

SmartStart: Decisions about Graduation

Overview

Unlike the graduation of nondisabled students, a school district has to evaluate several factors before it decides to graduate a student with a disability. The student's IEP team spearheads this process, playing an integral role in making these decisions.

Key Points

[These key-point summaries cannot reflect every fact or point of law contained within a source document. For the full text, follow the link to the cited source.](#)

OPTIONS FOR EXITING THE SPECIAL EDUCATION SYSTEM

- There are four basic scenarios according to which a student with a disability can exit special education and graduate from high school:
 1. A student with a disability could receive a "regular" high school diploma, with the term "regular" meaning a diploma identical to that for which students without disabilities are eligible, upon meeting state and school district graduation requirements. See 34 CFR 300.122(a)(3)(i).
 2. A student with a disability could also exit the special education system through receipt of a certificate of completion, modified diploma, fulfillment of an IEP, or some similar mechanism. See 34 CFR 300.122(a)(3)(ii).
 3. Even if a student with a disability cannot meet the requirements for a regular high school diploma or a modified diploma (or similar certification, as identified above), he will exit the educational system when he reaches the maximum age for receipt of special education services. See 34 CFR 300.121-122.
 4. As is the case for nondisabled students, a student with a disability may elect to withdraw from school without completing the education program, i.e., the student could drop out of school.

Other possibilities, such as termination of eligibility and return to a regular education program or incarceration, are not pertinent for purposes of this discussion.

IEP TEAM'S ROLE IN GRADUATION DECISIONS

- The issue of whether a student with a disability will receive a regular high school diploma or a special education certificate when he graduates from school is not addressed by the IDEA. *Letter to Anonymous*, 22 IDELR 456 (OSEP 1994) and *Livingston v. DeSoto County School District*, 18 IDELR 656 (N.D. Miss. 1992). Decisions about graduation are not specifically included among the topics that must be discussed by IEP teams and documented in the written IEP. 34 CFR 300.346-347. Nonetheless, IEP teams may play a role in reviewing decisions about when to graduate the student and what type of degree he will receive as a matter of best practice, and, in some instances, state law. Whether

that IEP leads to the student earning a regular high school diploma or a certificate depends on the student's individual circumstances and generally applicable state law. The IEP team conducts a review of the child's IEP at an appropriate time before the child receives a diploma to assure that graduation requirements will be met, and that the goals and objectives in the IEP will be completed. *Letter to Richards*, 17 IDELR 288, 289 (OSEP 1990).

SPECIFIC GRADUATION-RELATED TOPICS FOR DISCUSSION AT IEP MEETINGS

- The anticipated date of graduation and type of diploma to be awarded. These are predicates for the IEP team's identification of transition service needs (34 CFR 300.347(b)(1)) and required transition services. 34 CFR 300.347(b)(2). See [SmartStart: FAPE -- Transition Services](#).
- To the extent a student's disability impacts his ability to earn a regular high school diploma, meeting graduation requirements may become an IEP goal. 34 CFR 300.347(a)(2).
- When a student with a disability must achieve passing scores on exit examinations in order to earn a diploma, the IEP team is charged with making decisions about testing accommodations. 34 CFR 300.347(a)(3) and 34 CFR 300.347(a)(5). See [SmartStart: High School Exit Examinations](#).

STATE LAW CONSIDERATIONS IN MAKING GRADUATION DECISIONS

- State law may contain an explicit directive to IEP teams to consider when a student will graduate and what type of diploma he will receive at that time. See, e.g., *Birmingham Board of Education*, 20 IDELR 1281 (SEA AL 1994), (student's IEP team charged with determining what type of "exit document" the student would receive upon graduation and the IEP team decided that a regular high school diploma was an appropriate goal for the student); *Quaker Valley School District*, 30 IDELR 634 (SEA PA 1999), (state regulations required IEP teams to include in the student's IEP a plan for the completion of necessary credits for graduation developed at least 3 years prior to the anticipated year of graduation.)

IEP GOALS RELATED TO GRADUATION

- Attainment of a regular high school diploma can be an appropriate IEP goal, assuming the student requires special education or related services in order to receive a regular high school diploma upon graduation. Parents of students with learning disabilities have argued that graduation with a regular high school diploma is not an appropriate IEP goal and that goals for these students should be more challenging; however these legal challenges are unlikely to prevail. *In Re: D.B.*, 26 IDELR 1061 (SEA VT 1997), (although goal of acquiring the basic skills necessary for graduation from high school and entry into the job market or postsecondary training may not, in the parent's words, 'maximize his potential,' the evidence shows that they are appropriate and realistic goals - and thus all that the law requires).

