

# What is Age of Majority- Guardianship

## IDEA's Exact Words

The relevant IEP-related provision within IDEA requires the following:

(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. [§300.320(c)]

## What Does Age of Majority Mean?

"The age of majority is the legally defined age at which a person is considered an adult, with all the attendant rights and responsibilities of adulthood. The age of majority is defined by state laws, which vary by state" (U.S. Legal.com, n.d.). Thus, when people use the term *age of majority*, they are generally referring to when a young person reaches the age where one is an adult. Depending upon your state law, this usually happens at some point between 18 and 21.

**Beginning at least one year before the child reaches the age of majority, then, the child's IEP must include a statement that the child has received notice and been told about the rights (if any) that will transfer to him or her at age of majority under §300.520.**

## What §300.520 Requires

The text of §300.520 is provided below.

### **§ 300.520 Transfer of parental rights at age of majority.**

(a) ***General.*** A State may provide that, when a child with a disability reaches the age of majority under State law that applies to all children (except for a child with a disability who has been determined to be incompetent under State law)—

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(1)(i) The public agency must provide any notice required by this part to both the child and the parents; and

(ii) All rights accorded to parents under Part B of the Act transfer to the child;

(2) All rights accorded to parents under Part B of the Act transfer to children who are incarcerated in an adult or juvenile, State or local correctional institution; and

(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.

(b) **Special rule.** A State must establish procedures for appointing the parent of a child with a disability, or, if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of the child's eligibility under Part B of the Act if, under State law, a child who has reached the age of majority, but has not been determined to be incompetent, can be determined not to have the ability to provide informed consent with respect to the child's educational program.

While these provisions may appear redundant with §300.320(c), they aren't. These provisions relate to informing both the child and the parents of any transfer of rights that has occurred when the child has reached the age of majority in the state; the provision at §300.320(c) stipulates in the IEP that, not later than one year before the child reaches the age of majority, he or she was informed of any rights that will transfer upon reaching that age.

Moreover, the provisions at §300.520 fall under the umbrella of "Procedural Safeguards" and include the "special rule" for children who have reached the age of majority but who do not have the ability to provide informed consent with respect to their educational programs (although they have not been determined to be incompetent). By state-designed procedures, the educational interests of these children would continue to be represented by the children's parents during the entire time of their eligibility under Part

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B of IDEA. Should the parent of such a child not be available, another individual would be appointed to represent the child's educational interests.

So, while this special rule relates directly to the transfer of rights to the child at age of majority, it also serves an exception to the transfer of such rights.

### **How is the Student Informed?**

IDEA does not specify the way schools must inform students of any rights that will transfer to them upon reaching the age of majority. This is a matter "best left to States, districts, and IEP Teams to decide, based on their knowledge of the child and any unique local or State requirements." (71 Fed. Reg. at 46668)