 and became effective on December 31, 2008. Since publication of the regulations, the Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education (Department) has received requests for clarification of some of these regulations. This is one of a series of question and answer (Q&A) documents prepared by OSERS to address some of the most important issues raised by requests for clarification on a variety of high-interest topics. Each Q&A document will be updated to add new questions and answers as important issues arise or to amend existing questions and answers as needed.

OSERS issues this Q&A document to provide State educational agencies (SEAs), local educational agencies (LEAs), parents, advocacy organizations, and other interested parties with information regarding secondary transition for students with disabilities. This Q&A document represents the Department's current thinking on this topic. It does not create or confer any rights for or on any person. This guidance does not impose any requirements beyond those required under applicable law and regulations. This Q&A document supersedes the Department's guidance, entitled: Questions and Answers on Secondary Transition, Revised June, 2009.

The IDEA and its implementing regulations continue to address transition services for children with disabilities. Transition services may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit from special education. See 34 CFR §300.43(b). 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 postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, and 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, if appropriate, acquisition of daily living skills and functional vocational evaluation. See 20 U.S.C. 1401(34) and 34 CFR §300.43(a).

Generally, the questions, and corresponding answers, presented in this Q&A document required interpretation of the IDEA and its implementing regulations and the answers are not simply a restatement of the statutory or regulatory requirements. The responses presented in this document generally are informal guidance representing the interpretation of the Department of the applicable statutory or regulatory requirements in the context of the specific facts presented

and are not legally binding. The Q&As in this document are not intended to be a replacement for careful study of the IDEA and its implementing regulations. The IDEA, its implementing regulations, and other important documents related to the IDEA and the regulations are found at <http://idea.ed.gov>.

If you are interested in commenting on this guidance, please email your comments to OSERSguidancecomments@ed.gov and include Secondary Transition in the subject of your email or write us at the following address: Ruth Ryder, U.S. Department of Education, Potomac Center Plaza, 550 12th Street, SW, room 4108, Washington, DC 20202.

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A. Federal Activities

Authority: The requirements for transition services are found in the regulations at 34 CFR §§300.43 and 300.320(b).

Question A-1: Are there activities at the Federal level to support secondary transition services?

Answer: Yes. There are State Performance Plan/Annual Performance Report (SPP/APR) indicators that address secondary transition. In the SPP/APR, a State is required to set measurable and rigorous targets and annually report data on: graduation rates; competitive employment rates; postsecondary school enrollment rates; and percent of eligible IEPs that contain the required secondary transition elements. The Office of Special Education Programs (OSEP) funds three centers to provide technical assistance for the collection and analysis of data for these indicators: the National Secondary Transition Technical Assistance Center (NSTTAC); the National Dropout Prevention Center for Students with Disabilities (NDPC-SD); and the National Post-School Outcomes Center (NPSO). Additionally, OSEP is involved in collaborative activities with other Federal agencies with a focus on improving the academic and functional achievement of students with disabilities. These collaborative activities include the Matrix-Mapping Federal Resources for Technical Assistance and Information Services; the Interagency Committee on Disability Research/Interagency Subcommittee on Employment; the Federal Partners in Transition Workgroup; and the Youth Vision Federal Collaborative Partnership. The agencies involved in these and other activities include the Departments of Education, Labor, Health and Human Services, Transportation, Justice, Housing and Urban Development, and the Equal Employment Opportunity Commission.

B. Individualized Education Program (IEP) Goals for Postsecondary Transition

Authority: The requirements for the content of the IEP related to transition services are found in 34 CFR §300.320(b).

Question B-1: Must an IEP include measurable postsecondary goals in each of the areas of training, education, employment, and independent living skills? Are there any circumstances in which goals for training and education can be combined?

Answer: The Under 34 CFR §300.320(b)(1), the IEP for each child with a disability, must, beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually thereafter, include (1) appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and (2) the transition services (including courses of study) needed to assist the child in reaching those goals. The Department explained in the Analysis of Comments and Changes section of the preamble of the August 2006 final Part B regulations that "...the Act requires a child's IEP to include measurable postsecondary goals in the areas of training, education, **and** employment, and, where appropriate, independent living skills. Therefore, the only area in which postsecondary goals are not required in the IEP is in the area of independent living skills.... It is up to the child's IEP Team to determine whether IEP goals related to the development of independent living skills are appropriate and necessary for the child to receive FAPE." [Emphasis added] 71 Fed. Reg. 46668 (Aug. 14, 2006).

Regarding postsecondary goals related to training and education, the IDEA and its implementing regulations do not define the terms "training" and "education." However, the areas of training and education can reasonably be interpreted as overlapping in certain instances. In determining whether postsecondary goals in the areas of training and education overlap, the IEP Team must consider the unique needs of each individual student with a disability, in light of his or her plans after leaving high school. If the IEP Team determines that separate postsecondary goals in the areas of training and education would not result in the need for distinct skills for the student after leaving high school, the IEP Team can combine the training and education goals of the student into one or more postsecondary goals addressing those areas. For example, for a student whose postsecondary goal is teacher certification, any program providing

teacher certification would include education as well as training. Similarly, a student with a disability who enrolls in a postsecondary program in engineering would be obtaining both education and occupational training in the program. The same is true for students with disabilities enrolled in programs for doctors, lawyers, accountants, technologists, physical therapists, medical technicians, mechanics, computer programmers, etc. Thus, in some instances, it would be permissible for the IEP to include a combined postsecondary goal or goals in the areas of training and education to address a student's postsecondary plans, if determined appropriate by the IEP Team. This guidance, however, is not intended to prohibit the IEP Team from developing separate postsecondary goals in the areas related to training and education in a student's IEP, if deemed appropriate by the IEP Team, in light of the student's postsecondary plans.