AWARD OF DIPLOMAS: STUDENTS WHO HAVE ACHIEVED IEP GOALS

- Diploma requirements are established by state law and school district policy. A school district is not required to award a regular high school diploma to a student with a disability who has not met the requirements for a regular high school diploma, even if the student has met his IEP goals. *Special Sch. Dist. of St. Louis County (MO)*, 16 IDELR 307 (OCR Region VII 1989). On the other hand, a state or school district may elect to award a regular high school diploma to a student with a disability on the basis of his achievement

of IEP goals. There is nothing in either Section 504 or Title II of the ADA that would prohibit a school district from modifying graduation requirements, consistent with the student's IEP. *Letter to Runkel*, 25 IDELR 387, 391 (OCR Region VIII 1996).

AWARD OF DIPLOMAS: STUDENTS WHO HAVE MET REQUIREMENTS FOR AWARD OF REGULAR HIGH SCHOOL DIPLOMA

- If a student with a disability meets all state and school district requirements for award of a regular high school diploma, then he cannot be denied a diploma purely and simply because he has a disability. To do so would constitute discrimination on the basis of disability, clearly prohibited under Section 504. See, e.g., *Letter to Runkel*, 25 IDELR 387 (OCR Region VIII 1996) and *Letter to Anonymous*, 22 IDELR 456 (OSEP 1994). The IDEA, however, does not compel a school district to graduate a student with a disability who has met the requirements for award of a regular high school diploma, assuming the parents and school district agree to continue the student's secondary education. Establishment of appropriate substantive standards for graduation is entirely a matter of state law for both disabled and nondisabled students. See, e.g., *Letter to Anonymous, supra*. The IDEA only relieves school districts of the obligation to provide FAPE to students who have graduated with a regular high school diploma. 34 CFR 300.122(a)(3)(i).

AWARDING DIPLOMAS: STUDENTS WHO HAVE FAILED TO MEET IEP GOALS

- The IDEA does not make achievement of a disabled student's IEP goals a prerequisite for award of a regular high school diploma. In fact, the statute does not establish standards for graduation, as a general matter. See, e.g., *Letter to Richards*, 17 IDELR 288, 289 (OSEP 1990). Some parents undertake legal challenges to contest their child's readiness for graduation, alleging that awarding a regular high school diploma is a violation of the school district's duty to provide FAPE under the IDEA. These cases have proven to be losing battles for parents. See *In re Child with Disability*, 401 IDELR 220 (SEA VA 1988), (upholding school district's decision to terminate special education services for an 18-year-old student with learning and emotional disabilities who had been awarded a regular high school diploma on the basis of his academic performance but had not achieved his IEP goals and objectives; school district could elect to terminate special education services to disabled students who had met all regular education graduation requirements and was not bound to fulfill IEP goals and objectives).

Deferring the awarding of diplomas to students who fail to meet iep goals

- State law may permit deferral of graduation for students who have not met their IEP goals, notwithstanding their having earned a regular high school diploma. See *Daugherty by Daugherty v. Hamilton County Schools*, 26 IDELR 127 (E.D. Tenn. 1997), (rejecting the plea for provision of compensatory education in the form of further placement in a structured environment and additional vocational training and independent living skills programming for a 20-year-old student with an emotional disturbance who had completed the academic and credit requirements of his IEP, but not the social and independent living skills goal of his IEP; school district was entitled to terminate services under the IDEA, which was not superceded by a more rigorous state law). School districts and parents can agree to retain students for a 13th school year when they would otherwise be eligible to graduate. See, e.g., *Chuchran v. Walled Lake Consolidated School*, 20 IDELR 1035 (E.D. Mich. 1993), *aff'd* 22 IDELR 450 (6th Cir. 1995).

AWARDING DIPLOMAS: STUDENTS WHO HAVE NOT RECEIVED TRANSITION SERVICES

- IDEA-eligible students cannot be graduated until they receive appropriate transition services. Were it otherwise, the school district would violate its duty to provide FAPE with immunity. Students who are graduated without transition services are entitled to post-graduation relief. See *J.B. v. Killingly Board of Education*, 27 IDELR 324 (D. Conn. 1995), (awarding compensatory relief when a school district fails to provide appropriate transition services prior to awarding a regular high school diploma.) See also *Novato Unified School District*, 22 IDELR 1056 (SEA CA 1995), (awarding additional period of residential placement to a student with an emotional disturbance who had not received community experiences in his local community prior to his graduation).