



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

January 18, 2017

Lisa Pugh
Public Policy Director
Wisconsin Disability Policy Partnership
Disability Rights Wisconsin
131 W. Wilson Street, Suite 700
Madison, Wisconsin 53703

Dear Ms. Pugh:

This letter responds to your July 14, 2016 correspondence to Ruth Ryder, Acting Director for the Office of Special Education Programs (OSEP), U.S. Department of Education (Department). In that letter you requested guidance regarding the content of the progress reports required under 34 CFR §300.320(a)(3)(i)-(ii), and how progress reports can and should address a transition-aged child's progress on appropriate measurable postsecondary goals. OSEP's responses to your questions are provided below. We regret the delay in responding.

Question: Should the reporting required in 34 CFR §300.320(a)(3) include the annual transition goals in 34 CFR §300.320(b)(1)?

Response: Each child's individualized education program (IEP) must include a statement of measurable annual goals, including academic and functional goals that are designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum, and to meet each of the child's other educational needs that result from the child's disability. 34 CFR §300.320(a)(2). Each child's IEP must also include a description of how the child's progress toward meeting the annual goals described in 34 CFR §300.320(a)(2) will be measured, and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.

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, the IEP must include appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills. Further, the IEP must include transition services, including courses of study, needed to assist the child in reaching these goals. Such transition services must relate to a type of instruction, related service, community experience, development of employment and other post-school adult living objectives (and, if appropriate, acquisition of daily living skills), and provision of a functional vocational evaluation. 34 CFR §300.43.

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With respect to your specific question, we note that 34 CFR §300.320(a)(3) limits the periodic progress reporting requirement in 34 CFR §300.320(a)(3) to the student's progress on the annual IEP goals described in 34 CFR §300.320(a)(2), which are the student's academic and functional goals, and does not specifically identify "postsecondary goals" as an area for which a public agency must report student progress. However, we assume that there would be a relationship between the academic and functional goals of a transition-aged student and that student's postsecondary goals, and that it would be necessary for a public agency to report on a student's progress in meeting postsecondary goals when reporting on the transition-aged student's progress in meeting related academic and functional goals. Therefore, OSEP believes that periodic progress reporting for transition-aged students would need to address the child's progress in meeting postsecondary goals.

Question: Should the periodic report on the progress a child is making toward his or her annual goals indicate the provision of required transition services as part of progress monitoring, specifically for postsecondary goals?

Response: The Individuals with Disabilities Education Act (IDEA) periodic progress reporting requirement in 34 CFR §300.320(a)(3) is limited to the child's progress in meeting annual IEP goals. In monitoring a student's progress, the reporting requirement does not mandate periodic progress reporting on the provision of required transition services or any other required services included in a child's IEP. In the *Analysis of Comments and Changes* that accompanies the August 14, 2006 Final Part B regulations, the Department noted that the specific times that progress reports are provided to parents and the specific manner and format in which a child's progress toward meeting the annual goals is reported is best left to State and local officials to determine. 71 Fed. Reg. 46540, 46664 (Aug. 14, 2006). Thus, State educational agencies and their local educational agencies have discretion to determine the specific content of the periodic progress reports provided to parents of children with disabilities, and in reporting progress on annual goals, could choose to include information about the specific transition services that were provided to a transition-aged student during the time subject to the periodic report.

Question: How should "periodic progress reporting" continue after a child has reached age 18?

Response: The requirement to provide periodic reports of a child with a disability's progress toward meeting the annual goals in his or her IEP continues beyond age 18, assuming that the child has not graduated from high school with a regular high school diploma, continues to be eligible for special education and related services, and has not exceeded the age of eligibility for a free appropriate public education under State law. Beginning at least one year before a child reaches the age of majority, the child's IEP must include a statement that the child has been informed of his or her rights under Part B of the IDEA, if any, that will transfer to the child on reaching the age of majority, consistent with 34 CFR §300.520. See 34 CFR §300.320(c). If parental rights transfer to a student who has reached the age of majority consistent with 34 CFR §300.520, the periodic progress report would be provided to the student. States could also choose to provide these progress reports to both the student and his or her parents concurrently. With respect to reporting the progress of children with disabilities who have reached the age of 18, please refer to your State regulations regarding age of majority.

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the Department of the IDEA in the context of the specific facts presented.

If you have any further questions, please do not hesitate to contact Lisa Pagano at 202-245-7413 or by email at Lisa.Pagano@ed.gov.

Sincerely,

/s/

Ruth E. Ryder
Acting Director
Office of Special Education Programs