On the other hand, because employment is a distinct activity from the areas related to training and education, each student's IEP must include a separate postsecondary goal in the area of employment

C. Summary of Performance (SOP)

Authority: The requirements for the SOP are found in the regulations at 34 CFR §300.305(e)(3).

Question C-1: What is the purpose of the SOP, “a summary of the child’s academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child’s postsecondary goals”?

Answer: The purpose of the SOP is to provide the child with a summary of the child’s academic achievement and functional performance in order to assist the child to transition beyond high school.

Question C-2: What information is required and what information would be helpful to include in the SOP?

Answer: The SOP must include recommendations on how to assist the child in meeting his or her postsecondary goals. The IDEA does not otherwise specify the information that must be included in the SOP; rather, State and local officials have the flexibility to determine the appropriate content to be included in a child’s SOP, based on the child’s individual needs and postsecondary goals.

Question C-3: Does a general educational development credential (GED) or alternate diploma trigger the creation of an SOP?

Answer: No. A public agency, pursuant to 34 CFR §300.305(e)(3), must provide a child whose eligibility for services under Part B of the IDEA terminates due to graduation from secondary school with a regular diploma, or due to exceeding the age of eligibility for a free appropriate public education (FAPE) under State law, with a summary of the child’s academic achievement and functional performance. This Part B requirement does not apply to the group of children who leave secondary school with a GED credential or alternate diploma and whose eligibility for services under Part B has not terminated. See 34 CFR §300.102(a)(3)(iv), which clarifies that a regular high school diploma does not include alternate degrees, such as a GED credential.

Public agencies are not required to provide an SOP for students who leave secondary school with a GED credential or alternate diploma; however, there is nothing in the IDEA or the Part B regulations that would prevent a

State from doing so. If a State establishes a policy or practice requiring LEAs to provide an SOP to students with disabilities who leave high school with a GED credential or an alternate diploma, we recommend that, to avoid any confusion, the LEA notify the student and his or her parents that the student's eligibility for FAPE under Part B does not terminate until the student is awarded a regular high school diploma or the student exceeds the age of eligibility for FAPE under State law, whichever occurs first. States that require their LEAs to provide children who leave secondary school with a GED credential or alternate diploma with an SOP must comply with 34 CFR §300.199. Each State, under 34 CFR §300.199(a)(1), must ensure that any State rules, regulations, and policies conform to the purposes of Part B. Further, 34 CFR §300.199(a)(2) requires States to identify in writing to OSEP and to their LEAs any State-imposed requirement that is not required by Part B of the IDEA or the implementing regulations, such as one requiring their LEAs to provide children who leave secondary school with a GED or credential or alternate diploma with an SOP.

Question C-4: Is a public agency required to include in the SOP the documentation necessary to determine a student's eligibility for the Vocational Rehabilitation (VR) Services program and/or accommodations in institutions of higher education?

Answer: No. Section 614(c)(5) of the IDEA does not require the LEA to include in the SOP the documentation necessary to determine a child's eligibility for another program or service, such as the State VR Services program, or the child's need for accommodations in college or in other postsecondary educational settings. However, the SOP may include information that may assist another program to determine a student's eligibility for services or accommodations. For example, section 102(a)(4) of the Rehabilitation Act of 1973, as amended, requires the State VR Services program to use information submitted by education officials to assist in making eligibility determinations for students with disabilities. The SOP is one of the educational records that may be used to provide information to determine a student's eligibility for VR services.

A postsecondary student who has identified him or herself as an individual with a disability and has requested academic adjustments, auxiliary aids or modifications of policies, practices or procedures from an institution of postsecondary education may, consistent with an institution's documentation requirements, provide the institution with the SOP as part of the documentation to be used by the institution to determine whether the student has an impairment that substantially limits a major life activity, as defined under Section 504 of the Rehabilitation Act (Section 504)

and/or the Americans with Disabilities Act (ADA), and requires academic adjustments as defined in the Section 504 regulations at 34 CFR §104.44. Institutions may set their own requirements for documentation so long as they are reasonable and comply with Section 504 and the ADA.

Question C-5: How can the SOP assist the VR Services program in the provision of transition services to eligible VR students with disabilities?

Answer: In addition to providing information that may be used to determine a student's eligibility for VR services, the SOP serves as a functional document that provides the VR Services program with information describing a student's vocational, employment, academic and personal achievements as well as vocational and employment supports needed by the student.

If determined to be eligible to receive VR services, the student, with the assistance of a VR counselor, develops an individualized plan for employment (IPE) to achieve a specific employment outcome. An SOP may facilitate the development of a meaningful IPE by providing information that describes the student's secondary and postsecondary goals, career interests, levels of academic performance, need for reasonable accommodations for work, and the functional levels of the student's social and independent living skills, at the time of completion of secondary education.

In general, an SOP that informs the State VR Services program of the student's academic and vocational functional performance may minimize delays in the transition service delivery system and better prepare the student for a successful career.